DIVISION 11.

ADMINISTRATION.

Sec. 35-325. Ordinance Text Amendments/Rezones.

Sec. 35-325.1. Purpose and Intent.

The purpose and intent of this Sec. 35-325. is to establish the procedures by which changes may be made in both the text of this Article and the County zoning maps whenever such changes are warranted by the community welfare, the public necessity, and good zoning and planning practices.

Sec. 35-325.2. Applicability.

These procedures shall apply to all proposals to change any property from one zone district to another or to amend the text of this Article.

Sec. 35-325.3. Zoning Ordinance Text Amendments.

1. Initiation.

   Proposals to amend the text of this Article may be initiated by:

   a. Resolution of the Board of Supervisors.

   b. Resolution of the Planning Commission.

   c. Application by any person with a substantial interest in the proposed amendment.

   d. The Director. *(Added by Ord. 4228, 6/18/96)*

2. Processing.

   a. Any application filed pursuant to this Section that is inconsistent with the use and/or density requirements of this Article or the adopted Comprehensive Plan must be accompanied by an application to make the project consistent. The Planning and Development Department may refuse to accept for processing any application the Director finds to be inconsistent with the Comprehensive Plan.

   b. As many copies of an Ordinance Amendment Application as may be required shall be submitted to the Planning and Development Department if initiated by a person or persons other than the Board of Supervisors, Planning Commission, or Director.

   c. The Planning and Development Department shall process the application through environmental review.

   d. The Planning Commission shall hold at least one noticed public hearing on the proposal. *(Amended by Ord. 4228, 6/18/96)*

e. Notice of the time and place of said hearing including a general explanation of the matter to be considered and a general description of the area affected shall be given at least ten (10) calendar days before the hearing in the following manner:

1) Notice shall be published in a newspaper of general circulation, in the County.

2) Notice shall be mailed to the applicant.

3) Notice shall be mailed to any person who has filed a written request therefore and has supplied the County with self-addressed, stamped envelopes.

3. Action.

a. The Planning Commission's action shall be transmitted to the Board of Supervisors in the form of a written recommendation. Such recommendation shall include the reasons for the recommendation.

b. Upon receipt of the recommendation of the Planning Commission, the Board of Supervisors shall hold a public hearing. Notice of the time and place of said hearing shall be given in the manner as prescribed above in paragraph 2.e.

c. The Board of Supervisors may approve, modify, or disapprove the recommendation of the Planning Commission; provided that any modification of the proposed amendment by the Board of Supervisors not previously considered by the Planning Commission during its hearing, shall first be referred to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing thereon. Failure of the Planning Commission to report within forty (40) days after the reference, or such longer period as may be designated by the Board of Supervisors, shall be deemed to be approval of the proposed modification.

Sec. 35-325.4. Rezones (Zoning Map Amendments).

1. Initiation.

Proposals to change the zoning on any property from one zone district to another may be initiated by:

a. Resolution of the Board of Supervisors.

b. Resolution of the Planning Commission.

c. Application by one or more persons owning property representing at least fifty percent of the assessed valuation of the property for which the zone classification change is sought.

d. The Director. *(Added by Ord. 4228, 6/18/96)*

2. Processing.

a. Any application filed pursuant to this section that is inconsistent with the use and/or density requirements of this Article or the adopted Comprehensive Plan must be accompanied by an application to make the project consistent. The Planning and Development Department may refuse to accept for processing any application the Director finds to be inconsistent with the Comprehensive Plan.

b. As many copies of a Rezone Application as may be required shall be submitted to the Planning and Development Department if initiated by a person or persons other than the Board of Supervisors, Planning Commission, or Planning and Development Department.

c. The Planning and Development Department shall process the application through environmental review.

d. After certification of the final environmental document, the Planning Commission shall hold at least one noticed public hearing on the proposal.

