

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA AMENDING PORTIONS OF CHAPTER 21 OF THE SANTA BARBARA COUNTY CODE TO ESTABLISH PROCEDURES FOR PROCESSING OF SUBDIVISION MAP ACT NOTICES OF VIOLATION

The Board of Supervisors of the County of Santa Barbara finds and declares that, as authorized by California Government Code Section 66499.36, that the Santa Barbara County Code shall include specific procedures for processing and appeal of Notifications of Violation for illegal subdivisions of land not accomplished in accordance with the California Subdivision Map Act.

Therefore, the Board of Supervisors of Santa Barbara County amends Chapter 21 of the County Code of Santa Barbara County and ordains as follows:

SECTION ONE

A. Section 21-1 of Chapter 21 of the County Code of Santa Barbara County is amended as follows:

Sec. 21-1. - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Generally. All words and terms used herein shall have the same meaning as defined and used in the California Subdivision Map Act except as herein provided.

Advisory Agency. Pursuant to the State Subdivision Map Act, Government Code Section 66415, the designated official or official body charged with the duty of making investigations and reports on the design and improvement of proposed divisions of real property, the imposing of requirements or conditions therein, or having the authority by this chapter and/or State Subdivision Map Act to approve, conditionally approve or deny projects; also known as the decision-maker.

Board of Supervisors. The board of supervisors of the county.

Border. That portion of the road right-of-way lying between the area designed for vehicle use and the right-of-way line.

Buffer, Agricultural. A designated width of land used to minimize potential land use conflicts between non-agricultural development/uses and adjacent agricultural uses. The following terms are defined for the purposes of section 21-32A, Agricultural Buffers:

1. Production Agriculture. A commercial agricultural operation that excludes rangeland or pastureland operations. Production agriculture allows for a change of crop or fallow periods.
2. Rangeland or Pastureland.
 - a. Land that is not currently used for agricultural production but is used for the grazing or pasturing of livestock, such as cattle and horses, which may also include facilities for confining animals, but not involving a commercial livestock feed or sales yard or dairy.
 - b. Land which is limited in its potential use, as defined by soils or other constraining factors, from supporting production agriculture. See the Agricultural Buffer Implementation Guidelines (Appendix B) for details.
3. Sensitive Non-agricultural Uses. Child care facilities, educational facilities, medical facilities, schools, student dormitories, senior housing, and other similar uses.
4. Small Lot. A lot equal to or smaller than one-half acre that is located adjacent to an urban boundary line as designated on the Comprehensive Plan maps.

Building Site. A validly created lot or parcel of land containing not less than the prescribed minimum area required by any applicable subdivision and zoning ordinances and regulations existing at the time of the creation of the lot or parcel and occupied or which can legally be occupied by buildings and structures.

Certificate of Compliance. Issuance of a certificate by the county surveyor pursuant to California Government Code Section 66499.35 stating that a parcel of land was created in compliance with the laws and ordinances in effect at the time of the creation of the parcel.

Comprehensive Plan. The Santa Barbara County Comprehensive Plan, including the Coastal Land Use Plan and all community or area plans, as it may be amended by the board of supervisors from time to time.

Conditional certificate of compliance. Issuance of a certificate by the county surveyor pursuant to California Government Code Section 66499.35 stating that a parcel of land was not created in compliance with the laws and ordinances in effect at the time of the creation of the parcel. Conditions as authorized under Sections 66499.34 and 66499.36 of the California Government Code and defined by the local agency may be attached to the certificate.

Conversion. A change in the form of ownership of a parcel of land, together with the existing buildings and structures, regardless of the present or prior use of such land, buildings and structures and of whether substantial improvements have been made to such buildings and structures, including conversion to two or more residential units or parcels in any of the following forms of ownership: a condominium, a community apartment project, a stock cooperative, a limited equity cooperative, or conversion to a mobilehome subdivision.

County Surveyor. The person appointed by the board of supervisors as the county surveyor.

