
Advocates For Code Compliance

**PO Box 157
Carmel Valley, CA 93924
coderangers@comcast.net
The Code Rangers!**

July 26, 2004

Monterey County Planning Commission
240 Church Street
Salinas, CA 93901

RE: Code Enforcement Ordinance – July 28, 2004, Agenda Item #5

Dear Members of the Planning Commission:

We need your help!

Violations of Monterey County's planning and zoning laws have reached epidemic proportions. As you can appreciate, the laws don't mean anything unless they are enforced. Those who care about the future of Monterey County have to be concerned about effective code enforcement.

Since June 2003, a group of citizens and residents from all parts of Monterey County have been working on this problem. Our group has called itself "Advocates For Code Compliance," or "The Code Rangers," and we think it's fair to say that the agenda item before you on your July 28, 2004 agenda wouldn't be there if we hadn't been pushing both Members of the Board of Supervisors and the County staff to adopt a better program for enforcing the County's planning and zoning codes.

While the proposal before you is moving in the right direction, it needs to be modified and strengthened!

In February of this year, we presented a "state of the art" model code enforcement ordinance to Scott Hennessy and Alana Knaster. A copy of the model ordinance is attached. The model ordinance we submitted adopted an "administrative penalty" approach, which is now being used successfully in both cities and counties around the state. The administrative penalty approach not only allows more vigorous and consistent code enforcement, it also generates significant revenues, to offset the costs involved in the County's enforcement efforts.

The ordinance you will review on July 28th does incorporate the use of an "administrative penalty" approach, and many of its provisions mirror provisions in the model ordinance we submitted. However, the staff-recommended ordinance contains a number of changes to the

model ordinance which we believe would significantly undermine its effectiveness. The matrix attached to this letter comments briefly on the staff report, and then documents some of the key differences between the model ordinance we submitted and the ordinance recommended by staff.

We hope your Commission will recommend a strong and effective code enforcement ordinance to the Board of Supervisors (and that you will generally advocate a strong and effective code enforcement program to eliminate violations of our planning and zoning laws).

We urge the Commission to take the following actions at your meeting of July 28, 2004:

1. Continue consideration of the code enforcement item for two weeks, in order to give the Commission an opportunity to review the stronger provisions of the model ordinance, and to present the Board of Supervisors with the Commission's very best recommendation on what sort of code enforcement ordinance the Board should enact.
2. In connection with the continuance, direct the staff of the Planning and Building Inspection Department to use the attached matrix as the basis for a revised staff report, indicating in each instance whether the staff would support the stronger provisions urged by Advocates for Code Compliance, and if not, why not.
3. Direct the staff of the Planning and Building Inspection Department to develop an analysis of the revenues that could be generated by an aggressive use of the administrative penalty procedure, by matching all outstanding violation matters with the typical administrative penalties charged in jurisdictions like the County of Sacramento, City of San Diego, City of Santa Cruz, Santa Cruz County, and other jurisdictions which employ the administrative penalty code enforcement system.

Thank you for your leadership on this vital issue.

Paula Lotz, Chairperson
Advocates For Code Compliance

cc: Scott Hennessy
Alana Knaster
County Counsel
Members of the Board of Supervisors

Planning Commission Staff Report	Comments
Purpose and Intent – The staff indicates that the proposed ordinance will provide a “more efficient process.”	Provisions contained in the model ordinance, but eliminated or modified by the staff recommendation, would establish a procedure that is less complex and more efficient than the staff recommended approach, and so the model ordinance provisions are preferable on this point.
Compliance Agreements	This staff proposal could permit selective “non-enforcement.” We believe that the provisions providing for “compliance agreements” should be eliminated.
Notice of Violation – The staff report says that a Notice of Violation is “a recorded document that identifies the property...”	The definition in the staff ordinance does NOT highlight the fact that a Notice of Violation may be a “recorded document.” See the definition in Section 1.20.03 (Q).
Prohibition on the Issuance of Permits	This is a critically important provision. In order to make it work, it is important that the County staff not be able to “close” cases without the resolution of the violation.
Infraction and Misdemeanor Citations – This approach requires action through the court system.	While it is important for the County to retain the ability to prosecute cases criminally, an “efficient” code enforcement effort utilizes an aggressive administrative penalty system, rather than court proceedings, for most cases. This is especially appropriate in the case of simpler violations. Because court proceedings take so much time and effort, only a few cases can be prosecuted through the courts. If the court system is relied upon as a major way to pursue violations, the “lesson” that most violators learn is that there is not penalty for violating the law.
Administrative Citations and Penalties	Advocates for Code Compliance agree that the County needs to implement an aggressive administrative penalty program. The model ordinance provides a much stronger foundation for such a program than the ordinance recommended by staff.
Enforcement Appeals	The staff ordinance contains “loopholes” that would allow the county to give selected violators “special treatment,” by way of a specially appointed appeals “panel.” As noted below, Advocates for Code Compliance strongly urge that this provision be eliminated.
Administrative and Summary Abatement	Summary abatement powers must be available—and should be used!
Code Enforcement Penalties Fund	More aggressive penalties should be charged, not only to discourage code violations, but to pay for adequate enforcement efforts.
Restoration	Complete restoration must be MANDATORY, not discretionary. Otherwise, individuals wanting to do something will always be tempted to “ask forgiveness” instead of “getting permission” in advance, as the law requires.
Program Cost and Staffing	Advocates for Code Compliance believe that the penalties established should be significantly higher than those currently proposed. The County should set penalties that will allow it to fund an adequate enforcement effort. Again, it’s clear that if violations of the law will apparently go unpunished, more and more violations will occur.
Appeal Process	The administrative penalties approach provides ample due process opportunities.
Voluntary Compliance	The “voluntary compliance model should be discarded. It allows proven violators to be in charge of their own penalty.

Staff Recommended Ordinance	Model Ordinance	Comments and Recommendations
1.20.05 C. Violations		Typographical error in staff recommended ordinance. The section should probably read, "It is prohibited to make any use of, or to allow any use of land or of any structure which is not permitted by or under <u>by</u> the Monterey County Code."
1.20.05 E. Violations		Rephrase for clarity: "Any person violating any provision of this Title, including the violation of any conditions of a discretionary permit, is guilty of a misdemeanor, unless, in the discretion of the Enforcement Officer, the violation it is charged as an infraction."
1.20.06 B. Judicial Remedies		Rephrase to conform to Section 1.20.05 E: "A misdemeanor under this code may, in the discretion of the enforcement officer district attorney, be charged and prosecuted as an infraction."
1.20.06 F. Judicial Remedies	1.20.12 Administrative Civil Penalties	Court action is time consuming, and it is difficult to achieve substantial fines. The "judicial remedies" provided should almost never be used. Instead, the model should be large fines for large violations, with an appeal to a hearing officer.
1.20.08 Compliance Agreements	1.20.09 – There is no provision for a "Compliance Agreement" in the model ordinance. The Notice and Order provided for in the model ordinance provides a deadline for compliance.	Staff's Compliance Agreements are redundant, unnecessary and without real force. More paperwork is not needed. A six month extension is unreasonable and is a backward step, not an improvement. The model ordinance provides for compliance deadlines and real consequences for unreasonable delays. We recommend that Section 1.20.08 be eliminated.
1.20.11 A. Administrative Citations "Any person violating any provision of the Monterey County Code or applicable state code may be issued an administrative	1.20.14 Administrative Citations	Staff's version appears to require a "significant threat" to use this tool. Such language is ambiguous, subject to dispute and lawsuits and destroys the function of administrative citations as a streamlined new tool.

<p>citation by the Enforcement Officer. An administrative citation may be used in those cases where the nature and scope of the violation presents a significant threat to the public health, safety and welfare or a significant threat to the environment. Administrative citations may also be issued to responsible persons who are repeat violators.”</p>		<p>We recommend that Section 1.20.11 A be modified to read as follows:</p> <p>1.20.11 A. Administrative Citations</p> <p>”Any person violating any provision of the Monterey County Code or applicable state code may be issued an administrative citation by the Enforcement Officer. An administrative citation may be used in those cases where the nature and scope of the violation presents a significant threat to the public health, safety and welfare or a significant threat to the environment. Administrative citations may also be issued to responsible persons who are repeat violators.”</p>
<p>1.20.14 A. Restoration</p> <p>“No application for a discretionary permit required under provisions of the Monterey County Code shall be deemed complete if there is a violation on said property of a County ordinance which regulates grading, vegetation removal or tree removal until that property has been restored to its pre-violation state.”</p>	<p>1.20.10.030 (7) Procedures For Issuance of a Notice of Violation and 1.20.10.090 Prohibition Against Issuance of County Permits</p>	<p>Staff’s version applies only to “discretionary” permits in the case of required restoration of the environment. The model ordinance stops ALL permits until resolution of the violation. Under the staff ordinance, a person who has graded in an illegal building pad (and has not restored the site, as required) could nonetheless apply for and be granted a building permit, since that is not a “discretionary” permit. We recommend that Section 1.20.14 A. be modified as follows:</p> <p>1.20.14 A. Restoration</p> <p>“No application for <u>any</u> a discretionary permit required under provisions of the Monterey County Code shall be deemed complete if there is a violation on said property of a County ordinance which regulates grading, vegetation removal or tree removal until that property has been restored to its pre-violation state.”</p>
<p>1.20.15 I. 4 Administrative Enforcement Appeals – Appeals “Panel”</p> <p>I. The County Administrative Officer may appoint a Hearing Officer to consider any</p>	<p>The model ordinance has no provision for the appointment of a “panel.”</p>	<p>The highlighted section is an invitation to set up “special” treatment for “special” persons. There is no need for such a panel. The provisions are subject to significant abuse, and their implementation would burden, not</p>

