

EXHIBIT A
AMENDMENTS TO CHAPTER 1

Sec. 1-7. - General enforcement provisions.

- (a) Applicability. Sections 1-7 through 1-7.6 apply to violations enforced by the County.
- (b) Definitions. As used in Sections 1-7 through 1-7.6, the following terms and phrases have the meanings ascribed to them by this subsection:
 - (1) “Abate” means to put an end to, legalize, or remove a violation.
 - (2) “Abatement” means the ending, legalization, or removing of a violation.
 - (3) “Abatement hearing” means an administrative hearing called by an enforcing officer to request a timeline for abatement and the imposition of additional civil penalties.
 - (4) “Administrative citation” means a notice of violation that complies with Section 1-7.6(d)(4) and imposes a one-time penalty per administrative citation.
 - (5) “Appeal hearing” means an administrative hearing requested by a responsible party challenging an administrative action by an enforcing officer.
 - (6) “Costs” or “abatement costs” means all costs incurred by the county in pursuing abatement, associated remedies, and civil penalties, including administrative overhead, salaries, attorneys’ fees, and expenses incurred by any county department or agency.
 - (7) “Enforcing officer” means an officer, employee, or agent of the county that is responsible for enforcing violations.
 - (8) “Final determination” means a written determination by an enforcing officer of which notice was given and for which a reasonable party has failed to exhaust its administrative remedies and that is conclusive evidence of the facts and liabilities contained in the determination.
 - (9) “Hearing officer” means an individual appointed by the county pursuant to Sections 2-33.1 through 2-33.5 to preside over an administrative hearing.
 - (10) “Including” means including, but not limited to.
 - (11) “Notice and Order” means a notice of violation that complies with Section 1-7.3(a)(2), and may impose a one-time or daily penalty and any other authorized remedy.
 - (12) “Notice of violation” means a written notification issued by an enforcing officer to a responsible party that a violation exists, or may exist, on a property and must be abated.
 - (13) “Person” includes an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe, or any other group or combination acting as a unit, and the plural as well as the singular.

- (14) “Responsible party” means any of the following:
 - i. A person that causes, maintains, allows, or is otherwise responsible for a violation;
 - ii. A person with an ownership interest in real property upon which a violation is found; or
 - iii. A person who exercises possession or control of real property upon which a violation is found, including a tenant, agent, employee, contractor, subcontractor, or other occupant.
- (15) “Violation” means:
 - i. An act, omission, or condition contrary to a provision of this code, or an ordinance, resolution, rule, proclamation, order, or regulation of the county.
 - ii. An act, omission, or condition contrary to a term or condition of a license, permit, or approval, including associated plans, specifications, reports, and studies, granted or issued by the county.
- (c) Violation as Misdemeanor. A violation is punishable as a misdemeanor unless otherwise defined. A misdemeanor is punishable by a fine not exceeding \$1,000 or imprisonment for a term not exceeding 6 months, or both fine and imprisonment.
- (d) Continuing Violations. Each day a violation continues is a separate and distinct offense.
- (e) Violation as Public Nuisance. A violation is a public nuisance.
- (f) Public Nuisance Abatement.
 - (1) Enforcement Action. A public nuisance may be abated in any manner provided by this code or by law, including filing a judicial action in lieu of following the administrative abatement procedures in Section 1-7.3. The county may seek any remedies available to it, including abatement, injunctive relief, costs, and civil penalties.
 - (2) Costs. A responsible party is liable for all costs. Costs will be a special assessment against the parcel where the public nuisance is located.
 - (3) Attorneys’ Fees. If the county seeks recovery of its own attorneys’ fees in an individual judicial action or administrative proceeding, an award of attorneys’ fees may be made to the prevailing party. The award of attorneys’ fees to the prevailing party cannot exceed the amount of reasonable attorneys’ fees incurred by the county in the same judicial action or administrative proceeding.
 - (4) Joint and Several Liability. Each responsible party is jointly and severally liable for abating a violation, paying associated costs and civil penalties, and otherwise complying with an order or final determination. Unpaid amounts may be considered a personal obligation of each responsible party.
- (g) Criminal Citations by Environmental Health Specialists. An employee who is a state registered environmental health specialist may criminally cite a person without a warrant whenever the employee has reasonable cause to believe that the person has committed a misdemeanor in the employee’s presence that is a violation of a statute or ordinance

relating to public health that the employee has a duty to enforce. If the violation constitutes grounds for revoking a valid permit or approval issued by the county department of health services or the permit and resource management department, no citation may be issued while the permit remains in force.

