

**ORDINANCE NO. 3434**

**AN ORDINANCE AMENDING TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE, THE LAND USE ORDINANCE, BY AMENDING VARIOUS SECTIONS RELATING TO CODE ENFORCEMENT AND ORDINANCE VIOLATIONS**

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

SECTION 1: Section 22.30.270.J (Lodging – Homestays) of Title 22 of the San Luis Obispo County Code, is hereby added to read as follows:

**J. Violation- Lodging - homestays.** It is unlawful for any person to use or allow the use of property in violation of the provisions of this section and to advertise a use that is in violation of this section. The penalties (including fines) and process for addressing a violation of this section are set forth in Chapter 22.74 of this Title (Enforcement). Additional penalties for violation of this section may include revocation of any required permit or business license.

For purposes of this Section, “advertise” shall mean any form of communication, promotion, or solicitation in any medium including, but not limited to, print, signage, internet website posts, intended to induce the use of property in violation of this Section.

SECTION 2: 22.30.300.E (Lodging - Recreational Vehicle (RV) Parks) of Title 22 of Title 22 of the San Luis Obispo County Code, is hereby added to read as follows:

**E. Violation- recreational vehicle parks and commercial campgrounds.** It is unlawful for any person to use or allow the use of property in violation of the provisions of this section and to advertise a use that is in violation of this section. The penalties (including fines) and process for addressing a violation of this section are set forth in Chapter 22.74 of this Title (Enforcement). Additional penalties for violation of this section may include revocation of any required permit or business license.

For purposes of this Section, “advertise” shall mean any form of communication, promotion, or solicitation in any medium including, but not limited to, print, signage, internet website posts, intended to induce the use of property in violation of this Section.

SECTION 3: Sections 22.30.510.xvi. and xvii (Residential Vacation Rentals) of Title 22 of Title 22 of the San Luis Obispo County Code, are hereby amended and added to read as follows:

xvi. **Violation - vacation rental.** It is unlawful for any person to use or allow the use of property in violation of the provisions of this section and to advertise

a use that is in violation of this section. The penalties (including fines) and process for addressing a violation of this section are set forth in Chapter 22.74 of this Title (Enforcement). Additional penalties for violation of this section may include revocation of the Zoning Clearance and Business License. Violations that will cause the processing of Zoning Clearance revocation include, but are not limited to:

- (1) Failure to notify County staff when the contact person, or contact information, changes.
- (2) Violation of the residential vacation rental tenancy standards as set forth above.
- (3) Violation of the residential vacation rental maximum occupancy, parking and noise requirements as set forth above.
- (4) The inability of County staff or the Sheriff's Dispatch to reach a contact person.
- (5) Failure of the local contact person, or property owner, to respond to the complaint.

Three verified violations of this subsection, as determined by a County Planning and Building staff person, within any consecutive six-month period, shall also be grounds for revocation of the Zoning Clearance. Signed affidavits by members of the community may be used to verify violations. Revocation of the Zoning Clearance shall follow the same procedure used for land use permit revocation as set forth in Section 22.74.160 of the County Land Use Ordinance. ~~The Director of Planning and Building will hold the initial revocation hearing.~~

For purposes of this Section, "advertise" shall mean any form of communication, promotion, or solicitation in any medium including, but not limited to, print, signage, internet website posts, intended to induce the use of property in violation of this Section.

- xvii. Appeal of Permit Denial. An appeal of the denial of any permit requirement as set forth in subdivision a. of this Section or of any request to modify or amend an issued permit as it applies to residential vacation rentals shall be heard by the Hearing Officer in accordance with the hearing procedures set forth in Section 22.74.060.

SECTION 4. Section 22.30.610.F (Temporary Events) of Title 22 of the San Luis Obispo County Code, is hereby added to read as follows:

**F. Violation- Temporary Events.** It is unlawful for any person to use or allow the use of property in violation of the provisions of this section and to advertise a use that is in violation of this section. The penalties (including fines) and process for

addressing a violation of this section are set forth in Chapter 22.74 of this Title (Enforcement). Additional penalties for violation of this section may include revocation any issued permit and Business License.

