

ATTACHMENT "K"

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 25, PETROLEUM CODE, OF THE SANTA BARBARA COUNTY CODE, BY AMENDING SECTION 25-7, FEES, TO ADDRESS COSTS ASSOCIATED WITH ENFORCEMENT RELATED ACTIONS AND TO PROVIDE AN APPEAL PROCESS FOR SUCH COSTS.

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

SECTION 1:

CHAPTER 25, Petroleum Code, of the Santa Barbara County Code, is amended to amend Section 25-7 (Fees) to read as follows:

Sec. 25-7. Fees.

- (a) **Drilling Permit Fees.** An amount, established by a resolution of the board of supervisors of this county, shall be charged for each permit application submitted for drilling or reentry of a previously abandoned well, and shall be paid to the petroleum administrator. Whenever drilling or reentry of a previously abandoned well has been commenced prior to obtaining said permit, the fee herein specified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this chapter 25, or from any other penalties prescribed herein. Deepening or re-drilling of an existing well, where there is no disruption of the fresh water seal, will not require a permit hereunder. However, verification of the integrity of the fresh water seal, as determined by the petroleum administrator will be required.
- (b) **Annual Inspection Fees.** The petroleum administrator shall inspect annually and at such other times as necessary each lease site, each tank site, producing well site, idle well site and lease tank site, (including headers and associated pipelines), for the purpose of ascertaining conformity with the minimum standards as set forth in this chapter. To meet the expense of such inspection, the operator shall pay to the petroleum administrator an annual inspection fee to be established by a resolution of the board of supervisors of this county, per well for each active and each idle well. An annual inspection fee, to be established by a resolution of the board of supervisors of this county, for each tank setting shall be paid by each operator to the petroleum administrator.

The year for which each fee is applicable runs from January 1 to December 31. The fee shall be based upon the total number of wells and tank settings in existence (whether being used or not) on January 1. The fees shall be due no later than January 31, in advance for the ensuing calendar year. The petroleum administrator shall keep a permanent, accurate account of all

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annual inspection fees collected and received under this chapter 25, the name of the operator for whose account the same were paid, the date and number thereof, together with the well names and description and the general location of the wells and tank settings. The petroleum administrator's annual inspection statement shall be available to the operator.

- (c) Research and Inquiry Fee. An hourly fee to be set by a resolution of the board of supervisors for reimbursement of costs associated with research and inquiry projects.
- (d) Abandonment Fee. A fee to be set by a resolution of the board of supervisors for reimbursement of costs associated with the abandonment of a well or tank.
- (e) Soil Remediation Fee. An hourly fee to be set by a resolution of the board of supervisors for reimbursement of costs associated with soil remediation projects.
- (f) Inspection Fee. An hourly fee as set by the board of supervisors for reimbursement of reasonable costs associated with enforcement actions due violations of this codes.

(g) Enforcement Fee. Any act or condition that violates this Chapter 25 shall constitute a public nuisance subject to abatement cost recovery procedures set forth in Government Code Section 54988. Any person or entity, whether as principal, agent, employee, or otherwise, who acts or fails to act in violation of any provision of this chapter 25, chapters 10 or 14 of the Santa Barbara County Code, any of the adopted Uniform Codes, or state or federal regulation and statutory law shall be liable for and obligated to pay to the county all reasonable costs incurred by the county in obtaining abatement or compliance which is attributable to or associated with the enforcement or abatement action, whether such action is administrative, injunctive, or legal, and for all damages suffered by the county, its agents, officers, and employees as a result of such violation or efforts to abate the violation. The owner of the mineral estate or the owner of the fee estate if the mineral and surface estates are not separate shall be jointly liable for payment of any enforcement fee brought about by actions of the well or oilfield operator or its employees or agents. The owners of all mineral estate parcels eligible for or entitled to participation in revenues from a well shall be jointly and severally liable for any enforcement fee generated by operation of a well servicing their mineral estate.

(1) When an administrative fine or penalty becomes a final administrative order pursuant to County Code Section 24A-7 or upon confirmation of the order pursuant to Government Code Section 53069.4(c), and at the subsequent conclusion of the enforcement action, the Director of Planning and Development shall send a summary of costs/billing statement associated with enforcement to the owner of the subject property and/or responsible party by certified mail or other service methods in accordance with California Code of Civil Procedure Section 415.20, as amended.

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- (2) Any owner of the mineral or fee estate who receives a summary of costs/billing statement shall have the right to a hearing before the Director of Planning and Development on their objections to the costs. The request for hearing shall be filed in writing within ten working days of personal service or the date of mailing of the billing statement. The director shall hold a hearing on the objections within 30 days of the request for a hearing.
- (3) In determining the validity of costs assessed, the Director shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered shall include, but are not limited to, whether the present owner created the violation; whether there is a present ability to correct the violation; whether the owner moved promptly to correct the violation; the degree of cooperation or lack thereof provided by the owner; and whether reasonable minds can differ as to whether a violation exists.
- (4) In the event that (a) no request for a hearing has been filed, or, (b) after a hearing the Director determines the validity of the costs, the billing statement shall be a final order and the owner shall be liable to the County in the amount stated in the billing statement or as determined by the Director in the hearing.

(h) Collections and Liens.

- (1) When a summary of costs/billing statement becomes a final order and has not been paid within 45 days of notice thereof, these costs shall be recoverable in a civil action in the name of the County, in any court of competent jurisdiction within the County, or by recording a lien against the property that is the subject of the enforcement activity pursuant to California Government Code section 54988 et seq. ~~If the owner of the mineral estate of the property fails to pay for the costs of an abatement or compliance action or any other above described fees upon demand by the county, the board of supervisors by resolution may order the cost of the abatement or unpaid fees to be specially assessed against the mineral estate parcel. Such assessment shall be collected at the same time and in the same manner as ordinary county taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of the delinquency as are provided for ordinary county taxes.~~
- (2) To the extent that the ownership of the surface estate is the same as or similar to (that is, any common owner) the ownership of the mineral estate of the property involved in such abatement or compliance action, or if the mineral and surface estates are not separate the enforcement fee or other unpaid fees may be assessed, collected and attached to the surface estate in the same manner as the mineral estate. Such assessment shall be collected at the same time and in the same manner as ordinary

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property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of the delinquency as are provided for ordinary taxes.

- (3) The assessment of and tax lien upon an owner for the enforcement fee or other unpaid fees shall not absolve an operator, other owners or other responsible parties of joint liability to pay any assessed enforcement fee.

SECTION 2:

Except as amended by this Ordinance, Chapter 25, Petroleum Code, 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 Independent and the Santa Maria Times, newspapers 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:

ABSTAINED:

ABSENT:

Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

MONA MIYASATO
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
County Counsel

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By: _____
Deputy Clerk

By: _____
Deputy County Counsel