

CALIFORNIA COASTAL COMMISSION

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Prepared September 19, 2013 (for October 10, 2013 Hearing)

To: Commissioners and Interested Persons

From: Madeline Cavalieri, District Manager
Kevin Kahn, Coastal Planner

**Subject: County of San Mateo LCP Amendment Number 2-SMC-13-0209-1
(Administrative Remedies)**

Proposed Amendment

The County of San Mateo is proposing to amend its Local Coastal Program (LCP) to refine and expand the administrative procedures available to address violations of the County Ordinance Code, including the sections of the Code that implement the LCP such as the Zoning Regulations (portions of which serve as the County's Implementation Plan (IP)). The changes proposed include adding Chapter 1.40-Administrative Remedies to the San Mateo County Code; amending sections of Chapter 31-Enforcement, Legal Procedure, Penalties of the San Mateo County Zoning Regulations; and deleting Chapter 31.5-Administrative Fines from the San Mateo County Zoning Regulations in its entirety. See Exhibit A for the proposed changes.

Minor LCP Amendment Determination

Pursuant to California Code of Regulations (CCR) Section 13555, the Executive Director may determine that a proposed LCP amendment is "minor." CCR Section 13554 defines minor LCP amendments. Among other things, minor LCP amendments include:

CCR Section 13554(a). Changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the Executive Director of the Commission or the Commission to be consistent with the land use plan as certified by the Commission.

If the Executive Director determines that an amendment is minor, that determination must be reported to the Commission. If one-third of the appointed members of the Commission request that it be processed as a major LCP amendment, then the amendment shall be set for a future public hearing; if one-third of the appointed members of the Commission do not object to the minor LCP amendment determination, then the amendment is deemed approved, and it becomes a certified part of the LCP immediately (in this case, on October 10, 2013).

The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is minor.

The proposed amendment clarifies and enhances the County's ability to enforce its LCP. For example, under the proposed amendment, fines may be increased on a graduated scale based upon the number of violations accrued (i.e. \$100/day for a first violation and up to \$500/day for the third violation within twelve months), whereas the existing IP only allows a flat penalty of \$100 for the first day and \$25 per day thereafter, regardless of the number of violations. The proposed amendment also simplifies the process by which enforcement officers can notify violators of potential violations and the time by which such violations must be remedied in order to avoid fines and/or other enforcement actions, allowing up to fourteen days to address the violation, whereas the existing IP allows for up to thirty days. Thus, the proposed amendment clarifies and enhances the County's enforcement capabilities and will provide additional tools that the County can employ to ensure that coastal resources are protected. The proposed amendment would not result in any changes to the kind, location, intensity, or density of use, and is consistent with the certified Land Use Plan.

California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. The County determined that the proposed amendment was exempt from review under CEQA. This report has discussed the relevant coastal resource issues with the proposal, and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

Coastal Commission Concurrence

The Executive Director will report this minor LCP amendment determination, and any comments received on it, to the Coastal Commission at its October 10, 2013 meeting at the Crowne Plaza San Diego at 2270 Hotel Circle North in San Diego. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Kevin Kahn at the North Central Coast District Office in San Francisco. If you wish to comment on and/or object to the proposed minor LCP amendment determination, please do so by October 7, 2013.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on September 6, 2013. It only amends the Implementation Plan; therefore, the 60-day action deadline is November 5, 2013. Thus, unless the Commission votes to extend the action deadline (it may be extended by up to one year), the Commission has until November 5, 2013 to take a final action on this LCP amendment.

