

ORDINANCE NO. 3436

**AN ORDINANCE AMENDING CHAPTER 1.05 (ADMINISTRATIVE FINES)
TITLE 1 OF THE SAN LUIS OBISPO COUNTY CODE**

The Board of Supervisors of the County of San Luis Obispo, State of California, ordains as follows:

SECTION 1: The definition of "violation" in Section 1.05.020 (Definitions) of Title 1 of the San Luis Obispo County Code, is hereby added to read as follows:

"Violation" means any and all violations of ~~any Title of Titles 6, 19, 21, 22 and/or 23 of the San Luis Obispo County Code, as the County Code may be amended from time to time including any other codes, titles, sections, or provisions adopted or incorporated by reference in any of the aforementioned titles.~~ Each and every day a violation exists constitutes a separate and distinct violation.

SECTION 2: Section 1.05.040 (Administrative fine) of Title 1 of the San Luis Obispo County Code, is hereby added to read as follows:

1.05.040 - Administrative fine.

(a) ~~Every violation that is an infraction The fine for a violation shall be subject to the following fine amounts: be as follows:~~

- (1) A fine not exceeding one hundred dollars ~~(\$100)~~ for the first violation;
- (2) A fine not exceeding two hundred dollars ~~(\$200)~~ for a second violation of the same ordinance, within one year from the date of the first violation on the same property;
- (3) A fine not exceeding five hundred dollars ~~(\$500)~~ for each additional violation of the same ordinance, within one year from the date of the first violation.

The amount of the fine shall be the maximum fine allowed for each day the violation exists after the correction period has expired.

(b) ~~Every violation that is a misdemeanor shall be subject to a fine not exceeding one thousand dollars (\$1000) per violation.~~

(c) ~~Every violation of the Title 19 County Building and Construction Ordinance County Buildings and Constructions Code shall be considered an infraction for purposes of this section and be subject to the following fine amounts:~~

- (1) ~~A fine not exceeding one hundred thirty dollars (\$130) for a first violation.~~

- (2) A fine not exceeding seven hundred dollars (\$700) for a second violation of the same ordinance within one year of the first violation.
- (3) A fine not exceeding one thousand three hundred dollars (\$1,300) for each additional violation of the same ordinance within one year of the first violation.
- (4) A fine not exceeding two thousand five hundred dollars (\$2,500) for each additional violation of the same ordinance within two years of the first violation if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

(d) Every violation of an event permit requirement under Chapter 6.56 of the County Code or Sections 22.30.610 and 23.08.248 of the County Code shall be considered an infraction for purposes of this Section, and shall be punishable subject to the following fine amount:

- (1) A fine not exceeding one hundred fifty dollars (\$150) for the first violation of an event permit requirement.
- (2) A fine 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.
- (3) A fine 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.

(e) A property owner or other responsible party may apply to the County Department imposing a fine under the provisions of paragraphs (2) and (3) of subdivisions (a), (b), and (c) for a hardship waiver to reduce the amount of the imposed fine. The Department shall grant a waiver and reduce the fine amount upon a showing by the property owner or other responsible party that they have made a bona fide effort to comply after the first violation and that that payment of the full amount of the fine would impose an undue financial burden upon the owner or responsible party.

(f) (b) The increased fines for subsequent violations described in subsections (a), (c), and (d) of this section may cumulatively accrue under one notice of violation, and may be cumulatively imposed under one notice of fine, if the code enforcement officer finds that the criteria listed below justifies imposing such higher fines:

- (1) The extent and effect of the violation on the terrain, the environment and/or neighboring properties;
- (2) The extent to which the violation affects health and/or safety;
- (3) The length of time the violation existed;
- (4) Attempts, if any, to comply with the applicable ordinance;
- (5) The willfulness of the violation;

- (6) The culpability of the responsible person for the violation;
- (7) The extent to which the violation resulted in a pecuniary gain to the responsible person;
- (8) The extent to which the violation relates to a commercial use of property engaged in for pecuniary gain;
- (9) The number of previous violations of the same related type committed by the responsible person within the preceding thirty-six months; and
- (10) Any other information relevant to a determination of the fine.

SECTION 3: Section 1.05.060 (Appeal of notice of fine) of Title 1 of the San Luis Obispo County Code, is hereby added to read as follows:

1.05.060 - Appeal of notice of fine.

Any individual or entity upon which a fine is imposed by a notice of fine may contest that there was a violation, or that he or she is the responsible person, by completing a request for hearing form and submitting it to the administrating department within twenty days from the date the notice of fine was served, together with an advanced deposit of the fine. If said form and deposit are not received by the department within said time periods, the notice of fine shall become a final order.