e. Notice of the hearing shall be given according to Sec. 35-326. (Noticing). *(Amended by Ord. No. 3802, 01/09/90)*

f. If there is a valid and operational Conditional Use Permit associated with a proposed rezone site and under the new zone district the conditionally permitted use would become a permitted use, the Conditional Use Permit conditions of approval shall remain valid unless altered or deleted pursuant to Section 35-315.11. *(Added by Ord. 4319, 6/23/98)*

3. Action.

a. The Planning Commission's action shall be transmitted to the Board of Supervisors in the form of a written recommendation, which shall include the reasons for such recommendation.

b. Upon receipt of the recommendation of the Planning Commission, the Board of Supervisors shall hold a public hearing on the matter. However, if the Planning Commission has recommended against the rezone, the Board of Supervisors shall

not be required to hold a public hearing or take any further action on the matter unless within five (5) days after the Planning Commission files its recommendations with the Board of Supervisors, the applicant or other interested person files a written request for such hearing with the Clerk of the Board of Supervisors. Notice of the hearing shall be given in the manner as prescribed above in paragraph 2.e.

c. The Board of Supervisors may approve, modify, or disapprove the recommendation of the Planning Commission; provided that any modification of the proposed amendment by the Board of Supervisors not previously considered by the Planning Commission during its hearing, shall first be referred to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing thereon. Failure of the Planning Commission to report within forty (40) days after the reference, or such longer period as may be designated by the Board of Supervisors, shall be deemed to be approval of the proposed modification.

Sec. 35-325.5. Findings Required for Approval of Text Amendment or Rezone.

In order for the Planning Commission to recommend approval or for the Board of Supervisors to approve a Rezone or Text Amendment request, the following findings shall be made by the Planning Commission and Board of Supervisors:

a. The request is in the interests of the general community welfare.

b. The request is consistent with the Comprehensive Plan, the requirements of State planning and zoning laws, and this Article.

c. The request is consistent with good zoning and planning practices.

Sec. 35-326. Noticing.

(Amended by Ord. No. 3802, 01/09/90; Ord. 4228, 6/18/96; City Ord. 07-06, 6/4/07)

Sec. 35-326.1. Purpose and Intent

The purpose of this section is to set forth the minimum requirements for providing notice of a public hearing and other required noticing. *(Amended by Ord. 4228, 6/18/96)*

Sec. 35-326.2. Notice of Public Hearing and Decision-Maker Action.

(Amended by Ord. 4228, 6/18/96)

1. Minimum Requirements. For all projects that require a noticed public hearing or notice of decision-maker action, notice shall be given pursuant to Sections 65090 -65096 of the California Government Code. The minimum requirements for such notice shall be as follows:

    a. Notice shall be published in at least one newspaper of general circulation within the County, and circulated in the area affected by the project, at least ten (10) calendar days prior to the hearing.

    b. Notice shall be mailed to any person who has filed a written request therefore and has supplied the Planning and Development Department with self-addressed stamped envelopes.

    c. Notice shall be mailed to the applicant(s).

    d. Notice shall be mailed to the owners of the affected property and the owners of the property within 300 feet of the exterior boundaries of the affected property, at least ten (10) calendar days prior to the hearing or action. The names and addresses used for such notice shall be those appearing on the equalized County assessment roll, as updated from time to time.

    e. If the number of owners to whom notice would be mailed or delivered pursuant to this Section is greater than 1,000, the County may instead provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the County at least ten (10) calendar days prior to the hearing.

2. Contents of Notice. The notice shall contain the following information:

    a. The name of the applicant

    b. The Planning and Development Department number assigned to the application.

    c. A description of the project and its location.

    d. The place, date, and general time of the hearing.

    e. The procedure for the submission of public comments in writing before the hearing.

    f. The procedure for public comments at the hearing.

