

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN,
STATE OF CALIFORNIA

ORDINANCE NO. 4513

AMENDMENTS TO TITLE 1, DIVISIONS 1, 2, 3

The Board of Supervisors of the County of San Joaquin ordains as follows:

SAN JOAQUIN COUNTY CODE OF ORDINANCES, TITLE 1, DIVISIONS 1, 2,
and 3 are amended as follows:

TITLE 1 - GENERAL PROVISIONS

DIVISION 1 - ADOPTION OF CODE

CHAPTER 1 - GENERAL MATTERS

1-1000 - TITLE.

This code shall be known as the "Ordinance Code of San Joaquin County", and may be so cited in any prosecution for violation of this Code. Any ordinance amending this Code shall be designated as an amendment to the "Ordinance Code of San Joaquin County". Every reference to this code or any portion of this code applies to this code as now in effect or as hereafter amended.

1-1001 - AUTHORITY FOR ADOPTION.

This code is adopted under the provisions of Article 2 (commencing at Section 50020) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code of the State of California.

1-1002 - EFFECT OF ADOPTION.

The adoption of this code and the repeal of ordinances by this code shall not affect the following matters:

- (a) Actions and proceedings which were commenced before the effective date of this code.
- (b) Prosecution of ordinance violations committed before the effective date of this code.
- (c) Licenses and penalties due and unpaid at the effective date of this code and the collection of these licenses and penalties.
- (d) Bonds and cash deposits required to be posted, filed, or deposited pursuant to any ordinance.
- (e) Matters which refer to or are connected with ordinances, the substances of which are included in this code; these references shall be construed to apply to the

corresponding provisions of this code.

1-1003 - EXCLUSIONS FROM CODE.

Every ordinance of this County governing the following subject matter is not affected by the provisions of Section 1-1004;

- (a) Naming, designating, changing, and abandoning roads, including the appointment of viewers and the setting of time for hearing.
- (b) Granting, altering, or withdrawing franchises.
- (c) Levying special taxes.
- (d) Regulating special districts.
- (e) Calling elections.
- (f) Zoning or rezoning real property, obtaining use permits.

1-1004 - REPEAL OF CERTAIN ORDINANCES.

Every ordinance or part thereof which is neither excluded from this code nor specifically continued in force by this code is repealed. This section shall not be construed to revive any ordinance or part of any ordinance which was repealed before the adoption of this code.

1-1005 - EFFECTIVE DATE.

This code takes effect upon the effective date of Ordinance No. _____ of the County of San Joaquin, whereby this code is adopted by reference.

1-1006 - DISTRIBUTION OF CODE.

Not less than three (3) copies of this code and of each code which is incorporated, directly or indirectly, in whole or in part, in this code shall be filed for use and examination by the public in the office of the Clerk of the Board. Additional copies or parts thereof shall be distributed to such departments and agencies of the County as shall be prescribed by the Board. Copies or parts thereof may be purchased by any interested person at prices established by the Board.

1-1007 - MAINTENANCE OF CODE.

It shall be the duty of the Clerk of the Board to maintain this code. All amendments, additions, or repeals hereof shall be prepared by the Clerk of the Board in a form appropriate to the maintenance of this code. At least twice each year the Clerk of the Board shall cause the amendments to this code to be printed and distributed.

DIVISION 2 - VIOLATIONS

CHAPTER 1 – DEFINITIONS

1-2000 - DEFINITIONS.

Unless otherwise specified the following definitions shall be applicable throughout this Division:

- (a) “Administrative Costs” means all costs incurred by, or on behalf of the County regarding the violation from the discovery of the violation of this code through the appeal process and until compliance is achieved, including but not limited to, staff time investigating and/or inspecting the property where the violation occurred, preparing investigation reports, telephone and digital contact, correspondence, notice, and preparing for and attending any appeal hearing. Administrative Costs shall not include attorney fees.
- (b) "Enforcement Official" means any County Official, Officer, Department Head, or their deputy, designee, or employee, or any person otherwise authorized by that person, law, or ordinance.
- (c) “Hearing Officer” means a qualified person selected to be a Hearing Officer pursuant to Title 2, Division 3, Chapter 5 of this code.
- (d) “Nuisance” means the same as Section 3479 of the California Civil Code which states that a nuisance is “anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, even if it does not directly damage land or prevent its use, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway.”
- (e) “Owner” means the real party in interest in the property, or the holder of record title in the property, real or personal.
- (f) “Person” has the same meaning as defined in Section 1-3003 of this code and additionally shall include any “responsible party” as defined below.
- (g) “Responsible Party” means:
 - (1) Each person, other than a minor, who commits or causes a violation of this code to occur, exist, or continue;
 - (2) Each person who is the parent or legal guardian of the minor person who commits or causes a violation of this code to occur, exist, or continue;
 - (3) Each person who has a legal or equitable ownership interest in any parcel of real property located within the unincorporated area of the County and who commits, causes, or otherwise allows a violation of this code to occur, exist, or continue on such parcel;

- (4) Each person who, although not an owner, nevertheless has a legal right or legal obligation to exercise possession and control over any parcel of real property located within the unincorporated area of the County and who commits, causes, or otherwise allows a violation of this code to occur, exist, or continue on such parcel; and
- (5) Each owner of a business entity that commits or causes a violation of this code to occur, exist, or continue.

CHAPTER 2 - VIOLATIONS, CITATIONS, PENALTIES

1-2001 – PURPOSE AND AUTHORITY.

The purpose and authority for this chapter is as follows:

- (a) Pursuant to the authority granted to the Board by the State, including but not limited to Government Code Sections 25845 and 53069.4, it is the intent and purpose of this chapter to identify what constitutes a violation of this code, to enumerate the consequences of such a violation, and to provide a comprehensive code enforcement program that incorporates a variety of enforcement remedies to insure compliance with this code while providing due process to any affected persons.
- (b) The Board finds that fair and effective code enforcement is needed to protect the health, safety, and welfare of County residents and to maintain a healthy economic climate in the County.

1-2002 - CODE VIOLATIONS.

Violations of this code are as follows:

- (a) Violations. Every act prohibited or declared unlawful and every failure to perform an act required by this code is a violation of this code.
- (b) Misdemeanors. Every violation of this code determined to be a misdemeanor may be punished by a fine/penalty of not more than \$1,000 (\$1,000.00) or by imprisonment in the County Jail for no longer than six (6) months, or by both such fine/penalty and imprisonment, unless otherwise specified in law or this code.
- (c) Infractions. Every violation of this code determined to be an infraction is punishable by a fine/penalty not exceeding \$100 for a first violation; a fine/penalty not exceeding \$200 for a second violation of the same ordinance within one year; and a fine/penalty not exceeding \$500 for each additional violation of the same ordinance within one year, unless otherwise specified in law or this code.

1-2003 – NUISANCE.

Any condition existing in violation of this code constitutes a nuisance and may be abated by this County pursuant to this Division or as otherwise authorized by law or ordinance.

1-2004 - CAUSING, AIDING, ABETTING, OR CONCEALING VIOLATIONS.

To cause, aid, abet, induce a violation of this code, or conceal the fact of a violation of this code constitutes a violation of this code.

1-2005 – CONTINUING VIOLATION.

Each separate day or portion thereof that any person violates or continues to violate this code shall constitute a separate offense.

1-2006 - FALSE REPORTS.

No person shall make any report to any law enforcement official of this County or any of their staff, to any member of the California Highway Patrol, to any peace officer, or to an Enforcement Official based on information which said person knows to be false in whole or in part with the intention of deceiving the person receiving the report.

1-2007 – ENFORCEMENT OFFICIAL.

