

**ORDINANCE CODE PART I, CHAPTER 23**  
**ADMINISTRATIVE FINES**

(Added by Ord. No. 3213, effective 11-26-98)

**ARTICLE 1. GENERAL PROVISIONS**

**PURPOSE**

**SECTION 1-23-1000.** The Board of Supervisors finds that there is a need for an alternative method to enforce provisions of this Ordinance Code and Tulare County Ordinance No. 352, as amended from time to time. The Board further finds that the assessment of civil fines and penalties through an administrative hearing procedure for code violations in accordance with Government Code section 53069.4 is a necessary, alternative method of code enforcement.

**IN ADDITION  
TO OTHER  
REMEDIES**

**SECTION 1-23-1005.** The enforcement remedy of administrative assessment of civil fines and penalties established in this Chapter shall be in addition to any other administrative or judicial remedy provided by law.

**DEFINITIONS**

**SECTION 1-23-1010.**

**Director**

(a) "DIRECTOR" means the Director of the Tulare County Resource Management Agency, the Director of the Tulare County Health and Human Services Agency, the County Health Officer, the Tulare County Agricultural Commissioner/Sealer, or the Tulare County Fire Warden, the Tulare County Tax Collector, or their designees.

**Property owner**

(b) "PROPERTY OWNER" means the owner of record of the property upon which a violation of this Ordinance Code or Tulare County Ordinance No. 352 exists as shown on the last equalized tax roll, the occupant of that property, and any other interested party responsible for such property or the violation.

**Notice of Violation**

(c) "NOTICE OF VIOLATION" means the "Notice of Violation, Order to Correct and Notice of Assessment of Civil Fines and Penalties" issued by the Director in compliance with the Chapter.

**IMPOSITION  
OF CIVIL FINES  
AND PENALTIES**

**SECTION 1-23-1015.**

(a) Any person violating any provision of this Ordinance Code or Tulare County Ordinance No. 352 as amended from time to time, shall be subject to the assessment of civil fines and penalties pursuant to the administrative procedures established in this Chapter and authorized by Government Code section 53069.4.

- (b) Each and every day a violation of this Ordinance Code or the Tulare County Ordinance No. 352 exists constitutes a separate and distinct violation.

**ADMINISTRATIVE SECTION 1-23-1020.**

**ENFORCEMENT**

**AUTHORITY**

- (a) The Director shall have the authority and powers necessary to determine whether a violation of this Ordinance Code or Tulare County Ordinance No. 352 exists and the authority to take appropriate action to gain compliance with the provisions of this Ordinance Code or Tulare County Ordinance No. 352. These powers include the power to issue Notices of Violation; the power to assess and collect civil fines and penalties as provided in this Chapter; and the power to enter and inspect public and private property.
- (b) The Director is authorized to enter upon any property or premises to ascertain whether there are violations of this Ordinance Code or Tulare County Ordinance No. 352, and to make any examinations and surveys as may be necessary in the performance of his or her duties. These examinations and surveys may include, but are not limited to, the taking of photographs or video recordings and the taking of samples or other physical evidence or recordings. All inspections, entries, examinations and surveys shall be done in a reasonable manner. If the property owner or other responsible person refuses permission to enter or inspect, the Director may seek an administrative inspection warrant pursuant to the California Code of Civil Procedure.
- (c) The Director is authorized to assess civil fines or penalties pursuant to this Chapter and shall be responsible for the implementation of the procedures set forth in this Chapter as follows:
  - (1) The Director of the Tulare County Resource Management Agency is authorized to assess civil fines or penalties pursuant to this Chapter and shall be responsible for implementing the procedures of this Chapter with respect to violations of Chapters 1, 3, 9 and 15 of Part IV, Chapter 11 of Part VI, Part VII and VIII of this Ordinance Code and of Tulare County Ordinance No. 352.
  - (2) The Director of the Tulare County Health and Human Service Agency and/or the County Health Officer as

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appropriate is/are authorized to assess civil fines or penalties pursuant to this Chapter and shall be responsible for implementing the procedures of this Chapter with respect to violations of Chapters 1, 3, 7, 13 and 19 of Part IV and Chapter 7 of Part VI of this Ordinance Code.

