




COUNTY OF SANTA BARBARA 2010 JAN 14 PM 2:15
PLANNING AND DEVELOPMENT

MEMORANDUM

COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

TO: Board of Supervisors

FROM: Glenn Russell, Ph.D., Director, Planning & Development 

STAFF
CONTACT: Dianne Black, Director, Development Services

DATE: January 14, 2010

RE: Code Enforcement Program Updates – Chapter 24A Amendments

In light of new information provided by the US Postal Service, a modification of the ordinance amendment to Chapter 24A, Administrative Fine Ordinance, is attached for your Board's consideration. The modified ordinance amendment will allow staff the ability to serve Notices of Violations and Notices of Determination of Fines in accordance with the California Code of Civil Procedure.

Staff is recommending that the first reading of this ordinance amendment be continued from January 19, 2010 to January 26, 2010, and the second reading and adoption of this ordinance amendment be continued to February 2, 2010.

ATTACHMENT C: ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 24A, ADMINISTRATIVE FINES, OF THE SANTA BARBARA COUNTY CODE, BY AMENDING SECTION 24A-2, PROCEDURES, AND SECTION 24A-6, DETERMINATION OF FINE-NOTICE OF DETERMINATION OF FINE-RECORDATION OF NOTICE, TO CLARIFY SERVICE REQUIREMENTS, AND TO REFINER THE CONTENT REQUIREMENTS OF A NOTICE OF VIOLATION.

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-2 (Procedures) to read as follows:

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 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 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.
- (b) Upon determining that a violation of any provision of chapters 6 (article III), 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, 29 (article II and IV), 34A, 34B or 35 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 ~~on the property~~;
 - (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 2:

CHAPTER 24A, Administrative Fines, of the Santa Barbara County Code, is amended to amend Section 24A-6 (Determination of Fine-Notice of Determination of Fine-Recordation of Notice) to read as follows:

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 Procedure 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.

SECTION 3:

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 4:

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

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- (b) Upon determining that a violation of any provision of chapters 6 (article III), 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, 29 (article II and IV), 34A, 34B or 35 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
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SECTION 2:

CHAPTER 24A, Administrative Fines, of the Santa Barbara County Code, is amended to amend Section 24A-6 (Determination of Fine-Notice of Determination of Fine-Recordation of Notice) to read as follows:

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 Procedure 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.

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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

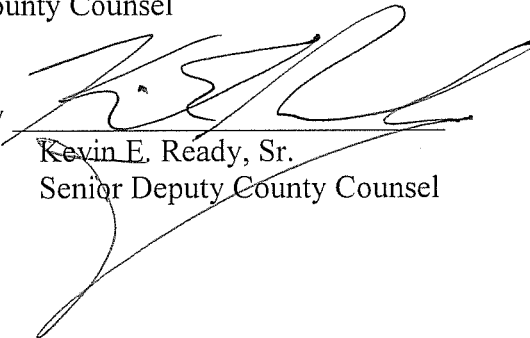
ATTEST:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By 
Kevin E. Ready, Sr.
Senior Deputy County Counsel