Exhibits:

Exhibit A: Proposed IP Amendment

ORDINANCE NO. 04648
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

**ORDINANCE ADDING CHAPTER 1.40 ADMINISTRATIVE REMEDIES TO THE
SAN MATEO COUNTY ORDINANCE CODE, AMENDING CHAPTER 2.60
PLANNING AND BUILDING DEPARTMENT OF THE SAN MATEO COUNTY
ORDINANCE CODE, AMENDING CHAPTER 31 ENFORCEMENT, LEGAL
PROCEDURE, PENALTIES OF THE SAN MATEO ZONING REGULATIONS, AND
DELETING CHAPTER 31.5 ADMINISTRATIVE FINES FROM THE SAN MATEO
COUNTY ZONING REGULATIONS**

WHEREAS, the County of San Mateo currently has a variety of administrative enforcement provisions scattered throughout its Ordinance Code and other ordinances, which can create confusion for residents seeking to understand the County enforcement mechanisms as well as County staff seeking to use such mechanisms; and

WHEREAS, the County of San Mateo desires one clear and practical method of administrative enforcement for violations of the San Mateo County Ordinance Code and other County ordinances; and

WHEREAS, the County desires to use administrative penalties and compliance orders to address any and all violations of the Ordinance Code and other ordinances; and

WHEREAS, Government Code Sections 53069.4 and 25132 authorize counties to set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties.

NOW, THEREFORE, the Board of Supervisors of the County of San Mateo, State of California, ordains as follows, and directs the County's Department Directors and their designees to collect the enumerated fines and penalties and to deposit them in the County treasury:

SECTION 1. ORDINANCE AMENDMENT. Chapter 1.40 (Administrative Remedies) is hereby added as follows:

CHAPTER 1.40
ADMINISTRATIVE REMEDIES

SECTION 1.40.010. PURPOSE

It is the intent of this Chapter to provide the County with remedies to correct violations of the San Mateo County Ordinance Code and other County ordinances. The County's Board of Supervisors hereby finds and determines that enforcement of this Code and other ordinances adopted by the County are matters of local concern and serve important public purposes. Consistent with powers authorized by Government Code Sections 53069.4 and 25132 and successor statutes, as well as the County's general police powers to protect the public health, safety, and welfare, the County adopts this Chapter in order to achieve the following goals:

- (a) To protect the public health, safety and welfare of County residents;
- (b) To provide a method to penalize responsible parties who fail or refuse to comply with provisions of this Code and other County ordinances;
- (c) To provide for an administrative process that has objective criteria for the imposition of penalties;
- (d) To provide an administrative process for ordering compliance with this Code and other County ordinances;
- (e) To provide a fair process for appeal of penalties and compliance orders; and
- (f) To provide an administrative process for abatement of violations, restoration of damages caused by the violation, and collections of costs.

SECTION 1.40.020. REMEDIES CUMULATIVE

These remedies shall be in addition to any other remedies available at law or equity. Nothing in this Chapter shall prevent the County from using one or more other remedies to address violations, whether those remedies are administrative, civil or criminal.

SECTION 1.40.030. DEFINITIONS

"Abatement Costs" shall mean, to the extent allowed by law, any costs or expenses reasonably related to the abatement of violations, and shall include, but not be limited to, enforcement, investigation, attorneys' fees, collection and administrative costs, and the costs associated with the removal or correction of the violation.

"Administrative Costs" shall mean, to the extent allowed by law, the cost of County staff time reasonably related to enforcement, for items including, but not limited to, site inspections, travel time, investigations, telephone contacts and time spent preparing summaries, reports, notices, correspondence, warrants and hearing packets. The staff time expended to calculate the above costs and prepare itemized invoices may also be recovered.

"Appeal Hearing Form" shall mean the form used to request an appeal of an administrative penalty or order. The forms are available from the Department or from the person listed on the administrative citation.

"Day" shall mean a calendar day.

"Department" shall mean any Department or Division of San Mateo County responsible for administering the San Mateo County Zoning Regulations and Ordinance Code.

"Director" shall mean the head of the Department or Division that administers the section of the County Code or Regulations that have been violated, or his or her designee.

"Enforcement Officer" shall mean any County employee or agent of the County whose position requires enforcement of any provision of this Code including, but not limited to, code enforcement officers, animal control officers and Sheriff deputies.