The Enforcement Official is responsible for enforcing this chapter. Their duties include, but are not limited to the investigation of reported or suspected violations of this code, determination of whether any violation(s) of the code has occurred, and, pursuant to this chapter, or as otherwise authorized by law or ordinance correcting or abating any violation of this code.

1-2008 - ACTS OF DEPUTIES.

Where this code grants a power to a public officer or employee, or imposes a duty upon them, the power may be exercised or the duty performed by their deputy or employee or by any person authorized by law or ordinance, unless this code otherwise specifically provides.

1-2009 – POWERS AND DUTIES OF ENFORCEMENT OFFICIALS.

Nothing in this code is intended, nor shall be deemed or construed, to impose:

- (a) Any liability upon the County for any injury to persons or damage to property alleged to result from any act or failure to act by the County;
- (b) A mandatory duty upon the County for the purpose of determining entitlement to equitable relief or liability for any injury to persons or damage to property alleged to result from the failure of the County to discharge a duty imposed by this code.

1-2010 - NOTICE.

Whenever this code requires that notice be given, unless this code specifically provides otherwise, notice shall be given in writing and may be delivered either personally or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the person to be notified at their last known business or residence address appearing in the public records or in other records of the matter for which notice is given. Notice shall be deemed served at the time of personal service or at the time of deposit in the United States mail.

1-2011 - PROOF OF SERVING NOTICE.

Unless otherwise provided by this code, proof of the giving of any notice may be made by the certificate of any officer or employee of this County or by the affidavit of any person more than eighteen (18) years of age. The certificate or affidavit shall show service conforming to this code or other applicable law.

1-2012 - INVESTIGATION/INSPECTIONS.

The Enforcement Official may, upon presentation of proper credentials, enter private or public property to inspect and/or investigate to obtain information relative to any reported or discovered violation of this code that exists or was reported to have existed on that property, including but not limited to a physical inspection of the property and/or records (whether stored on or off the property). The Enforcement Official may also take statements of witnesses and review any other evidence that they believe may assist in making a decision regarding any reported or discovered violation of this code. The Enforcement Official's inspection and/or investigation of the property and/or related evidence shall be with the goal of determining whether the reported or discovered violation of this code occurred and/or is on-going and obtaining information on parties responsible for the reported or discovered violation of this title.

1-2013- INSPECTION WARRANT.

The Enforcement Official may seek an inspection warrant as follows:

- (a) When a structure or property appears occupied and there is a report of the existence of a violation of this code or other reason to believe that a violation of this code exists or occurred on the property, but the owner or other person in possession or control of the property refuses to allow the Enforcement Official onto the property to inspect and/or investigate, or when circumstances justify not first seeking consent to inspect, the Enforcement Official may seek an inspection warrant pursuant to Sections 1822.50 et seq. of the Code of Civil Procedure to enter and inspect the property.
- (b) The Enforcement Official shall not gain access to the property through forcible entry unless the inspection warrant expressly authorizes forcible entry.

1-2014 - INSPECTION WARRANT EXCEPTION.

No inspection warrant or consent shall be required when the Enforcement Official believes there is an immediate threat or danger to the public health or safety and immediate abatement of any violation of this code is justified under Section 9-1905.21 of this chapter. Entry pursuant to this section includes and allows forcible entry if necessary to abate an immediate threat or danger to the public health or safety.

1-2015 – UNPERMITTED WORK INVESTIGATION.

The Enforcement Official may conduct and charge for a special investigation of unpermitted work as follows:

- (a) When any work or use for which a County permit is required by this code has been commenced without first obtaining such a permit, the Enforcement Official may conduct a special investigation before the permit may be issued.
- (b) The Board may establish and charge an investigation fee, in addition to the permit fee, that shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee.

1-2016- REINSPECTION FEE.

When a responsible party does not abate a violation within the time specified in the notice of violation and the Enforcement Official determines that they must reinspect to determine compliance, then the County may charge a reinspection fee as follows:

- (a) A responsible party must be given written notice that a reinspection fee will be charged when a responsible party fails to correct violations after the initial inspection and one compliance inspection.
- (b) The Board may establish and charge a reinspection fee.

1-2017- CIVIL ACTION.

The County may bring a civil action to enforce this code as follows:

- (a) Unless otherwise provided by this code, in addition to the fines/penalties provided by this code, the County may bring a civil action to enforce this code, including to enjoin or abate a violation of this code.
- (b) In any civil action brought pursuant to this chapter, the County may recover all costs and expenses, including, but not limited to, costs of investigation and discovery.
- (c) In any civil action brought pursuant to this chapter, the prevailing party may be entitled to reasonable attorney's fees and costs, including the reasonable value of any services provided by in-house counsel. The reasonable value of services provided by either parties' counsel shall be capped at the hourly rate charged by Deputy County Counsel IV attorneys in the County's Office of the County Counsel and shall not exceed the amount of reasonable attorney's fees incurred by the County in the civil action or proceeding.
- (d) Except as provided in subsection (e), any responsible party found to have violated this code shall be liable for a civil penalty not to exceed \$2,500 for each violation.
- (e) Alternatively, any responsible party who violates this code by the construction of a dwelling unit or conversion of a structure for human habitation without any permit required by this code may, alternatively to subsection (d), be liable for a civil penalty in the amount of any rent received from any person occupying the illegal structure, or in the alternative, in the amount of the reasonable rental value of the structure from the date of its construction or conversion.

1-2018 - CITATIONS FOR VIOLATIONS.

The Enforcement Official may issue citations for violations of this code as follows:

- (a) The Enforcement Official is authorized pursuant to Section 836.5 of the Penal Code and Chapter 5C (commencing with § 853.5) of Title 3 of Part 2 of the Penal Code and this code to issue citations for violations of this code.
- (b) Whenever any person is arrested/cited for a violation of this code, and such person is not immediately taken before a magistrate as is more fully set forth in

the Penal Code of the State of California, the Enforcement Official shall release the responsible party and prepare a notice to appear according to the procedures set forth in Sections 853.5 or 853.6 of the Penal Code. The notice to appear shall be prepared in duplicate and contain the name and address of such person, the offense charged, and the time and place where and when the responsible party shall appear in court.

- (c) The time specified in the notice to appear must be at least 10 days after the issuance of the citation and issuance of the Notice to Appear.

1-2019 - DENIAL OF PERMITS, LICENSES, OR OTHER ENTITLEMENTS.

The County may deny permits, licenses, or other entitlements based on existing violations of this code as follows:

- (a) Except as otherwise provided by law, the County shall not issue or grant approval of any permits, licenses, or other entitlements regarding any real property with respect to which there exists a violation of this code.
- (b) The County shall refuse to issue or grant a permit, license, or other entitlement under this section whether the applicant was the owner of record of the real property with respect to which there exists a violation of this code at the time of violation or whether the applicant is either the current owner of record or a vendee of the current owner of record pursuant to a contract of sale of the real property with or without actual or constructive knowledge of the violation at the time of the acquisition of their interest in the real property.
- (c) The County shall provide written notice of the refusal to issue or grant approval of any permit, license, or other entitlement to the applicant and shall describe the violation and the action necessary to abate the violation.

1-2020 - APPEAL OF DENIAL OF PERMITS, LICENSES, OR OTHER ENTITLEMENTS.

Any applicant aggrieved by a decision of the County to refuse to issue or grant approval of any permits, licenses, or other entitlements pursuant to Section 1-2019 of this chapter may file a written appeal with the issuing County department within 10 days of the date of the issuance of the written notice of such refusal. The County department shall then facilitate the appellant's selection of a Hearing Officer appointed pursuant to Title 2, Division 3, Chapter 5 of this code to conduct a hearing on the appeal.

