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CHAPTER 1-1 CODE ADOPTION

Section 1-1.01. Title: Reference to Code.

This Code shall be known as the "Santa Maria Municipal Code." It shall be sufficient to refer to this Code as the Santa Maria Municipal Code in any prosecution for the violation of any provision thereof. It shall also be sufficient to designate any ordinance adding to, amending or repealing this Code, or portions thereof, as an addition or amendment to, or a repeal of, the Santa Maria Municipal Code, or a portion thereof. (Ord. 85-1095 § 1 (part), eff. 3/19/85)

Section 1-1.02. Validity of Code: Severability.

If any section, subsection, sentence, clause, or phrase of this Code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Council declares that it would have passed this Code and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional. (Ord. 85-1095 § 1 (part), eff. 3/19/85)

Section 1-1.03. Maintenance of Code.

Not less than three (3) copies of this Code shall be filed for use and examination by the public in the office of the City Clerk and maintained on file in the City Clerk's office as the official copies of the Code. Additional copies of the Code shall be distributed to the departments and divisions of the City as shall be prescribed by the City Manager.

Upon the adoption of any amendment or addition to this Code, or upon the repeal of any of its provisions, the City Clerk shall certify thereto and shall codify said changes in the Code within 30 days of adoption of the ordinance making said changes, noting thereon the number and date of the ordinance pursuant to which such action is taken.

A duly certified copy of each ordinance making changes in the Code shall be filed in the office of the City Clerk in books for such purpose, duly indexed for ready reference.

After causing all changes to be codified in the Code, the City Clerk shall post the revised Code on the City of Santa Maria website and on the Intranet. Replacement pages of the Code including all changes shall be distributed to all those holding Code books at least semi-annually. (Ord. 85-1095 § 1 (part), eff. 3/19/85; Ord. 2011-02, eff 5/5/11)

Section 1-1.04. Administrative Code.

The City Manager is directed to establish and implement the Administrative Code. The Administrative Code shall contain, among other desirable provisions, administrative policies and procedures for the implementation and administration of this Code. (Ord. 85-1095 § 1 (part), eff. 3/19/85)

CHAPTER 1-2 GENERAL PROVISIONS

Section 1-2.01. Definitions.

The following words and phrases, whenever used in the ordinances of the City of Santa Maria, California, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

(a) "City" and "town" each mean the City of Santa Maria, California, or the area within the territorial limits of the City of Santa Maria, California, and such territory outside the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.

(b) "Council" means the City Council of the City of Santa Maria. "All its members" or "all Councilmembers" means the total number of Councilmembers holding office.

(c) "County" means the County of Santa Barbara.

(d) "Day" means the period of time between any midnight and the midnight following.

(e) "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

(f) "Law" denotes applicable federal law, the Constitution, and statutes of the State of California, the ordinances of the City of Santa Maria, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

(g) "May" is permissive.

(h) "Month" means a calendar month.

(i) "Must" and "shall" are each mandatory except in reference to acts or omissions of the City, Council, or any board, commission, officer, agent or employee of the City while acting in the course and scope of their duties or employment. Within this exception "must" and "shall" are directory only.

(j) "Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

(k) "Or" may be read "and," and "and" may be read "or," if the sense requires it.

(l) "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

(m) "Peace officers" signifies any one of the officers mentioned in Section 817 of the Penal Code of the State of California.

(n) "Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them.

(o) "Personal property" includes money, goods, chattels, things in action, and evidences of debt.

(p) "Preceding" and "following" mean next before and next after, respectively.

(q) "Property" includes real and personal property.

(r) "Real property" includes lands, tenements, and hereditaments.

(s) "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

(t) "Signature" or "subscription" includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name, but a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

(u) "State" means the State of California.

(v) "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

(w) "Tenant" and "occupant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

(x) "Week" means seven (7) consecutive days.

(y) "Writing" includes any form of a recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language, unless it is expressly provided otherwise.

(z) "Written" includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visual form.

(aa) "Year" means a calendar year. (Ord. 84-1083 § 1, eff. 10/18/84; prior Code § 1-2(part))

* Editor's Note: Section 1-2.01 was amended by request of the City Attorney.

Section 1-2.02. Title of office.

Use of the title of any officer, employee, department, board, or commission means that officer, employee, department, board, or commission of the City.

* Editor's Note: Section 1-2.02 was added by request of the City Attorney.

Section 1-2.03. Interpretation of language.

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

* Editor's Note: Section 1-2.03 was added by request of the City Attorney.