For purposes of this Section, "advertise" shall mean any form of communication, promotion, or solicitation in any medium including, but not limited to, print, signage, internet website posts, intended to induce the use of property in violation of this Section.

SECTION 5: Section 22.74.060 (Enforcement Hearings) of Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

22.74.060 - Enforcement Hearings.

Hearings conducted for the purposes of permit revocation, nuisance abatement, or appeals on the forfeiture of bonds pursuant to this Section, shall be conducted as follows.

- A. ~~**Review authority.** An enforcement hearing shall be conducted by the Review Authority assigned to the specific enforcement procedure by Sections 22.74.100 et seq.~~
- B. ~~**Conduct of hearing.** The appropriate Review Authority shall conduct an Enforcement Hearing as follows.~~
  - 1. ~~The Review Authority will hear sworn testimony and consider other evidence concerning the conditions constituting cause to revoke approval or conditional approval, to forfeit bond, or to abate a nuisance.~~
  - 2. ~~Respondents to enforcement actions may be present at the hearing, may be represented by counsel, may present testimony, and cross-examine witnesses.~~
  - 3. ~~The hearing need not be conducted according to technical rules relating to evidence and witnesses, and may be continued from time to time.~~
  - 4. ~~The Review Authority will deliberate upon the evidence and shall make findings upon the evidence to support any action of the Review Authority to revoke approval or conditional approval, abate a nuisance, or deny an appeal on the forfeiture of a bond. Thereafter the Review Authority shall issue its order to the respondent.~~
- A. The Board of Supervisors hereby establishes the Office of County Hearing Officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, to which Office the Board of Supervisors by resolution shall appoint one or more Hearing Officers. Each Hearing Officer shall be a duly licensed attorney at law that has been admitted to practice before the courts of this state for at least five years. A Hearing Officer shall be appointed for a term of at least one year. If the Board appoints more than one Hearing Officer, a Hearing Officer shall be assigned by the Director of the Department of Planning

and Building, or a designee, based on an alphabetical rotation and/or availability of the officer(s).

The Board of Supervisors shall approve by resolution policies and procedures relating to the contracting with and compensation of Hearing Officers. The compensation and/or future appointment of a Hearing Officer shall not be directly or indirectly conditioned upon the substance of his/her rulings, including but not limited to the amount of administrative fines levied. In the event of a vacancy, conflict of interest or other unavailability of an appointed Hearing Officer, an administrative law judge provided by the State of California Office of Administrative Hearings to function as the County Hearing Officer pursuant to Chapter 14 of Part 3 of Division 2 of Title 3 of the California Government Code or an independent contractor assigned by an organization or entity which provides hearing officers may act as a Hearing Officer for the purposes of this Chapter without further approval required by the Board of Supervisors.

Hearing Officers shall have all those powers set forth in sections 27721 and 27722 of the Government Code, including, but not limited to, the power to conduct the hearing, to issue subpoenas, to receive evidence, to administer oaths, to rule on questions of law and the admissibility of evidence, to make findings of fact and conclusions of law, and to prepare a record of the proceedings, as well as the powers to in his or her discretion continue a hearing one time for no more than twenty (20) days, upon a showing of good cause by a party of interest in advance of the date originally set for the hearing, and the power to uphold fines and abatement orders and order that the cost of the abatement be specially assessed against the parcel.

- B. Pursuant to Government Code sections 25845, subdivision (i) and 27721, subdivision (a), the Hearing Officer shall hold an administrative hearing to determine whether the conditions existing on the property subject to the notice constitute a nuisance under this Chapter, or whether there is any other good cause why those conditions should not be abated. This hearing shall be held no less than five (5) calendar days after service of the notice of violation.
- C. The Hearing Officer shall conduct the hearing as follows:
  - 1. The Hearing Officer will hear sworn testimony and consider other evidence concerning the conditions constituting cause to revoke approved permit(s), to abate a nuisance, or on appeals on the forfeiture of bonds.
  - 2. Respondents to enforcement actions may be present at the hearing, may be represented by counsel, may present testimony, evidence, and cross-examine witnesses.
  - 3. If the respondent does not appear and present evidence at the hearing, the Hearing Officer may base their decision solely upon the evidence submitted by the Code Enforcement Officer. Failure of the respondent to appear and

present evidence at the hearing shall constitute a failure to exhaust administrative remedies.