- (a) The refusal to issue/grant any permits, licenses, or other entitlements pursuant to this Chapter shall remain in full force and effect until modified or rescinded by the issuing Department or the Hearing Officer's decision affirms, reverses, or modifies it.
- (b) Within 10 days of the completion of the appeal proceeding, the Hearing Officer shall mail the final written decision on the appeal to the parties and to the Clerk of the Board.

- (c) The Hearing Officer's written decision shall be final and shall be enforceable 5 days after the appellant receives the written decision. Receipt will be presumed to have occurred 5 days after the Hearing Officer mailed the decision to the appellant.
- (d) If the Hearing Official's written decision is in favor of the County and against the appellant, the costs incurred by the County in holding the hearing with the Hearing Officer shall be added to other costs of abatement, if any.
- (e) The Board may, by resolution, establish a fee for filing an appeal pursuant to this section.

1-2021 - RESPONSIBILITY OF PROPERTY OWNER.

In addition to other provisions of this code, in any action to abate a violation, whether by administrative proceedings, judicial proceedings, or summary abatement, the owner of the parcel upon which the violation is found to exist shall be liable for all costs of abatement incurred by the County, including, but not limited to, administrative costs, and any and all costs incurred in the physical abatement of the nuisance. Recovery of costs as allowed by Section 25845 of the Government Code shall be in addition to and shall not limit any prevailing party's right to recover costs pursuant to Sections 1032 and 1033.5 of the Code of Civil Procedure or any other provision of law.

1-2022 - REMEDIES CUMULATIVE.

Except as otherwise provided by law, the remedies provided in this chapter are cumulative and not exclusive. Nothing in this chapter is intended, nor shall be deemed or construed, to limit or impair the ability of the County, or any of its officers, agents, or employees, to take any administrative or judicial action, otherwise authorized by law, to abate any violations.

1-2023 -- RECOVERY OF ATTORNEY'S FEES.

In any action, administrative proceeding, or special proceeding to abate a nuisance, the prevailing party may recover its attorney's fees. Recovery of attorney's fees to the prevailing party shall be limited to those individual actions or proceedings in which the County elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the County in the action or proceeding.

1-2024 - LATE PAYMENT CHARGES.

Any person who fails to pay to the County any fine/penalty imposed pursuant to this chapter on or before the date that the fine/penalty is due also shall be liable for the payment of any applicable late payment charge as may be adopted by the Board by resolution.

1-2025 - RECOVERY OF CITATION FINES/PENALTIES, LATE PAYMENT CHARGES, AND COLLECTION COSTS.

The County may collect any past due citation fine/penalty, late payment charge(s), and its collections costs by use of all available legal means. The failure of any person to pay a fine/penalty assessed by a citation or a late payment charge or collections costs related to a citation, by the due date shall constitute a debt to the County. The County may seek payment of the debt by use of all available legal means.

1-2026 - RIGHT TO JUDICIAL REVIEW.

Any person aggrieved by an administrative decision of the Hearing Officer under this chapter of regarding the imposition, enforcement, or collection of an administrative fine/penalty may obtain review of that administrative decision by filing a petition for review with the Superior Court in San Joaquin County in accordance with the provisions set forth in Section 53069.4 of the Government Code.

CHAPTER 3 - ADMINISTRATIVE CITATIONS

1-2027- APPLICABILITY.

This chapter provides for administrative citations and fines/penalties which are in addition to all other civil or criminal legal remedies, which the County may pursue to address any violation of this code.

- (a) The use of this chapter shall be at the County's sole discretion.

1-2028- ADMINISTRATIVE CITATION.

Administrative citations may be issued as follows:

- (a) When an Enforcement Official determines that a violation of this code has occurred, the Enforcement Official shall have the authority to issue administrative citations, in accordance with Section 53069.4 of the Government Code and this chapter, to any party responsible for any violation(s) of this code, including but not limited to those violations that did not occur in the presence of the Enforcement Official issuing the administrative citations if the issuing Enforcement Official determines through investigation that the responsible party committed, caused, allowed, or was otherwise responsible for the violation(s).
- (b) Each administrative citation shall contain the following information:
 - (1) The date, or approximate date, of the violation(s);
 - (2) The address or a description of the location where the violation(s) occurred;
 - (3) The section(s) of the code violated and a description of the violation;
 - (4) A description of how the violation can be corrected, if possible;
 - (5) The amount of the fine/penalty for the code violation;
 - (6) A description of the fine/penalty payment process, including a description of the time and place within which the fine/penalty shall be paid;
 - (7) An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation;
 - (8) A description of the administrative citation review process, including the time within which the administrative citation may be contested by submitting a Request for Hearing form; and
 - (9) The name and signature of the issuing Enforcement Official.
- (c) Prior to the imposition of an administrative fine/penalty, the issuing Enforcement Official shall provide for a reasonable period of time not less than 10 days or as otherwise specified in writing to correct or otherwise remedy a continuing violation when the violation pertains to building, plumbing, electrical, or other

similar structural or zoning issues that do not create an immediate danger to health or safety.

1-2029 - SERVICE OF ADMINISTRATIVE CITATION.

Service of administrative citations shall be as follows:

- (a) The Enforcement Official shall serve the responsible party as follows:
 - (1) By effecting personal service of the administrative citation on the responsible party; or
 - (2) By mailing the administrative citation to the responsible party by certified mail, return receipt requested, and by first class mail.
 - (i) If the copy of the administrative citation that is sent by certified mail is returned by the United States Postal Service unsigned or marked “unclaimed” and/or “refused,” then service by first class mail shall be deemed effective.
 - (ii) If the copy of the administrative citation that is sent by first class mail is also returned by the United States Postal Service then service may be accomplished pursuant to subsection (c)
 - (iii) The failure of the owner or responsible party to receive a properly addressed administrative citation that is not returned by the United States Postal Service shall not affect the validity of any proceeding under this chapter.
- (b) As an alternative, if service cannot be completed as specified in subsections (a)(1) or (2) or as an additional method at the discretion of the County, then it may be accomplished by posting the administrative citation in a conspicuous place on or near the property in which the responsible party has a legal interest.
 - (1) Such posting shall be deemed effective service.
 - (2) The failure of the responsible party to receive any notice served in accordance with this subsection shall not affect the validity of any proceeding under this chapter.

1-2030 - AMOUNT OF ADMINISTRATIVE FINES/PENALTIES.

The amount of any administrative fine/penalty shall be as follows:

- (a) Any administrative fine/penalty imposed pursuant to this chapter shall be consistent with Section 25132 of the Government Code as it now reads or as amended and shall not exceed the maximum administrative fine/penalty amounts set forth therein and shall be applicable unless otherwise stated by law or this code:
 - (1) Every violation that is an infraction is punishable by the following: A fine/penalty not exceeding one hundred dollars (\$100) for a first violation;

A fine/penalty not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year of the first violation; A fine/penalty not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year of the first violation.

- (2) Notwithstanding any other law, a violation of local building and safety codes that is an infraction is punishable by the following: A fine/penalty not exceeding one hundred dollars (\$100) for a first violation; A fine/penalty not exceeding five hundred dollars (\$500) for a second violation of the same ordinance within one year of the first violation; A fine/penalty not exceeding one thousand dollars (\$1,000) for each additional violation of the same ordinance within one year of the first violation.
- (3) Notwithstanding any other law, including subdivisions (a) and (b), a violation of an event permit requirement that is an infraction is punishable by the following:
 - (i) A fine/penalty not exceeding one hundred fifty dollars (\$150) for the first violation of an event permit requirement; A fine/penalty not exceeding seven hundred dollars (\$700) for a second occurrence of the same violation of an event permit requirement by the same owner or operator within three years of the first violation; A fine/penalty not exceeding two thousand five hundred dollars (\$2,500) for each additional occurrence of the same violation of an event permit requirement by the same owner or operator within three years of the first violation.
- (b) The administrative fine/penalty amounts shall be cumulative where multiple violation(s) are cited and where multiple administrative citations are issued.