Section 1-2.04. Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the City, unless it is apparent from the context that a different construction is intended:

(a) Gender. Each gender includes the masculine, feminine, and neuter genders.

(b) Singular and Plural. The singular number includes the plural and the plural includes the singular.

(c) Tenses. Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.

* Editor's Note: Section 1-2.04 was added by request of the City Attorney.

Section 1-2.05. Acts by agents.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent.

* Editor's Note: Section 1-2.05 was added by request of the City Attorney.

Section 1-2.06. Joint authority.

All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers unless otherwise specified. (Prior Code § 1-2 (part))

Section 1-2.07. Prohibited acts include causing and permitting.

Whenever in the ordinances of the City, any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

* Editor's Note: Section 1-2.07 was added by request of the City Attorney.

Section 1-2.08. Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.

* Editor's Note: Section 1-2.08 was added by request of the City Attorney.

Section 1-2.09. Official time.

Whenever certain hours are named in this Code, they shall mean Pacific Standard Time or Daylight Saving Time as may be in current use in the City. (Prior Code § 1-2 (part))

Section 1-2.10. Construction.

The provisions of the ordinances of the City, and all proceedings under them, are to be construed with a view to effect their objects and to promote justice.

* Editor's Note: Section 1-2.10 was added by request of the City Attorney.

Section 1-2.11. Repeal shall not revive any ordinances.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby.

* Editor's Note: Section 1-2.11 was added by request of the City Attorney.

Section 1-2.12. No mandatory duty.

Notwithstanding any other provision of the law, no City ordinance, resolution, policy, rule, or regulation with the force of law presently in effect, or hereafter adopted or enacted, will impose a mandatory duty upon the City, Council, or any board, commission, officer, agent, or employee of the City while acting in the course and scope of their duties or employment. (Ord. 84-1083 § 2, eff. 10/18/84)

CHAPTER 1-3 CITY SEAL

Section 1-3.01. City seal.

The seal of the City shall be a design bearing upon it the words, "City of Santa Maria," with a representation of Columbus' flagship, the Santa Maria. (Prior Code § 1-8)

CHAPTER 1-4 DATUM PLANE

Section 1-4.01. Datum plane.

(a) For the purpose of establishing a permanent mark from which the base of vertical distances in the City can be readily ascertained and determined a plug of lead with brass screw is inserted in the top of and near the southeasterly corner of the stone base of a stone column situated at the westerly side of the entrance to the building at the northwesterly corner of North Lincoln Street and West Main Street. The horizontal plane at the surface of the upper end of the metal plug is fixed, established, and declared to be the datum plane from which all vertical distances must be estimated, designated, and measured in grading and determining the elevations of streets, curbs, pavements, sidewalks, gutters, sewers, bridge structures, and all other works of the City, and in Section 8-7.01, and in all ordinances, orders, enactments, and contracts passed or made after the effective date of the ordinance from which this section derives, whenever an elevation or grade is named in feet it shall be deemed to mean so many feet vertically above or below the established base or datum plane.

(b) The base or datum plane is two hundred five and ninety-five hundredths (205.95) feet above the level of the sea. (Prior Code § 1-9)

CHAPTER 1-5 REVIEW OF ADMINISTRATIVE DECISIONS

Section 1-5.01. Purpose.

This chapter is enacted to promote the public welfare by providing for the orderly review of administrative decisions. (Ord. 82-1038 § 1 (part), eff. 10/7/82: prior Code § 1-11 (part))

Section 1-5.02. Statutory provisions adopted.

The provisions of Section 1094.6 of the Code of Civil Procedure of the State are adopted by the Council, and those provisions are made applicable in the City as further specified in Section 1-5.03. (Ord. 82-1038 § 1 (part), eff. 10/7/82: prior Code § 1-11 (a))

Section 1-5.03. Applicability to decisions.

The provisions of this chapter shall be applicable to "decisions," as defined by Section 1094.6 of the Code of Civil Procedure. (Ord. 82-1038 § 1 (part), eff. 10/7/82: prior Code § 1-11 (b))

Section 1-5.04. Notice to interested persons of time limitation.

(a) The City board, body, commission, officer, or agent charged with the duty to notify an interested person of a final City decision affecting him or her, shall concurrently provide written notice of the ninety-day (90) statute of limitation imposed by this section upon the filing of a petition for judicial review of the final City decision.