<p>appeal filed under this section. The hearing officer shall possess all the following qualifications:</p> <ol style="list-style-type: none"> 1. Subject matter expertise sufficient to assess the situation and facts presented by the participants in the hearing; and, 2. Knowledge of the basic rules and protocols for the conduct of public hearing; and, 3. Ability to produce a clear record of proceedings, findings and evidence and administrative enforcement orders. 4. The County Administrative Officer may appoint a three member panel to serve as the hearing officer if in the opinion of the County Administrative Officer that based on the issues, complexity or facts of the particular case, justice may be better served by a panel decision rather than an individual's decision. A majority agreement of the panel is needed to decide the matter. Each member of the panel shall possess the same qualifications as an individual hearing officer. 		<p>simplify, the administrative appeal process.</p> <p>Advocates for Code Compliance strongly urges that Section 1.20.16 I. 4 be stricken.</p>
<p>1.20.15 Administrative Enforcement Appeals – Powers of Hearing Officer</p>	<p>1.20.22.070 POWERS OF ENFORCEMENT HEARING OFFICER.</p> <p>(1) The enforcement hearing officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded.</p> <p>(2) The enforcement hearing officer, at the</p>	<p>Staff's version omits subpoena power to compel witnesses, documents and other evidence for the hearing. The model ordinance includes the ability to use this important truth-seeking power.</p> <p>We urge the inclusion of the model ordinance provisions relating to the powers of the enforcement hearing officer.</p>

	<p>request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary by the enforcement hearing officer to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena. The county administrative officer shall develop policies and procedures relating to the issuance of subpoenas in administrative enforcement hearings, including the form of the subpoena and related costs.</p> <p>(3) The enforcement hearing officer shall retain jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance, ensuring compliance with an administrative enforcement order, modifying an administrative enforcement order, or where extraordinary circumstances exist, granting a new hearing.</p> <p>(4) The enforcement hearing officer has the authority to require a responsible person to post a code enforcement performance bond to ensure compliance with an administrative enforcement order. Procedures for the use of a code enforcement performance bond shall be promulgated by the county administrative officer.</p>	
<p>1.20.15 I 4. Administrative Enforcement Appeals – Conflicts and Bias</p>	<p>1.20.22.060 DISQUALIFICATION OF ENFORCEMENT HEARING OFFICER.</p> <p>Any person designated to serve as an enforcement hearing officer is subject to disqualification for bias, prejudice, conflict of interest, or for any other reason for which a judge may be disqualified in a court of law.</p>	<p>The model ordinance has a “disqualification” procedure to prevent bias, prejudice and conflict of interest.</p> <p>We strongly urge the inclusion of the anti-conflict of interest provisions contained in the model ordinance.</p>

<p>1.20.07 Administrative Remedies - Mediation</p>	<p>Chapter 1.20.08 MEDIATION AND FACILITATION</p> <p>Sections:</p> <p>1.20.08.010 Declaration of purpose.</p> <p>1.20.08.020 Definitions.</p> <p>1.20.08.030 Procedures.</p> <p>1.20.08.040 Confidentiality.</p> <p>1.20.08.050 Enforcement.</p> <p>1.20.08.010 DECLARATION OF PURPOSE.</p> <p>The Board of Supervisors finds there is a need for mediation and other forms of alternative dispute resolution as a means to gain compliance with provisions of the Monterey County Code and applicable state codes. The Board of Supervisors further declares that public policy facilitation can be an effective technique to avoid disputes by developing consensus amongst stakeholders on controversial issues. Both mediation and facilitation can often resolve disputes in a more efficient, effective and constructive manner without the necessity of more formal administrative action or litigation. The Board of Supervisors further finds that mediation and facilitation can foster better relations among and with the citizenry of Monterey County and enhance the reputation of the county.</p> <p>1.20.08.020 DEFINITIONS. For purposes of this chapter, the following definitions shall apply:</p> <p>(1) "Enforcement case" means any complaint</p>	<p>Staff's version does not mention mediation as a possible tool for resolution of disputes. The model ordinance recognizes mediation and facilitation as a means of gaining consensus in controversial cases. We recommend inclusion of the mediation procedures (as an option) in the ordinance to be adopted by the County.</p>
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	<p>or case on file with the county that involves alleged violations of the Monterey County Code or applicable provisions of state law.</p> <p>(2) "Disputing party" means any person responsible for alleged violations, interested or involved citizens who may have complained to the county about the alleged violations, crime victims and appropriate representatives from the county.</p> <p>(3) "Facilitation" means a process whereby a neutral third party conducts one or a series of meetings or sessions between and amongst relevant stakeholders to a particular dispute or controversial issue or policy with the purpose of improving communication and developing consensus about possible solutions.</p> <p>(4) "Mediation" means a meeting between or among disputing parties to clarify their differences and design their own mutually acceptable agreement, with the assistance of a mediator.</p> <p>(5) "Mediator" means a neutral third party who has received at least twenty-five hours of mediation training from a reputable mediation program recognized by the County of Monterey.</p> <p>(6) "Referring agency" means the Board of Supervisors, a permanent county board or commission, county enforcement official, the county administrative officer, the County Counsel or one of their designees.</p> <p>(7) "Stakeholder" means any person or organization or association that is directly affected by a particular issue, policy or enforcement case.</p>
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	<p data-bbox="115 934 142 1339">1.20.08.030 PROCEDURES.</p> <p data-bbox="183 772 345 1339">The referring agency may refer enforcement cases and other types of disputes and controversies to a neutral third party to schedule and coordinate a mediation or facilitation as may be appropriate.</p> <p data-bbox="386 884 414 1339">1.20.08.040 CONFIDENTIALITY.</p> <p data-bbox="454 745 781 1339">All documents and results related to mediations and facilitations held pursuant to this ordinance shall be kept confidential and shall be inadmissible as evidence in any subsequent administrative or judicial proceeding. The provisions of California Evidence Code Sections 1152 and 1152.5 and other laws pertaining to confidentiality and disclosure shall apply to mediations and facilitations held pursuant to this chapter.</p> <p data-bbox="821 919 849 1339">1.20.08.050 ENFORCEMENT.</p> <p data-bbox="889 758 1117 1339">When a disputing party fails to participate in a mediation or facilitation or to comply with the terms of an agreement reached pursuant to mediation or facilitation, any other disputing party may pursue all or any of the administrative or legal actions or remedies provided by law.</p>
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DRAFT- Model Code Enforcement Ordinance

Chapter 1.20 GENERAL COUNTY CODE ENFORCEMENT

Sections:

- 1.20.01 Definitions
- 1.20.02 Code Enforcement Authority and Powers
- 1.20.03 Notice
- 1.20.04 Judicial Remedies
- 1.20.06 Administrative Remedies
- 1.20.08 Mediation and Facilitation
- 1.20.10 Issuance and Recordation of Notices of Violation
- 1.20.12 Administrative Civil Penalties
- 1.20.14 Administrative Citations
- 1.20.16 Summary Abatement
- 1.20.18 Administrative Abatement
- 1.20.20 Administrative Enforcement Appeals
- 1.20.22 Administrative Enforcement Hearing Procedures
- 1.20.24. Recovery of Civil Penalties and Abatement Costs
- 1.20.26 Reinspection Fees
- 1.20.28 Code Enforcement Civil Penalties Fund

Chapter 1.20.01

DEFINITIONS

Sections:

1.20.01.010 Definitions.

1.20.01.010 DEFINITIONS.

As used in this title, the following shall have the following meanings.

- (1) "Abatement" means any action the county may take on public or private property and any adjacent property as may be necessary to remove or alleviate a nuisance, including but not limited to demolition, removal, repair, boarding and securing or replacement of property.
- (2) "Administrative enforcement order" means an order issued by an enforcement hearing officer after a hearing requiring a responsible person to correct violations, abate a public nuisance, pay civil penalties and administrative costs or take any other action as authorized or required by this code and applicable state codes. The enforcement order may also include an order authorizing the county to abate a public nuisance or assess a nuisance abatement lien.
- (3) "Abatement notice" means a notice issued by an enforcement officer which requires a responsible person to abate a public nuisance.
- (4) "Code enforcement performance bond" means a bond posted by a responsible person to ensure compliance with the Monterey County Code, applicable state codes, a judicial decree or administrative enforcement order.
- (5) "Enforcement hearing officer" means any person appointed by the county administrative officer to preside over administrative enforcement hearings.
- (6) "Enforcement official" means any person authorized to enforce violations of the Monterey County Code or applicable state codes.
- (7) "Financial institution" means any person that holds a recorded mortgage or deed of trust on a property.
- (8) "Imminent life safety hazard" means any condition which creates a present and immediate danger to life, property, health or public safety.
- (9) "Legal interest" means any interest that is represented by a document such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien or other similar instrument which is recorded with the county recorder.
- (10) "Notice and order" means a document used in abatement and civil penalties actions which provides notice of Monterey County Code or applicable state code violations and orders a responsible person to take certain steps to correct the violations.

(11) "Notice of compliance" means a document sent by an enforcement official representing that a property complies with the requirements listed in a notice of violation and that the responsible person or property owner has paid all fines, penalties and administrative costs of enforcement.

(12) "Notice of violation" means a written notice prepared by an enforcement official which informs a responsible person of code violations, requires compliance and contains specific information as required by the Monterey County Code.

(13) "Nuisance abatement lien" means a lien recorded to collect outstanding civil penalties and administrative costs imposed as part of a cost recovery, administrative or judicial code enforcement action.

(14) "Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, limited liability company, business trust, organization or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.

(15) "Property owner" means the record owner of real property based on the County Assessor's records.

(16) "Public nuisance" means the maintenance or use of property in the county in a manner that jeopardizes or endangers the health, safety or welfare of persons on the premises or in the surrounding area; or real property that has been the situs for nuisance activity including, but not limited to: disturbing the peace, illegal drug activity, public drunkenness, drinking alcoholic beverages in public, harassment of passers by, illegal gambling, prostitution, sale of stolen goods, acts of violence, public urination or defecation, acts of vandalism, acts of lewd conduct, unreasonable loud noise, loitering or excessive littering; or the maintenance or use of property in the county in a manner that violates, or real property that has been the situs of a violation of, any provision of this code or any other county, state or federal law or regulation.

