

ORDINANCE NO. 6236

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 1 OF THE SONOMA COUNTY CODE BY ADDING SECTION 1-7.6 TO PROVIDE FOR AN ADMINISTRATIVE CITATION PROGRAM AND MAKING OTHER MINOR AMENDMENTS

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section I. Chapter 1 (General Provisions) of the Sonoma County Code is amended to read as set forth in Exhibit "A," attached hereto and incorporate herein by this reference.

Section II. Section 1-7.6 (Administrative Citations) is added to Chapter 1 of the Sonoma County Code to read as set forth in Exhibit "B," attached hereto and incorporate herein by this reference.

Section III. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section IV. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California. Pursuant to Government Code section 25124, complete copies of Exhibits "A" and "B" to this Ordinance are on file with the Clerk of the Board of Supervisors and are available for public inspection and copying during regular business hours in the office of the Clerk of the Board of Supervisors, 575 Administration Drive, Room 100A, Santa Rosa.

In regular session of the Board of Supervisors of the County of Sonoma, introduced on the 10th day of July, 2018, and finally passed and adopted this 24th day of July, 2018, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Absent Rabbitt: Aye Zane: Aye Hopkins: Aye Gore: Absent

Ayes: 3 Noes: 0 Absent: 2 Abstain: 0

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.



VICE

Chair, Board of Supervisors
County of Sonoma

ATTEST:



by: 

Sheryl Bratton,
Clerk of the Board of Supervisors

EXHIBIT "A"
AMENDMENTS TO CHAPTER 1 OF THE SONOMA COUNTY CODE

Sec. 1-7. - General penalty—Continuing violations—Violations as nuisances.

- (a) Whenever in this code or in any other ordinance of the county, or in any rule or regulation promulgated pursuant thereto, any act is prohibited or made or declared to be unlawful or an offense, or the failure to do any act is declared to be unlawful, where no specific penalty is provided, the violation of any such provision of this code, or any other ordinance, rule, or regulation of the county is hereby declared a misdemeanor and shall be punished, if prosecuted as a misdemeanor, by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.
- (b) It shall be unlawful, prohibited, and a violation of this chapter to violate any term or condition of any license, permit, or approval granted or issued pursuant to this code. Any person, whether as principal, agent, employee or otherwise, violating any such term or condition shall be subject to the sanctions provided in subsection (a) of this section.
- (c) Every day any violation of this code, any other ordinance, rule, or regulation of the county, or any term or condition of any license, permit, or approval granted or issued pursuant to this code shall continue shall, unless otherwise provided, constitute a separate and distinct offense. A continuing violation of this code, or of any license, permit or approval or of any condition of a license, permit or approval issued under the authority of this code, is a public nuisance.
- (d) The board of supervisors may order the abatement of any public nuisance, as defined in this section or any state statute, following procedures required pursuant to Section 1-7.3. The board of supervisors may direct that the hearing be conducted before another board, commission or officer of the county. Costs incurred by the county in abating such nuisances shall be special assessments against the parcels of property where the nuisances are located. Costs shall include, but are not limited to any administrative overhead, salaries and expenses incurred by the following departments: health services, permit and resource management, county counsel, district attorney, transportation and public works, agriculture/weights & measures, and fire and emergency services. The foregoing provisions are alternative and supplemental to other procedures provided by law for the abatement of nuisances.

In any action, administrative proceeding, or special proceeding to abate a nuisance, the county may elect, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In an action or proceeding in which the county has so elected to seek recovery of its own attorneys' fees, an award of attorneys' fees may be made to the prevailing party, provided that the award of attorneys' fees to the prevailing party shall not exceed the amount of reasonable attorneys' fees incurred by the county in the same action or proceeding.

- (e) Any officer or employee of the Sonoma County department of health services or the permit and resource management department who is a duly registered environmental health specialist under state law may criminally cite a person without a warrant whenever the officer or employee has reasonable cause to believe that the person to be issued the criminal citation has committed a misdemeanor in his presence that is a violation of any statute or ordinance relating to public health which such registered environmental health specialist has a duty to enforce, except that, where the violation constitutes grounds for revoking a valid permit or

approval issued by the county department of health services or the permit and resource management department, no citation may be issued while such permit remains in force.

Sec. 1-7.1. - Civil penalty in abatement proceedings for designated code violations.

(a) Charge—Code Violations. In addition to any other fee or penalty imposed by this Code or by law, any person who violates Sections 7-5, 7-13, or 7-17, Chapters 11, 11A, or 11B, Articles II, III, or VI of Chapter 15, Chapter 19, or Sections 22-2(a), 22-2(c), 22-2(e), 22-2(g), 22-3, 22-6, 22-8, 22-18(k), 22-18(l), 22-18(n), or 24-33, Chapter 25B, Sections 26-92-200, 26A-15 or 26C-338.1, or Chapter 36 of this Code shall:

- (1) If the violation arises from an unlawful commercial use or structure on the property, the violator(s) shall pay one (1) of the following sums, as determined by the enforcing officer, to the county:
 - (i) The fair market rental value of the land or structure in violation for the period of time elapsed from the date of mailing of the notice of violation through to its abatement by whatever means; or
 - (ii) No less than twenty-five dollars (\$25.00) per day and no more than one hundred dollars (\$100.00) per day for the first violation; no more than two hundred dollars (\$200.00) per day for a second violation of the same ordinance within one (1) year; and no more than five hundred dollars (\$500.00) per day for each additional violation of the same ordinance within one (1) year for each day that the violation exists after the date of mailing of the notice of violation through to its abatement by whatever means; or
 - (iii) In the event that the use or structure in violation may be permitted with an appropriate permit, a minimum of three (3) times and up to a maximum of ten (10) times the amount of the standard fee for every required approval, review and permit.
- (2) If the violation arises from an unlawful owner-occupied residential use or structure on the property, the violator(s) shall pay one (1) of the following sums, as determined by the enforcing officer, to the county:
 - (i) The fair market rental value of the land or structure in violation for the period of time elapsed from the date of mailing of the notice of violation through to its abatement by whatever means; or
 - (ii) No less than fifteen dollars (\$15.00) per day and no more than one hundred dollars (\$100.00) per day for the first violation; no more than two hundred dollars (\$200.00) per day for a second violation of the same ordinance within one (1) year; and no more than five hundred dollars (\$500.00) per day for each additional violation of the same ordinance within (1) one year for each day that the violation exists after the date of mailing of the notice of violation through to its abatement by whatever means; or
 - (iii) In the event that the use or structure in violation may be permitted with an appropriate permit, a minimum of three (3) times and up to a maximum of five (5) times the amount of the standard fee for every required approval, review and permit.
- (3) For any other violation, including but not limited to an unlawful noncommercial junkyard, an unlawful noncommercial truck terminal, an unlawful noncommercial

nonoperative motor vehicle storage yard, an unlawful noncommercial accessory structure, an unlawful noncommercial excess number of animals, or the unlawful noncommercial storage, disposal or transportation of solid waste, the violator(s) shall pay one (1) of the following sums, as determined by the enforcing officer, to the county:

- (i) No less than five dollars (\$5.00) per day and no more than one hundred dollars (\$100.00) per day, for the first violation; no more than two hundred dollars (\$200.00) per day for a second violation of the same ordinance within one (1) year; and no more than five hundred dollars (\$500.00) per day for each additional violation of the same ordinance within one (1) year for each day that the violation exists after the date of mailing of the notice of violation through to its abatement by whatever means;
 - (ii) In the event that the use or structure in violation may be permitted with an appropriate permit, a minimum of three (3) times and up to a maximum of five (5) times the amount of the standard fee for every required approval, review and permit.
- (4) The enforcing officer shall have the sole and exclusive discretion to set the amount of civil penalties within the ranges set forth in this section. The enforcing officer, however, shall not impose a penalty greater than the minimum amount in a range of civil penalties set forth in this section unless the enforcing officer's department has adopted a written policy setting forth how civil penalties within the ranges are determined.
- (b) Charge—Code Violations for Septic Operational Permits. Notwithstanding subsection (a) of this section, if the violation of Section 24-33 of this code is solely for nonpayment of the fee provided for in Section 24-33(b), then any person in such violation of that section shall pay to the county a sum as follows:
- (1) An amount equal to twenty-five percent (25%) of the fee for such permit if such violation has existed for less than sixty (60) days; or
 - (2) An amount equal to fifty percent (50%) of the fee for such permit if such violation has existed for sixty (60) days or more but less than one hundred eighty (180) days; or
 - (3) An amount equal to the penalty which would be calculated under subsection (a) of this section if such violation has existed for one hundred eighty (180) days or more.
- (c) Enforcing Officer. For the purposes of this section and any action to enforce this section pursuant to Section 1-7.3, enforcing officer means any department head, or his or her designee, that is responsible for the enforcement of any chapter or section identified in Section 1-7.1(a).
- (d) Exclusions.
- (1) The charges imposed by this section shall not apply if the property owner establishes that, at the time he or she acquired the property, (i) a violation of this code existed on the property, (ii) the property owner did not have actual or constructive notice of the existence of that violation, and (iii) within thirty (30) days after the mailing of notice of the existence of that violation, the property owner initiates and pursues, with due diligence, good faith efforts, as determined solely by the enforcing officer, to meet the requirements of this code. A property owner has constructive notice of the existence of a violation if the property owner has actual notice of circumstances sufficient to put a prudent person upon inquiry as to a particular fact and if by prosecuting such inquiry, the person might have learned that a violation existed on the property.

- (2) The charges imposed by this section shall not apply if the property owner establishes that
 - (i) within thirty (30) days after the date of mailing of notice of the existence of the violation, the property owner removed from the property the use or structure which constituted that violation, and
 - (ii) the property owner had not previously been mailed a notice of a violation of the same code section, regardless of the parcel on which such violation occurred.
- (3) The charges imposed by this section shall not apply if the owner of a residential property establishes that at the time he or she acquired any ownership interest in the property:
 - (i) a violation of this code existed on the property;
 - (ii) the violation was not on record at the permit and resource management department; and
 - (iii) within one year of the effective date of the ordinance codified in this section (for owners who had acquired any ownership interest in the property before the effective date of the ordinance codified in this section); within six months of the effective date of the ordinance codified in this section (for all other owners); or within six months of acquiring any ownership interest in the property, whichever is later, the owner initiated and pursued with due diligence and good faith effort, as determined solely by the enforcing officer, to meet the requirements of this code.
- (e) The charges imposed by this section shall only be issued, and the exclusions provided in this section shall only apply, in connection with the abatement procedures in Section 1-7.3 and shall be exclusively subject to the administrative appeal procedures set forth in that section.