Sec. 35-326.3. Notice of Public Hearing and Decision-Maker Action.
(Amended by Ord. 4228, 6/18/96; City Ord. 07-06, 6/4/07)

1A. Minimum Requirements for Land Use Permits not Following a Previous Discretionary Action. *(Added by City Ord. 07-06, 6/4/07)*

For Land Use Permits not following a previous discretionary action notice of Land Use Permit issuance shall be given in the following manner:

a. By the Planning and Environmental Services Department conspicuously posting notice at one (1) public place within the City's jurisdiction (e.g., Planning and Environmental Services Department).

b. Requiring that the applicant conspicuously post notice of Land Use Permit approval, as provided by the Planning and Environmental Services Department, at a minimum of three (3) locations on and around the perimeter of the subject property with at least one notice posted in a location that can be viewed from the nearest public street. The applicant shall provide proof of posting notice by filing an affidavit of noticing and any other required documentation with the Planning and Environmental Services Department, prior to permit issuance, or such other date as may be required. Failure of the applicant to comply with this Section may result in revocation of the permit.

c. Notice required pursuant to subsections a. and b., above, shall be posted by a date identified by the Planning and Environmental Services Department. If no such date is identified, the required date of posting shall be the next working day following the date of approval of the Land Use Permit.

d. Notice required to be posted shall be continuously posted for a minimum of ten (10) calendar days from the date prescribed pursuant to subsection 1.c., above.

e. Notice of the Planning and Environmental Services Department's approval of a Land Use Permit shall also be mailed to any person who has filed a written request therefore and has supplied the Planning and Environmental Services Department with self-addressed stamped envelopes.

1B. Minimum Requirements for Land Use Permits Following a Previous Discretionary Action. *(Added by City Ord. 07-06, 6/4/07)*

For Land Use Permits following a previous discretionary approval, staff from Planning and Environmental Services shall review final plans, the final project description, and fulfillment of the project's conditions of approval for conformance with the previously granted approvals, and shall issue the Land Use Permit upon verification of such conformity and compliance. There is no noticing requirement for approval of these post-discretionary Land Use Permits, nor is there an appeal of the Land Use Permit:

2. Contents of Notice. The notice shall contain the following information:

   a. The name of the applicant.

   b. The Planning and Development Department application number.

   c. A description of the project and its proposed location.

   d. The date of expiration of the appeal period.

   e. The procedure for appeal of the Land Use Permit approval.

Sec. 35-326.4 ***Failure to Receive Notice.*** *(Added by Ord. 4228, 6/18/96)*

The failure of any person or entity to receive notice given pursuant to this Section or pursuant to Sections 65090-65096 of the California Government Code shall not invalidate the actions of the Planning and Development Department or the decision-maker.

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Sec. 35-327. Appeals.

Sec. 35-327.1. Purpose and Intent

The purpose of this Sec. 35-327 is to provide procedures and to establish criteria for appeals to the Planning Commission and the Board of Supervisors.

Sec. 35-327.2. Appeals to the Planning Commission.
(Amended by Ord. 4228, 6/18/96; City Ord. 07-06, 6/4/2007)

1. The decisions of the Planning and Development Department on the approval, denial, or revocation of Land Use Permits, final approval of projects under the jurisdiction of the Director, or decisions of the Board of Architectural Review may be appealed to the Planning Commission by the applicant or any interested person adversely affected by such decision. The appeal, which shall be in writing, and accompanying fee must be filed with the Planning and Development Department within ten (10) calendar days of the date of the decision of the Planning and Development Department as follows:

    a. Within the ten (10) calendar days following the date of decision for projects under the jurisdiction of the Director.

    b. Within the ten (10) calendar days following the posting date for the notice of Land Use Permit approval, as required by Section 35-326., or if denied, within the ten (10) calendar days following the decision of the Planning and Development Department to deny such permit application.

    c. Within the ten (10) calendar days following the date of final decision by the Board or Architectural Review (BAR). If final approval by the BAR is appealed, the hearing on the appeal shall only be held after the decision on the Land Use Permit but, prior to the issuance of the Land Use Permit for such project. The BAR appeal shall be processed concurrently with any appeal of the Land Use Permit. If a denial by the BAR is appealed, a separate hearing shall be held on the BAR appeal prior to the decision on the Land Use Permit. No permits shall be issued until all appeals have been heard and/or resolved.