- (3) The Tulare County Agricultural Commissioner/Sealer is authorized to assess civil fines or penalties pursuant to this Chapter and shall be responsible for implementing the procedures of this Chapter with respect to violations of Chapters 1 and 25 of Part IV and Chapter 1 of Part VI of this Ordinance Code.
- (4) The Tulare County Fire Warden is authorized to assess civil fines or penalties pursuant to this Chapter and shall be responsible for implementing the procedures of this Chapter with respect to violations of Chapters 1, 5 and 11 of Part IV and Chapter 15 of Part VII of this Ordinance Code.
- (5) The Tulare County Tax Collector is authorized to assess civil fines or penalties pursuant to this Chapter and shall be responsible for implementing the procedures of this Chapter with respect to violations of Chapter 3 of Part VI of this Ordinance Code.

### **ARTICLE 3. FINES AND PENALTIES**

#### **AMOUNT OF FINES AND PENALTIES: GENERAL**

**SECTION 1-23-3000.** Any person who violates any provisions of this Ordinance Code or Tulare County Ordinance No. 352, as amended from time to time, or any person who owns property upon which a violation exists, irrespective of whether that person caused the violation, shall be subject to an administrative fine or penalty up to the maximum amounts set forth in this Article.

#### **AMOUNT OF FINE: INFRACTION**

**SECTION 1-23-3005.** If this Code or Tulare County Ordinance No. 352 designates the violation as an infraction, the Director may impose as the administrative fine up to the maximum fine or penalty amounts for infractions set forth in subdivision (b) of California Government Code section 25132; the Director may impose the fine if the violation is not abated by the date specified in the Notice of Violation.

#### **AMOUNT OF FINE: OTHER**

**SECTION 1-23-3010.** If this Code does not designate the violation as an infraction, the Director may impose an administrative fine within the amounts set forth below:

- (a) If the violation arises from an unlawful commercial, industrial, rental (residential or non-residential), owner-occupied residential or similar use or structure on the property, the Director, in his or her discretion, may impose a fine in one of the following sums:
  - (1) One hundred dollars (\$100.00) from the date of transmittal of the Notice of Violation, and up to one hundred dollars (\$100.00) for each calendar day thereafter that the violation exists on the property through the effective date of the Notice of Violation; or
  - (2) In the event that the use of a structure in violation may be permitted with an appropriate permit, up to a maximum of five times the amount of the standard fee for such a permit.
- (b) For any other violation, the Director in his or her discretion may impose a fine in one of the following amounts:
  - (1) One hundred dollars (\$100.00) from the date of transmittal of the Notice of Violation, and up to one hundred dollars (\$100.00) for each calendar day thereafter that the violation exists on the property through the effective date of the Notice of Violation; or
  - (2) In the event the use of a structure in violation may be permitted with an appropriate permit, up to a maximum of five times the amount of the standard fee for the permit.

#### **INTEREST**

**SECTION 1-23-3015.** Any administrative fine and penalty shall accrue interest at the same annual rate as any civil judgment. Interest shall accrue commencing on the 20th day after the penalty becomes a final decision or order.

#### **DETERMINATION OF FINE: NOTICE OF DETERMINATION OF FINE; RECORDATION OF NOTICE**

#### **SECTION 1-23-3020.**

- (a) The Director shall determine fines in the first instance. In making the determination, the Director may take into account the facts and circumstances of the violation, including without limitation:
  - (1) The length of time the violations existed:
  - (2) The culpability of the owner and the willfulness of the violation;

- (3) The number of previous violations of the same or related type committed by the owner within the preceding 36 months;
  - (4) The extent of the violation and the effect of the violation on neighboring properties;
  - (5) Attempts, if any, to comply with the applicable ordinances;
  - (6) The time necessary to abate the violation; and
  - (7) Any other information relevant to a determination of the fine.
- (b) In making a determination of the fine, the Director may consider any information submitted by the property owner. In the event that the Director determines that the violation was not caused by, or with the knowledge of, the current owner, the Director may reduce or eliminate the fine. In the event the Director determines that the correction of the violation is not feasible, and the violation does not present a threat to public health or safety, the Director may reduce or eliminate the fine.