(b) "Interested person" means:

- (1) Any City officer or employee who has been suspended, demoted or dismissed;
- (2) Any person whose City permit or license has been revoked;
- (3) Any person whose application for a permit or license has been denied; or
- (4) Any person whose application for a City retirement benefit or allowance has been denied in whole or in part. (Ord. 82-1038 § 1 (part), eff. 10/7/82: prior Code § 1-11 (c))

CHAPTER 1-6 GENERAL PENALTY

Section 1-6.01. Violations, misdemeanors or infractions.

(a) It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements or provisions of this Code heretofore or hereafter enacted or the provisions of any code adopted by reference by this Code. Any person violating any such provisions or failing to comply with any of the mandatory requirements of this Code, or any code adopted by reference by this Code, shall be guilty of an infraction, unless such violation or failure to comply is specifically declared to be a misdemeanor by other provisions of this Code.

(b) Any person convicted of an infraction under the provisions of this Code, or any code adopted by reference by this Code, shall be punished by:

(1) A fine not exceeding one hundred and no/100ths dollars (\$100.00) for a first violation;

(2) A fine not exceeding two hundred and no/100ths dollars (\$200.00) for a second violation of the same provisions within one year; and

(3) A fine not exceeding five hundred and no/100ths dollars (\$500.00) for each additional violation of the same provisions within one year.

(b1) Notwithstanding any other provision of law, a violation of local building and safety codes determined to be an infraction is punishable by:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation;

(2) A fine not exceeding five hundred dollars (\$500) for a second violation of the same ordinance within one year;

(3) A fine not exceeding one thousand dollars (\$1,000) for each additional violation of the same ordinance within one year of the first violation.

(c) Any person convicted of a misdemeanor shall be punished by a fine of not more than one thousand and no/100ths dollars (\$1,000.00), or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

(d) Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of or failure to comply with any provision of this Code, or the provisions of any code adopted by reference by this Code, is committed, continued or permitted by such person and shall be punishable accordingly.

(e) In addition to the penalties provided by this section, or elsewhere in this Code, or in any code adopted by reference by this Code, any condition caused or permitted to exist in violation of any of the provisions of this Code, or the provisions of any code adopted by reference by this Code, shall be deemed a public nuisance and may be abated by the City, and each day such condition continues shall be regarded as a new and separate offense.

(f) In any civil action, administrative proceeding or special proceeding commenced by the City to abate a public nuisance, to enjoin a violation of any provision of this Code, or to collect a civil debt owing to the City, the prevailing party shall be entitled to recover from the defendant in any such action reasonable attorney's fees and costs of suit. Provided, however, that recovery of attorney's fees shall be limited to those individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. Provided further, that in no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding. (Ord. 2007-08, eff. 7/5/07; Ord. 2004-01, eff. 2/20/04; Ord. 85-1095 § 2 (part), eff. 3/19/85)

Section 1-6.02. Changes of misdemeanors to infractions.

Any violation expressly declared to be punishable, in the discretion of the court, by either a fine, or by a fine or imprisonment, or both, shall become an infraction for all purposes under any of the following circumstances:

(a) Where a judgment imposes a punishment of a fine not exceeding one hundred and no/100ths dollars (\$100.00) in the case of a first offense; or

(b) When the court grants probation to a defendant without the imposition of a sentence and, at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be an infraction; or

(c) When the City Attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is an infraction. (Ord. 85-1095 § 2 (part), eff. 3/19/85; Ord. 2010-03, eff. 5/20/10)

Section 1-6.03. Civil penalty.

Any person who violates any provision of this Code shall be liable to the City for a civil penalty not to exceed two hundred fifty dollars (\$250.00) for each day or part thereof that said violation occurs. The City Attorney is

authorized to bring a civil action in any court of competent jurisdiction to recover such civil penalties for the City.
(Ord. 2008-12, eff. 7/31/08)

CHAPTER 1-7 CITATION OF VIOLATORS

Section 1-7.01. Authority.

The procedure set forth in this chapter is authorized pursuant to Penal Code Sections 836.5 and 853.5, et seq. (Ord. 88-19 § 1, eff. 11/3/88; Ord. 85-1095 § 2 (part), eff. 3/19/85)

Section 1-7.02. Citation for violation.

If a person is arrested for a violation of this Code or an ordinance of the City and is not immediately taken before a magistrate as set forth in the State Penal Code, the arresting officer or the officer's supervisor shall prepare in duplicate a written notice to appear in court. The officer is also authorized to issue a notice to appear to a corporation.

This written notice to appear shall contain the name and address of the person arrested, the offense charged, the time and place, and where and when the person shall appear in court.