    d. The appellant shall state specifically in the appeal how 1) the decision of the Planning and Environmental Services Department on a Land Use Permit, or a decision of the Director or the DRB, is not in accord with the provisions and purposes of this Article or 2) there was an error or an abuse of discretion by the Planning and Environmental Services Department, Director or DRB. *(Amended by City Ord. 07-06, 6/4/07)*

2. Prior to the hearing on said appeal, the Planning and Development Department shall transmit to the Planning Commission copies of the permit application including all maps and data and a statement setting forth the reasons for the decision by the Planning and Development Department, Director, or Board of Architectural Review.

3. The Planning Commission hearing shall be de novo and the Commission shall affirm, reverse, or modify the decision of the Planning and Development Department, Director, or Board of Architectural Review at a public hearing. Notice of the time and place of said hearing shall be given in accordance with Sec. 35-326 (Noticing), and notice shall also be mailed to the appellant.

Sec. 35-327.3. Appeals to the Board of Supervisors.

1. The decisions of the Planning Commission or Zoning Administrator may be appealed to the Board of Supervisors by the applicant or any interested person adversely affected by such decision. The appeal, which shall be in writing and accompanying fee, must be filed with the Clerk of the Board of Supervisors within the ten (10) calendar days following the date of the Planning Commission's or Zoning Administrator's decision. *(Amended by Ord.4228, 6/18/96)*

2. The appellant shall state specifically in the appeal how the decision of the Planning Commission or Zoning Administrator is inconsistent with the purposes of this Article or the error or abuse of discretion committed by the Planning Commission or Zoning Administrator.

3. Prior to the hearing on said appeal, the Clerk of the Board of Supervisors shall notify the Planning Commission or Zoning Administrator that an appeal has been filed. The Planning Commission or Zoning Administrator shall then transmit to the Board of Supervisors copies of the application including all maps and data and a statement of findings setting forth the reasons for the decision by the Planning Commission or Zoning Administrator.

4. The Board of Supervisors hearing shall be de novo and the Board shall affirm, reverse, or modify the decision of the Planning Commission or Zoning Administrator considered at a public hearing. Notice of the time and place of said hearing shall be given in accordance with Sec. 35-326. (Noticing), and notice shall also be mailed to the appellant. *(Amended by Ord.4005,2/21/92)*

Sec. 35-328. Re-Applications.

No application shall be accepted nor acted upon if within the past one (1) year, substantially the same application has been made and denied by the Planning Commission, Zoning Administrator, or the Board of Supervisors, which covers substantially the same real property, unless either the Planning Commission, Zoning Administrator, or the Board of Supervisors permits such re-application because of an express finding that one or more of the following applies:

1. That new evidence material to a revised decision will be presented which was unavailable or unknown to the applicant at the previous hearings and which could not have been discovered in the exercise of reasonable diligence by the applicant.
2. That there has been a substantial and permanent change of circumstances since the previous hearings, which materially affects the applicant's real property.
3. That a mistake was made at the previous hearings which was a material factor in the denial or denials of the previous application.

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Sec. 35-329. Board of Architectural Review.

Sec. 35-329.1. Purpose and Intent.

The purpose and intent of the Board of Architectural Review is to encourage developments which exemplify the best professional design practices so as to enhance the visual quality of the environment, benefit surrounding property values, and prevent poor quality of design.

Sec. 35-329.2. Applicability.

The existing County Board of Architectural Review (BAR) as established in Ordinance 2188, Sections 2-32.2-2-32.11, shall govern the provisions of this section.