Sec. 1-7.2. - Private right of action for violation of certain building, zoning and public health regulations.

Any person damaged by any violation of Sections 7-5, 7-13, 7-17, 24-33 or 26-92-200 of this code may institute a civil proceeding for injunctive relief against such violation, for money damages, and for whatever other or additional relief the court deems appropriate. In any action brought pursuant to this section, the prevailing party shall be entitled to reasonable attorneys' fees and costs pursuant to order of the court. The remedies available under this section shall be in addition to, and shall not in any way restrict, any other rights or remedies available under law.

Sec. 1-7.3. - Administrative procedure for abatement of certain violations of this code.

- (a) Violation Notices and Notice and Orders. Upon receipt of information to county staff that there exists a continuing violation of Chapters 7, 11, 11A, 11B, or 13, Articles II, III, or VI of Chapter 15, Chapter 19, Sections 22-2(a), 22-2(c), 22-2(e), 22-2(g), 22-3, 22-6, 22-8, 22-18(k), 22-18(l), or 22-18(n), Chapters 24, 25B, 26, 26A, 26C, or 36 of this code, the enforcing officer may order that the violation cease. Notice and orders shall be in writing and include:
 - (1) a description of the real estate sufficient for identification;
 - (2) a statement of the violation or violations and the reason the notice was issued;
 - (3) a reasonable period of time to bring the property into compliance;
 - (4) a statement of appeal rights; and
 - (5) notice of the potential to impose penalties and abatement costs and to record an abatement notice for failure to comply.

Code enforcement may, but is not required to, initiate enforcement through a violation notice prior to issuing a notice and order. Violation notices shall be sent via first-class mail and notice and orders shall be sent certified mail addressed to the last known property owner as listed on the latest official equalized tax roll and may be served on the holder of any mortgage or deed of trust or other lien or encumbrance of record. A copy of the notice and order shall be posted in a conspicuous location on the subject property.

- (b) Notice to Vacate. If the enforcing officer orders a structure or property to be vacated, each structure or property shall be posted reciting the supporting reasons and specifying the conditions which necessitate the posting. No person shall remain in or enter any building or portion thereof which has been posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy has been issued.
- (c) Determination of Penalties. The determination of civil penalties calculated pursuant to Section 1-7.1 or by any of the code sections listed in subsection (a) and imposed under this section shall, in the first instance, be performed by the enforcing officer. Such determination shall take into account the facts and circumstances of the violation including, but not limited to:
 - (1) whether or not the violation poses a threat to human health, safety or to the environment;
 - (2) the seriousness or gravity of the violation;
 - (3) the length of time the violation has existed;
 - (4) the culpability of the person in violation or the willfulness of the violation;
 - (5) the sophistication of the persons creating or causing the violation;
 - (6) the extent of the violation and its effect on adjoining properties;
 - (7) attempts, if any, to comply with the applicable ordinances; and
 - (8) any other information which might be relevant to the determination of charges to be imposed by this section.
- (d) Appeals. Any notice, order, decision or determination made by any administrative official of the county of Sonoma, pursuant to this Section 1-7.3(a), in connection with or related to the code sections in subsection (a) may be appealed by any person affected by the determination to a hearing officer appointed by the county pursuant to Sections 2-33.1 through 2-33.5 of this code. Any such appeal must be made in writing and submitted to the enforcing officer within ten (10) calendar days from the date of the administrative action.

Except for orders to vacate structures or threats to life, safety or to the environment as determined by the enforcing officer, enforcement may be stayed during the pendency of any appeal that is timely filed. Failure of any person to file an appeal shall constitute a waiver of the right to an appeal hearing and adjudication of the violations raised in the notice, or any portion thereof. Appeals may be withdrawn at any time prior to the commencement of the appeal hearing, except that the withdrawn appeal hearing may be converted to an abatement hearing pursuant to subsection (e) below, and heard on the same date and time as scheduled for the appeal hearing.

- (e) Effect of Failure to Appeal.

- (1) If the violation continues after issuance of a notice of violation or notice and order and an appeal is not timely filed, the enforcing officer may file in the office of the county recorder a notice of abatement proceedings describing the property and certifying that nature of the violation and that the owner has been so notified of the violation.
 - (2) The enforcing officer may set the matter for an abatement hearing before a hearing officer appointed by the county pursuant to Sections 2-33.1 through 2-33.5 of this code. If the matter is set for hearing, a notice of hearing shall be posted on the property upon which the violation exists and shall be mailed to the persons known to be in possession of the property and to the persons shown on the latest equalized county tax roll to be the owners of the property. The notice shall be posted and mailed at least ten (10) days prior to the hearing.
 - (3) If a timely appeal is not filed following the issuance of a notice and order, and the matter is not set for a hearing by the enforcing officer, the enforcing officer may issue a determination of abatement costs and civil penalties once the correction period specified in the notice and order has elapsed. The civil penalties shall be calculated pursuant to Section 1-7.1 or by any of the code sections listed in subsection (a), and their determination shall consider the factors in Section 1-7.3(c). The determination shall contain:
 - i. The street address and/or a description of the property sufficient to identify the property upon which the violation exists;
 - ii. A statement that the property described has been found to be in violation of this code and a brief description of the conditions existing which constitute the violation(s);
 - iii. The total estimated penalties incurred to date, calculated from the date of the notice and order, as well as a statement of daily penalties for any continuing violation of this code;
 - iv. A statement that the owner may appeal the amount of abatement costs and/or civil penalties under Section 1-7.3(d);
 - v. A statement that the failure of an owner to appeal the amount of abatement costs and/or civil penalties shall constitute a waiver of any right to an administrative hearing for this matter and failure to exhaust his or her administrative remedies; and
 - vi. A statement that payment of the abatement costs and/or civil penalties shall not excuse the owner's obligation to correct any violation that continues to exist on the property.
 - (4) A determination of abatement costs and civil penalties for which a timely appeal is not filed shall be a final determination and conclusive evidence of the named person's liability for the abatement costs and civil penalties contained therein.
- (f) Notice of Hearing.
- (1) The notice of appeal hearing or abatement hearing shall contain:
 - (i) The street address and/or a description of the property sufficient to identify the property upon which the violation exists;