(17) "Responsible person" means a person who an enforcement official determines is responsible for causing or maintaining a public nuisance or a violation of the Monterey County Code or applicable state codes. The term "responsible person" includes but is not limited to a property owner, tenant, person with a legal interest in real property or person in possession of real property.

(18) "Written" includes printed, typewritten, mimeographed, multigraphed, photocopied, facsimile and any other item of writing as listed in California Evidence Code Section 250.

Chapter 1.20.02
CODE ENFORCEMENT AUTHORITY AND POWERS

Sections:

1.20.02.010 Declaration of purpose.

1.20.02.020 General enforcement authority.

1.20.02.030 Notice of violation.

1.20.02.040 Authority to inspect.

1.20.02.050 Power to arrest.

1.20.02.010 DECLARATION OF PURPOSE.

The Board of Supervisors finds that the enforcement of the county code and applicable state codes throughout the county is an important public service. Code enforcement is vital to protection of the public's health, safety and quality of life. The Board of Supervisors recognizes that enforcement depends upon clear and precise regulations that can be effectively applied in administrative enforcement hearings and judicial proceedings. The Board of Supervisors further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain code compliance. Judicial remedies are traditional remedies to enforce laws by filing criminal and civil actions in a court of law. Administrative remedies are designed to provide fair and efficient methods of enforcing the provisions of the county code without the required expense and consumption of time that judicial actions may require. Failure to comply with an administrative code enforcement action may require the County Counsel or District Attorney to file a judicial action to compel compliance.

1.20.02.020 GENERAL ENFORCEMENT AUTHORITY.

All county enforcement officials designated in Monterey County Code Section 1.20.02.021 shall have the authority and powers necessary to gain compliance with the provisions of the Monterey County Code and applicable state codes for which they are responsible. These powers include the power to issue notices of violation and field citations, inspect public and private property and use whatever judicial and administrative remedies are available under the county code or applicable state codes.

1.20.02.021 AUTHORITY TO ISSUE NOTICE TO APPEAR AND RELEASE CITATIONS.

(a) Pursuant to the provisions of Section 836.5 of the Penal Code of the State of California, certain officers and employees of the County of Monterey are authorized to issue written notice to appear and release citations for misdemeanor or infraction violations of county ordinances which such officers or employees have the duty to enforce.

(b) The following officers and employees of the County of Monterey are hereby designated and authorized to issue said citations:

[LIST EMPLOYEES HERE]**1.20.02.030 NOTICE OF VIOLATION.**

Chapter 1.20.10 provides the procedure for issuance and recordation of notices of violation where other sections of this code or applicable state codes do not provide an alternative procedure.

1.20.02.040 AUTHORITY TO INSPECT.

County enforcement officials are authorized to enter upon any property or premises to ascertain whether the provisions of the Monterey County Code or applicable state codes are being obeyed, and to make any examinations, inspections and surveys as may be necessary in the performance of their enforcement duties. These may include the taking of photographs, samples or other physical evidence. All inspections, entries, examinations and surveys shall be conducted in a reasonable manner. If an owner, occupant or agent refuses permission to enter or inspect, the enforcement official may seek an administrative inspection warrant pursuant to the applicable procedures provided for in the California Code of Civil Procedure.

1.20.02.050 POWER TO ARREST.

County enforcement officials are authorized to arrest without a warrant any person whenever the enforcement official has reasonable cause to believe that the person has committed a violation of the county code or applicable state codes in his or her presence. Pursuant to Penal Code Section 836.5 the enforcement official can only arrest a person by issuing a misdemeanor field citation or by effecting a citizen's arrest with the assistance of a peace officer.

**Chapter 1.20.03
NOTICE**

Sections:

1.20.03.010 Service of notices**1.20.03.020 Proof of service of notices.****1.20.03.030 Constructive notice of recorded documents.****1.20.03.040 SERVICE OF NOTICES.**

(1) Whenever a notice is required to be given under the Monterey County Code for enforcement purposes, the notice shall be served by any of the following methods unless different provisions are otherwise specifically stated to apply:

(a) Personal service; or

(b) Regular mail; or

(c) Certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned.

(d) Posting the notice conspicuously on or in front of the property. The form of the posted notice shall be approved by the appropriate Department Head.

(2) Service by certified or regular mail in the manner described above shall be effective on the date of mailing.

(3) The failure of any person with an interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this code.

1.20.03.020 PROOF OF SERVICE OF NOTICES.

Proof of service of notice may be made by the certificate of any officer or employee of this county or by affidavit of any person over the age of eighteen years. The proof of service shall show that service was done in conformity with this code or other provisions of law applicable to the subject matter concerned.

1.20.03.030 CONSTRUCTIVE NOTICE OF RECORDED DOCUMENTS.

Whenever a document is recorded with the County Recorder as authorized or required by the Monterey County Code or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

Chapter 1.20.04 JUDICIAL REMEDIES

Sections:

1.20.04.010 Criminal violations -- Misdemeanors and infractions.

1.20.04.020 Civil violations -- Injunctions and civil penalties.

1.20.04.030 Code enforcement performance bond.

1.20.04.040 Judicial abatement.

1.20.04.050 Treble damages for subsequent abatement judgments.

1.20.04.010 CRIMINAL VIOLATIONS -- MISDEMEANORS AND INFRACTIONS.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of the Monterey County Code. Except as elsewhere stated in this code, a violation of any of the provisions or failing to comply with any of the mandatory requirements of this code shall constitute a misdemeanor. Notwithstanding any other provision of this code, any violation of this code which constitutes a misdemeanor under this code may, in the discretion of the district attorney, be charged and prosecuted as an infraction. Any person convicted of a misdemeanor under the provisions of this code, unless provision is otherwise herein made, shall be punishable by a fine of not more than \$1000.00 or by imprisonment in the County Jail for a period of not more than six months or by both fine and imprisonment. Any person convicted of an infraction under the provisions of this code, unless provision is otherwise herein made, shall be punishable by fine only as follows: upon a first conviction, by a fine of not exceeding \$100.00; for a second conviction within a period of one year, by a fine of not exceeding \$200.00; for each additional violation of the same ordinance within a period of one year, by a fine of not exceeding \$500.00. Each such person shall be charged with a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued or permitted by such person and shall, upon conviction, be punished accordingly.

1.20.04.020 CIVIL VIOLATIONS -- INJUNCTIONS AND CIVIL PENALTIES.

(1) In addition to any other remedy provided by this code, any provision of this code may be enforced by injunction issued by the Superior Court upon a suit brought by the County of Monterey.

(2) As part of a civil action filed to enforce provisions of this code, a court may assess a maximum civil penalty of \$100,000.00 per violation of the county code for each day during which any person commits, continues, allows or maintains a violation of any provision of this code.

1.20.04.030 CODE ENFORCEMENT PERFORMANCE BOND.

As part of any enforcement action taken by the county, the county has the authority to require a responsible person to post a performance bond to ensure compliance with the Monterey County Code, applicable state codes or any judicial action.

1.20.04.040 JUDICIAL ABATEMENT.

Pursuant to California Penal Code Section 372, and California Code of Civil Procedure Section 731 the County of Monterey has the authority to judicially abate public nuisances by filing criminal or civil nuisance actions.

1.20.04.050 TREBLE DAMAGES FOR SUBSEQUENT ABATEMENT JUDGMENTS.

Pursuant to California Government Code Section 38773.7, upon the entry of a second or subsequent civil or criminal judgment within a two-year period that finds an owner of property responsible for a condition that may be abated in accordance with California Government Code Section 38773.5, a court may order the owner to pay treble the costs of the abatement. These costs shall not include conditions abated pursuant to Section 17980 of the California Health and Safety Code.

Chapter 1.20.06 ADMINISTRATIVE REMEDIES

Sections:

1.20.06.010 Administrative remedies.

1.20.06.020 Declaration of purpose.

1.20.06.030 Authority.

1.20.06.010 ADMINISTRATIVE REMEDIES.

Chapters 1.20.06 through 1.20.26 establish optional administrative enforcement remedies available to the county for violations of the county code and applicable state codes. The general remedies include mediation, facilitation, issuance and recordation of notices of violation, administrative civil penalties, administrative citations, summary abatement, and administrative abatement. Chapters 1.20.20 and 1.20.22 govern the procedures for appeals and hearings relating to these administrative remedies.

1.20.06.020 DECLARATION OF PURPOSE.

The Board of Supervisors finds that there is a need for a variety of administrative remedies that do not require the county to file court actions to initiate enforcement of violations of the Monterey County Code and applicable state codes. The procedures established by these administrative remedies are in addition to any other legal remedy established by law which may be pursued to address county code and applicable state code violations.

1.20.06.030 AUTHORITY.

Whenever the county, through one of its department heads or enforcement officials, determines that a violation of the Monterey County Code or applicable state code exists, the county may pursue any of the administrative remedies outlined in Chapters 1.20.06 through 1.20.26 of this code.

Chapter 1.20.08 MEDIATION AND FACILITATION

Sections:

1.20.08.010 Declaration of purpose.

1.20.08.020 Definitions.

1.20.08.030 Procedures.

1.20.08.040 Confidentiality.

1.20.08.050 Enforcement.

1.20.08.010 DECLARATION OF PURPOSE.

The Board of Supervisors finds there is a need for mediation and other forms of alternative dispute resolution as a means to gain compliance with provisions of the Monterey County Code and applicable state codes. The Board of Supervisors further declares that public policy facilitation can be an effective technique to avoid disputes by developing consensus amongst stakeholders on controversial issues. Both mediation and facilitation can often resolve disputes in a more efficient, effective and constructive manner without the necessity of more formal administrative action or litigation. The Board of Supervisors further finds that mediation and facilitation can foster better relations among and with the citizenry of Monterey County and enhance the reputation of the county.

1.20.08.020 DEFINITIONS.

For purposes of this chapter, the following definitions shall apply:

(1) "Enforcement case" means any complaint or case on file with the county that involves alleged violations of the Monterey County Code or applicable provisions of state law.