1. Any structure or sign which lies within the D - Design Control Overlay District.
2. Any structure or sign requiring Board of Architectural Review approval as specifically provided under the applicable zoning district regulations or the County Sign Ordinance.
3. Any use requiring architectural approval as specifically provided by the Planning Commission or the Board of Supervisors.
4. Any structure which falls under the jurisdiction of the Hillside and Ridgeline Development Guidelines, as authorized by this Article. *(Amended by Ord. No. 3715, 08/08/88)*
5. Communication facilities as specified in Sec. 35-292h. *(Added by Ord. 4264, 6/24/97)*

Sec. 35-329.3. Exceptions.

No Board of Architectural Review approval is required for the following:

1. Interior alterations.
2. Decks.
3. Swimming pools, hot tubs, and spas.
4. Fences or walls six (6) feet or less and gateposts of eight (8) feet or less in height, when located in the front yard setback. Fences and walls of eight (8) feet or less and gateposts of ten (10) feet or less in height when located outside of front yard setback areas and not closer than twenty (20) feet from the right-of-way line of any street. However, when a part of the overall plans of a new residence, a remodelling, or an addition to a structure requiring architectural review, such structures shall be included as part of the architectural review of the project. *(Amended by Ord. 4006, 2/21/92)*
5. Solar panels.
6. Any other exterior alteration determined to be minor by the Director.

Sec. 35-329.4. Contents of Application.

1. Prior to the issuance of any permits for developments subject to Board of Architectural Review, as many copies of the B.A.R. application and project plans, as well as additional materials (color and texture chips, etc.) as may be required shall be filed with the Planning and Development Department. The plans shall include the information and details required by the Planning and Development Department.
2. An application for approval of a sign shall contain the "Required Information" as provided in Sections 35-9. or 35-10. of the County Sign Regulations.

Sec. 35-329.5. Processing.

1. The Board of Architectural Review shall review and approve, disapprove, or conditionally approve the application submittal in accordance with Sec. 2-33.15. of Chapter 2 of the County Code. The B.A.R. shall also render its advice on exterior architecture of buildings, structures, and signs to the Planning Commission or Board of Supervisors when requested to do so.
2. Applications for Preliminary and Final review by the Board of Architectural Review shall be accepted only if the application is accompanied by a development application or if the Department is processing an existing development application for the proposed project. *(Added by Ord. 4319, 6/23/98)*

Sec. 35-329.6. Findings Required for Approval.

Prior to approving any B.A.R. application, the Board of Architectural Review shall make the following findings:

1. Overall building shapes, as well as parts of any structure (buildings, walls, fences, screens, towers, or signs) shall be in proportion to and in scale with other existing or permitted structures on the same site and in the area surrounding the property. *(Amended by Ord. 4063, 8/18/92)*
2. Mechanical and electrical equipment shall be well integrated in the total design concept.
3. There shall be harmony of material, color, and composition of all sides of a structure or building.
4. A limited number of materials will be on the exterior face of the building or structure.
5. There shall be a harmonious relationship with existing and proposed adjoining developments, avoiding excessive variety and monotonous repetition, but allowing similarity of style, if warranted.

6. Site layout, orientation, and location of structures, buildings, and signs shall be in an appropriate and well designed relationship to one another, and to the environmental qualities, open spaces, and topography of the property.

7. Adequate landscaping shall be provided in proportion to the project and the site with due regard to preservation of specimen and landmark trees, existing vegetation, selection of planting which will be appropriate to the project, and adequate provision for maintenance of all planting.

8. Signs including their lighting, shall be well designed and shall be appropriate in size and location.

9. The proposed development is consistent with any additional design standards as expressly adopted by the Board of Supervisors for a specific local community, area, or district pursuant to Sec. 35-292c of this Article. *(Amended by Ord. 4006, 2/21/92)*

Sec. 35-329.7. Appeals.

Decisions of the Board of Architectural Review are final unless, within ten (10) days after the decision, a person adversely affected by said decision appeals the decision to the Planning Commission as provided in Sec. 35-327. (Appeals).