The following public officers or employees are authorized to arrest and to issue a notice to appear for the following portions of the Santa Maria Municipal Code, for which they respectively have a duty to enforce:

Officer or Employee	Portion of Code
1. Sworn Police Officer Provisional Officer Arson Investigator Senior Park Services Officer Park Services Aide Park Services Officer II	The entire Municipal Code
2. Police Services Technician	Title 7
3. Fire Chief Deputy Fire Chief Battalion Chief Fire Marshal Fire Prevention Officer I/II/III	Chapter 9-3
4. Code Compliance Supervisor Code Compliance Officer I/II Senior Code Compliance Officer Technical Aide III Compliance Inspector	The entire Municipal Code, excluding Title 7; Chapter 7-2 and Catering Vehicle Ordinance (Section 7-5.04)
5. Risk Manager	Title 4 Chapter 5-4

(Ord. 2008-27, eff. 12/4/08; Ord. 2007-08, eff. 7/5/07; Ord. 2005-01, eff. 3/3/05; Ord. 2004-05, eff. 5/21/04; Ord. 2003-02, eff. 3/6/03; Ord. 2002-05, eff. 7/18/02; Ord. 88-19 § 2, eff. 11/3/88; Ord. 85-1095 § 2(part), eff. 3/19/85)

Section 1-7.03. Time and place specified in notice to appear.

The time specified in the notice to appear must be at least ten (10) days after the arrest; provided, however, that the ten (10) day requirement may be waived by the person arrested. The place specified in the notice to appear shall be:

(a) The magistrate before whom the arrested person would be taken if the requirement of taking an arrested person before a magistrate were complied with; or

(b) An officer authorized by the court to receive a deposit of bail. (Ord. 88-19 § 3, eff. 11/3/88; Ord. 85-1095 § 2 (part), eff. 3/19/85)

Section 1-7.04. Delivery of copies and release of person arrested.

The officer shall deliver one (1) copy of the notice to appear to the arrested person. The arrested person must give his written promise to appear in court in order to be released from custody of the arresting officer by signing the duplicate notice. The officer shall retain the duplicate notice. The arresting officer shall then immediately release the person arrested from custody. (Ord. 85-1095 § 2 (part), eff. 3/19/85)

Section 1-7.05. Filing of notice and fixing bail.

(a) As soon as practicable, the officer shall file the duplicate notice with the magistrate specified in the notice. Thereupon, the magistrate shall fix the amount of bail which in his judgment, in accordance with Section 1275 of the Penal Code, is reasonable and sufficient for the appearance of the defendant and shall endorse upon the notice a statement signed by him in the form set forth in Section 815(a) of the Penal Code. The defendant may, prior to the date upon which he promised to appear in court, deposit the amount of bail thus set with the magistrate. When the case is called for arraignment before the magistrate, if the defendant does not appear in person or by counsel, the magistrate may declare the bail forfeited and may in his discretion order that no further proceedings may be had in the case, unless the defendant is charged with violating certain sections of the Penal, Health and Safety, and Public Resources Codes and has previously been convicted of such a violation.

(b) Upon making of the order that no further proceedings be had, the sums deposited as bail shall be paid into the county treasury for distribution under Section 1463 of the Penal Code. (Ord. 85-1095 § 2 (part), eff. 3/19/85)

Section 1-7.06. Issuance of warrant for arrest.

A warrant shall not issue on the charge for the arrest of a person who gives his written promise to appear in court, unless and until he violates the promise to appear or has failed to deposit bail, or fails to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law. (Ord. 85-1095 § 2 (part), eff. 3/19/85)

Section 1-7.07. Violation of promise to appear a misdemeanor.

A person who willfully violates his written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested. (Ord. 85-1095 § 2 (part), eff. 3/19/85)

Section 1-7.08. Failure to appear.

(a) When a person signs a written promise to appear at the time and place specified in the written promise to appear and shall issue and have delivered for execution a warrant for his arrest within twenty (20) days after his failure to appear as promised, or if the person promises to appear before an officer authorized to accept bail other than a magistrate and fails to do so on or before the date which he promised to appear, then, within twenty (20) days after the delivery of the written promise to appear by the officer to a magistrate having jurisdiction over the offense.

(b) When a person violates his promise to appear before an officer authorized to receive bail other than a magistrate, the officer shall immediately deliver to the magistrate having jurisdiction over the offense charged the written promise to appear and the complaint, if any, filed by the arresting officer. (Ord. 85-1095 § 2 (part), eff. 3/19/85)

Section 1-7.09. Application of procedure.