Decision-Maker. The designated official or official body having decision-making jurisdiction under the authority of this chapter and/or State Subdivision Map Act; also known as the advisory body.

Division, Division of Land, or Divided. Any separation of land into two or more parts or parcels.

Dwelling. A building or portion thereof designed for and occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one or more families and their guests and servants, but not including a boarding or lodging house, hotel, auto court, or trailer.

Dwelling Unit. One or more rooms in a dwelling or multiple dwelling or apartment hotel used for occupancy by one family (including necessary servants and employees of such family) for living or sleeping, and having only one kitchen.

Highways. Includes roads and streets. The terms street, road, and highway are used interchangeably and refer to the rights-of-way used or to be used for vehicular traffic and for pedestrian traffic, other than driveways or alleys.

Intersection. The area embraced within the prolongation of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two roads which join one another at approximately right angles, or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.

Lease. The renting of real property, but shall not include any lease which does not create a building site, such as, but not limited to, the renting of apartment units, offices, stores, or similar spaces within a building or separate buildings on a single parcel or agricultural, grazing, mineral, oil, or gas leases or trailer spaces within trailer parks.

Lot Line Adjustment. An adjustment of lot lines between two or more adjacent parcels, where the land taken from one parcel is added to an adjacent parcel and where a greater number of parcels than existed is not thereby created.

Merger. The joining of two or more lots or parcels of land by the elimination of a common property line. The resultant parcel shall be treated in all respects as a single, legal parcel.

Mobilehome. A trailer, transportable in one or more sections, with or without a permanent foundation and not including a recreational vehicle, commercial coach or factory-built housing.

Mobilehome Rental Park. Any area or tract of land where two or more mobilehome lots are rented, leased, or offered for rent or lease to accommodate mobilehomes used for human habitation. The rental paid for any such mobilehome shall be deemed to include rental for the lot it occupies.

Mobilehome Subdivision. Any area or tract of land where two or more parcels are individually owned and used to accommodate mobilehomes for human habitation, including, without limitation, individual ownership or underlying lot and shared ownership of common areas and facilities, or ownership of an individual interest in the land coupled with the right of exclusive occupancy of an individual lot.

Montecito Community Plan. That portion of Santa Barbara County located within the boundaries of the Montecito Community Plan as shown on the Montecito Community Plan Land Use Map.

Nonconforming Lot. A lot the area, dimensions or location of which was lawful prior to the adoption of this chapter or any amendments hereto, or previously adopted county zoning ordinances, and which does not conform to the present regulations of the zoning district in which it is situated.

Notice of Violation. A constructive notice of violation of the Subdivision Map Act or this chapter issued by the county surveyor to current owners and all successors in interest in a real property parcel and recorded by the county recorder. A Notice of Violation is issued pursuant to this chapter and California Government Code Section 66499.36,

Officers. Whenever reference is made to some officer, board, or commission, department, or office, it shall mean an officer, board, commission, department, or office of the county unless otherwise specified; provided, however, that in the case of flood control matters, such reference shall be to the Flood Control and Water Conservation District of the county unless otherwise specified.

All officers referred to herein shall mean the respective employees or department heads of the county or their duly authorized representatives, unless a different intent is expressed herein.

Opening of a New Street or Opening of a New Road. The reservation of right-of-way or easement by map or deed, or the improvement of an existing unimproved right-of-way for the purpose of vehicular travel.

Original Parcel. An area of land under common ownership shown as a unit or as contiguous units on the latest available assessment rolls of the county not established as separate lots or parcels as provided in subsection (d) of section 21-4.

Owner. Any individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity having a legally protected interest in the land sought to be divided.

Planning Commission. The Santa Barbara County Planning Commissions, including the Montecito Planning Commission.

Planning Director. The director of the planning and development department of the county or designee.

Standard Details. Those technical engineering drawings approved by the appropriate county officials.