Sec. 35-329.8. Expiration

All Board of Architectural Review approvals granted prior to the effective date of this section shall expire two years from such date or on the date the associated development permit expires, including time extensions, whichever occurs later. Board of Architectural Review approvals granted subsequent to the effective date of this section shall expire the date the associated development permit (e.g., Coastal Development Permit, Development Plan), including time extensions, expires. Where no development permit exists, Board of Architectural Review approvals shall expire two years from the date of approval, except the Director may grant an extension of the approval if an active development application is being processed by Planning and Development. *(Added by Ord. 4319, 6/23/98)*

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Sec. 35-330. Enforcement, legal procedures, and penalties

(Amended by Ord. 3509, 05/06/85)

Sec. 35-330.1. Investigation

The Director, or any person within the Department of Planning and Development authorized by the Director, is hereby authorized to investigate all reported or apparent violations of any of the provisions of this Article. If a violation is determined to exist or to be impending, the Director is hereby authorized to take such measures as he deems necessary or expedient to enforce and secure compliance with the provisions of this Article.

1. Director defined

   As used in this section, the term "Director" refers to the Director of the Planning and Development Department and also to any person within the Department of Planning and Development who is authorized by the Director to act on his or her behalf.

2. Cooperation of other officials

   The director or his or her agents may request, and shall receive, the assistance and cooperation of other officials of the County to assist in the discharge of their duties.

3. Right of entry and inspection

   The Director may enter at all reasonable times any building, structure, or premise in the County of Santa Barbara for the purpose of carrying out any act necessary to perform any duty imposed by this Article. Upon request the Director shall provide adequate identification. Except under exigent circumstances, an inspection warrant shall be obtained if entry is refused.

4. Liability

   The Director or any other person charged with the enforcement of this Article, if acting in good faith and within the course and scope of his or her employment, shall not thereby be liable personally, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as the result of, or by reason of, any act or omission occurring in the discharge of his or her duties. Any suit brought against the Director, or his or her agents or employees, because of such act or omission, performed in the enforcement of any provision of this Article, shall be defended by the County Counsel of Santa Barbara County.

Sec. 35-330.2. Work Stoppage

Where any building construction work is being done contrary to the provisions of this Article, the Director may order the work stopped by giving notice in writing and serving such notice and order on any persons engaged in doing or causing such work to be done. Any such persons, their agents, employees, or servants, shall forthwith stop such work until such time as recommencement is authorized by the Director.

Sec. 35-330.3. Referral for Legal Action

If unable to otherwise enforce the terms of this Article, the Director shall refer the matter to the District Attorney and/or County Counsel of the County of Santa Barbara for appropriate legal action.

Sec. 35-330.4. Legal Actions

1. Civil Actions

   a. Public Nuisance

      Any building or structure which is set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Article, and any use of any lands, building, or premise established, conducted, operated, or maintained contrary to the provisions of this Article, shall be and the same is hereby declared to be unlawful and a public nuisance.

   b. Injunctive Relief

      Whenever, in the judgment of the Director, any person, firm, or corporation is engaged in or is about to engage in any act or practice which constitute or will constitute a violation of any provision of this Article or any rule, regulation, order, or permit issued thereunder, and at the request of the Director, the District Attorney or County Counsel of the County may make application to the Superior Court for an order enjoining such act or practice, or for an order directing compliance, and upon a showing by the department that such person, firm, or corporation has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order, or other order may be granted.

   c. Abatement

      In the event that any person, firm, or corporation shall fail to abate a violation hereunder after notice of same and opportunity to correct or end the violation, the Director of the Planning and Development Department may request the County Counsel or District Attorney to apply to the Superior Court of this County for an

order authorizing the Planning and Development Department to undertake those actions necessary to abate the violation and requiring the violator to pay for the costs of such undertaking.