1-2031 - PAYMENT OF FINE/PENALTY.

Payment of any fine/penalty ordered pursuant to this Chapter shall be:

- (a) Paid to the County within 30 days from the date of the administrative citation, unless otherwise specified in writing, in accordance with the payment instructions printed on the administrative citation.
 - (1) Payment of any administrative fine/penalty shall not excuse or discharge the responsible party from the responsibility for correcting, removing, or abating the violation(s) or from the order not to conduct any continuation or repeated occurrence of the violation(s) that is the subject of the administrative citation.
- (b) Refunded to the payor following any determination after a hearing that the person charged in the administrative citation was not the responsible party or that there was no violation as cited in the administrative citation.

1-2032 - REQUEST FOR HEARING.

A request for hearing on a citation issued under this Chapter shall be as follows:

- (a) Any person an Enforcement Official issues an administrative citation to may contest the citation by:
 - (1) Completing a request for hearing form and returning it to the Enforcement Official within 14 days from the date of the administrative citation;
 - (2) Providing an advance deposit of the total fine/penalty or an advance deposit Hardship Waiver Application form to the Enforcement Official with the Request for Hearing form.
- (b) Failure to properly file a Request for Hearing form with an advance deposit or an advance deposit Hardship Waiver Application form shall constitute a waiver of the right to an administrative hearing and adjudication of the administrative citation or fine/penalty.
- (c) The Enforcement Official shall notify the person requesting the hearing of the time and place set for the hearing by personal service or by mail to the address provided on the Request for Hearing form postmarked at least 10 days prior to the date of the hearing.
 - (1) If the notification is returned by the United States Postal Service or other carrier used at the County's discretion, notification can be made by posting the notification at the address provided on the Request for Hearing form at least 10 days prior to the date of the hearing.
- (d) If the Enforcement Official submits any additional written report or documentation concerning the administrative citation or fine/penalty to the Hearing Officer for consideration at the hearing, then a copy of anything provided shall be served on the person requesting the hearing by personal service, by sending via overnight mail at least 5 days prior to the date of the hearing, or by posting.

1-2033 - ADVANCE DEPOSIT OR HARDSHIP WAIVER.

A determination on a request for an advanced deposit hardship waiver shall be made as follows:

- (a) Any person contesting an administrative citation pursuant to this chapter that is financially unable to make the advance deposit of the administrative fine/penalty as required by this chapter may apply for an advance deposit hardship waiver.
- (b) The request shall be filed with the Enforcement Official within 5 days of the administration citation.
- (c) The requirement of depositing the full amount of the administrative fine/penalty prior to a requested hearing pursuant to this Chapter shall be stayed until the Enforcement Official makes a full determination on the application for an

advance deposit waiver.

- (d) The application for an advance deposit waiver shall include: a sworn affidavit regarding the applicant's inability to make the advance deposit of the fine/penalty in advance of the hearing and supporting documents or materials demonstrating to the satisfaction of the Enforcement Official of the person's actual financial inability to make the advance deposit of the fine/penalty in advance of the hearing.
- (e) The Enforcement Official may only waive the requirement of an advance deposit and issue the advance deposit hardship waiver after considering the materials provided and the amount of the total fine/penalty imposed, the income of the cited party, the expenses of the cited party, and any other factors that are reasonably related to the cited party's ability to make the advance deposit of the fine/penalty in advance of the hearing.
- (f) The Enforcement Official's determination shall be final.
- (g) The Enforcement Official shall serve the written determination on the application for the advance deposit waiver upon the person who applied for the advance deposit hardship waiver by personal service, by overnight mail, or by posting.
- (h) If the Enforcement Official denies the application for the advance deposit waiver then the cited party shall pay the advance deposit to the County within 5 days of service of that decision.

1-2034 - HEARING OFFICER.

A cited party that requests a hearing pursuant to this chapter shall select a Hearing Officer appointed pursuant to Title 2, Division 3, Chapter 5 of this code.

1-2035 - HEARING PROCEDURE.

The procedure for a hearing under this chapter shall be as follows:

- (a) The Hearing Officer shall conduct the hearing pursuant to Title 2, Division 3, Chapter 5 of this code.
- (b) The Hearing Officer shall not hold a hearing under this chapter unless the fine/penalty has been deposited in advance or an advance deposit hardship waiver has been approved by the Enforcement Official pursuant to this chapter.
- (c) The Hearing Officer shall set the hearing date for not less than 11 days and not more than 60 days from the date that the request for hearing is filed pursuant to this chapter unless agreed to in writing by both parties.
- (d) The failure of the cited party to appear at the hearing shall constitute a waiver of any contest to the administrative citation or fine/penalty and a failure to exhaust their administrative remedies.
- (e) The administrative citation and any additional documents submitted to the

Hearing Officer by the Enforcement Official shall constitute prima facie evidence of the respective facts contained in those documents.

1-2036 - HEARING OFFICER'S DECISION.

A Hearing Officer's decisions shall be issued as follows:

- (a) After considering all of the oral and written evidence submitted at the hearing, the Hearing Officer shall issue a final written decision to uphold, modify, or cancel the administrative citation or fine/penalty and shall list the reasons for that decision.
- (b) The decision of the Hearing Officer shall be final.
- (c) If the Hearing Officer determines that the administrative citation and fine/penalty should be upheld, the fine/penalty amount on deposit with the County shall be retained by the County.
- (d) If the Hearing Officer determines that the administrative citation should be upheld and the fine/penalty has not been deposited pursuant to an advance deposit hardship waiver, the Hearing Officer shall include in the written decision a due date for payment of the fine/penalty.
- (e) If the Hearing Officer determines that the administrative fine/penalty is upheld only in part then:
 - (1) The fine/penalty amount upheld should be either retained by the County or the Hearing Officer shall include in the written decision a due date for payment of the fine/penalty amount upheld.
 - (2) If the fine/penalty amount not upheld was deposited with the County, the County shall promptly refund the amount of the fine/penalty amount not upheld to the payor.
- (f) If the Hearing Officer determines that the administrative citation should be canceled and the fine/penalty was deposited with the County, the County shall promptly refund the amount of the deposited fine/penalty to the payor.
- (g) If the Hearing Officer upholds the administrative citation, the Hearing Officer may order the cited party to pay administrative costs in addition to the administrative fines/penalties.
 - (1) Administrative costs may include any and all administrative costs incurred by the County as well as any and all costs of the hearing before the Hearing Officer incurred by the County, including but not limited to costs the Enforcement Official incurred in preparation for the hearing and for participating in the hearing, and costs of the County to conduct the hearing.
- (h) Failure to pay administrative fines/penalties or administrative costs in the amounts specified in the Hearing Officer's written decision on or before the date specified

in that written decision may result in the imposition of collection and late charges pursuant to this Chapter.

- (i) The Hearing Officer or Enforcement Official shall serve the cited party by personal service, mail, or posting with a copy of the Hearing Officer's written decision.

1-2037 - LATE PAYMENT CHARGES.

Any person who fails to pay to the County any administrative fines/penalties, administrative cost, or charge imposed pursuant to this chapter on or before the date that it is due also shall be liable for the payment of any applicable late payment charge as may be adopted by the Board by resolution.

1-2038 - RECOVERY OF ADMINISTRATIVE CITATION FINES/PENALTIES, LATE PAYMENT CHARGES AND COLLECTION COSTS.

The County may collect any past due administrative citation fine/penalty, late payment charge(s), and its collections costs by use of all available legal means. The failure of any person to pay a fine/penalty assessed by an administrative citation or a late payment charge or collections costs related to an administrative citation, by the due date shall constitute a debt to the County. The County may seek payment of the debt by use of all available legal means.