(2) "Disputing party" means any person responsible for alleged violations, interested or involved citizens who may have complained to the county about the alleged violations, crime victims and appropriate representatives from the county.

(3) "Facilitation" means a process whereby a neutral third party conducts one or a series of meetings or sessions between and amongst relevant stakeholders to a particular dispute or controversial issue or policy with the purpose of improving communication and developing consensus about possible solutions.

(4) "Mediation" means a meeting between or among disputing parties to clarify their differences and design their own mutually acceptable agreement, with the assistance of a mediator.

(5) "Mediator" means a neutral third party who has received at least twenty-five hours of mediation training from a reputable mediation program recognized by the County of Monterey.

(6) "Referring agency" means the Board of Supervisors, a permanent county board or commission, county enforcement official, the county administrative officer, the County Counsel or one of their designees.

(7) "Stakeholder" means any person or organization or association that is directly affected by a particular issue, policy or enforcement case.

1.20.08.030 PROCEDURES.

The referring agency may refer enforcement cases and other types of disputes and controversies to a neutral third party to schedule and coordinate a mediation or facilitation as may be appropriate.

1.20.08.040 CONFIDENTIALITY.

All documents and results related to mediations and facilitations held pursuant to this ordinance shall be kept confidential and shall be inadmissible as evidence in any subsequent administrative or judicial proceeding. The provisions of California Evidence Code Sections 1152 and 1152.5 and other laws pertaining to confidentiality and disclosure shall apply to mediations and facilitations held pursuant to this chapter.

1.20.08.050 ENFORCEMENT.

When a disputing party fails to participate in a mediation or facilitation or to comply with the terms of an agreement reached pursuant to mediation or facilitation, any other disputing party may pursue all or any of the administrative or legal actions or remedies provided by law.

Chapter 1.20.10 ISSUANCE AND RECORDATION OF NOTICES OF VIOLATION

Sections:

1.20.10.010 Issuance and recordation of notices of violation.

1.20.10.020 Declaration of purpose.

1.20.10.030 Procedures for issuance of a notice of violation.

1.20.10.040 Procedures for recordation.

1.20.10.050 Service of notice of violation.

1.20.10.060 Procedures to appeal recordation.

1.20.10.070 Appeal hearing.

1.20.10.080 Notice of compliance -- Procedures.

1.20.10.090 Prohibition against issuance of county permits.

1.20.10.100 Cancellation of recorded notice of violation.

1.20.10.010 ISSUANCE AND RECORDATION OF NOTICES OF VIOLATION.

This chapter shall govern the procedures relating to the issuance and recordation of administrative notices of violation.

1.20.10.020 DECLARATION OF PURPOSE.

The Board of Supervisors finds that there is a need for alternative methods of enforcement for violations of the county code and applicable state codes which are found to exist on real property. The Board of Supervisors further finds that an appropriate method of enforcement for these types of violations is the issuance and recordation of notices of violation. The procedures established in this chapter shall be in addition to criminal, civil or any other remedy established by law which may be pursued to address violations of the Monterey County Code or applicable state codes.

1.20.10.030 PROCEDURES FOR ISSUANCE OF A NOTICE OF VIOLATION.

Whenever an enforcement official determines that a violation of the Monterey County Code or applicable state code pertaining to real property exists, the enforcement official may issue a notice of violation to a responsible person. A notice of violation shall include sufficient information to provide reasonable notice of activities or conditions constituting violation of the county code or applicable state code, and actions necessary to correct the violations. The notice of violation shall include the following information:

- (1) The name of the property's record owner;
- (2) Street address;
- (3) The code sections in violation;
- (4) A description of the property's condition which violates the applicable codes;
- (5) A list of necessary corrections to bring the property into compliance;
- (6) A deadline or specific date to correct the violations listed in the notice of violation;
- (7) Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to: criminal prosecution, civil

injunction, administrative abatement, civil penalties, revocation of permits, recordation of the notice of violation and withholding of future county permits;

(8) A brief description of the procedure to appeal the notice of violation including time limitations.

1.20.10.040 PROCEDURES FOR RECORDATION.

(1) Once an enforcement official has issued a notice of violation to a responsible person and the property remains in violation after the deadline established in the notice of violation, the enforcement official may record a notice of violation with the Recorder's Office of Monterey County.

(2) Before recordation, the enforcement official shall provide to the responsible person a letter of intent to record a notice of violation unless a written appeal is filed pursuant to the procedures outlined in this chapter. The letter shall be served pursuant to any of the methods of service set forth in Chapter 1.20.03 of this code. The enforcement official may also send a courtesy copy of the letter to any financial institution with a legal interest in the real property.

(3) If a written appeal is not filed pursuant to the procedures set forth in this chapter, the enforcement official may record the notice of violation if the violation has not been corrected.

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

1.20.10.050 SERVICE OF NOTICE OF VIOLATION.

A copy of the recorded notice of violation shall be served on the responsible person and property owner pursuant to any of the methods of service set forth in Chapter 1.20.03 of this code.

1.20.10.060 PROCEDURES TO APPEAL RECORDATION.

(1) An appeal of a departmental letter of intent to record the notice of violation shall follow the procedures set forth in Chapter 1.20.20 of this code.

(2) Upon receipt of the written appeal, the enforcement official shall schedule a hearing pursuant to the procedures set forth in Chapter 1.20.22 of this code. The purpose of the hearing is for the responsible person or property owner to show cause why a notice of violation should not be recorded.

(3) The failure of any person to file an appeal in accordance with these provisions shall constitute a waiver of the right to an administrative appeal hearing and shall not affect the validity of the recorded notice of violation.

1.20.10.070 APPEAL HEARING.

- (1) The appeal shall follow the hearing procedures as set forth in Chapter 1.20.22 of this code.
- (2) At the appeal hearing, the hearing officer shall only consider evidence that is consistent with the applicable rules and procedures for administrative enforcement hearings and that is relevant to the following issues:
 - (a) Whether the conditions listed in the notice of violation violate the Monterey County Code or applicable state codes; and
 - (b) Whether the enforcement official afforded the responsible person with due process by adhering to the notification procedures specified in this code.
- (3) If the hearing officer affirms the enforcement official's decision, the enforcement official may proceed to record the notice of violation.
- (4) If the hearing officer determines that recordation is improper, the hearing officer shall reverse the enforcement official's decision to record the notice of violation.

1.20.10.080 NOTICE OF COMPLIANCE -- Procedures.

- (1) After a notice of violation has been recorded, and after the violations listed on the notice of violation have been corrected, the responsible person or property owner may file with the enforcement official a written request for a reinspection of the property to determine compliance with the county code and applicable state codes listed in the recorded notice of violation, and for the issuance of a notice of compliance on a form provided by the county.
- (2) Once the enforcement official receives this request, the enforcement official shall reinspect the property to determine whether the violations listed in the notice of violation have been corrected and whether all necessary permits have been issued and final inspections have been performed.
- (3) The enforcement official shall serve a notice of compliance to the responsible person or property owner in the manner provided in Chapter 1.20.03 of this code if the enforcement official determines that:
 - (a) All violations listed in the recorded notice of violation have been corrected; and
 - (b) All necessary permits have been issued and finalized; and
 - (c) All civil penalties assessed against the property have been paid; and
 - (d) The party requesting the notice of compliance has paid an administrative fee to reimburse the county for all administrative costs.

(4) Administrative fees may include costs incurred in the investigation, inspection, reinspection, title search, appeal hearing and any other processing costs associated with the violations specified on the notice of violation.

(5) If the enforcement official denies a request to issue a notice of compliance, the enforcement official shall serve the responsible person or property owner with a written explanation setting forth the reasons for the denial.

The written explanation shall be served by any of the methods of service listed in Chapter 1.20.03 of this code.

(6) The enforcement official's decision denying a request to issue a notice of compliance shall be final and non-appealable.

1.20.10.090 PROHIBITION AGAINST ISSUANCE OF COUNTY PERMITS.

Subject to the exception set forth herein, the County of Monterey shall withhold permits for any alteration, repair or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure: (i) if a request to appeal the recordation of a notice of violation has not been timely filed; or (ii) after a hearing officer on appeal affirms the enforcement official's decision to record a notice of violation. The county may thereafter withhold permits until a notice of compliance has been issued by the enforcement official. The county may not withhold permits which are necessary to obtain a notice of compliance or which are necessary to correct serious health and safety violations.

1.20.10.100 CANCELLATION OF RECORDED NOTICE OF VIOLATION.

The enforcement official, property owner or responsible person shall record the notice of compliance with the County Recorder's Office. The recordation of the notice of compliance shall have the effect of canceling the recorded notice of violation.

Chapter 1.20.12 ADMINISTRATIVE CIVIL PENALTIES

Sections:

1.20.12.010 Administrative civil penalties.

1.20.12.020 Declaration of purpose.

1.20.12.030 Authority.

1.20.12.040 Procedures -- Notice and order.

1.20.12.050 Determination of civil penalties.

- 1.20.12.060 Administrative costs.
- 1.20.12.070 Appeal of administrative civil penalty.
- 1.20.12.080 Failure to comply with enforcement official's notice and order.
- 1.20.12.090 Civil penalties hearing.
- 1.20.12.100 Administrative enforcement order.
- 1.20.12.110 Failure to comply with the administrative enforcement order.
- 1.20.12.111 Allocation of administrative civil penalties

1.20.12.010 ADMINISTRATIVE CIVIL PENALTIES.

This chapter governs the administrative assessment of civil penalties for violations of the Monterey County Code and applicable state codes.

1.20.12.020 DECLARATION OF PURPOSE.

The Board of Supervisors finds that there is a need for alternative methods of enforcement of the Monterey County Code and applicable state codes. The Board of Supervisors further finds that the assessment of civil penalties through an administrative hearing procedure for code violations is a necessary alternative method of code enforcement. The administrative assessment of civil penalties established in this chapter is in addition to any other administrative or judicial remedy established by law which may be pursued to address violations of the Monterey County Code or applicable state codes.

1.20.12.030 AUTHORITY.

(1) Any person violating any provision of the Monterey County Code or applicable state code may be subject to the assessment of civil penalties pursuant to the administrative procedures provided in this chapter.