"Violation" or "Violation of this Code" shall mean a violation of the San Mateo County Ordinance Code as well as any County Ordinance, including, but not limited to, Zoning Regulations, Building Regulations, Grading Regulations, Stormwater Regulations, Heritage Tree ordinance, Significant Tree Ordinance, and the International Property Maintenance Code.

SECTION 1.40.040. APPLICABILITY

The County may impose administrative penalties and compliance orders for any violation of this Code or any County ordinance. Administrative penalties shall be imposed, collected, and reviewed in compliance with this Chapter. These provisions shall not supersede any other sections of this Code or other County ordinances which address additional legal or administrative remedies available for certain specific violations.

SECTION 1.40.050. ADMINISTRATIVE CITATIONS - PENALTIES AND ORDERS

- (a) Authority. Whenever an Enforcement Officer determines that a violation has occurred, the Enforcement Officer shall have the authority to follow the provisions of this Chapter to issue an administrative penalty to any and all persons responsible for the violation (including the property owner) and/or to order correction of the violation. These procedures shall not apply where violations present emergencies or immediate danger to public health and safety.
- (b) Warning Notice. Before issuing an administrative citation, the Enforcement Officer shall provide a warning notice which shall contain the following information:
 - (1) Date of the violation;
 - (2) Address or a definite description of the location where the violation occurred;
 - (3) Section of this Code or County Ordinance that was violated and a description of the violation;
 - (4) Actions required to correct the violation;
 - (5) Date, at least fourteen (14) days after the notice, by which the violation must be corrected to avoid incurring penalties, abatement proceedings, or other enforcement;
 - (6) Amount of the potential penalty for the violation and the fact that penalties are imposed each day the violation exists; and
 - (7) Name and signature of the citing Enforcement Officer.
- (c) Administrative Citation. Each administrative citation shall contain the following information:
 - (1) Date of the violation and any previous correspondence from the County regarding the violation, including the warning notice;

- (2) Address or a definite description of the location where the violation occurred;
- (3) Section of this Code or County Ordinance that was violated and a description of the violation;
- (4) Amount of the current and potential future penalties for the violation;
- (5) Description of the penalty payment process, including a description of the time within which and the place to which the penalty shall be paid, and the fact that penalties are imposed each day the violation exists;
- (6) Actions required to correct the violation;
- (7) Order prohibiting the continuation or repeated occurrence of the violation;
- (8) Date, at least fourteen (14) days after the citation, by which the violation must be corrected to avoid abatement proceedings or other enforcement;
- (9) Description of the appeal process, including the time within which the administrative citation may be contested and the department and person from which a Request for Hearing Form to contest the administrative citation may be obtained; and
- (10) Name and signature of the citing Enforcement Officer.

SECTION 1.40.060. NOTICES

- (a) Whenever notice is required to be given under this Chapter, unless different provisions are otherwise specifically made, such notice may be given either by
 - (1) personal delivery to the person to be notified, or (2) if the violation involves real property, by posting on the property and by depositing in the United States Mail, in a sealed envelope, postage prepaid, and 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 to the records pertaining to the matter. Service by mail shall be deemed completed at the time of deposit in the United States Mail receptacle.
- (b) Failure to receive any notice specified herein does not affect the validity of proceedings conducted hereunder.

SECTION 1.40.070. AMOUNT OF PENALTIES

- (a) Unless otherwise provided, the amounts of the penalties imposed for any other violation shall be \$100 for a first violation, \$200 for a second violation within twelve (12) months, and \$500 for third and additional violations within twelve (12) months. The penalties shall be included in the schedule of penalties and fees established by resolution of the County's Board of Supervisors.
- (b) The schedule of penalties shall specify the amount of any late payment charges imposed for the payment of a penalty after its due date. Penalties shall accrue interest at

the same annual rate as any civil judgment. Interest shall accrue commencing on the twentieth (20th) day after the penalty becomes the final decision or order.