4. The hearing need not be conducted according to technical rules relating to evidence and witnesses, and may be continued from time to time.
5. The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified as an interpreter by either the State of California or the County of San Luis Obispo.
6. The Hearing Officer will deliberate upon the evidence presented, and shall, within seven (7) calendar days after the close of the hearing, issue a written decision and order that either affirms, reverses, or modifies the determination contained in the Notice of Nuisance Abatement issued by the Code Enforcement Officer, and may include findings relating to the existence or non-existence of the alleged nuisance, as well as findings concerning the propriety and means of abatement of the conditions set forth in the Notice of Nuisance Abatement and/or appropriateness of fines levied. The decision of the Hearing Officer shall be mailed to, or personally served upon, the respondent and any other party upon whom the notice of violation was served, and the Code Enforcement Officer. The decision shall be final when signed by the Hearing Officer and served as herein provided.
7. Whenever the Hearing Officer becomes aware that a respondent has failed to abate any unlawful activity within thirty (30) calendar days of the date of service of the decision of the Hearing Officer under this Section requiring such abatement, the Hearing Officer may direct a Code Enforcement Officer to enter upon the property and abate the nuisance. The Code Enforcement Officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary.
8. The costs of abatement and all administrative costs incurred pursuant to this Chapter shall be recoverable in accordance with the Section 22.74.080 and Section 22.74.150.F.

SECTION 6: Sections 22.74.080.E and F. (Recovery of costs) of Title 22 of the San Luis Obispo County Code, are hereby amended to read as follows:

E. **Hearing on objection to charges.** Any property owner who receives a summary of costs in compliance with Subsection D. shall have the right to a hearing before the **Hearing Officer Director** on his or her objections to the proposed costs, as follows:

1. **Request for hearing.** A request for hearing shall be filed with the Department within 14 days of the service by mail of the summary of costs, in the form of a letter setting forth the nature of the property owner's objections to the costs.
  2. **Scheduling of hearing.** Within 30 days of the filing of the request for hearing, and on 14 days written notice to the owner, the **Hearing Officer Director** shall hold a hearing on the owner's objections and determine the validity thereof.
  3. **Decision by Hearing Officer Director.** In determining the validity of the costs, the **Hearing Officer Director** shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include, but are not limited to, whether the present owner created the violation; whether there is a present ability to correct the violation; whether the owner moved promptly to correct the violation; the degree of cooperation provided by the owner; whether reasonable minds can differ as to whether a violation exists. The decision of the Hearing Officer shall be final when signed by the Hearing Officer and served in accordance with Section 22.74.060.C.6.
  4. ~~**Appeal.** The decision of the Director may be appealed to the Board in compliance with Section 22.70.050.~~
- F. **Collection of charges.** In the event that no request for hearing is filed in compliance with Subsection E. or after a hearing the **Hearing Officer Director** affirms the validity of the costs, the property owner shall be liable to the County in the amount stated in the summary or any lesser amount as determined by the **Hearing Officer Director**. The costs shall be recoverable in a civil action in the name of the County, in any court of competent jurisdiction within the country.

SECTION 7: Sections 22.74.150.A.4, C.4, D.2, E, and F.1-4 (Nuisance Abatement) of Title 22 of the San Luis Obispo County Code, are hereby amended to read as follows:

22.74.150 - Nuisance Abatement.

The Code Enforcement Officer may employ the provisions of this Section to secure the abatement of nuisances, as defined by this Section.