- (ii) The name(s) of the owner(s) or occupant(s) of the property as indicated on the latest equalized Sonoma County tax roll;
 - (iii) A statement that the property described has been found to be in violation of this code and a brief description of the conditions existing which constitute the violation(s);
 - (iv) The date, time and location of the hearing;
 - (v) A statement that if a violation is found to exist that the costs incurred by the county in abating the nuisance shall be a special assessment against the property and that a lien will be placed upon the property for the costs of abatement;
 - (vi) A statement that costs shall include, but are not limited to, any administrative overhead, salaries and expenses incurred by the following departments: agriculture/weights & measures, permit and resource management, public health, transportation and public works, emergency services, county counsel and the district attorney;
 - (vii) A statement that in order for any oral or written evidence, or any claim, defense or privilege to be considered it must be presented to the hearing officer at or before the time of the hearing and that failure to do so will constitute a waiver and may prevent such evidence or claim, defense or privilege from being considered in any later proceeding; and
 - (viii) A copy of the procedural rules governing such hearings.
- (2) Notice of any hearing on a violation shall be given in accordance with Section 26-92-050.
- (g) Conduct of Hearings. At the time and place set forth for the appeal hearing or abatement hearing, the hearing officer shall swear witnesses, hear testimony and receive written or documentary evidence relating to the alleged violation. The hearing officer shall cause the hearing to be recorded and shall preserve all written argument and all photographs and other documentary evidence introduced at the time of the hearing. Additional procedural rules for the conduct of the administrative hearing may be adopted by resolution of the board of supervisors.
- (h) Hearing Officer Decision and Order.
- (1) Within twenty (20) days after the appeal hearing or abatement hearing is closed, the hearing officer shall render his or her decision relating to the existence or nonexistence of the alleged violation(s). The decision shall contain:
 - (i) Findings of fact and conclusions of law;
 - (ii) If a violation is found to exist, a statement of the basis for that finding and an order that the violation be abated within a certain time;
 - (iii) If a violation is found to exist or to have existed at the time the matter was set for hearing, a statement of costs incurred by the county in abating the violation, an assessment of penalties, and a reasonable timeframe for the payment thereof.
 - (iv) A statement that the decision is a final decision, subject to judicial review in accordance with Code of Civil Procedure Section 1094.6.

- (2) A copy of the hearing officer's decision shall be mailed, by certified mail, to the owner of the property that is the subject of the hearing, and to the occupant of such property.
 - (3) Within 15 days of the hearing officer rendering his or her decision, a request may be made by either party or the hearing officer to correct technical, mathematical or clerical errors, mistakes, or any other minor changes in the decision. These corrections are limited to changes that do not affect the factual or legal basis of the decision. Notice of the request shall be given to the other parties to the proceeding.
- (i) Costs. If a final decision of the hearing officer finds that a violation exists by upholding the notice of violation on appeal or on decision after an abatement hearing, the owner of the property shall be responsible for paying the administrative abatement costs incurred by the county in abating the violation, including, but not limited to, any administrative overhead, salaries, and expenses incurred by the following departments: health services, permit and resource management, county counsel, district attorney, transportation and public works, agriculture/weights & measures, and fire and emergency services.
 - (j) Civil Penalties. If a final decision of the hearing officer finds that a violation exists by upholding the notice of violation and order on appeal or on decision after an abatement hearing, the owner of the property shall be liable to the county for all civil penalties imposed pursuant to Sections 1-7.1 or by any of the code sections listed in subsection (a), subject to modification by the hearing officer. Additional penalties shall accrue on a per-day basis at the hearing officer's discretion if the violation is not abated within the period of time specified in the hearing officer decision.
 - (k) Abatement Liens. If the owner of the property is responsible for any costs pursuant to this chapter, such costs of abatement shall become a lien against the property as is authorized by the Government Code and this section. A notice of abatement lien shall be recorded which states the identity of the record owner or possessor of the property, the date upon which abatement of the nuisance was ordered by the hearing officer, a description of the real property subject to the lien, the amount of the abatement costs incurred to date and, if applicable, the date upon which the abatement was complete. If the abatement has not yet been completed, the notice shall so state and shall also indicate that the lien is a partial lien and that additional abatement costs will be incurred in the future. It is the intent of the board of supervisors that abatement costs incurred after the filing of the notice of abatement lien relate back to the date upon which the lien was recorded for purposes of priority; however, in order to preserve its rights, after all abatement costs have been incurred and the abatement is complete, the enforcing officer shall cause a supplemental notice of abatement lien to be recorded. The supplemental notice shall contain all of the information required for the original notice and shall also refer to the recordation date and recorder's document number of the original notice. If a lien is recorded and abatement costs are later paid, the enforcing officer shall prepare and record a termination of lien.
 - (l) Recording of Hearing Officer's Decision. The enforcing officer, may cause a copy of the hearing officer's decision to be recorded in the office of the Sonoma County recorder. In the event of such recordation and in the further event that the violation is corrected and abatement costs are paid, a notice of such correction shall be recorded by the enforcing officer upon request.