SECTION 1.40.080. PAYMENT OF THE PENALTY

- (a) The penalty shall be paid to the County within fourteen (14) days from the date of the administrative citation.
- (b) Payment of a penalty shall not excuse or discharge any continuation or repeated occurrence of a violation that is the subject of the administrative citation.

SECTION 1.40.090. APPEAL PROCESS

- (a) Any recipient of an administrative citation may request an appeal hearing to contest that there was a violation or that he or she is the responsible party by completing a Request for Hearing Form and returning it to the County within fourteen (14) days from the date of the administrative citation, together with a processing fee listed in the County's fee schedule and an advance deposit of the penalty.
- (b) A Request for Hearing Form may be obtained from the Department and person specified on the administrative citation. The Request for Hearing Form shall include a brief statement of material facts supporting the appellant's claim that no violation occurred or no penalties or other remedies shall be imposed.

SECTION 1.40.100. HEARING OFFICER

The Director shall designate a Hearing Officer for the appeal hearings. The employment, performance evaluation, compensation and benefits of the Hearing Officer shall not be directly or indirectly conditioned upon the amount of administrative citations upheld by the Hearing Officer.

SECTION 1.40.110. HEARING PROCEDURE

- (a) The Hearing Officer shall conduct hearings in two situations:
 - (1) If a violation exists after the compliance date set forth in the citation, the Enforcement Officer may arrange a hearing on a proposed compliance order before the Hearing Officer.
 - (2) If an appellant appeals pursuant to the procedures set forth in Section 1.40.090, including deposit of a penalty, a hearing will be arranged before the Hearing Officer.
- (b) The appeal hearing shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the Request for Hearing is filed in accordance with the provisions of this Chapter, unless the Director determines that the matter is urgent or that good cause exists for an extension of time. The appellant shall receive notice of the time and place at least ten (10) days prior to the hearing.
- (c) Documentary evidence and names of potential witnesses shall be provided by the Enforcement Officer and the appellant to the Hearing Officer and the opposing party at least five (5) days prior to the hearing. Documents not provided at least five (5) days

before the hearing must be provided at the hearing and may be considered by the Hearing Officer at his or her discretion.

- (d) At the hearing, the appellant shall be given the opportunity to testify and to present evidence concerning the administrative citation.
- (e) The failure of any appellant to appear at the appeal hearing shall constitute a forfeiture of the penalty and a failure to exhaust administrative remedies.
- (f) The administrative citation and any additional report submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents.

SECTION 1.40.120. HEARING OFFICER'S DECISION AND ADMINISTRATIVE ORDER

- (a) The Hearing Officer shall only consider evidence that is relevant to whether the violation occurred and whether the responsible person has caused or maintained the violation on the date specified in the administrative citation. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision to uphold or cancel all or part of the administrative citation and shall list the reasons for that decision.
- (b) The decision of the Hearing Officer shall include findings regarding the evidence in the record and submitted at the hearing, as well as the existence of any violation.
- (c) If the Hearing Officer determines that the administrative penalty should be upheld, then the County shall retain the penalty amount on deposit with the County. If the Hearing Officer determines that the administrative penalty should be canceled, the County shall promptly refund the amount of the deposited penalty.
- (d) If the Hearing Officer determines that the proposed compliance order should be issued, the decision shall include an administrative order to cease and/or remove the structures, uses, or activities that are the subject of the violation, and to take whatever corrective actions are needed to offset the impacts caused by the violation, including a schedule where appropriate, as well as a warning that failure to correct the violation may result in County abatement and collection of its costs as a personal obligation, recordation of a lien, or recordation of a special assessment. If the Hearing Officer determines that the compliance order should be canceled, it shall so state.
- (e) The recipient of the administrative citation shall be served with a copy of the Hearing Officer's written decision in the same manner that the initial citation was provided.
- (f) The decision of the Hearing Officer shall be the final decision of the County. To the extent allowed by law, the decision and administrative order shall have the same force and effect as a resolution of the County Board of Supervisors for the purpose of filing a lien, special assessment, or for pursuing any other method of collection.