- (h) Remedies Cumulative. All remedies contained in Sections 1-7 through 1-7.6 are cumulative and in addition to any other remedies available under law.

Sec. 1-7.1. - Civil penalties.

- (a) Civil Penalties. A violation is subject to the following civil penalties:

- (1) Commercial Violations. If the violation arises from an unlawful commercial use or structure on the property, a responsible party must pay 1 of the following, as determined by the enforcing officer, to the county:

- i. Fair Market Value. The fair market rental value of the land or structure in violation for the period of time elapsed from the date of mailing of the notice of violation through to its abatement by whatever means; or
 - ii. Daily Penalty. No less than \$25 per day and no more than \$100 per day for the first violation; no more than \$200 per day for a second violation of the same ordinance within 1 year; and no more than \$500 per day for each additional violation of the same ordinance within 1 year; or
 - iii. Permit Multiplier. If the type of use or structure in violation may be permitted, from 3 times to 10 times the amount of the standard fee for every required approval, review, and permit.

- (2) Residential Violations. If the violation arises from an unlawful owner-occupied residential use or structure on the property, a responsible party must pay 1 of the following, as determined by the enforcing officer, to the county:

- i. Fair Market Value. The fair market rental value of the land or structure in violation for the period of time elapsed from the date of mailing of the notice of violation through to its abatement by whatever means; or
 - ii. Daily Penalty. No less than \$15 per day and no more than \$100 per day for the first violation; no more than \$200 per day for a second violation of the same ordinance within 1 year; and no more than \$500 per day for each additional violation of the same ordinance within 1 year; or
 - iii. Permit Multiplier. If the type of use or structure in violation may be permitted, from 1.5 times to 5 times the amount of the standard fee for every required approval, review, and permit.

- (3) Grading, Drainage, Vineyard, and Orchard Violations. For a violation of Chapter 11 or 36, a responsible party must pay 1 of the following, as determined by the enforcing officer, to the county:

- i. Class A Violations. From \$50,000 to \$100,000 for a:
 - a. Violation that caused adverse effects on property, the public, or the environment; or

- b. Class B violation where the responsible party has a history of violations, failed to cooperate in the investigation of the incident, or failed to allow lawful inspection of the site.
 - ii. Class B Violations. From \$500 to \$50,000 for a violation of a provision, term, or condition designed to mitigate the risk of adverse effects on property, the public, or the environment.
 - iii. Class C Violations. From \$50 to \$500 for a violation of a provision, term, or condition that is not designed to mitigate the risk of adverse effects on property, the public, or the environment.
- (4) Cannabis Violations. For violations associated with commercial cannabis activity, a responsible party must pay 1 of the following, as determined by the enforcing officer, to the county:
 - i. Square Foot Exceedance. For cultivation in exceedance of the permitted cultivation area, no more than \$20 per square foot per day for the first violation; no more than \$30 per square foot per day for the second violation within 2 years; and no more than \$50 per square foot per day for each additional violation within 2 years.
 - ii. Standard Violation. For each violation of a standard or condition of the permit or county code, no more than \$1,000 per day for the first violation; no more than \$5,000 per day for a second violation within 2 years; and no more than \$10,000 per day for each additional violation within 2 years.
 - iii. Daily Penalty – Unpermitted Use. For each unpermitted cannabis use, no more than \$10,000 per day for the first violation; no more than \$25,000 per day for the second violation within 2 years; and no more than \$50,000 per day for each additional violation within 2 years.
 - iv. Permit Multiplier – Unpermitted Use or Structure. If the type of use or structure in violation may be permitted, up to a maximum of 10 times the amount of the standard fee for each required approval, review, and permit.
- (5) Vacation Rentals. For a vacation rental operating without the permit required under Section 26-88-120, a responsible party must pay 10 times the normal application fee.
- (6) Violations for Septic Operational Permits. If a violation of Section 24-33 of this code is solely for nonpayment of the fee provided for in Section 24-33(b), then a responsible party must pay 1 of the following:
 - i. 25% of the fee for such permit if such violation has existed for less 60 days; or
 - ii. 50% of the fee for such permit if such violation has existed for 60 days or more but less than 180 days; or
 - iii. The penalty authorized under subsection (a) of this section if such violation has existed for 180 days or more.