The procedure set forth in this chapter applies to each provision of the Code and to each ordinance of the City if the violation of it is punishable as a misdemeanor. (Ord. 85-1095 § 2 (part), eff. 3/19/85)

CHAPTER 1-8 ADMINISTRATIVE PENALTIES

Section 1-8.01. Applicability.

- (a) This chapter provides for administrative penalties which are in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this Code.
- (b) The City may use this chapter in its absolute discretion. (Ord. 99-26 § 1 (part), 1999, eff. 1/20/00)

Section 1-8.02. Definitions.

- (a) "Administrative costs" include any and all costs incurred by the City in connection with the matter before the Board including, but not limited to, costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, and costs for all inspections necessary to enforce a compliance order.
- (b) "Board" means the Code Compliance Board of the City of Santa Maria.
- (c) "Compliance Officer" shall mean any official authorized or charged by this Code or by the City Attorney to enforce any provision of this Code.
- (d) "Responsible party" shall have the same meaning as in Section 5-6.200(h) of this Code. (Ord. 99-26 § 1 (part), 1999, eff. 1/20/00; Ord. 2003-02, eff. 3/6/03)

Section 1-8.03. Compliance order.

- (a) Whenever the Compliance Officer determines that a violation of any provision of this Code within the Compliance Officer's responsibility is occurring or exists, the Compliance Officer may issue a compliance order to any person responsible for the violation.
- (b) A compliance order shall contain the following information:
 - (1) The date and the location of the violation;
 - (2) The section of this Code violated and a description of the violation;
 - (3) The actions required to correct the violation;
 - (4) The time period after which administrative penalties will begin to accrue if compliance with the order has not been achieved; and
 - (5) Either a copy of this chapter or an explanation of the consequences of noncompliance with this chapter and a description of the hearing procedure and appeals process. (Ord. 99-26 § 1 (part), 1999, eff. 1/20/00)

Section 1-8.04. Methods of service.

All notices required by this chapter shall be served pursuant to the provisions of Section 5-6.207.

Section 1-8.05. Hearing.

- (a) If the Compliance Officer determines that all violations have been corrected within the time specified in the compliance order, no further action shall be taken.
- (b) If compliance is not achieved within the time specified in the compliance order, the Compliance Officer shall advise the Secretary to the Board to set a hearing before the Board.
- (c) The Secretary to the Board shall cause written notice to be served on the violator and, where real property is involved, a notice of hearing shall be served on the property owner at the address as it appears on the last equalized County assessment roll available on the date the notice is prepared. (Ord. 99-26 § 1 (part), 1999, eff. 1/20/00)

Section 1-8.06. Notice of hearing.

- (a) Every notice of hearing on a compliance order shall contain the date, time and place at which the hearing shall be conducted by the Board.
- (b) Every hearing shall be set for a date not less than fifteen (15) days nor more than sixty (60) days from the date of the notice of hearing unless the Compliance Officer determines the matter is urgent or good cause exists for an extension of time; provided, however, that upon the request of a person who has received a compliance order and who asserts a prior restraint upon freedom of expression, the hearing shall be held and completed within two (2) business days.
- (c) The hearing serves to provide a full opportunity for a person subject to a compliance order to object to the determination that s/he is a responsible party, that a violation has occurred and/or that the violation continues to exist. The failure of a person subject to a compliance order to appear at a hearing shall constitute a failure to exhaust administrative remedies. (Ord. 99-26 § 1 (part), eff. 1/20/00)

Section 1-8.07. Hearing procedure – findings and order.

(a) At the time and place set forth in the notice of hearing, the Board shall conduct a hearing according to the provisions of Article 3 of Chapter 5-6 of this Code.

(b) The Board shall consider any written or oral evidence consistent with its rules of procedure regarding the violation and compliance by the responsible party.

(c) Subject to subsection (g), within fifteen (15) days following the conclusion of the hearing, the Board shall make findings, and issue its determination regarding:

(1) The existence of the violation.

(2) The failure of the violator or owner to take required corrective action within the time period stated in the compliance order.

(d) The Board shall issue written findings on each violation. The findings shall be supported by evidence received at the hearing.

(e) If the Board finds by the preponderance of evidence that a violation has occurred and that the violation was not corrected within the time period specified in the compliance order, the Board shall issue an administrative order.

(f) If the Board finds that no violation has occurred or that the violation was corrected within the time period specified in the compliance order, the Board shall issue a finding of those facts.

(g) Upon issuance, the person who received the compliance order shall be served with the finding of facts and, if applicable, the administrative order. Service shall be made in the manner provided for giving notice by this chapter. In the case of a person who received a compliance order, asserted a prior restraint upon freedom of expression and requested an early hearing, the service shall be made within two (2) business days after the hearing. (Ord. 99-26 § 1 (part), eff. 1/20/00).