2. Civil Remedies and Penalties

a. Civil Penalties

Any person, whether acting as principal, agent, employee, or otherwise, who willfully violates the provisions of this Article or any rule, regulation, order, or permit issued thereunder, shall be liable for a civil penalty not to exceed $25,000.00 for each day that the violation continues to exist.

b. Costs and Damages

Any person, whether as principal, agent, employee, or otherwise, violating any provisions of this Article or the rules, regulations, orders, or permits issued hereunder, shall be liable to the County of Santa Barbara for the costs incurred and the damages suffered by the County, its agents, and agencies as a direct and proximate result of such violations.

c. Procedure

In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by defendant.

3. Criminal Actions and Penalties

a. Infractions

Any person, firm, or corporation, whether as a principal, agent, employee, or otherwise, violating any provisions of this Article, or the rules, regulations, orders, or permits issued thereunder, shall be guilty of an infraction, and upon conviction thereof, shall be punishable by 1) a fine not exceeding one hundred dollars ($100.00) for a first violation; 2) a fine not exceeding two hundred dollars ($200.00) for a second violation of the same ordinance within one year; and 3) a fine not exceeding five hundred dollars ($500.00) for each additional violation of the same ordinance within one year.

b. Misdemeanors

Any offense which would otherwise be an infraction may, at the discretion of the District Attorney, be filed as a misdemeanor if the defendant has been convicted of two or more violations of any of the provisions of this Article within the 12-month period immediately preceding the commission of the offense or has been convicted of three or more violations of any of the provisions of this Article within the 24-month period immediately preceding the commission of the offense. Upon conviction of a misdemeanor the punishment shall be a fine of not less than $500.00 nor more than $25,000.00 or imprisonment in the County jail for a period not to exceed 60 days or by both such fine and imprisonment, except that where such prior convictions are alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury, the punishment shall be a fine of no less than $1,000.00 nor more than $25,000.00 or by imprisonment in the County jail for a period not to exceed six months or by both such fine and imprisonment.

c. Violations

Each and every day during any portion of which any violation of this article or the rules, regulations, orders, or permits issued thereunder, is committed, continued or permitted by such person, firm, or corporation shall be deemed a separate and distinct offense.

Sec. 35-330.5. Cumulative Remedies and Penalties

The remedies or penalties provided by this Article are cumulative to each other and to the remedies or penalties available under all other laws of this State.

Sec. 35-330.6. Recovery of Costs *(Amended by Ord. 3601, 10/06/86)*

1. Purpose and Intent

This section establishes procedures for the recovery of administrative costs, including staff time expended on the enforcement of the provisions of this Article in cases where no permit is required in order to cure a violation. The intent of this section is to recoup administrative costs reasonably related to enforcement.

2. Definitions

For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them herein. *(Amended by Ord. 4299, 3/24/98)*

Owner: The record owner or any person having possession and control of the subject property;

Costs: Administrative costs, including staff time expended and reasonably related to enforcement for items including site inspections, summaries, reports, telephone contacts, correspondence with the owner and any concerned citizens or officials, and related travel time.

3. The Department of Planning and Development shall maintain records of all administrative costs, incurred by responsible County Departments, associated with the processing of violations and enforcement of this Article and shall recover such costs from the property owner as provided herein. Staff time shall be calculated at an hourly rate as established and revised from time to time by the Board of Supervisors.

4. Notice

Upon investigation and a determination that a violation of any of the provisions of this Article is found to exist, the Director, or any person within the department authorized by the Director, shall notify the record owner or any person having possession or control of the subject property by mail of the existence of the violation, the Department's intent to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing on objections thereto. The notice shall be in substantially the following form:

NOTICE

The Department of Planning and Development has determined that conditions exist at the property at _____ which violate Section _____ of the County Code, to wit:

(description of violation)

_____

_____

Notice is hereby given that at the conclusion of this case you will receive a summary of administrative costs associated with the processing of this violation, at an hourly rate as established and adjusted from time to time by the Board of Supervisors. The hourly rate presently in effect is _____ per hour of staff time.

You will have the right to object to these charges by filing a Request for Hearing with the Department of Planning and Development within ten (10) days of service of the summary of charges, pursuant to Section 35-330.