Street and Road. Public and private rights-of-way which afford a means of vehicular access to property; provided, however, that a private easement, right-of-way, or extension thereof shall not be construed to be a "street" or "road" where such private easement, right-of-way or extension thereof cannot be reasonably expected to serve more than four existing or future building sites under the presently applicable zoning and subdivision regulations.

Subdivider. Any individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity commencing proceedings under this article to effect a subdivision of land hereunder for himself or for another.

Subdivision. Any division of land subject to the provisions of this article.

Zoning Administrator. The zoning administrator of the county.

B. Section 21-6 of Chapter 21 of the County Code of Santa Barbara County is amended as follows:

Section 21-6. - Discretionary decision-maker jurisdiction and designation of responsibility.

- (a) Planning Commission or Zoning Administrator. The planning commission shall be the decision-maker, except that within the area of Santa Barbara County located outside of the Montecito Community Plan area the zoning administrator shall be the decision-maker for the following:
- (1) Tentative parcel maps that are determined by the county to be exempt from environmental review;
 - (2) Lot line adjustments, as defined in State Subdivision Map Act, California Government Code Section 66412(d), and modification of approved lot line adjustments, of parcels located within the rural area and existing developed rural neighborhoods, as designated by the Santa Barbara County Comprehensive Plan, that do not exceed a ten percent increase or decrease in the area of the smallest existing parcel.
 - (3) Lot line adjustments, as defined in State Subdivision Map Act, California Government Code Section 65412(d), and modification of approved lot line adjustments, of parcels located within the urban and inner-rural areas as designated by the Santa Barbara County Comprehensive Plan that result in four or fewer parcels.
 - (4) Modifications to approved tentative and recorded maps, where the map is under the approval jurisdiction of the zoning administrator, pursuant to this section and unrecorded lot splits approved pursuant to Ordinance 791 as amended; and
 - (5) Conditional Certificates of Compliance. The planning commission or zoning administrator shall make such investigations, reports, and recommendations as are necessary to accomplish the intent and purposes of this chapter and shall have the authority to approve, conditionally approve, or deny projects within their respective jurisdictions. The action of the planning commission or zoning administrator shall be final unless appealed to the board of supervisors as provided in section 21-71.4 (Appeals).
- (b) Board of Supervisors. The Santa Barbara County board of supervisors shall be the decision-maker for all final maps bearing the county surveyor's statement, all tentative maps including tentative parcel maps which are companion to other discretionary cases under the approval jurisdiction of the board of supervisors, and shall have jurisdiction for all appeals of decisions under this chapter by the zoning administrator, county

surveyor or planning commission, as provided in article I, division 10, section 21-71.4. (Appeals).

(c) Applications That Are Within the Jurisdiction of More Than One Decision-Maker. When two or more discretionary applications are submitted that relate to the same project, pursuant to either this chapter 21 or chapter 35 of the Santa Barbara County Code, and the applications would be under the separate jurisdictions of more than one decision-maker, all applications for the project shall be heard by the decision-maker with the highest jurisdiction as follows:

- (1) Board of supervisors;
- (2) Planning commission;
- (3) Zoning administrator.

If the board of supervisors is the decision-maker on a tentative map including tentative parcel map due to a companion discretionary application(s) under articles II, III or IV of the County Code, then either the planning commission or zoning administrator which would otherwise have had jurisdiction over the tentative map including tentative parcel map, shall make an advisory recommendation to the board of supervisors.

(d) Planning Director. The planning director or designee shall be responsible for the following:

(1) Processing applications through the public hearing and review process, including notifying and furnishing information to the affected persons and agencies as provided herein, presenting material and data to the decision-maker and making recommendations regarding approval, approval with conditions or denial of the application, and for ensuring compliance with the conditions of approval and the requirements of this chapter, as such conditions and requirements relate to compliance with the comprehensive plan, chapter 35 of the Santa Barbara County Code, and other relevant planning documents, for the following:

- (A) Subdivisions;
- (B) Lot Line Adjustments;
- (C) Modifications to approved tentative and recorded maps, unrecorded lot splits approved pursuant to Ordinance 791 as amended and approved lot line adjustments; and
- (D) Conditional certificates of compliance.