- (m) Enforcement of Order—Civil Action. If the property owner does not comply with an order of the hearing officer, the enforcing officer shall be authorized to request that county counsel seek judicial enforcement of the administrative order. Where the board of supervisors has evidence that a violation of Chapters 7, 11, 11A, 11B, or 13, Articles II, III, or VI of Chapter 15, Chapter 19, Sections 22-2(a), 22-2(c), 22-2(e), 22-2(g), 22-3, 22-6, 22-8, 22-18(k), 22-18(l), or 22-18(n), or Chapters 24, 25B, 26, 26A, or 26C of this code poses a significant health or safety hazard to the owners or occupants of adjoining properties or to the surrounding community, or for other good cause shown, the board of supervisors may, in its discretion, commence a judicial action to enjoin such violation without the necessity of first going through the administrative procedures set forth in this section.

Sec. 1-7.5. - Limitation of time for judicial review of quasi-judicial decisions.

- (a) Except as otherwise provided herein, the provisions of California Code of Civil Procedure Section 1094.6 or successor statute are hereby adopted and any petition for review of an administrative decision of the county of Sonoma, or of any of its boards, commissions, departments, agencies, or persons authorized to render such a decision, shall be filed within the time limits prescribed therein. Notwithstanding such time limits, where a shorter time limitation is provided by any other law, such shorter time limit shall apply.
- (b) The limitation provided in subsection (a) shall apply to any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in the board, commission, officer or tribunal conducting the hearing.
- (c) The limitation provided in subsection (a) shall apply to all quasi-judicial proceedings now pending or hereafter begun. Written notice of the time limitation of Section 1094.6 shall be given to the parties by the decisionmaker in substantially the following form:

"The time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure Section 1094.6. Judicial review must be sought not later than the 90th day following the date on which this decision becomes final, except that where a shorter time limit is provided by any state or federal law, such shorter time limit shall apply."

- (d) The limitation provided in paragraph (a) shall be construed to require that petitions filed pursuant to C.C.P. Section 1094.5 for review of administrative decisions rendered prior to the effective date of this ordinance must be filed within ninety (90) days from the date upon which notice of the time limits provided in this ordinance is mailed or personally delivered to all parties to such administrative decision, unless a shorter time limit applies. Notice under this subsection shall be in substantially the following form:

"By ordinance, the time limits set forth in California Code of Civil Procedure Section 1094.6 have been made applicable to the decision rendered by (decisionmaker) on (date) concerning (title or description of administrative action). Judicial review must be sought not later than the 90th day following the date of this notice, except that where a shorter time limit is prescribed by any other law, such shorter time limit shall apply."

- (e) This section is not intended to revive, nor shall it be deemed to revive, any cause of action or grounds for relief through a special proceeding which is barred by law or equity.

- (f) This section is not intended to alter the alternative procedures for judicial review of an administrative penalty in Government Code Section 53069.4, subsection (b).
- (g) All costs of preparing a record which may be recovered by a local agency pursuant to Code of Civil Procedure Section 1094.6(c) or successor statute, shall be paid by the petitioner prior to delivery of the record to petitioner.

EXHIBIT "B"
SECTION 1-7.6 OF CHAPTER 1 OF THE SONOMA COUNTY CODE

Sec. 1-7.6. Administrative Citations.

(a) Purpose and Intent.

Pursuant to Government Code Section 53069.4, the County is authorized to adopt an administrative citation program. The purpose of this section is to provide the County with another method to enforce the Sonoma County Code; ordinances adopted by the County; and licenses, permits, and approvals issued by the County.

(b) Application.

This section shall not supersede or limit the remedies provided elsewhere in this Code or California Code of Regulations, including other administrative citation remedies. Issuance of an administrative citation may be exercised in place of, but shall not be deemed a waiver of, the use of any other available enforcement remedy. Enforcement remedies under this section are nonexclusive. The use of the remedies under this section is at the sole discretion of the County. However, the Sonoma County District Attorney shall have sole discretion to determine whether a violation will be prosecuted criminally.

(c) Definitions.

Enforcing Officer.

"Enforcing Officer" means any officer, employee, or agent of the County that is authorized by this Code, ordinance, state law, or Board action to enforce or administer any law that may be enforced by an administrative citation issued under this section. "Enforcing Officer" includes the deputy or designee of such officer, employee, or agent. The Board may from time to time establish Enforcing Officers by resolution.

Person.

"Person" has the same definition as set forth in Section 1-2 of this Code.

Responsible Party.

"Responsible Party" means any of the following:

Any person that causes, maintains, permits, or is otherwise responsible for a violation as defined in this section; or

A person who has an ownership interest in real property upon which a violation exists; or

A person who exercises possession or control of real property upon which a violation exists, including but not limited to a tenant, agent, employee, contractor, subcontractor, or other occupant.

Violation.

