

# Administrative Enforcement and Commercial Cannabis Ordinance Amendments

Nevada County Board of Supervisors

March 23, 2021

# Presentation Outline

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# Land Use Admin Ordinance Overview

- ▶ Administrative enforcement codes promote the general health, safety, and welfare of the public
  - ▶ Supports local compliance with Federal, State, and County codes and regulations
  - ▶ Provides cost effective tools to address land-use violations such as notices of violation, abatement orders, and imposition of fines and penalties.
  - ▶ Provides a fair and unbiased appeals process for violators
- ▶ Originally adopted in 2000, last amended in 2010
  - ▶ Current enforcement sections 5.21, 5.22, and 5.23 are cobbled together to provide an overall enforcement scheme.

# Proposed Ordinance Changes

- ▶ **Combined Sections 5.21 and 5.22 into Section 5.23**
  - ▶ One centralized and streamlined administrative enforcement section
- ▶ **Modified definition of “Responsible Party”**
  - ▶ Proposed definition is broader and includes agents, employees and contractors
- ▶ **Clarified authority for and timing of fines and penalties**
  - ▶ Proposed ordinance references Government Code section 25132(b) for consistency
- ▶ **Clarified when a Notice of Violation is issued in conjunction with a fine or penalty**
  - ▶ A fine or penalty may be issued without first issuing a Notice of Violation

# Proposed Ordinance Changes

- ▶ **Modified administrative appeals procedures**
  - ▶ Provides due process procedures consistent with other County ordinances
- ▶ **Clarified procedures related to administrative inspection warrants**
  - ▶ Clarified inspection warrant cost recovery and abilities consistent with current laws
- ▶ **Collection of delinquent fines, penalties, and abatement costs**
  - ▶ Consistent with current admin enforcement penalty collections process
- ▶ **Removal of internal administration citation review**
  - ▶ Allows for consistent neutral and impartial review through formal administrative hearing process

# Commercial Cannabis Ordinance Overview

- ▶ Commercial Cannabis ordinance codes promote the general health, safety, and welfare of the public
  - ▶ Supports local compliance with Federal, State, and County codes and regulations
  - ▶ Supports County's cannabis permitting process
  - ▶ Supports permitted farmers and holds un-permitting farmers accountable
  - ▶ Provides cost effective tools to address cannabis related land-use violations
  - ▶ Provides a fair and unbiased appeals process for violators
- ▶ Originally adopted on May 14, 2019
  - ▶ Proposed revisions after two years of implementation and lessons learned

# Proposed Ordinance Changes

- ▶ Modified and removed specific enforcement provisions to cross-reference administrative enforcement section 5.23
  - ▶ One centralized and streamlined administrative enforcement section
- ▶ Collection of delinquent fines, penalties, and abatement costs
  - ▶ Made collection of cannabis fines and penalties consistent with other land use sections
- ▶ **Hearing Body**
  - ▶ Modified definition of “Hearing Body” to include hearing officer and cross-reference Section 5.23 for consistency and flexibility
- ▶ **Modified definition of “Responsible Party”**
  - ▶ Proposed definition is broader and includes agents, employees and contractors

# Proposed Ordinance Changes

- ▶ **Outdoor cultivation penalty cap**
  - ▶ Proposed amendment removes \$25,000 cap on outdoor-only cultivation violations
- ▶ **Clarified ACP denial/suspension/revocation due process rights.**
  - ▶ Denial of initial application has no appeal. Revocation, suspension, and denial of renewal are appealable to Hearing Body, whose decision is final.
- ▶ **Transition Period**
  - ▶ Proposed amendment extends cannabis transition period sunset an additional year



# Proposed Ordinance Changes

## ▶ Public Comment Period

- ▶ 10-day public comment period
- ▶ No public comments received

## ▶ Environmental Review

- ▶ Exempt per CEQA Guidelines Sections 15060(c)(2), 15061(b)(3), 15308 and 15321

## ▶ Planning Commission

- ▶ March 11, 2021 - Recommended 5-0 to approve proposed ordinance

# Summary

- ▶ Proposed ordinance modifications do not change reactive approach to land-use violations
- ▶ Voluntary compliance remains overall goal
- ▶ Proposed modifications will create a “one-stop-shop” administrative enforcement section for clarity and consistency
- ▶ Improves ability to support permitted farmers and hold unpermitted farmers accountable
- ▶ Proposed amendments created in collaboration with County Counsel
- ▶ Several meetings with local stakeholders

# Staff Recommendation

- ▶ Find the project categorically exempt from CEQA
- ▶ Adopt the Ordinance amending Chapter II of Title 3 of the Nevada County Land Use and Development Code



- ▶ “Responsible Party” shall mean an individual, association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, firm, organization, partnership, joint venture or any other person or entity whatsoever whose act or omission caused, contributed to, maintained, permitted, or allowed a violation of this Section.