SECTION 1.40.130. RIGHT TO JUDICIAL REVIEW

Any person aggrieved by an administrative decision of a 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 Mateo County in accordance with the timelines and provisions set forth in California Government Code Section 53069.4 and Civil Code Sections 1094.5 and 1094.6.

SECTION 1.40.140. ABATEMENT

- (a) If the violation is not corrected within the schedule listed in the Hearing Officer's decision, the County or a contracting agent hired by the County may enter onto the property on which the violation exists for the purpose of abating the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the County or its contracting agents to enter upon the property for the purpose of abatement.
- (b) The cost of any such abatement by the County shall be borne by the property owner, which cost shall include any administrative costs allowed by law as well as the actual costs of abatement.

SECTION 1.40.150. RECOVERY OF PENALTIES AND ABATEMENT COSTS

- (a) The County may collect any past due administrative citation penalty, late payment charge, and costs of collection by use of any and all available legal means.
- (b) The County may collect any abatement and administrative costs by use of any and all available legal means, including, but not limited to, a personal obligation against the property owner, or as a lien or special assessment recorded on the property.

SECTION 2. ORDINANCE AMENDMENT. Chapter 2.60 (Planning and Building Department) of the San Mateo County Ordinance Code is hereby amended to add the following:

Section 2.60.040- International Property Maintenance Code

The International Property Maintenance Code is hereby adopted by reference and may be enforced by the Planning and Building Department.

SECTION 3. ORDINANCE AMENDMENT. Section 6593 of Chapter 31 (Enforcement,

Legal Procedures, Penalties) of the San Mateo County Zoning Regulations is hereby amended as follows (deletions in strikethrough, additions in italics).

~~Section 6593. Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this Part shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than three hundred dollars (\$300) or by imprisonment in the County Jail of said County for a term not exceeding three (a) months or by both such fine and imprisonment. Such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during which any portion of which any violation of this Part is committed, continued, or permitted by such person, firm, or corporation and shall be punishable as herein provided. Violations of these Zoning Regulations shall be punishable pursuant to Chapter 1.40 (Administrative Remedies) of the San Mateo County Ordinance Code.~~

SECTION 4. ORDINANCE AMENDMENT. Section 6594 of Chapter 31 (Enforcement, Legal Procedures, Penalties) of the San Mateo County Zoning Regulations is hereby deleted in its entirety.

SECTION 5. ORDINANCE AMENDMENT. Chapter 31.5 (Administrative Fines) of the San Mateo County Zoning Regulations is hereby deleted in its entirety.

SECTION 6. SEVERABILITY. If any provision(s) of this Ordinance is declared invalid by a court of competent jurisdiction, it is the intent of the Board of Supervisors that such invalid provision(s) be severed from the remaining provisions of the Ordinance.

SECTION 7. COASTAL ACT CONSISTENCY. The provisions of this Ordinance that amend the San Mateo County Zoning Regulations, which are a component of the San Mateo County Local Coastal Program Implementation Program, will be carried out in accordance with the California Coastal Act of 1976.

SECTION 8. EFFECTIVE DATE. Outside of the Coastal Zone, this Ordinance shall be effective thirty (30) days from the passage date thereof. Within the Coastal Zone, this Ordinance shall be effective immediately upon final certification of the Coastal Commission.

Regularly passed and adopted this 8th day of January 2013

AYES and in favor of said ordinance:

Supervisors:

*DAVE PINE
CAROLE GROOM
DON HORSLEY
WARREN SLOCUM
ADRIENNE J. TISSIER*

NOES and against said ordinance:

Supervisors:

NONE

Absent Supervisors:

NONE

Certificate of Delivery

I certify that a copy of the original ordinance filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.