(2) Each and every day a violation of any provision of the Monterey County Code or applicable state code exists constitutes a separate and distinct violation.

(3) Civil penalties may be directly assessed by means of a notice and order issued by the enforcement official or affirmed by an enforcement hearing officer. Civil penalties may be recovered by assessment of a nuisance abatement lien pursuant to Chapter 1.20.18 or subsequent legal action brought by the County Counsel or District Attorney.

(4) Civil penalties for violations of any provision of the Monterey County Code or applicable state codes shall be assessed at a daily rate determined by the enforcement official or enforcement hearing officer pursuant to the criteria listed in this chapter. The maximum rate shall be \$100,000.00 per violation.

1.20.12.040 PROCEDURES -- NOTICE AND ORDER.

- (1) Whenever an enforcement official determines that a violation of one or more provisions of the Monterey County Code or applicable state code has occurred or continues to exist, a written civil penalty notice and order may be issued to the responsible person.
- (2) The Notice and order shall refer to each code section violated and describe how each section is or has been violated.
- (3) The notice and order shall refer to the dates and locations of the violations.
- (4) The notice and order shall describe all remedial action required to permanently correct outstanding violations and establish a time frame for completion.
- (5) The notice and order shall establish a daily amount of civil penalties. The enforcement official shall determine the daily amount of civil penalties pursuant to the criteria in Section 1.20.12.050 of this chapter.
- (6) The notice and order shall identify a date when the civil penalties began to accrue and a date when the assessment of civil penalties will end, unless the violation is continuous. In the case of a continuous violation, there shall be an ongoing assessment of penalties at the daily rate established in the notice and order until the violations are corrected.
- (7) If an enforcement official determines that the violations are continuing, the notice and order shall demand that the responsible person cease and desist from further action causing the violations and commence and complete all action to correct the outstanding violations under the guidance of the appropriate county departments.
- (8) The notice and order shall enumerate any other consequences should the responsible person fail to comply with the terms and deadlines, as prescribed in the notice and order.
- (9) The notice and order shall identify appropriate hearing procedures as required by Chapter 1.20.22.
- (10) The notice and order shall be served upon the responsible person by any one of the methods of service listed in Chapter 1.20.03.
- (11) The notice and order shall identify the factors used by an enforcement official in determining the duration and the daily amount of civil penalties.
- (12) More than one notice and order may be issued against the same responsible person if it encompasses either different dates or different violations.

1.20.12.050 DETERMINATION OF CIVIL PENALTIES.

(1) In determining the date when civil penalties start to accrue, an enforcement official may consider the date when the enforcing department first discovered the violations as evidenced by the issuance of a notice of violation or any other written correspondence advising the responsible person of the existence of a violation.

(2) The assessment of civil penalties shall end when all action required by the notice and order has been completed.

(3) In determining the amount of the civil penalty to be assessed on a daily rate, an enforcement official may consider some or all of the following factors:

- (a) The duration of the violation.
- (b) The frequency or recurrence of the violation.
- (c) The seriousness of the violation.
- (d) The history of the violation.
- (e) The responsible person's conduct after issuance of the notice and order.
- (f) The good faith effort by the responsible person to comply.
- (g) The economic impact of the penalty on the responsible person.
- (h) The impact of the violation upon the community.
- (i) Any other factors that justice may require.

(4) The county administrative officer has the authority to establish a penalty schedule for an enforcement official to use as a guideline in determining the amount of civil penalties depending on the nature of the case. The county administrative officer shall also establish procedures for the use of this penalty schedule.

1.20.12.060 ADMINISTRATIVE COSTS.

An enforcement official or enforcement hearing officer is authorized to assess any reasonable administrative costs. Administrative costs may include the costs of scheduling and processing the hearing and all subsequent actions.

1.20.12.070 APPEAL OF ADMINISTRATIVE CIVIL PENALTY.

An appeal of an administrative civil penalty shall follow the procedures set forth in Chapter 1.20.20.

1.20.12.080 FAILURE TO COMPLY WITH ENFORCEMENT OFFICIAL'S NOTICE AND ORDER.

An enforcement official shall request an enforcement hearing officer to establish a date, time and place for the civil penalties hearing in accordance with Chapter 1.20.22 when the responsible person fails to comply with the terms of the notice and order. Failure to comply includes failure to pay the assessed civil penalties, failure to commence and complete corrections by the established deadlines or failure to refrain from continuing violations of the Monterey County Code or applicable state codes.

1.20.12.090 CIVIL PENALTIES HEARING.

(1) The procedures for the civil penalties hearing are the same as the hearing procedures set forth in Chapter 1.20.22.

(2) The enforcement hearing officer shall only consider evidence that is relevant to the following issues: (i) whether the responsible person has caused or maintained a violation of the Monterey County Code or applicable state code that existed on the dates specified in the notice and order; and (ii) whether the amount of civil penalties assessed by the enforcement official pursuant to the procedures and criteria outlined in Section 1.20.12.050 was reasonable.

1.20.12.100 ADMINISTRATIVE ENFORCEMENT ORDER.

(1) Once all evidence and testimony are completed, the enforcement hearing officer shall issue an administrative enforcement order which affirms or rejects the enforcement official's notice and order or which modifies the daily rate or duration of the civil penalties. The enforcement hearing officer may increase or decrease the total amount of civil penalties and costs that are assessed by the enforcement official's notice and order.

(2) The enforcement hearing officer may issue an administrative enforcement order that requires the responsible person to cease from violating the Monterey County Code or applicable state codes and to make necessary corrections.

(3) As part of the administrative enforcement order, the enforcement hearing officer may establish specific deadlines for the payment of civil penalties and costs and condition the total or partial assessment of civil penalties on the responsible person's ability to complete compliance by specified deadlines.

(4) The enforcement hearing officer may issue an administrative enforcement order which imposes additional civil penalties that will continue to be assessed until the responsible person complies with the hearing officer's decision and corrects the violation.

(5) The enforcement hearing officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative enforcement order.

1.20.12.110 FAILURE TO COMPLY WITH THE ADMINISTRATIVE ENFORCEMENT ORDER.

(1) Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative enforcement order, the enforcement official may use all appropriate legal means to recover the civil penalties, administrative costs and obtain compliance with the administrative enforcement order.

(2) After the enforcement hearing officer issues an administrative enforcement order, the enforcement official shall monitor the violations and determine compliance.

1.20.12.120 ALLOCATION OF ADMINISTRATIVE CIVIL PENALTIES.

Administrative civil penalties collected pursuant to this chapter shall be deposited in the code enforcement civil penalties fund established pursuant to Chapter 1.20.28.

Chapter 1.20.14 ADMINISTRATIVE CITATIONS

Sections:

- 1.20.14.010 Declaration of purpose.
- 1.20.14.020 Authority.
- 1.20.14.030 Procedures.
- 1.20.14.040 Contents of notice of administrative citation.
- 1.20.14.050 Appeal of administrative citation.
- 1.20.14.060 Administrative enforcement order.
- 1.20.14.070 Penalties assessed.
- 1.20.14.080 Failure to pay penalties.
- 1.20.14.090 Allocation of administrative penalties.

1.20.14.010 DECLARATION OF PURPOSE.

The Board of Supervisors finds that there is a need for an alternative method of enforcement for violations of the Monterey County Code and applicable state codes. The Board of Supervisors further finds that an appropriate method of enforcement for violations is an administrative citation program as authorized by California Government Code Section 53069.4. The terms administrative fine, administrative penalty or civil penalty may be used interchangeably and are

all intended to refer to money penalties imposed by this chapter and collectible by all available legal procedures. The procedures established in this chapter shall be in addition to criminal, civil or any other legal remedy established by law which may be pursued to address violations of the Monterey County Code or applicable state codes.

1.20.14.020 AUTHORITY.

- (1) Any person violating any provision of the Monterey County Code or applicable state code may be issued an administrative citation by an enforcement official as provided in this chapter.
- (2) Each and every day a violation of the Monterey County Code or applicable state code exists constitutes a separate and distinct offense for which an administrative citation may issue.
- (3) An administrative fine shall be assessed by means of an administrative citation issued by the enforcement official and shall be payable directly to the county revenue division.
- (4) Administrative fines assessed by means of an administrative citation shall be collected in accordance with the procedures specified in this chapter.
- (5) The administrative citation process set forth in this chapter does not apply to continuing violations of this code that pertain to building, plumbing, electrical, or other similar structural or zoning issues, unless a reasonable opportunity to correct or otherwise remedy the violation is first given to the violator. Ten days shall be deemed to be a reasonable period in the case of most such continuing violations; however, a longer period, in no case to exceed thirty days, shall be allowed at the discretion of the enforcement official. Nothing in this section shall prevent the county from utilizing the administrative citation process for building, plumbing, electrical, or other similar structural or zoning violations which are transient and noncontinuing in nature, or create an immediate danger to health or safety.

1.20.14.030 PROCEDURES.

- (1) Upon discovering any violation of the Monterey County Code or applicable state codes, an enforcement official may issue an administrative citation to a responsible person in the manner prescribed in this chapter. The administrative citation shall be issued on a form approved by the county administrative officer.
- (2) In the case of a business, the enforcement official shall attempt to locate the business owner and issue the business owner an administrative citation. If the enforcement official can only locate the manager of the business or the person in apparent charge of the business, the administrative citation may be issued to such person, who may sign or receive the administrative citation as agent for the responsible person or owner of the business. A copy of the administrative citation shall also be mailed to the business owner or responsible person in the manner prescribed by Chapter 1.20.03.
- (3) Once the responsible person is located, the enforcement official shall attempt to obtain the signature of that person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.

(4) If the enforcement official is unable to locate the responsible person for the violation, then the administrative citation shall be mailed to the responsible person in the manner prescribed in Chapter 1.20.03.

(5) If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy subsequently mailed to the responsible person in the manner prescribed by Chapter 1.20.03.

(6) The administrative citation shall also contain the signature of the enforcement official.