1-2039 - RIGHT TO JUDICIAL REVIEW.

Any person aggrieved by an administrative decision of the Hearing Officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Superior Court in San Joaquin County in accordance with the provisions set forth in Section 53069.4 of the Government Code.

1-2040 - RECOVERY OF ATTORNEY'S FEES.

In any action, administrative proceeding, or special proceeding to abate a nuisance, the prevailing party may recover its attorney's fees. Recovery of attorney's fees to the prevailing party shall be limited to those individual actions or proceedings in which the County elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the County in the action or proceeding.

1-2041 - SERVICE.

Except as otherwise specified, all decisions or notices required to be served by this chapter may be given either by personal delivery to the person to be notified or by deposit in the United States mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at the last known business or residence address as the same appears in the last equalized County assessment roll or as identified in the County records pertaining to the matter or as provided by the person to be noticed in the matter. Service by mail shall be deemed completed at the time deposit in the United States mail receptacle is made. Failure to receive any notice specified herein does not

affect the validity of proceedings conducted hereunder.

1-2042 - REMEDIES CUMULATIVE.

Except as otherwise provided by law, the remedies provided in this chapter are cumulative and not exclusive. Nothing in this chapter is intended, or shall be deemed or construed, to limit or impair the ability of the County, or any of its officers, agents, or employees, to take any administrative or judicial action, otherwise authorized by law, to abate any violations.

CHAPTER 4 – ADMINISTRATIVE ABATEMENT PROCEDURES

1-2043 - PURPOSE AND AUTHORITY.

The purpose and authority for this Chapter is as follows:

- (a) Pursuant to the authority granted to the Board by the State, including but not limited to Sections 25845 and 53069.4 of the Government Code, the Board does enact this chapter.
- (b) It is the intent of the Board in adopting this chapter to set forth procedures for administrative abatement of violations of this code and that govern imposition, enforcement, collection, and administrative review of administrative fines/penalties for violations of this code and State laws within authority of the County.
- (c) It is the intent of the County to utilize administrative abatement procedures to seek voluntary compliance with these provisions, and to provide an effective means of enforcement if compliance is not obtained voluntarily.

1-2044 - NOTICE OF VIOLATION AND ORDER TO ABATE.

When the Enforcement Official determines that a condition constituting a violation of this code has occurred or exists they may provide a written notice of violation and order to abate to the responsible party. If the violation relates to real property then notice shall also be given to the owner(s) and possessors of the property involved. Notice shall be given as follows:

- (a) In writing and delivered either personally or by deposit in the United States certified and by first class mail in a sealed envelope, postage prepaid, addressed to the person to be notified at their last known business or residence address appearing in the public records or in other records of the matter for which notice is given. Notice by mail shall be deemed served at the time of deposit in the United States mail.
- (b) If delivery of the notice cannot be accomplished pursuant to subsection (a) despite diligent effort then notice may be given by posting copies of the notice/order to abate at the premises involved and recording the notice/order to abate in the official records of the County.
- (c) The failure of an addressee to receive the notice provided to them in compliance with this section shall not affect in any manner a determination that notice was provided or the validity of any proceedings taken under this code.

1-2045 - NOTICE OF VIOLATION AND ORDER TO ABATE—DATE OF NOTIFICATION.

The date of notification of a notice/order to abate is presumed to have occurred as follows:

- (a) On the date the notice/order to abate was personally served; or

- (b) On the date the County deposited the Notice in the United States Mail; or
- (c) On the date the notice/order to abate was posted at the premises involved.

1-2046 - NOTICE OF VIOLATION AND ORDER TO ABATE—CONTENTS.

The notice/order to abate shall include at least the following information, as applicable, unless otherwise determined by the Enforcement Official, or otherwise specified in this code:

- (a) Determination that a violation of this code and/or any other ordinance, code, statute, act, regulation, or law occurred or currently exists.
- (b) Description of (1) the action(s) or condition(s) that did or currently are constituting a violation of this code, and (2) the section(s) of this code and/or any other ordinance, code, statute, act, regulation, or law that the action or condition(s) were or are in violation of.
- (c) Statement of any fines/penalties ordered to be paid by the responsible party(s) for the violation(s) described in the notice/order to abate.
- (d) State that the violation(s) must be addressed, corrected, or abated within 10 days or as otherwise specified in the notice/order to abate from the date of the notice/order to abate.
- (e) State that the County may take legal action to address, correct, or abate the violation(s) up to and including criminal action pursuant to this code.
- (f) State that the addressee(s) of the notice/order to abate has a right to appeal the determination of a violation of this chapter and/or imposition of administrative fines/penalties by filing a written notice of appeal to the Enforcement Official within than 10 days or as otherwise stated in the notice/order to abate of the date of receipt of the notice/order to abate. Imposition of administrative fines/penalties will be stayed as of the date of appeal through the resolution of the appeal.
- (g) State that unless the resident and/or owner of the premises involved voluntarily abates a continuing violation of this chapter or timely appeals the notice/order to abate, then the Enforcement Official may take action to abate a continuing violation of this chapter.
- (h) State that the resident and/or owner of the premises involved may be responsible for the cost of abatement in addition to any fines/penalties. These costs will be calculated and provided to the owner in a statement of expenses.
- (i) State that the resident and/or owner of the real property involved has a right to appeal the accounting of costs for abatement in writing within 30 days of receiving the statement of expense. Collection pursuant to the statement of expense will be stayed pending resolution of the appeal.
- (j) State that if the owner of the real property involved fails to pay the cost of abatement then a special tax may be assessed on the property tax of the real

property involved which shall have the same priority as other taxes and be collected at the same time and manner as other County taxes.

- (k) State that in the event that the violation of this chapter poses an imminent health, safety, or fire hazard the Enforcement Official may reduce the noticed time and take action to abate.

1-2047 - RECORDATION.

Following issuance of a notice/order to abate pursuant to this chapter, the Enforcement Official may record with the County Recorder:

- (a) A notice of violation. The notice will describe (1) the action(s) or condition(s) that constitute(d) a violation of this chapter, and (2) the section(s) of this chapter and/or any other ordinance, code, statute, act, regulation, or law that the action or condition(s) were or are in continuing violation.
 - (1) If the Enforcement Official records a notice of violation, then the Enforcement Official shall serve and record a release of lien or release of notice of violation when the violation has been abated, including any hearings or appeals and the completion of any work necessary to abate the nuisance, and all costs, fines/penalties have been paid or a lien for those costs and penalties has been recorded.
- (b) A notice of lien – nuisance abatement. The notice will describe (1) the action(s) or condition(s) that constitute(d) a violation of this chapter, (2) the section(s) of this chapter and/or any other ordinance, code, statute, act, regulation, or law that the action or condition(s) were or are in continuing violation, (3) the actions taken by the County to abate the violations, (4) the cost of abating the violations, and (5) the date the costs were incurred.
 - (1) If the Enforcement Official records a notice of lien – nuisance abatement, then the Enforcement Official shall serve and record a release of lien – nuisance abatement when the costs of abatement and fines/penalties have been paid.

1-2048 - APPEAL OF DETERMINATION OF VIOLATION.

A responsible party may appeal a determination of violation as follows:

- (a) If a responsible party found to be in violation of this code objects to the Enforcement Official's findings and conclusions in the notice/order to abate, then they may within no less than 10 days of the date of receipt of the notice/order to abate file a written appeal with the Enforcement Official that issued the notice/order to abate or if it subjects the person to administrative fines/penalties then to the Superior Court in accordance with Section 53069.4 of the Government Code.