(2) Making recommendations relative to grading, building setbacks from natural and manmade slopes, earth stability, soil erosion control and parcel drainage, and for inspection and ensuring compliance with the conditions of approval and requirements of this chapter pertaining to such items.

(e) Director of Public Works. The director of public works or designee shall be responsible for making recommendations relative to roads, improvements within road rights-of-way and drainage affecting roads, and for inspecting and ensuring compliance with the conditions of approval and the requirements of this chapter pertaining to such items.

- (f) Health Officer. The county health officer or designee shall be responsible for making recommendations relative to water supply, sewage disposal, and other matters affecting health, and for inspecting and ensuring compliance with the conditions of approval and the requirements of this chapter pertaining to water supply, sewage disposal and health requirements.
- (g) Flood Control and Water Conservation District Director. The flood control and water conservation district directory or designee shall be responsible for making recommendations relative to control of flooding, drainage ways, and erosion control and for inspecting and ensuring compliance with the conditions of approval and the requirements of this chapter pertaining to such items.
- (h) Fire Chief. For projects within the county fire protection district, the fire chief or designee shall be responsible for making recommendations relative to fire prevention and means for controlling fires and for inspecting and ensuring compliance with the conditions of approval and the requirements of this chapter pertaining to such items. For projects outside of the county fire protection district, the appropriate fire chief, or designee, shall be responsible for making recommendations relative to fire prevention and means for controlling fires.
- (i) Parks Director. The parks directory or designee shall be responsible for making recommendations relative to open space and improvements thereof, specimen trees to be preserved, landscaping in accordance with development plans and inspecting and ensuring compliance with the conditions of approval and the requirements of this chapter pertaining to such items.
- (j) County Surveyor. The county surveyor or designee shall be responsible for coordinating recommendations of various county departments concerned with final and parcel maps, lot line adjustments, and conditional certificates of compliance and clearances after the decision-maker has approved the particular tentative map, lot line adjustment or conditional certificate of compliance concerned. The county surveyor, or designee, shall also be responsible for the approval of voluntary mergers and certificates of compliance, for determining whether an application for a certificate of compliance shall be filed as a conditional certificate of compliance and for issuing notices of violation of the Subdivision Map Act or subdivision laws under this chapter.
- (k) County Administrator. The county administrator, or designee, shall be responsible for making recommendations for annexation to county service areas, adhering to the county street lighting policy and ensuring compliance with the conditions of approval and requirements of this chapter pertaining to such items.
- (l) Subdivision/Development Review Committee.
 - (1) A subdivision/development review committee is hereby established and shall have the following powers, duties, and authorities:
 - (A) To consider and make recommendations upon: (1) subdivision maps, both tentative and final and parcel maps; (2) lot line adjustments; (3) conditional certificates of compliance; and (4) modifications to recorded maps, unrecorded lot split plats approved pursuant to Ordinance No. 791 as amended and approved lot line adjustments, as provided in this chapter.
 - (B) To consider and make recommendations upon development plans, specific plans and conditional use permits pursuant to the provisions of articles II, III

and IV of chapter 35 of the Santa Barbara County Code as the same may now exist or may hereafter be amended or codified.

- (C) To consider and coordinate recommendations of county departments on all matters which may hereafter be assigned to the subdivision/development review committee by the director of planning and development, the zoning administrator, the planning commission or the board of supervisors.
- (2) The subdivision/development review committee shall have nine members who shall be personnel of the following county offices and/or departments:
- (A) Planning and Development Department. The director and the building official or their designated representatives;
 - (B) Public Works Department. The deputy director of roads/transportation and the deputy director of flood control/water resources or their designated representatives;
 - (C) Surveyor's Office. The county surveyor or designated representative;
 - (D) Public Health Department. The county health officer or designated representative;
 - (E) Fire Department. The fire chief or designated representative;
 - (F) Parks Department. The director or designated representative;
 - (G) The director of the air pollution control district or designated representative.