“Violation” means the failure to comply with any provisions of this Code; ordinances adopted by the County; or licenses, permits, and approvals issued by the County. Each day, or any portion thereof, during which any violation continues, exists, or occurs shall be deemed a separate violation for which an administrative citation may be issued and a fine may be incurred. Each distinct Code section, ordinance, license, permit, approval, or law violated shall give rise to a separate violation that may be cited.

(d) Administrative Citation.

- (1) Any Responsible Party who commits a violation as described in this section may be issued a citation by an Enforcing Officer.

An Enforcing Officer may issue a citation for a violation not committed in the Enforcing Officer’s presence if the Enforcing Officer has determined, through investigation, that a Responsible Party did commit or is otherwise responsible for the violation.

- (2) If the violation is a continuing violation pertaining to building, plumbing, electrical, or other similar structural or zoning issues, and does not create an immediate danger to health and safety, then the Enforcing Officer may issue a compliance order and, if so, shall provide a correction period before an administrative citation may be issued. The compliance order shall include all of the information required for administrative citations pursuant to this subsection, except that the compliance order shall also provide (i) a specified time period, beginning on the service date, within which the violation must be corrected, (ii) notice that an administrative citation may be issued, and the citation may be recorded against the property, if the violation is not corrected by the end of the correction period, and (iii) notice that the administrative citation will not be issued if the violation is corrected by the end of the correction period. The Enforcing Officer may, in his or her sole discretion, extend the time in which to correct the violation.

Upon or after the expiration of the correction period provided, the Enforcing Officer shall inspect for compliance. If the Responsible Party refuses to allow inspection after a reasonable demand, the Enforcing Officer may obtain an inspection warrant pursuant to Code of Civil Procedure Section 1822.50 et seq. Failure of the Responsible Party to allow inspection shall be deemed a failure to correct.

If the Enforcing Officer determines that the violation is not adequately corrected at the time of inspection, the Enforcing Officer may serve the Responsible Party with an administrative citation for the violation.

- (3) All violations that are not subject to the provisions of Section 1-7.6(d)(2), including (i) non-continuing violations, (ii) all violations creating an immediate danger to health and safety, and (iii) continuing violations unrelated to building,

plumbing, electrical, or other similar structural or zoning issues, are punishable by administrative citation without a correction period. Nothing in this paragraph shall limit the authority of any County department or Enforcing Officer to, in their discretion, provide for a correction period for any type of violation.

(4) An administrative citation will include all of the following information:

The name and mailing address of the Responsible Party, as available or apparent to the Enforcing Officer.

A description of the violation and the code section(s) violated.

The date and approximate time of the violation or the inspection in which the violation was observed or detected.

The location of the violation or the inspection in which the violation was observed or detected.

An order prohibiting the continuation or repeated occurrence of the violation.

Corrective action(s) required to obtain compliance, and a statement that corrective actions must comply with the requirements of this Code, including permitting requirements.

The amount of the administrative fine.

The time period in which the administrative fine must be paid, the procedure and place to pay the fine(s), and any late charge(s) and interest if not timely paid.

A statement that payment does not excuse correction of the violation.

A description of the administrative citation appeal process, including the time within which to appeal the administrative citation.

The name and signature of the Enforcing Officer.

The date of issuance of the citation.

(e) Service.

(1) The administrative citation, compliance order, and all other notices served under this section shall be served on a Responsible Party as follows, unless another means of service is specified or agreed to:

An Enforcing Officer may personally serve the Responsible Party. The Enforcing Officer may obtain the signature of the Responsible Party to establish personal service. If the Responsible Party refuses to or otherwise does not provide a signature, the lack of signature shall in no way affect the validity of the administrative citation or related proceedings. The Enforcing Officer shall write on the citation's signature line that the Responsible Party refused to sign the citation.

The Enforcing Officer may effect service by first class mail and certified mail, postage prepaid and return receipt requested, to any one of the following: the property address where the violation is being maintained, the mailing address listed for the property owner on the last County equalized assessment roll, or any other location reasonably calculated to give notice to the Responsible Party.

If the Responsible Party is an entity and not an individual, and the proprietor or other individual authorized to accept service on behalf of the entity is at or near the premises, the Enforcing Officer may attempt personal service on such proprietor or individual or leave notice with an employee of the entity. A copy shall also be sent by first class mail and certified mail, postage prepaid and return receipt requested, to the property where the violation is being maintained or any other location reasonably calculated to give notice to the Responsible Party.

- (2) Personal service shall be effective on the date of personal service. Service by mail shall be effective on the date of verified receipt of certified mail. If the citation or notice is returned as unable to serve via certified mail, service is effective on the date three (3) days following deposit in the first-class mail.
- (3) Proof of service may be made by a declaration of service by any officer or employee of the County or by affidavit of any person over the age of eighteen years.
- (4) The failure of a person to receive or accept a properly addressed service shall not affect its validity or the validity of any proceedings relating to the violation(s).

(f) Fines.

- (1) Except as otherwise provided in this Code, for any violation that is subject to this section, the fine imposed by an administrative citation shall be up to one hundred dollars (\$100.00) for a first violation, up to two hundred dollars (\$200.00) for a second violation of the same ordinance within one year, and up to five hundred dollars (\$500.00) for each additional violation of the same ordinance within one year.

Except as otherwise provided in this Code, the amount of the fine for a violation of a building or safety ordinance shall be up to one hundred dollars (\$100.00) for a first violation, up to five hundred dollars (\$500.00) for a second violation of the

same ordinance within one year, and up to one thousand dollars (\$1,000.00) for each additional violation of the same ordinance within one year.

