

ORDINANCE NO. 3435

AN ORDINANCE AMENDING TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE, THE COASTAL ZONE LAND USE ORDINANCE, BY AMENDING VARIOUS SECTIONS RELATING TO CODE ENFORCEMENT AND ORDINANCE VIOLTATIONS

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

SECTION 1: Sections 23.08.165.o and p (Residential Vacation Rentals) of Title 23 of the San Luis Obispo County Code, are hereby amended and added to read as follows:

- o. **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 23.10 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:
 - (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 in Subsection d.
 - (3) Violation of the residential vacation rental maximum occupancy, parking and noise requirements as set forth in Subsections e, i and j.
 - (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 the complaint.

Three verified violations of Subsection o, as determined by a County Planning and Building staff person, within any consecutive six-month period, shall 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 23.10.160 of the Coastal Zone 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 websites posts, intended to induce the use of property in violation of this Section.

- p. **Appeal of Permit Denial.** An appeal of the denial of the Zoning Clearance permit requirement as set forth in Subdivision b. of this Section shall be heard by the Hearing Officer in accordance with the hearing procedures set forth in Section

23.10.030. The Minor Use Permit requirement for Los Osos shall be subject to the appeal process outlined in Section 23.01.042.

SECTION 2: Section 23.08.248.f (Temporary Events) of Title 23 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 in any medium 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 23.10 of this Title (Enforcement). Additional penalties for violation of this section may include revocation of the any issued 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 websites posts, intended to induce the use of property in violation of this Section.

SECTION 3: Section 23.08.265.i (Homestays) of Title 23 of the San Luis Obispo County Code, is hereby added to read as follows:

i. **Violation - 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 23.10 of this Title (Enforcement). Additional penalties for violation of this section may include revocation of the Plot Plan approval 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 websites posts, intended to induce the use of property in violation of this Section.

SECTION 4: Sections 23.08.266.f (Recreational Vehicle (RV) Parks) of Title 23 of the San Luis Obispo County Code, is hereby added to read as follows:

f. **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 in any medium 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 23.10 of this Title (Enforcement). Additional penalties for violation of this section may include revocation of the Development Plan Approval.

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 websites posts, intended to induce the use of property in violation of this Section.

SECTION 5: Section 23.10.030 (Enforcement Hearings) of Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

23.10.030 - 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. **Hearing body:** An enforcement hearing shall be conducted by the hearing body assigned to the specific enforcement procedure by Sections 23.10.100 et seq.~~
- ~~b. **Conduct of hearing:** The appropriate hearing body shall conduct an Enforcement Hearing as follows:
 - ~~(1) The hearing body 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 such 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 hearing body will deliberate upon the evidence and shall make findings upon such evidence to support any action of the hearing body to revoke approval or conditional approval, abate a nuisance, or deny an appeal on the forfeiture of a bond. Thereafter the hearing body 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 23.10.050 and Section 23.10.150.F.

SECTION 6: Sections 23.10.050.e and f (Recovery of costs) of Title 23 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 pursuant to subsection d. of this section shall have the right to a hearing before the Hearing Officer ~~Director of Planning and Building~~ 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 of Planning and Building 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 23.10.030.c(6).

~~(4) **Appeal.** The decision of the Director may be appealed to the Board of Supervisors pursuant to Section 23.01.042.~~

f. **Collection of charges.** In the event that no request for hearing is filed pursuant to subsection e. of this section or after a hearing the Hearing Officer Director of Planning and Building 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. Such 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 23.10.150.a(4), c(4), d(2), e, and f(1)-(f)(4) (Nuisance Abatement) of Title 23 of the San Luis Obispo County Code, are hereby amended to read as follows:

a. **Nuisance defined:** Except as otherwise provided in Section 23.10.101, 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 23.10.040a (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 of Supervisors 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 pursuant to 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 such notice as provided by Section

23.10.050 (Service of Notice). The Notice of Nuisance Abatement shall contain the following:

(2) A notice to appear before the Hearing Officer Board of Supervisors 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.

e. **Abatement proceedings:** When a Notice of Nuisance Abatement has been prepared and served pursuant to subsection d. of this section, nuisance abatement shall proceed as follows:

(1) **Hearing.** A decision to abate a nuisance shall be at the discretion of Hearing Officer Board of Supervisors, after a hearing conducted pursuant to Section 23.10.030 (Enforcement Hearings).