*Rebecca Romero, Deputy
Clerk of the Board of Supervisors*

Attachment 3: Comparison of the Proposed Amendments and the Existing LCP

Approval of the proposed amendments will result in the following changes to the existing LCP:

1. Inclusion of a New Chapter of the San Mateo County Code Within the San Mateo County Local Coastal Program Implementation Plan

Chapter 1.40 of the County Code, included as Attachment 1, will become a new component of the San Mateo County Local Coastal Program Implementation Plan.

2. Revisions to Chapter 31 of the San Mateo County Zoning Regulations

Chapter 31 of the Zoning Regulations will be revised as follows:

**CHAPTER 31. ENFORCEMENT,
LEGAL PROCEDURE, PENALTIES**

SECTION 6590. All departments, officials, and public employees of the County of San Mateo which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Part and shall issue no permit or license for uses, buildings, or purposes where the same would be in conflict with the provisions of this Part, and any such permit or license, if issued in conflict with the provisions of this Part, shall be null and void.

SECTION 6591. It shall be the duty of the Planning Director of the County of San Mateo to enforce the provisions of this Part pertaining to land use and the erection, construction, reconstruction, moving, conversion, alteration, or addition to any building or structure.

SECTION 6592. It shall be the duty of the Planning Director of the County of San Mateo and all officers of said County herein and/or otherwise charged by law with the enforcement of this Part to enforce this Part and all the provisions of the same.

~~SECTION 6593. Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this Part shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than three hundred dollars (\$300.00) or by imprisonment in the County Jail of said County for a term not exceeding three (3) months or by both such fine and imprisonment. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of which any violation of this Part is committed, continued, or permitted by such person, firm, or corporation and shall~~

~~be punishable as herein provided. Violations of these Zoning Regulations shall be punishable pursuant to Chapter 1.40 (Administrative Remedies) of the San Mateo County Ordinance Code.~~

~~SECTION 6594. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Part or any use of any land, building, or premises established, conducted, operated, or maintained contrary to the provisions of this Part shall be and the same is hereby declared to be unlawful and a public nuisance and the District Attorney of said County may upon request of the Director of Planning, and shall upon request of the Planning Commission, commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure and restrain and enjoin any person from setting up, erecting, building, maintaining or using any such building or structure or using any property contrary to the provisions of this Part.~~

~~SECTION 6595 6594.~~ The remedies provided for in this Part shall be cumulative and not exclusive.

3. Deletion of Chapter 31.5 of the San Mateo County Zoning Regulations

Chapter 31.5 of the Zoning Regulations will be deleted:

~~CHAPTER 31.5. ADMINISTRATIVE FINES~~

~~SECTION 6596.0. PURPOSE. It is the purpose of this Chapter to provide for the uniform administration of per diem fines for serious violations of the Planning, Building, and Sanitation and Health codes of San Mateo County. The intent of this Chapter is to obtain compliance with the codes through application of the minimum enforcement action necessary to correct serious violations. The application of this Chapter shall be preceded by attempts to obtain compliance through other available methods.~~

~~SECTION 6596.1. DEFINITIONS. For the purposes of this Chapter, certain terms used herein are defined as follows:~~

~~(a) Director. "Director" shall include the Planning Director or Environmental Health Director or their designees.~~

~~(b) Persons. "Person(s)" includes, but is not limited to, licensed or unlicensed contractors and subcontractors, owners of property, agents of the property owners, occupants or tenants of the property.~~

~~(c) Serious Violation. A "serious" violation is defined as any of the following:~~