- A. **Nuisance defined.** Except as otherwise provided by this Section, a nuisance is any of the following:
  4. Any use of land, buildings, or premises established, operated, or maintained contrary to the provisions of this Title, or Titles 6, 8, 13, or 19 of this code.
- C. **Notice of Nuisance.** Upon the determination by the Code Enforcement Officer that a nuisance exists, a Notice of Nuisance may be prepared, with copies thereof to be served as provided by Section 22.74.070.A (Service of Notice). The Notice of Nuisance shall include the following information.

4. A statement that if the nuisance is not corrected as specified, a hearing will be held before the Hearing Officer Board to consider whether to order abatement of the nuisance and levy a special assessment, which may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes in compliance with Section 25845 of the Government Code. Special assessments are subject to the same penalties, interest and procedures of foreclosure and sale in the case of delinquency as is provided for ordinary county taxes.
- D. **Notice of Nuisance Abatement.** If, upon the expiration of the period specified in the Notice of Nuisance, action to abate the nuisance has not been commenced, or, if it has been commenced, it has not been prosecuted with due diligence nor completed within the time specified, the Code Enforcement Officer shall prepare a Notice of Nuisance Abatement, and serve notice as provided by Section 22.74.070.A (Service of Notice). The Notice of Nuisance Abatement shall contain:
2. A notice to appear before the Hearing Officer Board at a stated time and place not less than 10 nor more than 30 days after service of the notice, to show cause why stated conditions should not be found to be a nuisance, and why the nuisance should not be abated by the Code Enforcement Officer; and
- E. **Abatement proceedings.** When a Notice of Nuisance Abatement has been prepared and served in compliance with Subsection D., nuisance abatement shall proceed as follows:
1. **Hearing.** A decision to abate a nuisance shall be at the discretion of the Hearing Officer Board, after a hearing conducted in compliance with Section 22.74.060 (Enforcement Hearings).
  2. **Order by Hearing Officer Review Authority.** Upon the conclusion of the hearing, the Hearing Officer Board may terminate the abatement proceedings or it may order:
    - a. That the owner or other affected person shall abate the nuisance, prescribing a reasonable time (not less than 30 days) for completion of abatement.
    - ~~b. That a request for additional time to complete abatement by a person subject to an abatement order shall be granted only if the affected person guarantees abatement within the time to be granted by submitting a bond or other guarantee in compliance with Section 22.64.040.~~
    - b. That, in the event abatement is not commenced, conducted and completed in accordance with the terms set by the Hearing Officer Board, the Code Enforcement Officer is empowered and authorized to abate the nuisance.

3. **Service of Hearing Officer Board order.** The order of the Hearing Officer Board shall be served as provided by Section 22.74.070.A (Service of Notice), except that the order need not be posted on the property or recorded in compliance with Section 22.74.070.A.3.
  4. **Commencement of time limits.** The time limits set by the Hearing Officer Board for completion of abatement or other required actions shall begin upon service of the notice, unless the order of the Hearing Officer Board sets specific dates for completion of abatement.
  5. **Compliance with Hearing Office Board order required.** It is unlawful and a violation of this code for any person to fail to comply with the provisions of an order of the Hearing Officer Board in compliance with this Section. The penalty for failure to comply with the order shall be as set forth in Section 22.74.040.
- F. **Abatement penalties and costs.** Upon expiration of the time limits established by Subsection E.4, the Code Enforcement Officer shall acquire jurisdiction to abate the nuisance, and shall carry out the following as appropriate.
1. **Disposal of materials.** Any materials in or constituting any nuisance abated by the enforcement officer may be disposed of, or if directed by the Hearing Officer Board where the materials are of substantial value, sold directly by the General Services Department or the Director in a manner approved by County Counsel, or sold in the same manner as surplus county personal property is sold.
  2. **Account of costs and receipts and notice of assessment.** The enforcement officer will keep an itemized account of the costs of enforcing the provisions of this ordinance, and of the proceeds of the sale of any materials connected therewith. Upon completion of abatement, the enforcement officer is to prepare a notice to be served as provided in Sections 22.74.080.A and B., specifying.
    - a. The work done.
    - b. An itemized account of the costs and receipts of performing the work.
    - c. An address, legal description, or other description sufficient to identify the premises.
    - d. The amount of the assessment proposed to be levied against the premises, or the amount to be refunded, if any, due to excess proceeds over expenses.
    - e. The time and place where the Code Enforcement Officer will submit the account to the Hearing Officer Board for confirmation. The time and place specified shall be not less than 15 days after service of the notice.