- (b) If the appeal is to the Enforcement Official, then the appellant shall then select a Hearing Officer appointed pursuant to Title 2, Division 3, Chapter 5 of this code to conduct a hearing.
- (1) The Enforcement Official's findings and orders in the notice/order to abate shall remain in full force and effect until modified or rescinded by the Enforcement Official or the Hearing Officer's decision affirms, reverses, or modifies them.
 - (2) Within 5 days of the completion of the appeal proceeding, the Hearing Officer shall provide the final written decision on the appeal to the parties by personal service or by certified mail and the Clerk of the Board.
 - (3) The Hearing Officer's written decision shall be final and shall be enforceable 5 days after the appellant receives the decision by personal service or receipt of certified mailing. If neither personal service nor receipt of certified mail is successful, then the Hearing Officer shall mail the final written decision to appellant and receipt will be presumed to have occurred 5 days after the Hearing Officer mailed the decision to the appellant.
 - (4) If the Hearing Official's written decision is in favor of the Enforcement Official and against the appellant, the costs incurred by the County in holding the hearing with the Hearing Officer shall be added to the other costs of abatement and included in the statement of expense which may be billed to the appellant and/or responsible party and/or owner of the premises involved.
 - (5) The Board may, by resolution, establish a fee for filing an appeal pursuant to this section.

1-2049 - DISPOSITION OF ADMINISTRATIVE FINES/PENALTIES.

All fines/penalties collected pursuant to the provisions of this chapter, not including the reimbursement for costs of abatement pursuant to the statement of expense, shall be paid into the County treasury, to the credit of the general fund, unless otherwise specified in this code.

1-2050 – ABATEMENT - VOLUNTARILY.

The responsible party and/or premises owner and/or person in possession or control of the premises involved may voluntarily abate the violation(s) of this code at any time. If a party claims such voluntary abatement has occurred, they shall notify the Enforcement Official who shall then inspect the premises involved to confirm the voluntary abatement. Voluntary abatement does not preclude the Enforcement Official, or any other party allowed by law, from pursuing legal or equitable action against the resident and/or property owner for the violation(s) of this chapter or from pursuing actual cost of all time, services, and materials associated with enforcement and/or abatement of violation(s) of this code.

1-2051 – SUMMARY ABATEMENT.

The County may summarily abate a violation as follows:

- (a) If a responsible party has failed to voluntarily abate any ongoing violation(s) of this code as required in the notice/order to abate, no appeal has been filed, or the final decision on appeal upholds the Enforcement Official's findings in the notice/order to abate, then the Enforcement Official may commence involuntary abatement.
- (b) Involuntary abatement includes but is not limited to one or more of the following actions:
 - (1) Entry onto the premises pursuant to consent or other legal authorization to for the County or an agent of the County to perform work to abate the violation(s) of this code;
 - (2) Office of the County Counsel or District Attorney commencing action to abate the violation of this chapter pursuant to this code and/or Section 731 of the Code of Civil Procedure; and
 - (3) Office of the County Counsel or District Attorney commencing a civil action for injunctive relief for which the relief may take the form of a court order to allowing abatement or other relief, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this code, and requiring compliance with other terms.
- (c) Following abatement the Enforcement Official shall add the costs of abatement to the statement of expense prepared pursuant to Section 1-2057 – Recovery of Enforcement if they are not otherwise recovered.

1-2052 – SUMMARY ABATEMENT—EMERGENCIES.

Notwithstanding any other provision of this code, if the Enforcement Official determines that a violation of this code poses an immediate threat of life, limb, health, property, safety, or welfare of anyone, the Enforcement Official may act to immediately notify the responsible party and/or the owner of premises involved orally or in writing that the violation must be abated immediately.

- (a) If, despite diligent effort, the Enforcement Official is unable to notify the responsible party and/or the owner of the premises within a reasonable period of time considering the immediate threat, or after notification that the responsible party and/or owner has failed to abate the violation, the Enforcement Official may cause the abatement of the condition, which poses an immediate threat.
- (b) Immediately following abatement, the Enforcement Official shall notify the responsible party and/or owner of the premises of the abatement.
- (c) The post-abatement notice to the responsible party and/or owner of the premises involved shall include a statement of expense pursuant to Section 1-2057 – Recovery of Enforcement.

1-2053 - ACCOUNTING.

The Enforcement Official shall keep an account of the investigation, abatement, and administrative costs for each enforcement action.

1-2054 - CIVIL LIABILITY.

There shall be no civil liability on the part of, and no cause of action shall arise against, the Enforcement Official or any County official or personnel acting pursuant to this code and within the scope of their authority.

1-2055 - SETTLEMENT AGREEMENT.

No provision in this code precludes a responsible party from entering into a settlement agreement with the County at any time.

1-2056 - ATTORNEY'S FEES AND COSTS.

The prevailing party in any civil action to abate a violation of this code may recover reasonable attorney's fees and costs. No party's fees shall be awarded at an hourly rate greater than the hourly rate charged by Deputy County Counsel IV attorneys in the Office of the County Counsel.

1-2057 - RECOVERY OF ENFORCEMENT COSTS.

Recovery and enforcement costs shall be recovered by the County as follows:

- (a) In any enforcement action brought by the County pursuant to this chapter, whether by administrative proceeding, judicial proceeding, or summary abatement, the responsible party found to have caused, permitted, created, or maintained a nuisance shall be personally liable for the following:
 - (1) All actual costs incurred by the County including but not limited to all time, services, and materials associated with or incurred to undertake, or to cause or compel any responsible party to undertake, any voluntary and involuntary abatement.
 - (2) Reasonable attorney's fees in the event the County is the prevailing party and elected, at the initiation of the action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of an attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the County in the action or proceeding.
 - (3) Reimbursement of these costs shall be in addition to and shall not limit the prevailing party's right to recover costs pursuant to Code of Civil Procedure Sections 1032 and 1033.5 or any other provision of law.
 - (4) Any administrative penalty imposed pursuant to this chapter.

- (b) Interest shall accrue on all amounts due under this chapter from the effective date of final decision on the amount owed to the date paid pursuant to the laws applicable to civil money judgments. Interest rates shall be the same as those established by the Board for the County's Revenue and Recovery Division.
- (c) Late charges may be charged for fines/penalties and/or on the amount owed on a statement of expense not paid by the required date, excluding any time the proceeding is stayed pending appeal. Late charges if any, shall be the same as those established by the Board for the County's Revenue and Recovery Division.
- (d) If the Enforcement Official seeks to recover amounts owed under this chapter, then they shall compile them into a statement of expense, which shall be an itemized statement of all amounts owed under this chapter explaining all abatement costs and/or administrative fines/penalties incurred by the County in abating any violation of this code that the Enforcement Official seeks to recover.
- (e) Any time spent on enforcement that the Enforcement Official seeks to recover shall be charged by County personnel at an hourly rate determined by the Enforcement Official or otherwise set by the Board.
- (f) Any costs of time, services, and/or materials spent on enforcement that the Enforcement Official seeks to recover may be calculated from the time a violation is reported or discovered through and including successful abatement of the violation.
- (g) The statement of expense shall be mailed to the property owner with a demand for payment within 30 days of the date the statement was mailed unless otherwise specified by this code.
- (h) The statement of expense shall advise the property owner that they may appeal the statement of expense in writing within 30 days of the date the statement was mailed unless otherwise specified by this code.
- (i) In the event that two or more persons are found to be responsible for the violation and the costs of abatement, they shall be jointly and severally liable for the full amount owed.
- (j) If the responsible party does not pay the amount due under the statement of expense within the time specified by the statement or by a Hearing Officer after a hearing on any appeal, then the County shall request placement on the consent calendar of the Board for a resolution approving the amount due under the statement of expense or under the written decision of the Hearing Officer. The resolution shall direct the Auditor to cause a special tax lien to be assessed on the property tax of the subject property. Said assessment shall have the same priority as other taxes. A notice of release may not be recorded with the office of the County Recorder until all assessments for the cost of abatement are paid. When the assessment in question is collected, it shall be credited to the County's General Fund or as directed by the Board in the resolution directing the special tax lien to be assessed.