- ~~(1) — A serious threat to the public health or safety of the occupants at the subject property or occupants at property in the immediate vicinity.~~
- ~~(2) — An illegal use of the property which, for purposes of this ordinance, is a use not allowed in the zoning district where the property is located.~~
- ~~(3) — A failure by a person(s) to respond to efforts to resolve or abate a violation or failure to make a conscientious effort to do so by not responding to written notice within 60 days and failing to continue a dialogue aimed at abatement.~~
- ~~(4) — A history of violations on the subject property and/or several different properties.~~
- ~~(5) — Multiple or repeat violations on the subject property within the past three (3) years.~~
- ~~(6) — Commencement of work by licensed or unlicensed contractor on the subject property without a current and valid permit or other authorization issued by the County of San Mateo.~~

~~SECTION 6596.2. ADMINISTRATIVE FINES IN ADDITION TO OTHER REMEDIES; AUTHORITY. In addition to any other remedy allowed by law, any violation of the provisions of Division VI (Planning), Division VII (Building Regulations) or Division IV (Sanitation and Health) of this Code shall be subject to the payment of an administrative fine as set forth in this article. The authority for the imposition of administrative fines is found in Government Code Section 53069.4.~~

~~SECTION 6596.3. AMOUNT OF FINES. Any person who violates any provision of Division VI (Planning), Division VII (Building Regulations) or Division IV (Sanitation and Health) of this Code, such that a serious violation, as defined in Section 6596.1(c), exists on the subject property, or who is the owner of property upon which such a serious violation exists, shall be subject to payment of an administrative fine in the maximum amounts as set forth below.~~

~~SECTION 6596.4. PROCEDURES.~~

~~(a) — Upon determining that a serious violation of Division VI (Planning), Division VII (Building Regulations) or Division IV (Sanitation and Health) exists with respect to any property, the Director shall mail to the owner and occupant of such property and any other persons believed to have caused the violation in whole or in part, by certified mail or personal service by a peace officer, a Notice of Preliminary Determination of Violation, specifying with particularity the violations on the property, the basis for determining that a serious violation exists pursuant to Section 6596.1(c) of this Chapter, and the proposed administrative fine for such violation determined in accordance with Section 6596.5 or 6596.6, as appropriate. The notice shall provide a thirty (30) day period, from the date of~~

receipt of the notice, for the owner, occupant or other person to submit, in writing, either (1) a schedule specifying a reasonable time period within which the violation will be abated, or (2) any information relating to a determination of the existence of a violation or the amount of the fine to be imposed.

(b) — If the owner, occupant or other person fails to respond to the notice within the thirty (30) day period specified in subsection (a) above, the Director shall impose an administrative fine as specified in Section 6596.5 or Section 6596.6, as appropriate.

(c) — If the owner, occupant or other person provides a schedule for abatement within the thirty (30) day period specified in subsection (a), the Director shall determine whether the schedule is reasonable. If the Director determines that the submitted schedule is reasonable, he or she shall so notify the owner, occupant or other person. If the Director determines that the submitted schedule is unreasonably long, the Director shall specify a new schedule and notify the owner, occupant or other person of the requirement to comply with the new schedule. The imposition of administrative fines shall be stayed during such period as the owner, occupant or other person pursues correction of the violation in good faith and according to the required schedule.

(d) — If the owner, occupant or other person provides information relating to a determination of the existence of the violation or the amount of the fine to be imposed, the Director shall consider such information, and shall make a final determination as to whether a violation exists and, if so, the amount of the fine to be imposed. The Director shall notify the owner, occupant or other person of his or her findings, and provide the applicant thirty (30) days, from receipt of the notice, within which to submit a schedule for abatement of the violation in accordance with the procedure set forth in subsection (c) above. If the owner, occupant or other person fails to respond to the notice by providing the required schedule within thirty (30) days of the notice, the Director shall impose an administrative fine as specified in Section 6596.5 or Section 6596.6, as appropriate.

(e) — If at any time the Director determines that the owner, occupant or other person is not pursuing correction of the violation in good faith, the Director may impose an administrative fine as specified in Section 6596.5 or Section 6596.6, as appropriate.

