



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY**

Building – Cannabis Division

950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-9851 <http://mynevadacounty.com>

Sean Powers
Community Development Agency Director

Craig Griesbach
Building Director

**NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo**

MEETING DATE: March 23, 2021

TO: Board of Supervisors

FROM: Craig Griesbach, Building Director

SUBJECT: An Ordinance Amending Chapter II of Title 3 of the Nevada County Land Use and Development Code Regarding Administrative Enforcement and Cannabis Cultivation

RECOMMENDATION: Introduce and waive further reading of the attached Ordinance amending Chapter II of Title 3 of the Nevada County Land Use and Development Code regarding cannabis cultivation and administrative enforcement.

FUNDING: No impact to the General Fund would occur.

ATTACHMENTS:

- An Ordinance Amending Chapter II of Title 3 of the Nevada County Land Use and Development Code Regarding Administrative Enforcement and Cannabis Cultivation
- Exhibit A, Proposed Amendments to Article 5 of Chapter II of Title 3 of the Nevada County Land Use and Development Code regarding administrative enforcement.
- Exhibit B, Proposed amendments to Article 3 of Chapter II of Title 3 of the Nevada County Land Use and Development Code regarding cannabis cultivation.
- March 11, 2021 Planning Commission meeting minutes.

BACKGROUND:

ADMINISTRATIVE ENFORCEMENT. The enforcement of the Nevada County Code, any other code it adopts by reference, and any other ordinance of the County is an important public service and is vital to protecting the public. There is a need for alternative methods of code enforcement in addition to other enforcement options available. This Ordinance

is intended to promote the general health, safety and welfare of the public and provide uniform, fair, and efficient code enforcement. This Ordinance also updates and clarifies procedures for administrative appeals.

Government Code section 53069.4 authorizes the Board of Supervisors to, by ordinance, make violations of the Nevada County Code subject to an administrative fine or penalty, and to set forth the administrative procedures governing the imposition, enforcement, collection, and administrative review of such administrative fines or penalties. Article 5 of Chapter II of Title 3 of the Nevada County Land Use and Development Code contains the County's current administrative enforcement procedures by which the County enforces its code without resort to a criminal or a civil court action. These administrative enforcement procedures are in addition to any other legal or equitable remedy available to the County under law.

These procedures provide an efficient and cost-effective means of enforcing code violations through notices of violation, abatement orders, and imposition of fines and penalties. Under these procedures, County staff identifies and corrects County code violations in-house.

In recent code enforcement actions, County staff have identified provisions of the current Article 5 in need of revision and updating including: (1) the authority for and timing of fines and penalties, (2) when a notice of violation must be issued prior to or in conjunction with the imposition of a fine or penalty, (3) the procedures for administrative appeals, (4) the collection of delinquent fines and penalties and abatement costs, and (5) procedures related to administrative inspection warrants.

Based on the experience of County staff, this Ordinance amends certain provisions in the Land Use and Development Code, including wholesale replacement of the current Section L-II 5.23 to address these issues, provide clearer and easier to use administrative enforcement procedures, and correct other cross-references in the County Code.

The County's ultimate goal is compliance with the Nevada County Code. To that end, when appropriate, the County will first seek to educate a responsible party regarding Code requirements prior to the imposition of a fine and/or penalty or other enforcement action.

The proposed Ordinance will be used to enforce multiple provisions of the County code including public nuisances, building and safety code violations, unpermitted cannabis cultivation, use permit violations, substandard housing violations, and solid waste violations. This Ordinance incorporates by reference the fine and penalty amounts authorized by state law for violations of the County Code.

CANNABIS CULTIVATION. With adoption of the County's Commercial Cannabis Cultivation ordinance on May 14, 2019, unpermitted cannabis cultivation became a land-use violation enforceable by administrative action consistent with other violations of County code. Since ordinance adoption, staff have maintained a reactive approach to unpermitted cannabis cultivation, relying on public complaints before initiating an investigation. Holding unpermitted cannabis cultivators accountable has been challenging, because the Cannabis Ordinance contains administrative enforcement procedures that are less effective than the centralized administrative enforcement ordinance discussed above.

Staff have identified provisions of the Cannabis Ordinance in need of updating, including: (1) the need to have a central, streamlined administrative enforcement process; (2) the need to allow for the option to use a hearing officer or hearing body in administrative appeal hearings; (3) removal of the \$25,000 annual penalty cap for outdoor cultivation violations, (4) clarification of the due process rights to appeal an Annual Cannabis Permit (ACP) revocation, suspension, or denial of permit renewal; and (5) the need to extend the transition period application deadline.

It should be noted that successful enforcement of the County's Cannabis Cultivation Ordinance directly supports the legal cannabis industry and those cultivators who have become permitted and entered the legal market.

PUBLIC NOTICE AND PLANNING COMMISSION RECOMMENDATION:

The draft ordinance with the proposed amendments was circulated for a period of ten (10) days between March 2, 2021 and March 11, 2021. The draft ordinance was sent to over 250 individuals, homeowner's associations, public agencies and was noticed in The Union and Sierra Sun newspapers in addition to a posting on the County's website. No comments were received regarding the proposed amendments.

A public hearing was held on March 11, 2021, before the Planning Commission where the proposed amendments were discussed. After discussion, the Planning Commission voted 5-0 to recommend the approval of the ordinance amendments to Chapter II of Title 3 of the Nevada County Land Use and Development Code.

SUMMARY:

In summary, the proposed Zoning Ordinance Amendments were prepared on behalf of the Community Development Agency at the direction of the County Board of Supervisors. The draft ordinance intends to centralize and streamline the land-use administrative enforcement and appeals process, while supporting staff's ability to hold unpermitted cannabis cultivators accountable. Staff recommends that the Board of Supervisors approve the draft ordinance based on the Planning Commission's recommendation.

Board of Supervisors

March 23, 2021

Page 4

This action requires a public hearing and, if approved, the ordinance will become effective on May 13, 2021.

Item Initiated By: Craig Griesbach, Building Director

Submitted: March 8, 2021