## **ARTICLE 5. PROCEDURES**

### **NOTICE OF VIOLATION, ORDER TO CORRECT AND NOTICE OF ASSESSMENT OF CIVIL FINES AND PENALTIES**

**SECTION 1-23-5000.** Upon determining that a violation of any provision of this Ordinance Code or Tulare County Ordinance No. 352 exists, the Director may take the following steps:

- (a) Issue a "Notice of Violation, Order to Correct, and Notice of Assessment of Civil Fines and Penalties", hereinafter referred to as "Notice of Violation", to the property owner by certified mail or by personal service by the Director or a peace officer. The Notice of Violation shall specify or contain:
  - (1) The name and address of the property owner, and the address and Assessor's Parcel Number (APN) of the property where the violation exists;
  - (2) A statement that a determination has been made that a violation of this Ordinance Code or Tulare County Ordinance No. 352 exists on the identified property and specifying the sections of this Ordinance Code or Tulare County Ordinance No. 352 violated and the conditions constituting each and every violation;

- (3) A specified time period of not less than 30 days from receipt of the Notice of Violation within which the violation must be abated;
  - (4) A statement advising the property owner that in the event the violation is not abated by the expiration of the time specified in the Notice of Violation, the property owner shall be subject to administrative fines and penalties under this Chapter and specifying the maximum amount of such fines and penalties;
  - (5) A statement that the property owner may submit in writing to the Director any information relating to the determination of the existence of the violation or violations or the amount of the fine to be imposed;
  - (6) A statement of the additional potential consequences that could occur if the violation continued after the expiration of the time specified in the Notice of Violation; including, but not limited to, criminal prosecution, civil injunction, administrative abatement, judicial abatement, revocation of permits, recordation of Notice of Violation, and withholding of future County permits.
  - (7) A statement that the property owner affected by the Notice of Violation may, within (10) calendar days after delivery or service of the Notice of Violation, appeal in writing to the Director which issued the Notice of Violation the findings, determinations and amount of potential fines and penalties set out in the Notice of Violation, pursuant to the procedures set out in section 1-23-5015.
  - (8) The Notice of Violation shall contain a statement that, if the owner fails to request an appeal of the determination of administrative fines set out in the Notice of Violation, the determination of fines in the Notice of Violation shall be final.
- (b) The Director may, in his or her discretion, record a copy of the Notice of Determination of Fine with the County Recorder of Tulare County. In the event of such recordation and in the event that the Notice of Violation is subsequently modified, the Director shall record a Notice of Correction. Correction of the violation shall not excuse the owner's liability for costs incurred

during the administrative abatement process. In the event that the Notice of Violation is eliminated through the appeal process or because the violations have been corrected, the Director shall record a Notice of Withdrawal of the Notice of Violation, or a Notice of Satisfaction and Compliance of the Notice of Violation.

- (c) If the Director determines that an effort is being made to correct the violation, he or she may grant an additional period of time for correction of the violation.
- (d) Unless the Notice of Violation is appealed as set out in section 1-23-5015, the Notice of Violation shall constitute the final administrative order or decision of the local agency and the assessment of administrative fines and penalties shall become a final order or decision within the meaning of Government Code section 53069.4(b)(1) and (c).
- (e) Notwithstanding (a) above, the Director may require immediate abatement of a violation in accordance with Chapter 1 of Part IV of this Ordinance Code if the violation creates an immediate danger to the health and safety of persons or property.

## **APPEAL OF NOTICE OF VIOLATION**

### **SECTION 1-23-5015.**

- (a) Any person (the "appellant") upon whom a Notice of Violation is served may appeal the findings, determinations and/or amount of potential fines and penalties set out in the Notice of Violation pursuant to the procedures set forth in this section. The appellant must file a written appeal with the Director within ten working days of personal service or the date of mailing of the Notice of Violation. The written appeal shall contain:
  - (1) A brief statement setting forth the interest the appealing party has in the matter relating to the imposition of the penalty;
  - (2) A brief statement of the material facts which the appellant claims support his or her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted; and
  - (3) An address at which the appellant agrees notice of any additional proceedings or an order relating to imposition of the administrative penalty may be received by first class mail.

- (b) An appeal of a Notice of Violation shall be heard by the Director issuing the Notice of Determination of Fine as the hearing officer. The appeal hearing shall be set no sooner than twenty (20) days and no later than forty-five (45) days following receipt of the written appeal. Notice of the appeal hearing shall be mailed at least twelve (12) calendar days before the date set for the hearing. Failure of the appellant to appear timely will cause the Notice of Violation and the assessment of administrative fines and penalties to become a final order or decision.
- (c) In reviewing the Notice of Violation, the hearing officer shall consider the factors set forth in section 1-23-3015 above, and shall uphold, withdraw or modify the Notice of Violation and fines and penalties specified by that Notice. The hearing officer shall serve a copy of his or her written decision on the appellant. The written decision shall also include or be accompanied by a description of the right to appeal the decision to the Board of Supervisors as provided in Section 1-23-2500 of this Article. The hearing officer's decision shall be deemed served within two days after the date it was mailed to the address provided by the appellant.
- (d) The decision of the hearing officer shall constitute the administrative order or decision of the local agency within the meaning of Government Code section 53069.4(b)(1) and (c) and shall be final unless appealed to the Board of Supervisors as set out in section 1-23-5025.