- (1) If the tax lien has not been recorded prior to the transfer to any real property involved before the date on which the first installment of County taxes becomes delinquent, then the cost of abatement shall not be a lien on the property but shall be transferred to the unsecured roll for collection. For the purposes of this section, a transfer must be to a bona fide purchaser for value.

1-2058 - APPEAL OF STATEMENT OF EXPENSE.

An appeal of a statement of expense shall be done as follows:

- (a) If the responsible party objects to the statement of expense, the responsible party may, within 30 days of notification of the statement of expense, file a written appeal with the County department that issued the statement of expense. The appellant shall then select a Hearing Officer. The Hearing Officer shall conduct a hearing on the appeal pursuant to Title 2, Division 3, Chapter 5 of this code.
- (b) The statement of expense will be final and owing unless a timely appeal is filed.
- (c) If a timely appeal is filed then the requirement to pay the statement of expense shall be stayed pending such appeal.
- (d) At the conclusion of the appeal hearing, the Hearing Officer shall prepare a recommended decision and resolution for the Board pursuant to Sections 25845, subdivision (i), and 27721, subdivision (b), upholding, modifying, or reversing the statement of expense.
- (e) The Board may, by resolution, establish a fee for filing an appeal pursuant to this section.
- (f) Within 10 days of the completion of the appeal proceeding, the Hearing Officer shall mail the final written decision on the appeal to the parties by certified mail and the Clerk of the Board. The written decision shall be final and shall be enforceable 31 days after the Clerk of the Board receives the written decision. Receipt will be presumed to have occurred 5 days after the Hearing Officer mailed the decision.
- (g) Attorney's fees for the appeal hearing may be recovered by the prevailing party to the appeal if at the beginning of the hearing on the appeal the County elects to seek recovery of attorney's fees. No award of attorney's fees under this section shall exceed the amount of reasonable attorney's fees incurred by the County in holding the hearing on the appeal. If the County is the prevailing party then the attorney's fees shall be added to the statement of expense.
- (h) The Hearing Officer's decision on the appeal is final.

1-2059 - LIEN HEARING AND TAX ASSESSMENT.

At such time as the amount owed in the statement of expense has not been timely paid:

- (a) The Enforcement Official shall prepare a report on the statement of expense including the total amount owed, or compile more than one statement of expense itemized by parcel, to a Hearing Officer appointed pursuant to Title 2, Division 3, Chapter 5 of this code.
- (b) The Enforcement Official or Hearing Officer shall serve a written notice of hearing on the statement(s) of expense including a copy of the statement of expense to the responsible party(ies).
- (c) At the time and date set for the hearing, the Hearing Officer shall review and consider the statement(s) of expense and any protests or objections to it.
- (d) At the conclusion of the hearing the Hearing Officer shall prepare a written recommended decision and resolution for the Board upholding, modifying, or reversing the amount owed in the statement(s) of expense pursuant to Sections 25845 (i) and 27721(b) of the Government Code.
- (e) The Hearing Officer shall submit the written recommendation to the Board through the Clerk of the Board. The Board may adopt the recommendation without a public hearing, or may set the matter for a de novo hearing before the Board.
- (f) The Clerk shall place the matters not set for public hearing on the consent calendar of the Board for a resolution approving the recommended amount due in the statement(s) of expense. The resolution shall direct the Auditor to cause a special tax lien to be assessed on the property tax of the subject property pursuant to Section 25845 of the Government Code. Said assessment shall have the same priority as other taxes.
- (g) After the adoption of the resolution or the conclusion of the de novo hearing, the Board shall cause the special tax lien to be recorded against the respective parcels of real property pursuant to Section 25845 of the Government Code. The special tax lien shall have no force and effect until recorded with the County Recorder. Upon recordation, the Clerk of the Board shall serve, in the manner set forth in Section 1.06.090, a copy of the recorded notice(s).
- (h) If the tax lien has not been recorded prior to the transfer to the real property involved before the date on which the first installment of County taxes becomes delinquent, then the cost of abatement shall not be a lien on the property but shall be transferred to the unsecured roll for collection. For the purposes of this section, a transfer must be to a bona fide purchaser for value.
- (i) Within 30 days following the Boards' adoption of a resolution imposing the special tax lien, the Clerk of the Board shall file same as a judgment lien in the County Recorder's Office.
- (j) Once recorded, any costs or fines/penalties not specially assessed by the Board pursuant to this section shall have the same force and effect and priority of a judgment lien governed by the provisions of Section 697.340 of the Code of Civil

Procedure, and may be extended as provided in Sections 683.110 to 683.220 of the Code of Civil Procedure, inclusive.

- (k) Interest shall accrue on the principal amount of any special tax lien remaining unsatisfied pursuant to the law applicable to civil money judgments.
- (l) Once the County receives full payment for outstanding principal, fines/penalties, and costs, the Clerk of the Board will record a Notice of Satisfaction. A fee shall be paid by the owner(s) and/or occupant(s) for processing the Notice of Satisfaction. This Notice of Satisfaction will cancel the County's lien under this section.
- (m) The special tax lien may be foreclosed and the real property sold by the County filing a complaint for foreclosure in a court of competent jurisdiction and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The County shall be entitled to its attorney's fees and costs.

1-2060 - LATE CHARGES AND INTEREST.

Late charges and interest may be charged for fines/penalties and/or the statement of expense not paid by the required date.

1-2061 - NO DUTY TO ENFORCE.

Nothing in this code shall be construed as imposing on the Enforcement Official or the County any duty to issue a notice of violation and order to abate any violation of this chapter, nor to take any other action with regard to any violation of this chapter. Neither the Enforcement Official nor the County shall be held liable for failure to issue a notice of violation and order to abate any violation of this chapter, nor for failure to take any other action with regard to any violation of this chapter.

1-2062 - ABATEMENT— TREBLE COSTS.

Pursuant to Section 25845.5 of the Government Code, on a second or subsequent determination within two (2) years from notice of a finding that an owner of property is responsible for a condition that may be abated as a public nuisance, except for conditions abated pursuant to Section 17980 of the Health and Safety Code, the County may recover treble the costs of abatement.

1-2063 - EXPEDITED ADMINISTRATIVE ABATEMENT OF CODE VIOLATIONS.

An expedited administrative abatement shall be done as follows:

- (a) When the Enforcement Official determines that a violation(s) of this code has occurred or exists and that the violation(s) creates a substantial and imminent risk of serious harm to persons or property or as otherwise allowed by this code, the Enforcement Official may order the immediate cessation of any activities constituting the violation, known as a Stop Activities Order.
 - (1) The acceptance of a County permit, discretionary or ministerial, and commencement of activities thereunder shall indicate a permittee's

consent to the issuance of a Stop Activities Order by an Enforcement Official under subsection (a).