(f) — In implementing the procedures set forth in the section, the Director shall have the discretion to extend any time period for correction of the violation if, in his or her opinion, good faith efforts are being made to correct the violation.

(g) — The notice of violation prescribed in this section may be combined with any other notice of violation authorized to be issued by this Code.

~~SECTION 6596.5. AMOUNT OF FINE—INFRACTION.~~ If the violation is designated an infraction by this Code, the administrative fine shall be the maximum fine or penalty amounts for infractions set forth in subdivision (b) of Government Code Section 25132, which fine may be imposed if the violation is not abated by the effective date of the notice of violation.

~~SECTION 6596.6. AMOUNT OF FINE—OTHER.~~ If the violation is not designated an infraction by this Code, the maximum administrative fine shall be in the amounts set forth below:

~~(a) — If the violation arises from an unlawful commercial, industrial, rental (residential or non-residential), owner-occupied residential or similar use or structure on the property, the maximum fine shall be calculated by one of the following methods as determined by the Director:~~

~~(1) — The fair market rental value of the land or structure in violation for the period of time elapsed from the effective date of the notice of violation; or~~

~~(2) — One hundred dollars (\$100.00) for the first day, and twenty-five dollars (\$25.00) per day for each calendar day thereafter, that the violation exists on the property after the effective date of the notice of violation through to its abatement by whatever means; or~~

~~(3) — In the event that the use or structure in violation may be permitted with an appropriate permit, and the person obtains the required permit, up to a maximum of five times the amount of the standard fee for such permit.~~

~~(b) — For any other violation, including but not limited to an unlawful non-commercial junkyard, an unlawful non-commercial truck terminal, an unlawful non-operative vehicle storage yard, unlawful accessory structure or an unlawful excess number of animals, the maximum fine shall be calculated by one of the following methods as determined by the Director:~~

~~(1) — One hundred dollars (\$100.00) for the first day, and twenty-five dollars (\$25.00) per day for each calendar day thereafter, that the violation exists on the property after the effective date of the notice of violation through to its abatement; or~~

~~(2) — In the event that the use or structure in violation may be permitted with an appropriate permit, and the owner obtains the required permit, up to a maximum of five times the amount of the standard fee for such permit.~~

~~SECTION 6596.7. DETERMINATION OF FINES; NOTICE OF DETERMINATION OF FINES.~~ The determination of fines shall be made in the first instance by the Director. Such determination shall take into account the facts and circumstances of the violation including but not limited to the length of time the violation has existed; the culpability of the person(s) in violation or the

~~willfulness of the violation; attempts, if any, to comply with the applicable ordinances; the time necessary to abate the violation; and any other information relevant to a determination of fines to be imposed. In making a determination of the fines to be imposed, the Director shall consider any information submitted by the person(s). In the event that the Director determines that the violation was not caused by or with the knowledge of the person(s) who caused the violation, the fine will be eliminated. 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 shall eliminate the fine. The determination of fines shall be made, and a Notice of Determination of Fines shall be sent by certified mail or personal service by a peace officer to the person(s) upon which the fine has been imposed.~~

~~SECTION 6596.8. APPEAL. Any person upon whom an administrative fine is imposed by the Director may appeal such fine to the Planning Commission, in the case of violations of Division VI, or the Board of Building Permit Appeals in the case of violations of Division IV or VII. The appeal must be filed within thirty (30) working days of the date of mailing of the Notice of Determination of Fines. In reviewing the fine, the Planning Commission or the Board of Building Permit Appeals, as appropriate, shall consider the factors set forth in Section 6596.6, above, and shall uphold the fine imposed by the Director, eliminate the fine, or modify the fine. Additionally, any person who disagrees with a time schedule established by the Director pursuant to Section 6596.4(c) may appeal such determination to the Planning Commission or Board of Building Permit Appeals within ten (10) days of the receipt of notice of the schedule from the Director. The action of the Planning Commission or the Board of Building Permit Appeals shall be final, subject only to judicial review.~~