Section 1-8.08. Administrative Order: Contents.

The administrative order described in Section 1-8.07 may impose any or all of the following:

(a) An order to correct, including a schedule for correction where appropriate;

(b) Administrative penalties as provided in Section 1-8.09;

(c) Administrative costs as provided in Section 1-8.10. (Ord. 99-26 § 1 (part), eff. 1/20/00)

Section 1-8.09. Administrative penalties.

(a) The Board may impose administrative penalties for the violation of any provision of this Code. For any related series of violations, the penalty shall not exceed Two Thousand Five Hundred Dollars (\$2500) per day for each ongoing violation where the violation is a misdemeanor under this Code; the amount of the penalty shall not exceed the amount provided by Section 1-6.01 of this Code where the violation is an infraction. The total administrative penalty shall not exceed One Hundred Thousand Dollars (\$100,000) exclusive of administrative costs, interest and restitution for compliance inspections.

(b) In determining the amount of the administrative penalty, the Board may take any or all of the following factors into consideration:

(1) The duration of the violation;

(2) The frequency, recurrence and number of violations;

(3) The seriousness of the violation;

(4) The good faith efforts of the responsible party to come into compliance;

(5) The economic impact of the penalty on the responsible party;

(6) The impact of the violation on the community;

(7) Such other factors as justice may require.

(c) Administrative penalties imposed by the Board shall accrue from the date specified in the compliance order and shall cease to accrue on the date the violation is corrected as determined by the Compliance Officer or the Board.

(d) The Board, in its discretion, may suspend the imposition of applicable penalties for any period of time during which:

(1) The responsible party has applied for necessary permits; and

(2) Such permits are necessary to achieve compliance; and

(3) Such permit applications are actively pending before the City, State, or other appropriate governmental agency.

(e) Administrative penalties assessed by the Board shall be due by the date specified in the administrative order.

(f) Administrative penalties assessed by the Board are a debt owed to the City and, in addition to all other means of enforcement, if the violation is located on real property, may be enforced by a special assessment or lien as provided in Section 5-6.402 and/or Section 5-6.403.

(g) If the violation is not corrected as specified in the Administrative Order to correct and no suspension is in effect, administrative penalties shall continue to accrue on a daily basis until the violation is corrected, subject to the maximum amount set for in Section 1-8.07 (a) above.

(h) If the violator gives written notice to the Compliance Officer that the violation has been corrected and if the Compliance Officer finds that compliance has been achieved, the Compliance Officer shall deem the date the written notice was postmarked or personally delivered to the Compliance Officer or the date of the final inspection, whichever first occurred, to be the date the violation was corrected. If no written notice is provided to the Compliance Officer, the violation will be deemed corrected on the date of the final inspection. (Ord. 99-26 § 1 (part), eff. 1/20/00)

Section 1-8.10. Administrative costs.

The Board may assess administrative costs against the responsible party when it finds that a violation has occurred and that compliance has not been achieved within the time specified in the compliance order. (Ord. 99-26 § 1 (part), eff. 1/20/00; Ord. 2001-01, eff. 3/8/01)

Section 1-8.11. Failure to comply with administrative order.

Failure to pay the assessed administrative penalties and administrative costs specified in the administrative order of the Board may be enforced as:

(a) A personal obligation of the responsible party; and/or

(b) If the violation is in connection with real property, a special assessment or lien against the real property as provided for in Chapter 5-6, Article 4 of this Code. The special assessment or lien shall remain in effect until paid in full. (Ord. 99-26 § 1 (part), eff. 1/20/00)

Section 1-8.12. Recovery of administrative penalties.

The City may collect the assessed administrative penalties and administrative costs by use of all available legal means, including recordation of a special assessment or lien pursuant to Chapter 5-6, Article 4 of this Code. (Ord. 99-26 § 1 (part), eff. 1/20/00)

Section 1-8.13. Report of compliance after administrative order.

If the Compliance Officer determines that compliance with the administrative order has been achieved, s/he shall file a compliance report with the Board and notify the responsible party pursuant to Section 5-6.309 of this Code. (Ord. 99-26 § 1 (part), eff. 1/20/00)

Section 1-8.14. Compliance dispute.

A compliance dispute shall be resolved pursuant to the procedures set forth in Section 5-6.310. (Ord. 99-26 § 1 (part), eff. 1/20/00; Ord. 2005-01, eff. 3/3/05)

Section 1-8.15. Lien procedure.

