



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY**

Building – Cannabis Division

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

MEETING DATE: June 14, 2022

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:

- A Draft 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.
- Redlined Administrative Enforcement Ordinance Exhibit A.
- Redlined Cannabis Cultivation Ordinance Exhibit B.
- Administrative Enforcement and Commercial Cannabis Ordinance Amendments PPT.
- May 26, 2022 Planning Commission draft meeting minutes.
- Notice of Public Hearing

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, in collaboration with County Counsel have identified provisions of the current Article 5 in need of revision and updating including: (1) the need to clarify service dates and methods; (2) the need to clarify administrative cost recovery; (3) the need to allow for the County to seek judicial review of hearing decisions, as well as minor ordinance language cleanup.

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. While the recent ordinance modification approved in 2021 have helped with efficiency, staff have continued to identify ordinance sections which make it difficult to hold illicit cultivators accountable.

County staff, in collaboration with County Counsel have identified provisions of the Cannabis Ordinance in need of updating, including: (1) the removal of the 5-day violation grace period; (2) the need to add flexibility into permit denial and revocation qualifiers; (3) the need to add ability

to impose a probationary period for violators; (4) the need to clarify enforcement costs for consistency.

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 thirty (30) days between April 1, 2022 and May 2, 2022. 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 May 26, 2022, before the Planning Commission where the proposed amendments were discussed. After discussion, the Planning Commission voted 4-0 (1 absent) 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.

This action requires a public hearing and, if approved, the ordinance will become effective on July 28, 2022.

Item Initiated By: Craig Griesbach, Building Director
Submitted: May 27, 2022