- f. A statement that the Hearing Officer Board will hear and consider objections and protests to the account and proposed assessment or refund.
3. **Hearing on account and proposed assessment.** At the time and place fixed in the notice, the Hearing Officer Board will hear and consider the account and proposed assessment, together with objections and protests thereto, (Section 22.74.060 - Enforcement Hearings). At the conclusion of the hearing, the Hearing Officer Board may make modifications and revisions of the proposed account and assessment as he or she it deems just, and may order the account and proposed assessment confirmed or denied, in whole or in part, or as modified and revised. The determination of the Hearing Officer Board as to all matters contained therein is final and conclusive.
4. **Notice of lien.** Upon confirmation of an assessment by the Hearing Officer Board, the Code Enforcement Officer shall notify the owners by certified mail, return receipt requested, of the amount of the pending lien confirmed by the Hearing Officer Board, and advise them that they may pay the account in full within 30 days to the Department, to avoid the lien being recorded against the property. If the lien amount is not paid by the date stated in the letter, the Code Enforcement Officer shall prepare and have a notice of lien recorded in the office of the County Recorder. The notice shall contain:
  - a. A legal description, address and/or other description sufficient to identify the premises.
  - b. A description of the proceeding under which the special assessment was made, including the order of the Hearing Officer Board confirming the assessment.
  - c. The amount of the assessment.
  - d. A claim of lien upon the described premises.

SECTION 8: Sections 22.74.160.B, C, and D (Permit Revocation) of Title 22 of the San Luis Obispo County Code, are hereby amended to read as follows:

- B. **Revocation hearing.** Before any action is taken to revoke an approved land use permit, a hearing shall be conducted in compliance with Section 22.74.060 (Enforcement Hearings). ~~If the land use permit to be revoked is a Development Plan, or Conditional Use Permit, the revocation hearing shall be conducted by the Commission. If revocation of a Zoning Clearance, Plot Plan, Site Plan Review, Site Plan, Minor Use Permit or Departmental Review is being considered, The hearing shall be conducted by the Director acting as Zoning Administrator, in compliance with Section 22.74.060 22.70.020.B.~~

- C. **Action to revoke.** If after the revocation hearing the Hearing Officer Review Authority finds that grounds for revocation have been established, the Hearing Officer Review Authority may:
1. Allow the permittee additional time to correct the violation or non-compliance; or
  2. Modify conditions of approval on the basis of evidence presented at the hearing; or
  3. Revoke the approved land use permit and order the discontinuance or removal of the approved use within a time specified by the Hearing Officer Review Authority.

In the absence of an appeal in compliance with Subsection D., revocation shall become effective 14 days after the action of the Hearing Officer Review Authority. Upon the effective date of revocation, the Code Enforcement Officer shall initiate nuisance abatement proceedings by preparing and serving a Notice of Nuisance in compliance with Section 22.74.150, with the time limit for action by the permittee specified in the notice being that set by the Hearing Officer Review Authority in the revocation order.

- D. ~~**Appeal.** The permittee may appeal the decision of the Review Authority, and these appeals shall be processed in compliance with Section 22.70.050. Upon appeal, revocation does not take effect until affirmed by the appeal Review Authority identified by Section 22.70.050. After the hearing, the appeal Review Authority may affirm, modify or reverse the decision to revoke the permit. In the absence of an appeal, revocation shall take effect 14 days after the decision of the Review Authority. Finality of Hearing Officer Decision. The decision shall be final when signed by the Hearing Officer and served as provided in Section 22.74.060C.6.~~

SECTION 9: 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 10: 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 11: This Ordinance shall become effective thirty (30) days after its enactment by the Board of Supervisors.

SECTION 12: 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 13: 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 5<sup>th</sup> 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



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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