Whenever the amount of any administrative penalty and/or administrative cost imposed by the Board pursuant to this chapter in connection with real property has not been satisfied in full within thirty (30) days or such other time limit set forth in the Administrative Order, and/or has not been successfully challenged by a timely appeal as provided in Section 1-8.17, this obligation shall constitute a special assessment and/or lien against the real property on which the violation occurred. The special assessment and/or lien shall be imposed pursuant to the procedure set forth in Chapter 5-6, Article 4 of this Code. (Ord. 99-26 § 1 (part), eff. 1/20/00)

Section 1-8.16. Satisfaction of lien.

Once payment in full is received by the City for outstanding penalties and costs, the City Clerk or the Director of Administrative Services shall either record a notice of satisfaction or provide the responsible party or financial institution with a notice of satisfaction so that they may record this notice with the Office of the County Recorder. Such notice of satisfaction shall cancel the City's lien. (Ord. 99-26 § 1 (part), eff. 1/20/00)

Section 1-8.17. Appeal.

Any person affected by the decision of the Board may appeal the decision to the Superior Court of Santa Barbara County within twenty (20) days of the decision or service of the Administrative Order. The appeal shall be governed by the provisions of Government Code Section 53069.4. (Ord. 99-26 § 1 (part), eff. 1/20/00)

CHAPTER 1-9 ADMINISTRATIVE CITATIONS, FINES AND HEARING PROCEDURES

Section 1-9.01. Authority.

The procedure set forth in this chapter is authorized by Government Code Section 53069.4. (Ord. 99-27, eff. 12/21/99)

Section 1-9.02. Applicability.

(a) This chapter provides for administrative citations, fines and hearing procedures which are in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this Code. This chapter shall also apply to supplement procedures located elsewhere in this Code in order to provide due process.

(b) In the case of a continuing violation pertaining to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety, a reasonable time not to exceed six (6) months shall be provided to remedy or correct the violation prior to imposition of fines or penalties. In determining what is a reasonable time, the City may consider the estimate of local professionals including licensed contractors. (Ord. 99-27, eff. 12/21/99)

Section 1-9.03. Administrative citations.

(a) Whenever any of the officers or employees named in Section 1 7.02 of this Code, or an Animal Control Officer pursuant to contract with the City, or any other officer designated by the City Attorney, determines that a violation of this Code has occurred, the officer or employee shall have the authority to issue an administrative citation to any person who is a responsible party within the meaning of Section 5-6.200(h) of this Code.

(b) Each administrative citation shall contain:

- (1) The date of the violation;
- (2) The address or a definite description of the location where the violation occurred;
- (3) The section of this Code violated and a description of the violation;
- (4) The amount of the fine for the Code violation;
- (5) A description of the fine payment process, including a description of the time within which and the place to which the fine must be paid;
- (6) An order prohibiting the continuation or repeated occurrence of the Code violation described in the administrative citation;
- (7) A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained;
- (8) In the case of a violation described in Section 1 9.02(b), the time within which the violation must be corrected in order to avoid a fine; and
- (9) The name, signature and department of the person issuing the citation. (Ord. 99-27, eff. 12/21/99; Ord. 2001-01, eff. 3/6/01; Ord. 2003-02, eff. 3/6/03)

Section 1-9.04. Amount of fines.

The amount of fines for Code violations imposed pursuant to this chapter shall not exceed the maximum amounts provided by Section 1 6.01 of this Code.

Section 1-9.05. Payment of fines.

(a) Fines shall be paid to the City of Santa Maria within thirty (30) days after the administrative citation, except as otherwise specified.

(b) In the case of a violation described in Section 1 9.02(b), the fine shall be paid to the City of Santa Maria within thirty (30) days after the date specified for compliance by the administrative citation.

(c) An administrative fine paid pursuant to subsection (a) or (b) shall be refunded in accordance with Section 1 9.10. if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

(d) Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the Code violation that is the subject of the administrative citation. (Ord. 99-27, eff. 12/21/99)

Section 1-9.06. Hearing request.

(a) Any recipient of an administrative citation may contest that there was a violation of the Code or that he or she is the responsible party by completing request for hearing form and returning it to the City within seven (7) days

from the date of the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to Section 1-9.07.

(b) A request for hearing form may be obtained from the Code Compliance Department of the City of Santa Maria.

(c) The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing. In the case of a cited person who asserts a prior restraint upon freedom of expression and requests an early hearing, the person shall be notified of the time and place set for the hearing at the time of making the hearing request.