5. At the conclusion of the case, the Director shall send a summary of costs associated with enforcement to the owner and/or person having possession or control of the subject property by certified mail. Said summary shall include a notice in substantially the following form:

NOTICE

If you object to these charges you must file a Request for Hearing on the enclosed form within ten (10) days of the date of this notice.

IF YOU FAIL TO TIMELY REQUEST A HEARING, YOUR RIGHT TO OBJECT WILL BE WAIVED AND YOU WILL BE LIABLE TO THE COUNTY FOR THESE CHARGES, TO BE RECOVERED IN A CIVIL ACTION IN THE NAME OF THE COUNTY, IN ANY COURT OF COMPETENT JURISDICTION WITHIN THE COUNTY.

Dated:_____.

_____

Director

In the event that (a) no Request for Hearing is timely filed or, (b) after a hearing the Director affirms the validity of the costs, the property owner or person in control and possession shall be liable to the County in the amount stated in the summary or any lesser amount as determined by the Director. These costs shall be recoverable in a civil action in the name of the County, in any court of competent jurisdiction within the County.

6. Any property owner, or other person having possession and control thereof, who receives a summary of costs under this section shall have the right to a hearing before the Director on his objections to the proposed costs in accordance with the procedures set forth herein.

   a. A request for hearing shall be filed with the department within ten (10) days of the service by mail of the Department's summary of costs, on a form provided by the Department.

   b. Within thirty (30) days of the filing of the request, and on ten (10) days written notice to the owner, the Director shall hold a hearing on the owner's objections, and determine the validity thereof.

   c. In determining the validity of the costs, the Director shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include, but are not limited to, the following: Whether the present owner created the violation; whether there is a present ability to correct the violation; whether the owner moved promptly to correct the violation; the degree of cooperation provided by the owner; whether reasonable minds can differ as to whether a violation exists.

   d. The Director's decision shall be appealable to the Board of Supervisors pursuant to § 35-327.3.

Sec. 35-330.7. Processing Fee Assessment *(Added By Ord. 3601, 10/06/86)*

Any person who shall erect, construct, alter, enlarge, move or maintain any building or structure, or institute a use for which a permit is required by this Article without first having obtained a permit therefor, shall, if subsequently granted a permit for that building, structure or use, or any related building, structure or use on the property, first pay such additional permit processing fees as established from time to time by the Board of Supervisors.

Sec. 35-330.8. Violations of Conditions — Penalty

If any portion of a privilege authorized by a Modification, Coastal Development Permit, Variance, Conditional Use Permit, Development Plan or other permit approved under this chapter is utilized, the conditions of the Modification, Coastal Development Permit, Variance, Conditional

Use Permit, Development Plan or other permit approved under this chapter, immediately become effective and must be strictly complied with. The violation of any valid condition imposed by the Planning Commission, Board of Supervisors, Zoning Administrator, or Planning and Development Department in connection with the granting of any Modification, Coastal Development Permit, Variance, Conditional Use Permit, Development Permit, or other permit taken pursuant to the authority of Chapter 35, shall constitute a violation and shall be subject to the same penalties as defined in Section 35-330.

Sec. 35-331. Validity.

If any division, section, sentence, clause or phrase of this Article is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this Article. The Board of Supervisors hereby declares that it would have passed this Article and each section, sub-section, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional or invalid.

Sec. 35-332. Responsibility and Authority of Director.

The purpose of this Sec. 35-322. is to clarify the responsibility and authority of the Director of the Planning and Development Department as to the Planning Commission, Zoning Administrator and staff of the department.

Sec. 35-332.1. Responsibility and Authority of Director.

Wherever this ordinance makes reference to "Zoning Administrator" or "staff" it is expressly understood that said Zoning Administrator or staff are acting under the direction and control of the Director and that they report directly to the Director rather than the Planning Commission or Board of Supervisors.

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Sec. 35-333. through Sec. 35-349. Reserved for a Future Section.

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