- (2) If the maximum fine amounts established by or referenced in Government Code section 53069.4 are increased or decreased by amendment, the fine amounts set forth in this subsection shall automatically be adjusted to equal the amended maximum amounts.
- (3) This subsection shall not supersede or limit any Code section that provides for administrative citations with fines that differ from those specified in this subsection.

(g) Payment.

The fine must be paid to the address specified in the administrative citation within thirty (30) days after the service of the citation. Payment of the fine under this section does not excuse any continuation or repeated occurrence of the violation that is the subject of the fine. The payment of a fine does not bar the County from taking any other enforcement action regarding a violation that is not corrected. Abatement of a violation shall not excuse the obligation of the Responsible Party to pay a fine or any late charges or interest imposed on its untimely payment.

(h) Appeal.

- (1) Any person to whom an administrative citation is issued may contest the citation by requesting a hearing pursuant to the procedures set forth in this section. The request must be made in a written appeal submitted within thirty (30) days after the service of the citation. The appeal must contain:

A brief statement setting forth the interest the appealing party has in the matter.

A brief statement of the material facts that the appellant claims supports the contention that no administrative fine should be imposed or that an administrative fine of a different amount is warranted.

An address at which the appellant agrees to receive, by first class-mail, notice of any additional proceedings or an order relating to the imposition of the administrative fine. Service of such notices shall be effective three (3) days following deposit in the first-class mail.

A signature by the appellant under penalty of perjury.

- (2) The appeal must be submitted with either (i) an advance deposit of the full amount of the fine or (ii) notice that a request for an advance deposit hardship waiver has been filed pursuant to this section. No hearing to contest an administrative citation shall be scheduled or heard unless and until the

administrative fine has been deposited in advance or an advance deposit hardship waiver has been granted.

- (3) The failure of any person to file a proper appeal in accordance with this section shall constitute a failure to exhaust administrative remedies, and a waiver of the right to an administrative hearing and adjudication of the administrative citation or fine or any portion thereof. The Enforcing Officer's decision regarding the violation and the amount of the fine shall be deemed confirmed.
- (4) The appeal provisions in this section may be applied in the absence of procedures to contest administrative citations authorized elsewhere in this Code but shall not supersede or limit any appeal and hearing procedures provided elsewhere in this Code.

(i) Advance Deposit Hardship Waiver.

- (1) Any person who requests a hearing and who is financially unable to pay the advance deposit of the fine as required by this section may file a request for an advance deposit hardship waiver.
- (2) The request for an advance deposit hardship waiver shall be filed with the County department that issued the administrative citation. The request shall be documented by a sworn statement, together with any supporting documents or materials, demonstrating the person's financial inability to deposit the full amount of the administrative fine in advance of the hearing. The director or designee may request additional information to verify the appellant's financial inability. The requirement that the full amount of the fine be deposited pursuant to this section shall be stayed until the director or designee makes a determination.
- (3) The director or designee shall issue a written determination of whether or not to issue the advance deposit hardship waiver. If the director or designee determines not to issue an advance deposit hardship waiver, the person shall remit the advance deposit of the fine to the County within seven (7) days of service of that decision to the address provided in the written appeal. Failure to pay the deposit in a timely manner shall result in a waiver of the right to a hearing before the Hearing Officer. The decision of the director or designee shall be final and there shall be no right of appeal to the Board of Supervisors.

(j) Notice of Hearing.

- (1) Only after a request for hearing is received within the required period, and the Responsible Party requesting the hearing has either deposited the fine in full or obtained an advance deposit hardship waiver, shall the County set the date and time for the appeal hearing.

The hearing shall be set for a date no more than sixty (60) days from the date of a timely filed appeal unless the Enforcing Officer determines that good cause exists for an extension of time.

- (2) The appellant shall be served with notice of the date, time, and place set for the hearing at least fifteen (15) days prior to the date of the hearing. Notice shall be mailed to the address provided in the written appeal.
- (3) If the Enforcing Officer submits an additional written report concerning the administrative citation to the Hearing Officer for consideration at the hearing, then a copy of this report shall also be served on the person requesting the hearing at least five (5) days prior to the date of the hearing.
- (4) Hearings may be continued once at the request of the appellant or the Enforcing Officer who issued the citation. The Hearing Officer may also continue the hearing on his or her own accord for cause.

(k) Hearing Officer.

The Hearing Officer shall be a person designated by the Board of Supervisors to preside over hearings concerning administrative citations. The designated Hearing Officer shall be an impartial person, such as:

An Administrative Law Judge provided by the State of California Office of Administrative Hearings pursuant to Government Code section 27727;

Any duly appointed individual who meets the requirements of Government Code section 27724; or

An independent contractor hired from an organization that provides hearing officers.

(l) Conduct of Hearing.

- (1) The hearing serves to provide full opportunity for a person subject to an administrative citation to object to the determination that a violation has occurred, that the violation continues to exist, that the cited person was in fact the person responsible for the violation, and/or the amount of the administrative fine.
- (2) At the place and time set forth in the notice of hearing, the Hearing Officer shall conduct a hearing and consider all written or oral evidence presented at the hearing. Administrative hearings are informal and need not be conducted according to technical rules related to evidence and witnesses, except as provided herein. Irrelevant evidence shall be excluded, and the Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time. Each party shall have the opportunity to present evidence in support of that

party's case and to cross examine any witnesses present. Oral evidence shall be taken only on oath or affirmation. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible in civil actions. The refusal of a witness at a hearing to answer any question which has been ruled to be proper may be grounds for striking the portions of the testimony of such witness on related matters or making such inferences as may be proper under the circumstances, unless the refusal to answer is privileged. The County bears the burden of proof to establish the violation, and the standard of proof shall be by a preponderance of the evidence.