(2) **Order by Hearing Officer hearing body.** Upon the conclusion of the hearing, the Hearing Officer Board may terminate the abatement proceedings or it may order:

(i) That the owner or other affected person shall abate the nuisance, prescribing a reasonable time (not less than 30 days) for completion of abatement.

~~(ii) 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 pursuant to Section 23.02.060 of this title.~~

(ii) That, in the event abatement is not commenced, conducted and completed in accordance with the terms set by the Hearing Officer Board, the 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 23.10.040 (Service of Notice), except that the order need not be posted on the property or recorded pursuant to Section 23.10.040a(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 Officer 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 of Supervisors pursuant to this section. The penalty for failure to comply with such order shall be as set forth in Section 23.10.022.

- f. **Abatement penalties and costs:** Upon expiration of the time limits established by subsection e(4) of this section, 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 such materials are of substantial value, sold directly by the General Services Department or the Director of Planning and Building 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 23.10.050a and b., specifying:
 - (i) The work done.
 - (ii) An itemized account of the costs and receipts of performing the work.
 - (iii) An address, legal description, or other description sufficient to identify the premises.
 - (iv) 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.
 - (v) The time and place where the 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.
 - (vi) A statement that the **Hearing Officer Board** will hear and consider objections and protests to said 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 23.10.040 - Enforcement Hearings). At the conclusion of the hearing, the **Hearing Officer Board** may make such 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 board, the 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 of Planning and Building in order 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 recorded in

the office of the county recorder of San Luis Obispo County a notice of lien. The notice shall contain:

- (i) A legal description, address and/or other description sufficient to identify the premises.
- (ii) A description of the proceeding under which the special assessment was made, including the order of the **Hearing Officer Board** confirming the assessment.
- (iii) The amount of the assessment.
- (iv) A claim of lien upon the described premises.

SECTION 8: Sections 23.10.160.b, c., and d. (Permit Revocation) of Title 23 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 pursuant to Section 23.10.030 (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 Planning Commission. If revocation of a Plot Plan, Site Plan, Minor Use Permit or Departmental Review is being considered, the hearing shall be conducted by the Director of Planning and Building acting as Zoning Administrator, pursuant to Section 23.01.040b of this title.~~
- c. **Action to revoke:** If after the revocation hearing the ~~Hearing Officer hearing body~~ finds that grounds for revocation have been established, the ~~Hearing Officer hearing body~~ 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 body.

In the absence of an appeal pursuant to subsection d. of this section, revocation shall become effective 14 days after the action of the ~~Hearing Officer hearing body~~. Upon the effective date of revocation, the code enforcement officer shall initiate nuisance abatement proceedings by preparing and serving a Notice of Nuisance pursuant to Section 23.10.150, with the time limit for action by the permittee specified in the notice being that set by the hearing body in the revocation order.

- d. **Appeal.** ~~The permittee may appeal the decision of the hearing body, and such appeals shall be processed pursuant to Section 23.01.042. Upon appeal, revocation does not take effect until affirmed by the appeal hearing body identified by Section 23.10.042. After the hearing, the appeal hearing body 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 hearing body.. Finality of Hearing Officer~~

Decision. The decision shall be final when signed by the Hearing Officer and served as provided in Section 23.10.030.c(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: This ordinance shall become operative immediately only upon certification of the Amendments by the California Coastal Commission, as may be certified with suggested modifications by the Coastal Commission and accepted and agreed to by the Board of Supervisors.

SECTION 13: 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 14: 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
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