**APPEAL TO  
THE BOARD OF  
SUPERVISORS**

**SECTION 1-23-5025.**

- (a) The person who appealed the Notice of Violation pursuant to section 1-23-5015 may appeal the decision of the hearing officer to the Board of Supervisors, subject to the provisions of section 165 of this Ordinance Code.
- (b) An appeal to the Board of Supervisors shall specifically set forth the grounds of the appeal. At the time of filing the appeal, the appellant shall pay a fee in an amount adequate to cover the cost of processing and hearing the appeal as established from time to time by resolution of the Board.
- (c) The Clerk of the Board shall mail notice to the appellant of the date and time that the Board will meet to hear the appeal, which date shall be not less than five (5) calendar days after the date of mailing the notice.



- (d) At a time fixed by the Clerk of the Board, the Board shall meet to review the appeal. The appellant may appear and be heard on the matter.
- (e) The Notice of Violation and the written decision of the hearing officer shall be admitted into evidence. The owner shall bear the burden of proving that the decision of the hearing officer should be repealed or modified.
- (f) The hearing shall be conducted in the manner prescribed in section 165 of this Ordinance Code.
- (g) In reviewing the decision of the hearing officer, the Board shall consider the factors set forth in section 1-23-3015 above, and shall uphold, repeal or modify the decision of the hearing officer; and the Board shall uphold, eliminate, or modify any fines and penalties assessed by the hearing officer. The written decision shall also include or be accompanied by a description of the appellant's right to appeal the decision as provided in Government Code section 53069.4 and section 1-23-5035.
- (h) The decision of the Board shall constitute the final administrative order or decision of the local agency within the meaning of Government Code section 53069.4(b)(1) and (c). The Clerk of the Board shall serve a copy of the Board's written decision on the appellant in the written notice of appeal. The Board's decision shall be deemed served within two days after the date it is mailed by the Clerk of the Board to the address provided by the appellant.

## **JUDICIAL REVIEW**

**SECTION 1-23-5035.** Any person aggrieved by a final administrative order or decision imposing an administrative fine may seek review with the Trial Court in Tulare County pursuant to Government Code Section 53069.4.

## **ARTICLE 7. ENFORCEMENT AND COLLECTION**

### **ENFORCEMENT AND COLLECTION**

**SECTION 1-23-7000.** When an administrative fine or penalty becomes a final order under this Section or Government Code section 53069.4, the County may proceed to collect the fine or penalty as follows:

- (a) The County may commence a civil action to enjoin and/or collect the administrative fines and penalties; in the event a civil action is commenced to collect the administrative fines and penalties, the County shall be entitled to recover all costs associated with the collection of the fines and penalties. Costs include, without

limitation, staff time incurred in the collection of the penalty and those costs set forth in Code of Civil Procedure section 1033.5.

- (b) The amount of any unpaid final administrative fine, plus interest, plus any other costs as provided in this Chapter, may be declared a lien on any real property owned by the property owner within the County against whom an administrative penalty has been imposed, as follows:
  - (1) Notice shall be given to the property owner before recordation of the lien, and shall be served in the same manner as a summons in the civil action pursuant to Code of Civil Procedure section 415.10 et seq.,
  - (2) The lien shall attach when the County records it with the County Recorder's office. The lien shall specify the amount of the lien, the date of the code violations, the date of the final decision, the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the record owner of the parcel; and
  - (3) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, the County shall record a notice of the discharge containing the information specified in subparagraph (b).
- (c) The County may withhold issuance of licenses, permits and other entitlements to the property owner on any project, property, or application of any kind whenever an administrative penalty remains unpaid.
- (d) The County may take such other actions as are allowed for enforcement of a civil judgment as provided for pursuant to the Enforcement of Judgment Law, California Code of Civil Procedure section 680.010 et. seq.