- (2) The issuance of all permits, discretionary or ministerial, by the County under the authority of any chapter of this code is conditioned that the permittee consent to this section. The consent to the issuance of a stop activities order under subsection (a) shall include, without limitation, consent to cease activities from the time of issuance of a Stop Activities Order until the conclusion of the expedited administrative review, including any appeal.
- (b) Before issuing a Stop Activities Order, the Enforcement Official shall inform the person in writing that conducting the activities in question constitute a violation of this code and request the person voluntarily stop.
 - (1) If the person stops voluntarily the Enforcement Official shall not issue an order as specified in subsection (c). Voluntary cessation does not preclude the Enforcement Official, or any other party allowed by law, from pursuing legal or equitable action against the person conducting the activities or from pursuing actual cost of all time, services, and materials associated with enforcement and/or abatement of violation(s) of this code.
 - (2) If the person does not stop voluntarily the Enforcement Official shall issue an order as specified in subsection (c).
- (c) The Stop Activities Order shall specify the section(s) of this code that are being violated, the activities which constitute the violation(s), the penalties for violating the Stop Activities Order, the person issuing the order, and the date and time of an expedited administrative review to occur within 48 hours after the issuance of the Stop Activities Order.
 - (1) The Enforcement Official shall provide notice of the Stop Activities Order pursuant to Section 1-2010 of this code on any person conducting the activities and/or the permittee.
 - (2) The date of notification of the Stop Activities Order shall be pursuant to Section 1-2010 of this code.
- (d) Expedited administrative review.
 - (1) No later than 48 hours after the Enforcement Official issues a Stop Activities Order, the Enforcement Official shall select a Hearing Officer appointed pursuant to Title 2, Division 3, Chapter 5 of this code to conduct an expedited administrative review hearing on the Stop Activities Order.
 - (2) If the person conducting the activities, permittee, and/or the owner of the subject property objects to the issuance of the Stop Activities Order, that person(s) shall appear at the expedited administrative review and may present any relevant evidence in opposition to the issuance of the order.

- (3) The person(s) contesting the issuance of the order shall have the burden of proof to demonstrate that the Stop Activities Order should be rescinded.
- (e) The Stop Activities Order shall be in full force and effect unless vacated or modified by the issuing Enforcement Official or the Hearing Officer.
- (f) Following the conclusion of the expedited administrative review, the Hearing Officer shall consider the evidence presented at the expedited administrative review and shall render a decision within 48 hours after the close of the review. The Hearing Officer may uphold the Stop Activities Order, vacate the order, issue a new order, or condition the activities of the permittee in order to insure compliance with this code so as to eliminate the substantial and eminent risk of harm to persons or properties resulting from the person's activities.
- (g) Within 5 days of the completion of the appeal proceeding, the Hearing Officer shall mail the final written decision on the appeal to the parties and the Clerk of the Board.
- (h) If any person to whom notice of the order was given fails to appear at the hearing, it shall be conclusively presumed that the absent party waives their right to object to and appeal any decision upholding any portion of the Stop Activities Order.
- (i) The decision of the Hearing Officer may be appealed by any person to whom notice of the order was given and who did not waive their right to appeal to the Planning Commission.
 - (1) The application for the appeal shall be filed no later than 10 days after the Hearing Officer's decision following the expedited administrative review. The appeal shall be heard at the first regular meeting of the Planning Commission in which the appeal may be scheduled following the filing of the appeal. The decision of the Planning Commission is final.
- (j) Appeals to the Planning Commission shall be de novo hearings. The appellant shall have the burden of presenting evidence justifying the relief sought by appellant.
 - (1) The Planning Commission may uphold, vacate, or modify the Hearing Officer's decision.
- (k) Pending a decision on appeal, the Hearing Officer's decision shall remain in full force and effect.
- (l) Conducting, engaging in or allowing any activities in violation of any Stop Activities Order shall be a violation of this code. Any person who conducts, engages in, or allows any activities in violation of a Stop Activities Order shall be liable for a civil penalty not to exceed \$2,500 for each day or portion thereof that activities occur. The civil penalty specified in this section shall be a separate remedy from the underlying code violation.

1-2064 - RESPONSIBILITY OF PROPERTY OWNER.

In addition to other provisions of this code, in any action to abate a violation, whether by administrative proceedings, judicial proceedings, or summary abatement, the owner of the parcel upon which the violation is found to exist shall be liable for all costs of abatement incurred by the County, including, but not limited to, administrative costs, and any and all costs incurred in the physical abatement of the nuisance. Recovery of costs as allowed by Section 25845 of the Government Code shall be in addition to and shall not limit any prevailing party's right to recover costs pursuant to Sections 1032 and 1033.5 of the Code of Civil Procedure or any other provision of law.

1-2065 - REMEDIES CUMULATIVE.

Except as otherwise provided by law, the remedies provided in this chapter are cumulative and not exclusive. Nothing in this chapter is intended, or shall be deemed or construed, to limit or impair the ability of the County, or any of its officers, agents, or employees, to take any administrative or judicial action, otherwise authorized by law, to abate any violations.

1-2066 - RECOVERY OF ATTORNEY'S FEES.

In any action, administrative proceeding, or special proceeding to abate a violation, the prevailing party may recover its attorney's fees. Recovery of attorney's fees to the prevailing party shall be limited to those individual actions or proceedings in which the County elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the County in the action or proceeding.

1-2067 -- RIGHT TO JUDICIAL REVIEW.

Any person aggrieved by an administrative decision of the Hearing Officer may obtain review of the administrative decision by filing a petition for review with the Superior Court in the County in accordance with the provisions set forth in Section 53069.4 of the Government Code.

DIVISION 3 - CONSTRUCTION OF PROVISIONS

CHAPTER 1 - DEFINITIONS, SEVERABILITY

1-3000 - CONTINUATION OF EXISTING LAW.

Where they are substantially the same as the provisions of existing ordinances, the provisions of this code shall be considered continuations of existing ordinances and shall not be considered new enactments.

1-3001 - HEADINGS NOT TO AFFECT MEANING.

The headings of the subsections, sections, chapters, divisions, and titles of this code shall not be construed to affect the meaning of any part of this code.

1-3002 - SEVERABILITY OF PROVISIONS.

If any title, division, chapter, section, subsection, paragraph, sentence, clause, or phrase of this code is held invalid or unconstitutional for any reason by a court of competent jurisdiction, that holding shall not affect the validity or constitutionality of the remainder of this code. The Board hereby declares that it would have adopted each part of this code irrespective of the validity of any other part.

1-3003 - DEFINITIONS.

Unless the context otherwise requires, the following words and phrases where used in this code shall have the meanings given in this section:

- (a) Code means the Ordinance Code of San Joaquin County.
- (b) County means the County of San Joaquin.
- (c) Day or Days means a period of time between any midnight and the midnight following and calendar day(s) unless otherwise specified.
- (d) Gender. The masculine gender includes the feminine and neuter.
- (e) May is permissive.
- (f) Number. The singular number includes the plural, and the plural the singular.
- (g) Oath includes affirmation.
- (h) Person means any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust, or their manager, lessee, agent, servant, officer, or employee, or any of them.
- (i) Shall is mandatory.
- (j) State means the State of California.
- (k) Tenses. The present tense includes the past and future tenses, and the future tense includes the present tense.

- (l) The use of the title of any officer, employee, department, board, or commission means that officer, employee, department, board, or commission of the County.
- (m) Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.
- (n) Board means the “Board of Supervisors of the County of San Joaquin, State of California.”

1-3004 - STATUTE OF LIMITATIONS.

When a limitation or period of time prescribed in any existing ordinance or statute for acquiring a right or barring a remedy, or for any other purpose, has begun to run before this code goes into effect, the time which has already run shall be deemed a part of the time prescribed as such limitation.

1-3005 - HEALTH OFFICER AND HEALTH DISTRICT.

Effective July 1, 1989, the date of the dissolution of the San Joaquin Local Health District, the term Health Officer or District Health Officer shall mean the County Health Officer and the term San Joaquin Local Health District or Health District shall mean the County of San Joaquin.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of San Joaquin, State of California, on this 7th of August 2018 to wit:

AYES: Villapudua, Miller, Patti, Winn, Elliott

NOES: None

ABSENT: None

ABSTAIN: None

Robert V. Elliott
Chair, Board of Supervisors
County of San Joaquin
State of California

ATTEST: MIMI DUZENSKI
Clerk of the Board of Supervisors
County of San Joaquin
State of California