(7) The administrative citation shall be mailed to the responsible person in the manner prescribed by Chapter 1.20.03. Provided that an administrative citation is properly issued to a responsible person, the failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this chapter.

1.20.14.040 CONTENTS OF NOTICE OF ADMINISTRATIVE CITATION.

(1) The administrative citation shall refer to the date and location of the violations and the approximate time the violations were observed.

(2) The administrative citation shall refer to the code sections violated and describe how the sections are violated.

(3) The administrative citation shall describe the action required to correct the violations.

(4) The administrative citation shall require the responsible person to immediately correct the violations and shall explain the consequences of failure to correct the violations.

(5) The administrative citation shall state the amount of penalty imposed for the violations.

(6) The administrative citation shall explain how the penalty shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the penalty.

(7) The administrative citation shall provide notice of the right to appeal.

(8) The citation shall contain the signature of the enforcement official and the signature of the responsible person if that person can be located, as outlined in Section 1.20.14.030(3).

1.20.14.050 APPEAL OF ADMINISTRATIVE CITATION.

An appeal of an administrative citation shall follow the procedures set forth in Chapter 1.20.20.

1.20.14.060 ADMINISTRATIVE ENFORCEMENT ORDER.

The appeal hearing shall follow the enforcement hearing procedures set forth in Chapter 1.20.22. As part of the administrative enforcement order made pursuant to an administrative enforcement appeal, the enforcement hearing officer may reduce, waive or conditionally reduce the penalties

or late fees assessed by the citation. The enforcement hearing officer may also impose conditions and deadlines to correct the violations or require payment of any outstanding penalties. The enforcement hearing officer may assess reasonable administrative costs.

1.20.14.070 PENALTIES ASSESSED.

(1) Subject to the limitations set forth in subsection (3) of this section, the penalty assessed for a first violation of the county code for which an administrative citation is issued shall be the same as the base bail amount adopted by the Monterey County Superior Court in its County of Monterey bail schedule for violations of the Monterey County Code. If no bail schedule amount exists for any violation the penalty amount shall be as set forth in subsection (3) below.

(2) If the responsible person fails to correct the violation, subsequent administrative citations may be issued for the same violation. The amount of the penalty shall increase at a rate specified in this chapter.

(3) The penalties assessed for each administrative citation issued for the same violation shall not exceed the following amounts:

(1) First violation: \$100.00;

(2) Second violation within a one year period: \$200.00;

(3) Third or subsequent violation within a one year period: \$500.00.

(4) Payment of the penalty shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the county.

(5) All penalties assessed shall be payable to the county revenue division and deposited into the Code Enforcement Civil Penalties Fund as provided in Chapter 1.20.28.

1.20.14.080 FAILURE TO PAY PENALTIES.

The failure of any person to pay the administrative fines assessed by an administrative citation within the time specified on the citation may result in the enforcement official referring the matter to the county revenue officer or tax collector to file a claim with the small claims court. Alternatively, the enforcement official may pursue any other legal remedy to collect the administrative fines as provided in Section 1.20.12.110 of Chapter 1.20.12.

1.20.14.090 ALLOCATION OF ADMINISTRATIVE FINES.

Administrative fines collected pursuant to this chapter shall be deposited in the code enforcement civil penalties fund established pursuant to Chapter 1.20.28.

Chapter 1.20.16
SUMMARY ABATEMENT

Sections:

1.20.16.010 Declaration of purpose.

1.20.16.020 Summary abatement.

1.20.16.030 Authority.

1.20.16.040 Procedures.

1.20.16.010 DECLARATION OF PURPOSE.

The Board of Supervisors finds that its purpose in adopting this chapter and Chapter 1.20.18 is to establish a procedure for the summary abatement of public nuisances and code violations. The procedures established herein are in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address Monterey County Code or applicable state code violations.

1.20.16.020 SUMMARY ABATEMENT.

This chapter governs the procedures relating to summary abatement of public nuisances.

1.20.16.030 AUTHORITY.

Whenever an enforcement official determines that an imminent life safety hazard exists that requires immediate correction or elimination, the enforcement official may exercise the following powers without prior notice to the responsible person:

- (1) Order the immediate vacation of any tenants and prohibit occupancy until all repairs are completed; or
- (2) Post the premises as unsafe, substandard or dangerous; or
- (3) Board, fence or secure the building or site; or
- (4) Raze and grade that portion of the building or site to prevent further collapse and remove any hazard to the general public; or
- (5) Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
- (6) Take any other action as appropriate under the circumstances.

1.20.16.040 PROCEDURES.

(1) An enforcement official shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the county during the summary abatement process shall be assessed and recovered against the responsible person or property owner through the procedures outlined in Section 1.20.18.040.

(2) The enforcement official may also pursue any administrative or judicial remedy to abate any remaining public nuisance.

Chapter 1.20.18 ADMINISTRATIVE ABATEMENT

Sections:

1.20.18.010 Declaration of purpose.

1.20.18.020 Authority.

1.20.18.030 General procedures and appeals.

1.20.18.040 Abatement of a public nuisance by the county.

1.20.18.010 DECLARATION OF PURPOSE.

The Board of Supervisors finds that its purpose in adopting this chapter and Chapter 1.20.16 is to establish a procedure for the abatement of public nuisances and code violations. The procedures established in these sections are in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address Monterey County Code or applicable state code violations.

1.20.18.020 AUTHORITY.

Any condition caused, maintained or permitted to exist in violation of any provisions of the Monterey County Code or applicable state codes which constitutes a public nuisance but which does not constitute an imminent life safety hazard may be abated by the county pursuant to the procedures set forth in this chapter.

1.20.18.030 GENERAL PROCEDURES AND APPEALS.

(1) Abatement Notice.

(a) Whenever an enforcement official determines that public or private property or any portion of public or private property is a public nuisance as generally defined in Chapter 1.20.01 or as declared in a specific section of the Monterey County Code or applicable state codes, an abatement notice may be issued to the responsible person or property owner to abate the public nuisance.

(b) The abatement notice shall contain a description of the property in general terms reasonably sufficient to identify the location of the property. It shall refer to the Monterey County Code or applicable state code violations which render the property a public nuisance.

(c) The abatement notice shall describe the action required to abate the public nuisance which may include corrections, repairs, demolition, removal, obtaining the necessary permits, vacation of tenants or other appropriate action and shall establish deadlines by which each action must occur.

(d) The abatement notice shall explain the consequences should the responsible person fail to comply with the terms of the notice.

(e) The abatement notice shall identify all applicable hearing and appeal rights.

(2) Service of Abatement Notice. The abatement notice shall be served by any one of the methods of service listed in Chapter 1.20.03 of this code.

(3) Time Frame For Compliance.

(a) The enforcement official shall establish a reasonable time frame for compliance based on the nature and severity of the nuisance. The time frame shall normally be ten days for a nuisance that does not involve an imminent threat to public health and safety.

(4) Right to Appeal.

(a) The responsible person may appeal the abatement notice within ten calendar days from the date of service of the abatement notice by filing a written request to appeal to an enforcement official.

(b) Upon receiving a written request to appeal an abatement notice, an enforcement official shall follow the procedures set forth in Chapter 1.20.20 and request the enforcement hearing officer to schedule a hearing to hear any objections why abatement should not be ordered and effected.

(c) Abatement shall not proceed until the enforcement hearing officer issues an order after an appeal by the responsible person or an appeal has not been timely filed, unless the enforcement hearing officer concludes that an imminent threat to the public's health and safety exists.

(d) If the enforcement hearing officer issues an order confirming the existence of a public nuisance, the county may immediately abate the public nuisance pursuant to the procedures set forth in Section 1.20.18.01.200 of this chapter. The hearing officer's decision is the final administrative decision and shall become effective upon the date of issuance by the enforcement hearing officer.

1.20.18.040 ABATEMENT OF A PUBLIC NUISANCE BY THE COUNTY.

(1) Once an enforcement official follows the procedures set forth in Section 1.20.18.030 of this chapter and obtains authorization to abate a public nuisance, the public nuisance may be abated by county personnel or by a private contractor.

(2) County personnel or a private contractor can enter upon private property in a reasonable manner to abate the public nuisance as specified in the abatement notice or abatement order. Interference with the county's abatement of the public nuisance by a property owner or responsible person shall constitute a misdemeanor.

(3) When abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the enforcement official. The report shall contain the names and addresses of the responsible persons or property owners of each parcel, the tax assessor's parcel number and a legal description of the property.

(4) The enforcement official shall request the hearing officer to schedule a confirmation of costs hearing pursuant to Chapter 1.20.24, unless waived in writing by all responsible persons.

(5) All administrative and actual costs incurred by the county in abating the public nuisance may be assessed and recovered against the responsible person pursuant to the provisions set forth in Chapter 1.20.24.

Chapter 1.20.20

ADMINISTRATIVE ENFORCEMENT APPEALS

Sections:

1.20.20.010 Appeal procedures.

1.20.20.020 Appeal hearing.

1.20.20.030 Failure to attend an administrative enforcement hearing.

1.20.20.010 APPEAL PROCEDURES.

(1) A person served with one of the following documents, orders or notices may file an appeal within ten calendar days from the date of service:

(a) Any administrative abatement or civil penalties notice and order;

(b) An administrative citation issued pursuant to Chapter 1.20.14 of the Monterey County Code;

(c) A letter from an enforcement official indicating an intent to record a notice of violation pursuant to Chapter 1.20.10 of the Monterey County Code.

- (2) The appeal shall be made in writing and filed with the enforcement official.
- (3) The appeal shall be accompanied by an appeal fee in an amount established by resolution of the Board of Supervisors, or if no fee is established, a fee of \$20.00.
- (4) The receipt of a written appeal shall stay all actions, or put in abeyance all approvals or permits which may have been granted, pending the effective date of the decision of the body hearing the appeal. Upon the filing of a proper appeal fines shall cease to be imposed unless such cessation would result in the continuation of a life, health, or safety risk.
- (5) After receiving the written notice of appeal, the enforcement official shall request an Administrative enforcement hearing officer to schedule a date, time, and place for the hearing.
- (6) Written notice of the date, time and place of the hearing shall be served at least ten calendar days prior to the date of the hearing on the person appealing the notice by any one of the methods listed in Chapter 1.20.03 of the Monterey County Code.

