

ORDINANCE NO. ()

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING SONOMA COUNTY CODE SECTION 1-7.1 TO MODIFY CIVIL PENALTIES FOR UNPERMITTED CANNABIS USES AND ESTABLISH A CORRECTIVE PERIOD FOR ZONING VIOLATIONS BY LICENSED AND LICENSE-EXEMPT CANNABIS USES

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section I. Purpose and Authority. This ordinance is adopted pursuant to California Government Code Sections 25123 and 25131 to align the Sonoma County Code provisions related to civil penalties for cannabis uses with recent amendments to California Government Code Section 53069.4.

Section II. Findings.

- A. Sonoma County permits cannabis uses under its Cannabis Land Use Ordinance (SCC Section 26-88-250 through 256) and the State of California licenses cannabis business under the Medical and Adult Use Cannabis Recreation and Safety Act (California Business and Professions Code Section 26000 et seq.) to ensure cannabis activities are conducted in a manner that is beneficial for the state's communities and not injurious to the environment, public health, public safety, and the general welfare.
- B. Cannabis uses operating without a local permit or a state license are often damaging to the environment and threaten public health and safety through lack of testing and involvement in the black market. Civil penalties are a critical component of dissuading black market cannabis activity and ensuring unpermitted and unlicensed activity that does occur is promptly abated.
- C. AB 1684 amended California Government Code Section 53069.4 to limit civil penalties immediately imposed on unpermitted and unlicensed cultivation to \$1,000 per violation and \$10,000 per day. The amendments to civil penalties for unpermitted cannabis uses under county code are intended to align with the amended statute.
- D. AB 1684 also required a reasonable period of time to correct violations associated with licensed and license-exempt cannabis activity prior to imposing civil penalties. Amendments to county code simplify the correction period for certain violations to directly align with the amended statute and provide a shorter period of time to correct cannabis zoning violations, which are often easily abated, to ensure protection of the environment and public health and safety and reduction of nuisance issues.

Section III (CODIFIED). Cannabis Penalty Amendments. Amend SCC Section 1-7.1(a)(4) as follows:

- i. Square Foot Exceedance. For cultivation in exceedance of the permitted cultivation area, no more than twenty dollars (\$20.00) per square foot per day for the first violation; no more than thirty dollars (\$30.00) per square foot per day for the second violation within two (2) years; and no more than fifty dollars (\$50.00) per square foot per day for each additional violation within two (2) years.
- ii. Standard Violation. For each violation of a standard or condition of the permit or county code, no more than one thousand dollars (\$1,000.00) per day for the first violation; no more than five thousand dollars (\$5,000.00) per day for a second violation within two (2) years; and no more than ten thousand dollars (\$10,000.00) per day for each additional violation within two (2) years.
- iii. Daily Penalty **Per Use**—Unpermitted Use. For each unpermitted cannabis use, no more than ten thousand dollars (\$10,000.00) per day for the first violation; no more than twenty-five thousand dollars (\$25,000.00) per day for the second violation within two (2) years; and no more than fifty thousand dollars (\$50,000.00) per day for each additional violation within two (2) years. **An unpermitted cannabis use violation on a different property by the same responsible party constitutes a second or additional violation for purposes of calculating enhanced civil penalties under this section.**
- iv. **Daily Penalty Per Violation – Unpermitted Use or Structure. For each violation associated with unpermitted cannabis activity, no more than \$1,000 per day. Each cannabis plant above the amount allowed for personal cultivation is a separate violation.**
- v. Permit Multiplier—Unpermitted Use or Structure. If the type of use or structure in violation may be permitted, up to a maximum of ten (10) times the amount of the standard fee for each required approval, review, and permit.

Section IV (CODIFIED). Violation Correction Period Amendments. Amend SCC Section 1-7.1(f)(2) as follows:

- (2) Correction Period for Certain Violations. ~~This exclusion conforms with California Government Code Section 53069.4(a)(2).~~
 - ~~i. Violations Eligible for Exclusion. In accordance with subsections (ii) and (iii), civil penalties do not apply to a building, plumbing, electrical, or other structural violation that does not create an immediate danger to health or safety, as determined by the enforcing officer.~~
 - ~~ii. Elements for Exclusion. Civil penalties do not apply to a violation eligible for exclusion under subsection (i) **When a responsible party is entitled to a reasonable period of time to abate the**~~

violation under California Government Code Section 53069.4 (which does not include a violation associated with unlicensed cannabis activity), civil penalties do not apply if the responsible party establishes that:

- a. **the violation was abated** within ~~thirty (30)~~ days after the date of mailing of the notice of violation, ~~the responsible party removed from the property the structure or improvement that constituted the violation~~ **or for zoning violations associated with licensed and license-exempt cannabis activity the violation was abated within 3 days after the date of personal service on all responsible parties or 10 days after the date of mailing of the notice of violation;** and
- b. the responsible party had not previously been mailed a notice of violation of the same code section, regardless of the parcel on which that violation occurred.

~~iii. Violations Associated with Unpermitted Cannabis:~~

- ~~a. No Exclusion for Non-Property Owners. Despite subsections (i) and (ii), a responsible party must pay the civil penalties imposed when the violation is associated with unpermitted cannabis cultivation.~~
- ~~b. Additional Elements for Property Owners. For a violation eligible for exclusion under subsection (i) that is associated with unpermitted cannabis cultivation, a property owner must establish the elements in subsection (ii) and the following:~~
 - ~~1. A tenant was in possession of the property on the date the notice of violation was mailed;~~
 - ~~2. The rental or lease agreement prohibits cannabis cultivation; and~~
 - ~~3. Neither the property owner nor agent knew the tenant was cultivating cannabis or had actual notice of cannabis cultivation based on a complaint, inspection, or other information.~~

Section V. Environmental Determination. This Ordinance is exempt from the provisions of the CEQA pursuant to CEQA Guidelines Section 15060(c), because adopting the Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and because it is not a project as defined in CEQA Guidelines section 15378, as it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally, or alternatively, the Ordinance is exempt under CEQA Guidelines Section 15062(b)(3) because it can be seen with certainty that it will not have a significant effect on the environment. The Ordinance provides for civil penalties and correction periods for certain cannabis uses to effectively enforce county code and does not authorize any new activity.

Section VI. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section VII. Effective Date. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, introduced on the 14th day of May, 2024, and finally passed and adopted this 4th day of June, 2024, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Coursey: Gore: Hopkins: Rabbitt:

Ayes: Noes: Absent: Abstain:

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

M. Christina Rivera,
Clerk of the Board of Supervisors