Other county officers and their assistants and deputies may sit as advisory members.

- (3) The following rules shall apply to the subdivision/development review committee:
- (A) Subdividers and all applicants and their agents, surveyors, engineers and representatives shall be entitled to be present at meetings and to discuss with the committee its recommendations and proposed reports.
 - (B) The subdivision/development review committee is hereby authorized to establish such additional rules or procedure and elect such officers as it deems appropriate to carry on its business.
 - (C) Each member of the subdivision/ development review committee shall make a written report to the decision-maker as to any recommendations it may have with respect to the subdivision, lot line adjustment, modifications to recorded maps, unrecorded lot split plats approved pursuant to Ordinance No. 791 as amended and approved lot line adjustments, or conditional certificate of compliance and its bearing on the functions of that department or agency. One copy of each such report shall be forwarded to the subdivider and one copy to the subdivider's surveyor or engineer at least seven calendar days prior to the date the decision-maker agency is to take action.
- (m) The decision-maker shall approve, conditionally approve, or disapprove the subdivision map, both tentative and final and parcel maps, lot line adjustment, merger, certificate of compliance, conditional certificates of compliance, modifications to recorded maps, unrecorded lot split plats approved pursuant to Ordinance No. 791 as amended, approved lot line adjustments and notices of violation within the time allowed by the

applicable provisions of the California Government Code as the same now are or may hereafter be amended, or within any additional time agreed to by the subdivider or owner, if such additional time is allowed by law. The decision-maker shall report its action, in writing, to the subdivider or owner, the owner or subdivider's surveyor or engineer, and to each department or agency of the county concerned with conditions of approval imposed by the decision-maker. At this time, the decision-maker shall indicate all streets that are not intended to be offered for dedication as public streets on the final map, and all streets which are to be offered for dedication but not to be accepted at the time of approval of the final map.

C. Section 21-71.4.4 of Chapter 21 of the County Code of Santa Barbara County is amended as follows:

Section 21-71.4.4. - Appeals to the board of supervisors.

The following decisions and determinations may be appealed to the board of supervisors provided the appeal complies with the requirements of section 21-71.4.2 above.

A. Decisions appealed to the Board of Supervisors.

1. County Surveyor. Any final action on decisions of the county surveyor to approve or deny an application where the county surveyor is designated as the decision-maker in compliance with section 21-6 (Discretionary decision-maker jurisdiction and designation of responsibility), including a decision that an application for a certificate of compliance shall be processed as a conditional certificate of compliance and determination to record a notice of violation.
2. Planning Commission. The following decisions of the planning commission may be appealed to the board of supervisors provided the appeal complies with the requirements of section 21-71.4.2 above.
 - a. Any final action on decisions or determinations that are appealed to the planning commission in compliance with section 21-71.4.3 (Appeals to the planning commission) above.
 - b. Any final action of the planning commission to approve, conditionally approve, or deny an application where the planning commission is designated as the decision-maker in compliance with section 21-6 (Discretionary decision-maker jurisdiction and designation of responsibility).

B. Report to the Board of Supervisors.

1. Appeals of Decisions of the Planning Commission. The planning and development department shall transmit to the board of supervisors copies of the permit application including all maps and data and a statement identifying the reasons for the decision by the planning commission before the hearing on an appeal.

C. Scope of Appeal Hearings. The hearings on the appeal shall be de novo.

D. Action on Appeal. The board of supervisors shall affirm, reverse, or modify the decision of the county surveyor or the planning commission. The decision of the board of supervisors shall be final.

D. Division 14 of Article 1 of Chapter 21 of the Santa Barbara County code is added as follows:

Division 14. – Notices of Violation

Section 21-71.50. - Purpose and intent.