1.20.20.020 APPEAL HEARING.

The appeal hearing shall be conducted pursuant to the administrative enforcement hearing procedures set forth in Chapter 1.20.22.

1.20.20.030 FAILURE TO ATTEND AN ADMINISTRATIVE ENFORCEMENT HEARING.

Failure to attend the administrative enforcement hearing by the appellant shall constitute a waiver of his or her rights to an administrative enforcement hearing and administrative adjudication of the notice or any portion of the notice.

Chapter 1.20.22 ADMINISTRATIVE ENFORCEMENT HEARING PROCEDURES

Sections:

- 1.20.22.010 Administrative enforcement Hearing Procedures.
- 1.20.22.020 Declaration of purpose.
- 1.20.22.030 Procedures for notification of enforcement hearing.
- 1.20.22.040 Qualifications of enforcement hearing officer.
- 1.20.22.050 Selection of enforcement hearing officer.
- 1.20.22.060 Disqualification of enforcement hearing officer.
- 1.20.22.070 Procedures at administrative enforcement hearing.

- 1.20.22.090 Failure to obey subpoena.
- 1.20.22.100 Failure to attend administrative enforcement hearing.
- 1.20.22.110 Administrative enforcement order.
- 1.20.22.120 Judicial review.
- 1.20.22.130 Failure to comply with administrative enforcement order.

1.20.22.010 ADMINISTRATIVE ENFORCEMENT HEARING PROCEDURES.

This chapter establishes the procedures for conducting administrative enforcement hearings.

1.20.22.020 DECLARATION OF PURPOSE.

(1) The Board of Supervisors finds that there is a need to establish a uniform procedure for administrative enforcement hearings conducted pursuant to the Monterey County Code. It is the purpose and intent of the Board of Supervisors to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes: adequate notice, an opportunity to participate in the administrative hearing and an adequate explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously and fairly resolve issues raised in any administrative enforcement action.

(2) The county administrative officer is authorized to develop policies and procedures relating to the qualifications, appointment and compensation of hearing officers, hearing officer powers, hearing procedures, scope of the hearing, subpoena powers and other matters relating to administrative enforcement hearings.

1.20.22.030 PROCEDURES FOR NOTIFICATION OF ENFORCEMENT HEARING.

(1) Where an administrative enforcement remedy or proceeding authorized by this title provides for an enforcement hearing, the enforcement official may request a hearing officer to schedule a day, time and place for the hearing.

(2) Written notice of the time and place of the hearing shall be served at least ten calendar days prior to the date of the hearing to the responsible person or property owner.

(3) The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the county administrative officer.

(4) The notice of hearing shall be served by any of the methods of service listed in Chapter 1.20.03.

1.20.22.040 QUALIFICATIONS OF ENFORCEMENT HEARING OFFICER.

The county administrative officer shall promulgate rules and procedures as are necessary to establish a pool of qualified persons who are capable of acting on behalf of the county as hearing officers.

1.20.22.050 SELECTION OF ENFORCEMENT HEARING OFFICER.

Enforcement hearing officers presiding at administrative enforcement hearings shall be selected on the basis of availability and compensated by the county administrative officer. The county administrative officer shall develop policies and procedures relating to the employment and compensation of enforcement hearing officers.

1.20.22.060 DISQUALIFICATION OF ENFORCEMENT HEARING OFFICER.

Any person designated to serve as an enforcement hearing officer is subject to disqualification for bias, prejudice, conflict of interest, or for any other reason for which a judge may be disqualified in a court of law.

1.20.22.070 POWERS OF ENFORCEMENT HEARING OFFICER.

(1) The enforcement hearing officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded.

(2) The enforcement hearing officer, at the request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary by the enforcement hearing officer to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena. The county administrative officer shall develop policies and procedures relating to the issuance of subpoenas in administrative enforcement hearings, including the form of the subpoena and related costs.

(3) The enforcement hearing officer shall retain jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance, ensuring compliance with an administrative enforcement order, modifying an administrative enforcement order, or where extraordinary circumstances exist, granting a new hearing.

(4) The enforcement hearing officer has the authority to require a responsible person to post a code enforcement performance bond to ensure compliance with an administrative enforcement order. Procedures for the use of a code enforcement performance bond shall be promulgated by the county administrative officer.

1.20.22.080 PROCEDURES AT ADMINISTRATIVE ENFORCEMENT HEARING.

- (1) Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall be promulgated by the county administrative officer.
- (2) The county bears the burden of proof at an administrative enforcement hearing or a nuisance abatement hearing to establish the existence of a violation of the Monterey County Code or applicable state code, or to establish the existence of a public nuisance.
- (3) The standard of proof to be used by the enforcement hearing officer in deciding the issues at an administrative hearing is a preponderance of the evidence standard.
- (4) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

1.20.22.090 FAILURE TO OBEY SUBPOENA.

It is unlawful for any person to refuse to obey a subpoena issued by an enforcement hearing officer. Failure to obey a subpoena constitutes contempt and may be prosecuted as an infraction or a misdemeanor.

1.20.22.100 FAILURE TO ATTEND ADMINISTRATIVE ENFORCEMENT HEARING.

Any party whose property or actions are the subject of an administrative enforcement hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and to an adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

1.20.22.110 ADMINISTRATIVE ENFORCEMENT ORDER.

- (1) The decision of the enforcement hearing officer shall be entitled "Administrative Enforcement Order" and shall be issued in accordance with the rules and procedures promulgated by the county administrative officer.
- (2) The administrative enforcement order shall be served on all parties by any one of the methods listed in Chapter 1.20.03 of the Monterey County Code.
- (3) The administrative enforcement order shall become final on the date of service of the order.

1.20.22.120 JUDICIAL REVIEW.

Judicial review of an administrative enforcement order may be sought pursuant to a writ of administrative mandamus. Once an administrative enforcement order becomes final as provided in this chapter, the time in which judicial review of the order must be sought shall be governed by California Code of Civil Procedure Section 1094.6. except as specifically provided elsewhere in this code.

1.20.22.130 FAILURE TO COMPLY WITH ADMINISTRATIVE ENFORCEMENT ORDER.

It is unlawful for a party to an administrative enforcement hearing who has been served with a copy of the final administrative enforcement order pursuant to Section 1.20.22.110 of the Monterey County Code to fail to comply with the order. Failure to comply with a final administrative enforcement order may be prosecuted as an infraction or a misdemeanor.

Chapter 1.20.24 RECOVERY OF CIVIL PENALTIES AND ABATEMENT COSTS

Sections:

- 1.20.24.010 Declaration of purpose.
- 1.20.24.020 Procedures for recovering costs.
- 1.20.24.030 Recovery of civil penalties.
- 1.20.24.040 Confirmation of costs hearing.
- 1.20.24.050 Recovery of costs as a personal obligation.
- 1.20.24.060 Recovery of costs by special assessment.
- 1.20.24.070 Repayment to code enforcement civil penalties fund.

1.20.24.010 DECLARATION OF PURPOSE.

The Board of Supervisors finds that, in addition to the filing of civil collection actions by the County Counsel or District Attorney, the use of nuisance abatement liens collected as personal obligations against property owners, and the use of special assessments on real property will assist in the collection of civil penalties, abatement costs, administrative costs, reinspection fees and late fees assessed pursuant to administrative citations, administrative hearings, judicial orders and other appropriate code enforcement actions. The Board of Supervisors further finds that collection of civil penalties, costs and fees assessed for code enforcement violations is important in deterring future violations and maintaining the integrity of the county's code enforcement system. The county has the authority to make the expense of enforcement actions and abatement of any nuisance a lien against the property on which it is maintained and a personal obligation against the property owner, in accordance with California Government Code Section 38773.1; or in the alternative, the county has the authority to make the cost of abatement of a nuisance upon a parcel of land a special assessment against that parcel, in accordance with California Government Code Section 38773.5. The procedures established in this chapter shall be used to complement existing administrative or judicial remedies which may be pursued to address violations of the Monterey County Code or applicable state codes.

1.20.24.020 PROCEDURES FOR RECOVERING COSTS.

This chapter governs the procedures for recovery of all administrative and actual costs incurred by the county in the recovery of civil penalties, in the abatement of a public nuisance, and for recordation and recovery of costs of enforcing nuisance abatement liens pursuant to the procedures and authority found in the California Government Code. The provisions of Government Code Sections 38771 through 38773.5 and any amendments to those sections are hereby incorporated by reference and made a part of this chapter.

1.20.24.030 RECOVERY OF CIVIL PENALTIES.

(1) The enforcement official may collect all civil penalties and related administrative costs by the use of all appropriate legal means, including referral to the Revenue Manager or County Counsel or District Attorney.

1.20.24.040 CONFIRMATION OF COSTS HEARING.

(1) After the county has abated a public nuisance, the enforcement official shall request the Hearing officer to schedule a cost confirmation hearing in accordance with the administrative enforcement hearing procedures set forth in Chapter 1.20.22. A cost confirmation hearing is also appropriate if the county incurred abatement preparation costs before a responsible person or property owner voluntarily abated the public nuisance.

(2) A notice of the date, time and place of the cost confirmation hearing shall be served on the responsible person or property owner at least ten calendar days prior to the scheduled hearing by any one of the methods set forth in Chapter 1.20.03.

(3) A copy of the report describing the work performed and an itemized account of the total abatement costs prepared pursuant to this chapter shall also be served on the responsible person or property owner at least ten calendar days prior to the scheduled hearing by any one of the methods set forth in Chapter 1.20.03.

(4) The hearing officer at the cost confirmation hearing shall limit the scope of review to the enforcement official's report describing the work performed and the itemized account of costs together with any objections to its accuracy. The hearing officer may make such revisions, corrections or modification in the report or the account as may be just and reasonable.