- (1) ~~Hearing Officer Administrator~~. A Hearing Officer ~~hearing administrator~~ shall be appointed by the Director of the Department of Planning and Building to conduct a hearing in accordance with Sections 22.74.060 and 23.10.030, for an administrative review hearing of the fine(s) imposed by the notice of fine. ~~The hearing administrator shall be chosen on a rotating or random basis from a pool of senior department staff who have training and/or experience in conducting hearings.~~
- (2) Hearing Procedure.
 - a. No hearing to contest a notice of fine before a Hearing Officer ~~hearing administrator~~ shall be held unless and until a request for hearing form has been completed and submitted and the fine has been deposited in advance.
 - b. A hearing before the Hearing Officer ~~hearing administrator~~ shall be set for a date that is not less than fourteen fifteen and not more than thirty one hundred twenty days from the date that the request for hearing is filed in accordance with the provisions of this chapter. The person requesting the hearing shall be notified of the time and place set for the hearing at least fourteen fifteen days prior to the date of the hearing.
 - c. The responsible person contesting the notice of fine shall be given the opportunity to testify and present witnesses and evidence concerning the administrative fine.

- d. The failure of any appealing recipient of a notice of fine to appear at the hearing shall constitute a waiver of the administrative appeal, a forfeiture of the deposited fine and a failure to exhaust their administrative remedies. In such event, the notice of fine shall become a final order.
 - e. If the code enforcement officer submits any written reports concerning the notice of fine to the ~~Hearing Officer hearing administrator~~ for consideration prior to the hearing, then a copy of said report also shall be concurrently served by mail on the person requesting the hearing.
 - f. Up to ten days prior to the hearing, the recipient of a notice of fine may request in writing that it be provided copies of any documents which the code enforcement officer intends to present as evidence at the hearing. Within five days of receipt of such a request, the code enforcement officer shall serve copies of such documents submitted or relied upon by the code enforcement officer.
 - g. Formal rules of evidence shall not apply at the hearing.
 - h. The ~~Hearing Officer hearing administrator~~ may continue the hearing and request additional information from the code enforcement officer or the recipient of the notice of fine prior to issuing a written decision.
- (3) ~~Hearing Officer Hearing Administrator's~~ Decision.
- a. After considering all relevant testimony and evidence submitted at the hearing, the ~~Hearing Officer hearing administrator~~ shall issue a written decision within ten days of the hearing to uphold or deny the notice of fine. The decision of the ~~Hearing Officer hearing administrator~~ shall be final when signed and served in accordance with subdivision (3)d., below.
 - b. If the hearing administrator determines that the notice of fine should be upheld, the fine amount on deposit with the department shall be retained by the department.
 - c. If the ~~Hearing Officer hearing administrator~~ determines that the notice of fine should be reduced or canceled, and the fine was deposited with the department, then the department shall promptly refund the corresponding amount of the deposited fine.
 - d. The recipient of the notice of fine shall be served with a copy of the ~~Hearing Officer's hearing administrator's~~ written decision by first class mail.
- (4) Right to Judicial Review. Any person aggrieved by an administrative decision of a ~~Hearing Officer hearing administrator~~ on a notice of fine may obtain judicial review of the administrative decision by filing a petition for review with the San Luis Obispo County Superior Court in accordance with the time lines and provisions as set forth in California Government Code Section 53069.4.

SECTION 4: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent

jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5: Before the expiration of 15 days after the adoption of this ordinance by the San Luis Obispo County Board of Supervisors, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

SECTION 6: This Ordinance shall become effective thirty (30) days after its enactment by the Board of Supervisors.

SECTION 7: These ordinance amendments are covered by a general rule exemption (State CEQA Guidelines section 15061(b)(3)) from the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 8: In accordance with Government Code Section 25131, after reading the title of this Ordinance, further reading of the Ordinance in full is waived.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 5th day of January, 2021, by the following roll call to vote, to wit:

AYES: Supervisors Bruce S. Gibson, Dawn Ortiz-Legg, John Peschong, Debbie Arnold and Chairperson Lynn Compton
NOES: None
ABSENT: None
ABSTAINING:None



Lynn Compton
Chairperson of the Board of Supervisors

ATTEST:

WADE HORTON
Ex-Officio Clerk of the Board of Supervisors

By: T'Ana Christiansen
Deputy Clerk