A. Notices of Violation. This division provides procedures of issuing notices of intent to record notice of violation and to record notices of violation of California Subdivision Map Act or subdivision violations of this Chapter of the County Code. Notices of Violation are governed by provisions of California Government Code Section 66499.36 and this Division.

Section 21-71.51. - Applicability.

A. Notices of Violation. A Notice of Violation is a document issued by the county surveyor and recorded by the county recorder which serves as a constructive notice of violation to all successors in interest in a real property that the property has been conveyed in violation of the California Subdivision Map Act or this Chapter. Reconveyance of a property with a Notice of Violation recorded against it is a further violation of the law. No permit or approval may be issued by the County for a property with a Notice of Violation prior to clearance of the violation by use of a Conditional Certificate of Compliance, resubdivision or other affirmative action or approval by the County provided that the decision maker finds that such development would be contrary to the public health and safety.

Section 21-71.52 - Processing

A. The County Surveyor shall make a preliminary determination that a property has been divided in violation of the Subdivision Map Act or this Chapter. Upon such preliminary determination the procedures as outlined in this section shall be implemented.

Preliminary determination of a subdivision violation may arise as follows:

1. If a property is determined to be illegally divided pursuant to an application for a Certificate of Compliance under Division 13 of this code and the owner does not apply for a Conditional Certificate of Compliance within 30 days of notice of the determination of illegality.
2. If a County agency or officer becomes aware that a property has been subdivided in apparent violation of the Subdivision Map Act or this Chapter and reports said violation to the County Surveyor.
3. If a complaint by a member of the public is made to the County Surveyor and a preliminary determination supports such complaint of an illegal subdivision of land.

The preliminary determination by the county surveyor shall include a review of prior actions by the County concerning the parcel and a search for any permits that may have been issued for the property that might legalize the parcel pursuant to California Government Code Section 66499.35(c).

- B. Upon such preliminary determination of a violation the county surveyor shall mail by certified letter to the then current owner or owners of record of the property a notice of intention to record a notice of violation, describing the real property in detail including the nature of the violation, naming the owners thereof, and stating that opportunity will be given to the owner to present evidence. The notice shall specify a time, date, and place for a meeting at which the owner may present evidence to the county surveyor why the notice should not be recorded. The notice shall also contain a description of the violations and an explanation as to why the subject parcel is not lawful under subdivision (a) or (b) of Section 66412.6. The notice shall describe the evidence upon the county surveyor is relying and inform the owner that this evidence is available for inspection. The notice shall include a statement that there has been no issuance of a permit that might serve to legalize the division pursuant to California Government Code Section 66499.35(c).
- C. The meeting shall take place no sooner than 30 days and no later than 60 days from date of mailing. If, within 15 days of receipt of the notice, the owner of the real property fails to inform the county surveyor of his or her objection to recording the notice of violation, the county surveyor shall record the notice of violation with the county recorder. If, after the owner has presented evidence, it is determined that there has been no violation, the county surveyor shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the county surveyor determines that the property has in fact been illegally divided, the county surveyor shall record the notice of violation with the county recorder not sooner than fifteen days thereafter. The Surveyor shall prepare and issue a document with finding of facts supporting the Surveyor's decision.
- D. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property. The county recorder shall index the names of the fee owners in the general index.
- E. Should the owner disagree with the determination of the County Surveyor, that owner may appeal within fifteen days of the County Surveyor's written determination to the Board of Supervisors pursuant to Section 21-71.4.2 of this Code. The Board shall support its decision with written findings of the facts supporting the Board's decision.

SECTION TWO

This ordinance shall take effect and be in force thirty days from the date of its passage, and before the expiration of fifteen days after its passage it shall be published, with the names of the members of the Board of Supervisors voting for and against the same, in the Santa Barbara NewsPress, 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 _____, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Mona Miyasato

CLERK OF THE BOARD

By _____
Deputy Clerk-Recorder

Chairperson, Board of Supervisors
of the County of Santa Barbara
State of California

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By _____
Kevin Ready, Sr.
Senior Deputy County Counsel