(5) The hearing officer may issue an order which assesses the costs as either a personal obligation against the responsible person or property owner or a special assessment against the real property abated by the county.

(6) At the cost confirmation hearing, the hearing officer shall not consider evidence regarding the merits of a previous abatement hearing and shall not review a decision ordering administrative or summary abatement, or imposition of civil penalties.

(7) The hearing officer's order confirming or modifying the amount of costs incurred by the county in performing the abatement shall be final and non-appealable.

1.20.24.050 RECOVERY OF COSTS AS A PERSONAL OBLIGATION.

If the hearing officer orders that abatement costs be charged as a personal obligation of the responsible person, the enforcement official shall collect the obligation by use of all appropriate legal means. This may include the recordation of a nuisance abatement lien against the real property on which a nuisance is maintained. An enforcement official may assess a nuisance abatement lien pursuant to Government Code Section 38773.1 by following the procedures set forth in this chapter including the requirements set forth below:

- (1) Once a final administrative decision or judicial order establishes the amount of civil penalties, abatement costs, administrative fees and costs assessed against a responsible person for code violations, the enforcement official may record a nuisance abatement lien against the real property on which the nuisance is maintained.
- (2) Before recordation, the enforcement official shall provide to the responsible person or property owner a written "Notice of Intent to Record Nuisance Abatement Lien" informing such person that a nuisance abatement lien will be recorded unless the county receives full payment for the outstanding amount of civil penalties, costs and fees within the time period prescribed in the notice. Such notice shall be served in the same manner as a summons in a civil action in accordance with California Code of Civil Procedure, commencing at Section 415.10 et seq. Payment shall be due a minimum of ten calendar days from the date of the mailing.
- (3) If the property owner cannot be found after a diligent search, the notice can be posted on the property for a period of ten calendar days and the notice must be published in a general circulation newspaper once at least ten calendar days prior to recordation of the nuisance abatement lien.
- (4) A nuisance abatement lien shall be recorded in the Monterey County recorder's office and from the date of recording shall have the force, effect and priority of a judgment lien.
- (5) The nuisance abatement lien shall include the name of the agency on whose behalf the lien is imposed, the name of the property owner, responsible party and any financial institution with a legal interest in the property, the property's assessor's parcel number, the property's legal description, the total amount of civil penalties, costs and fees due, including a breakdown of penalty assessments and reimbursement for the county's administrative costs and a copy of any administrative or judicial order which awarded the civil penalties, costs and fees.
- (6) Once payment in full is received for the outstanding civil penalties and costs or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the enforcement official shall either record a notice of cancellation or provide the property owner or financial institution with the Notice of Cancellation so they can record this notice with the Monterey County recorder's office. The notice of cancellation shall include the same information as provided for in the original nuisance abatement lien as described in Chapter 1.20.24 Such notice of cancellation shall cancel the nuisance abatement lien.
- (7) A copy of the recorded nuisance abatement lien shall be served upon the responsible person or property owner by one of the methods of service set forth in Chapter 1.20.03 of this code.

(8) The failure of any person with a financial interest in the property to actually receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding civil penalties.

(9) A nuisance abatement lien may be foreclosed by an action brought by the county for a money judgment. If unable to collect the nuisance abatement lien, the enforcement official may refer the case to the County Counsel or District Attorney to file a court action to recover the costs.

(10) The county may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

1.20.24.060 RECOVERY OF COSTS BY SPECIAL ASSESSMENT.

(1) Once a final administrative decision or judicial order establishes that the amount of civil penalties, abatement costs, administrative fees and costs be charged against the property as a special assessment, the enforcement official shall prepare a notice of special assessment.

(2) The enforcement official shall deliver the notice of special assessment to the county auditor who shall place it on the county assessment roll pursuant to Government Code Section 38773.5.

(3) The notice of special assessment shall include a copy of the hearing officer's cost confirmation order and shall summarize the abatement action. The enforcement official may record a copy of this special assessment notice to inform any subsequent purchasers or owners of the abatement action, costs and assessment.

(4) The enforcement official shall record a cancellation of special assessment notice with the Monterey county recorder when either: (i) the responsible person or property owner pays in full the abatement costs; or (ii) the Monterey county auditor or tax collector posts a lien on the property pursuant to Government Code Section 38773.5.

(5) Pursuant to the provisions of Government Code Section 38773.5 the Monterey county tax collector may collect the amount of a special assessment at the same time and in the same manner as ordinary property taxes and impose the same penalties and procedures, including the sale of the property, in case of delinquency, as provided for with ordinary property tax collection. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to the special assessment.

1.20.24.070 REPAYMENT TO CODE ENFORCEMENT CIVIL PENALTIES FUND.

All monies recovered by payment of the charge or assessment or from the sale or transfer of the property shall be remitted to the county revenue officer or tax collector who shall credit the appropriate amount to the code enforcement civil penalties fund provided for in Chapter 1.20.28 or, alternatively use the monies to reimburse the department responsible for the subject code enforcement action where appropriate.

Chapter 1.20.26 REINSPECTION FEES

Sections:

- 1.20.26.010 Reinspection fees.
- 1.20.26.020 Declaration of purpose.
- 1.20.26.030 Authorization.
- 1.20.26.040 Assessment of reinspection fees.
- 1.20.26.050 Notification of assessment of reinspection fees.
- 1.20.26.060 Failure to pay reinspection fee.
- 1.20.26.070 Collection of reinspection fee.
- 1.20.26.080 Payment to code enforcement civil penalties fund.
- 1.20.26.010 REINSPECTION FEES.

This chapter governs the general procedures for recovering reinspection fees assessed by the county unless other provisions of this code establish a specific reinspection fee procedure for a particular type of reinspection.

1.20.26.020 DECLARATION OF PURPOSE.

(1) The Board of Supervisors finds there is a need to recover costs incurred by enforcement officials and other county personnel who spend considerable time inspecting and reinspecting properties throughout the County of Monterey in an effort to ensure compliance with the Monterey County Code or applicable state codes.

(2) The Board of Supervisors further finds that the assessment of a reinspection fee is an appropriate method to recover costs incurred for additional inspections made by enforcement officials and other county personnel. The assessment and collection of reinspection fees shall not preclude the imposition of any administrative or judicial civil penalties or fines for violations of the Monterey County Code or applicable state codes.

1.20.26.030 AUTHORIZATION.

(1) Whenever an enforcement official reinspects a property to determine compliance with provisions of the Monterey County Code and applicable state codes which have been listed in a notice of violation, the enforcement official may assess a reinspection fee against the responsible person or property owner.

(2) Reinspection fees may be assessed for each inspection of the property after the issuance of a notice of violation.

1.20.26.040 ASSESSMENT OF REINSPECTION FEES.

A reinspection fee schedule shall be established and revised as necessary by the Board of Supervisors to reflect current actual costs. The reinspection fee schedule shall be filed in, and available for public review at, the Clerk of the Board Of Supervisor's office.

1.20.26.050 NOTICE OF ASSESSMENT OF REINSPECTION FEES.

(1) Where the assessment of reinspection fees is authorized under this chapter, the appropriate county enforcement official shall provide the responsible person with a written notice assessing reinspection fees. The written assessment shall contain the following information:

- (a) The amount of fees charged;
- (b) The corresponding dates when reinspection took place;
- (c) A deadline by which the reinspection fee must be paid; and
- (d) An explanation that additional late fees may be charge for late payment of the reinspection fee.

(2) Service of notice of the reinspection fee assessment shall be provided to the responsible person or property owner by any of the means outlined in Chapter 1.20.03 of this code.

(3) Reinspection fees may be assessed as part of any judicial or administrative enforcement action as provided for in this chapter.

(4) The failure of any responsible person or property owner to receive notice of the reinspection fee assessment shall not affect the validity of any fees imposed under this chapter.

1.20.26.060 FAILURE TO PAY REINSPECTION FEE.

The failure of any person to pay a reinspection fee by the deadline specified in the written notice of assessment of reinspection fee shall result in the assessment of an additional late fee. The amount of the late fee shall be established by the Board of Supervisors.

1.20.26.070 COLLECTION OF REINSPECTION FEE.

The enforcement official shall collect the assessed reinspection and late fees by the use of all appropriate legal means, including but not limited to referral to the county revenue division or County Counsel or District Attorney for collection or recordation of a nuisance abatement lien pursuant to Chapter 1.20.24.

1.20.26.080 PAYMENT TO CODE ENFORCEMENT CIVIL PENALTIES FUND.

All monies recovered by payment of late payment fees shall be remitted to the county revenue officer or tax collector who shall credit the appropriate amount to the code enforcement civil penalties fund provided for in Chapter 1.20.28 or, alternatively use the monies to reimburse the department responsible for the subject code enforcement action where appropriate.

Chapter 1.20.28 CODE ENFORCEMENT CIVIL PENALTIES FUND

Sections:

1.20.28.010 Declaration of purpose.

1.20.28.020 Establishment of code enforcement civil penalties fund.

1.20.28.030 Use of funds.

1.20.28.010 DECLARATION OF PURPOSE.

The Board of Supervisors finds that there is a need to create and maintain a funding source for the administration and operation of code enforcement activities in the county. In order to effectively administer such activities as nuisance abatement, inspections and reinspections, imposition of liens and special assessments on real property, administrative hearings related thereto, departmental code enforcement cost reimbursement, and other activities to enhance and improve code enforcement for the public safety and welfare, the establishment of a code enforcement civil penalties fund is essential.

1.20.28.020 ESTABLISHMENT OF CODE ENFORCEMENT CIVIL PENALTIES FUND.

There shall be established a code enforcement civil penalties fund which shall be administered by the Revenue Manager and shall consist of all monies collected by the imposition of fines, civil penalties, nuisance abatement recovery monies and all other costs and reimbursements recovered by code enforcement actions.

1.20.28.030 USE OF FUNDS.

All funds collected from code enforcement actions shall be deposited into a separate fund and used for the supplemental financing of code enforcement programs or alternatively to reimburse the department responsible for the subject code enforcement action where appropriate.