(d) If the person who issued the citation submits an additional written report concerning the administrative citation to the Code Compliance Board for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing at least five (5) days prior to the date of the hearing. In the case of a cited person who asserts a prior restraint upon freedom of expression and requests an early hearing, the cited person shall be given a copy of this report on the date of the hearing. (Ord. 99-27, eff. 12/21/99)

Section 1-9.07. Advance deposit hardship waiver.

(a) Any person who intends to request a hearing to contest that there was a violation of the Code or that he or she is the responsible party, and who is financially unable to make the advance deposit of the fine, may file a request for an advance deposit hardship waiver.

(b) The request shall be filed with the Administrative Services Department on an advance deposit hardship waiver application form, available from the Administrative Services Department, within five (5) days after the date of the administrative citation.

(c) The requirement of depositing the full amount of the fine as described in Section 1 9.06(a) shall be stayed unless or until the Director of Administrative Services makes a determination not to issue the advance deposit hardship waiver.

(d) The Director of Administrative Services may waive the requirement for advance deposit only if the cited party submits to the Director a declaration under penalty of perjury, supported by evidence, that shows to the Director's satisfaction that the person is financially unable to deposit the full amount of the fine in advance of the hearing.

(e) If the Director of Administrative Services determines not to issue an advance deposit hardship waiver, the cited party shall remit the deposit to the City within five (5) days after the date of that decision or fourteen (14) days after the date of the administrative citation, whichever is later.

(f) The Director of Administrative Services shall list his reasons for granting or not granting an advance deposit hardship waiver in writing and serve it on the cited party. The Director's decision is final. (Ord. 99-27, eff. 12/21/99)

Section 1-9.08. Code Compliance Board.

The Code Compliance Board shall hear and decide the contests of administrative citation specified in Section 1-9.06(a). (Ord. 99-27, eff. 12/21/99)

Section 1-9.09. Hearing procedure.

(a) No hearing to contest an administrative citation before the Code Compliance Board shall be held unless the fine has been deposited in advance per Section 1-9.06(a) or an advance deposit hardship waiver has been issued per Section 1 9.07.

(b) A hearing before the Code Compliance Hearing Board shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the requirements of this chapter; provided, however, that upon the request of a cited person who asserts a prior restraint upon freedom of expression, the hearing shall be held and completed within two (2) business days.

(c) At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

(d) Failure of the cited person to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust administrative remedies.

(e) The administrative citation and any additional report submitted by the citing officer shall constitute prima facie evidence of the respective facts contained in those documents.

(f) The Code Compliance Board may continue the hearing and request additional information from the enforcement officer or cited person prior to issuing a written decision. (Ord. 99-27, eff. 12/21/99)

Section 1-9.10. Code Compliance Board's decision.

(a) After considering all of the testimony and evidence submitted at the hearing, the Code Compliance Board shall within fifteen (15) days issue and serve, in the manner provided in Section 5-6.207, on the cited person a written decision including findings to uphold or cancel the administrative citation. In the case of a cited person who asserted a prior restraint upon freedom of expression and requested an early hearing, the decision shall be served within two (2) business days after the hearing. The decision of the Code Compliance Board shall be final.

(b) If the Code Compliance Board determines that the administrative citation should be upheld, the City shall retain the fine amount on deposit.

(c) If the Code Compliance Board determines that the administrative citation should be upheld and the fine has not been deposited because of an advance deposit hardship waiver, the Code Compliance Board shall set a fine payment schedule in the decision.

(d) If the Code Compliance Board determines that the administrative citation should be canceled and the fine was deposited with the City, the City shall promptly refund the fine, plus interest earned by the City during the time the City held the fine. (Ord. 99-27, eff. 12/21/99)

Section 1-9.11. Late payment charges.

Any person who fails to pay to the City any fine imposed pursuant to this chapter on or before the date that fine is due also shall be liable for the payment of late payment charges in the amount of fifteen percent (15%) of the fine, plus interest accrued at a rate of 1.5% per month until paid. (Ord. 99-27, eff. 12/21/99)

Section 1-9.12. Recovery of administrative citation fines and costs.

The City may collect any past due administrative citation fine or late payment charge by use of all available legal means. (Ord. 99-27, eff. 12/21/99)

Section 1-9.13. Appeal.

Any person affected by the decision of the Board may appeal the decision to the Superior Court of Santa Barbara County within twenty (20) days of the decision or service thereof. The appeal shall be governed by the provisions of Government Code Section 53069.4. (Ord. 99-27, eff. 12/21/99)