The administrative citation and any additional report submitted by the Enforcing Officer or his or her designee shall constitute prima facie evidence of the respective facts contained in those documents.

Parties may represent themselves or be represented by any person of their choice.

- (3) The Hearing Officer may continue the hearing and request additional information from the Enforcing Officer or the person receiving the administrative citation prior to issuing a written decision.
- (4) Absent a showing of good cause or the prior granting of a continuance in writing, the failure of the appellant to appear at the hearing shall constitute a forfeiture of the fine and a failure to exhaust administrative remedies.

(m) Decision.

- (1) In making a decision regarding the administrative fine, the Hearing Officer shall consider all evidence presented; the seriousness of the violation; the willfulness of the Responsible Party and the Responsible Party's efforts to correct the violation; the injury or damage, if any, suffered by any member of the public; any instances in which the Responsible Party has been in violation of the same or similar code provisions at the site of the current violation in the previous three (3) years; the amount of administrative penalties which have been imposed in similar situations; and any other factors the Hearing Officer deems material.
- (2) No later than twenty (20) days after the date on which the hearing concludes, or after the appellant has failed to appear at the hearing, the Hearing Officer will issue a written decision to the County and appellant to (i) uphold or reject the finding of a violation and (ii) uphold, modify, suspend, or cancel the administrative fine. The decision shall list the reason or reasons for the decision and may order the Responsible Party to correct violations within a specified time period or take other action as authorized or required by the County Code and applicable state laws.

- (3) If the Hearing Officer determines that the administrative citation should be upheld, then the fine amount on deposit with the County shall be retained by the County. If the Hearing Officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the Hearing Officer shall set forth in the decision a payment schedule for the fine. The decision shall inform the Responsible Party that if the fine is not paid within the time specified it may be collected as provided in this section.

If the Hearing Officer determines that the administrative citation should be canceled or that the fine deposited with the County should be returned, in whole or in part, the County shall refund the amount of the deposited fine owed to the Responsible Party within 30 days of the cancellation or reduction.

- (4) The decision of the Hearing Officer shall be final. The failure to comply with the final decision of the Hearing Officer shall be a misdemeanor. The filing of a criminal misdemeanor action does not preclude the County from using any other legal remedy available to gain compliance with the decision.

(n) Final Order.

The imposition of the administrative fine becomes a final order at one of the following times:

On the deadline for payment specified in the administrative citation, if the Responsible Party fails to pay the fine or fails to file an appeal as provided in this section.

On the date of the written decision by the Hearing Officer, if the Responsible Party filed an appeal as provided in this section and deposited the fine amount with the appeal.

On the deadline for payment specified in the written decision by the Hearing Officer upholding all or part of the administrative citation, if the Responsible Party filed an appeal as provided in this section and obtained an advance deposit hardship waiver.

(o) Judicial Review.

A Hearing Officer's decision must be appealed to the Superior Court of Sonoma County in accordance with the provisions set forth in Government Code section 53069.4 or Code of Civil Procedure section 1094.5.

(p) Late Payment and Collection.

- (1) Any person who fails to pay an administrative fine on or before the date the imposition of the fine becomes a final order shall be liable for the payment of a

late payment charge as established by a resolution adopted by the Board of Supervisors. In the absence of such resolution, the late payment charge for payments received after the due date shall be twenty-five percent (25%) of the fine.

- (2) The Board of Supervisors may, by resolution, also establish and impose a 10% interest charge on fines that are not fully paid to the County on the due date. Interest shall not be imposed on a late charge, and shall not exceed the maximum allowable rate allowed by law. The rate of interest and the commencement of its accrual may be modified from time to time by a resolution of the Board of Supervisors.
- (3) Unpaid fines and interest thereon and/or late charges shall be a personal obligation and debt of the Responsible Party which may be collected by the County in any manner allowed by law including but not limited to referring the matter to a third party collection agency or filing a civil action. The County may also recover the County's collection costs, including attorney fees. The remedies set forth in this subsection are not exclusive and may be used in addition to those set forth elsewhere in this code or by law.

(q) Recordation.

- (1) When a property-based violation for which a correction period was provided remains uncorrected after the expiration of the period to appeal an administrative citation, or after a Hearing Officer's decision upholding the finding of a violation, a copy of the administrative citation may be recorded in the official records of the County of Sonoma if the following prerequisites are met:

A violation has remained uncorrected on the property for at least thirty (30) days after the imposition of an administrative fine becomes a final order.

The owner, if not the Responsible Party, has been notified of the prospective recordation and been offered the opportunity to correct the violation. Notice to the owner(s) shall be sent to the address listed in the County Assessor's roll.

The recorded citation shall include the name of the property owner(s), assessor's parcel number, the parcel's legal description, and a copy of the latest citation.

- (2) When the Enforcing Officer determines that all violations have been corrected or removed and all fines and any costs or interest have been paid, the property owner and any other Responsible Parties shall be issued a notice of compliance, which can be recorded.