- (7) Other Violations. For any other violation, including an unlawful noncommercial junkyard, an unlawful noncommercial truck terminal, an unlawful noncommercial non-operative motor vehicle storage yard, an unlawful noncommercial accessory structure, an unlawful noncommercial excess number of animals, or the unlawful noncommercial storage, disposal or transportation of solid waste, a responsible party must pay 1 of the following, as determined by the enforcing officer, to the county:
- i. No less than \$5 per day and no more than \$100 per day, for the first violation; no more than \$200 per day for a second violation of the same ordinance within 1 year; and no more than \$500 per day for each additional violation of the same ordinance within 1 year;
 - ii. In the event that the use or structure in violation may be permitted with an appropriate permit, a minimum of 3 times and up to a maximum of 5 times the amount of the standard fee for every required approval, review and permit.

(b) Authority and Discretion to Set Penalty.

- (1) Authority. Civil penalties may be imposed by the enforcing officer, the hearing officer, or the court.
- (2) Discretion. Civil penalties may be set within the ranges set forth in this section. But the civil penalty imposed cannot be greater than the minimum amount in a range of civil penalties set forth in this section unless the enforcing officer's department has adopted a written policy setting forth how civil penalties within the ranges are determined.

(c) Civil Penalty Determination. The determination of civil penalties must take into account the facts and circumstances of the violation, which may include, for example:

- (1) whether or not the violation poses a threat to human health, safety, or to the environment;
- (2) the seriousness or gravity of the violation;
- (3) the length of time the violation has existed;
- (4) the culpability of the responsible party or the willfulness of the violation;
- (5) the sophistication of the responsible party;
- (6) the extent of the violation and its effect on adjoining properties;
- (7) attempts, if any, to comply with the applicable ordinances; and
- (8) any other information which might be relevant to the determination of civil penalties to be imposed by this section.

(d) Daily Penalties. Daily civil penalties accrue from the date of mailing, posting, or personal service of a notice and order, whichever is earlier, through the date of abatement of the violation as verified by the enforcing officer.

(e) Immediate Imposition of Civil Penalties. A violation is subject to the immediate imposition of civil penalties, unless one of the exclusions in subsection (f) applies.

(f) Exclusions.

(1) Innocent Purchaser.

- i. Elements for Exclusion. The civil penalties imposed by this section do not apply if the property owner establishes that, at the time the property owner acquired an ownership interest in the property:
 - a. the violation existed on the property;
 - b. the property owner did not have actual or constructive notice of the existence of that violation; and
 - c. within 30 days after the mailing of the notice of violation, the property owner initiates and pursues with due diligence and good faith efforts, as determined solely by the enforcing officer, to abate the violation.
- ii. Constructive Notice. A property owner has constructive notice of the existence of a violation if the property owner has actual notice of circumstances sufficient to put a prudent person upon inquiry as to a particular fact and if by prosecuting that inquiry, the person might have learned that a violation existed on the property.

(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) if the responsible party establishes that:
 - a. within 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; 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.
- (3) Self-Disclosure. The civil penalties imposed by this section do not apply if the owner of a residential property establishes that at the time the property owner acquired an ownership interest in the property:
- i. a violation of this code existed on the property;
 - ii. the violation was not on record at the permit and resource management department; and
 - iii. within six months of acquiring an ownership interest in the property the owner initiated and pursued abatement with due diligence and good faith effort, as determined solely by the enforcing officer.

Sec. 1-7.3. - Administrative procedure for abatement.

(a) Notice and Orders.

- (1) Issuance of Notice and Order. The enforcing officer may issue a notice and order requiring abatement of a violation.
- (2) Contents of Notice and Order. A notice and order must be in writing and include:
 - i. a description of the real estate sufficient for identification;
 - ii. a statement of the violation or violations and the reason the notice was issued;
 - iii. a reasonable period of time to bring the property into compliance, if any;
 - iv. a statement of appeal rights;
 - v. notice of the imposition of penalties or the potential to impose penalties and abatement costs and to record an abatement notice for failure to comply; and
 - vi. notice of the imposition of additional remedies under 1-7.4, if any.
- (3) Service of Notice and Order. A notice and order must be sent certified mail addressed to the last known property owner as listed on the latest official equalized tax roll and may be served on the holder of any mortgage or deed of trust or other lien or encumbrance of record. A copy of the notice and order must be posted in a conspicuous location on the subject property.

- (b) Notice to Vacate. If the enforcing officer orders a structure or property to be vacated, each structure or property must be posted reciting the supporting reasons and specifying the conditions which necessitate the posting. No person can remain in or enter any building or portion thereof which has been posted, except that entry may be made to repair,

demolish or remove such building under permit. No person can remove or deface such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy has been issued.

- (c) Civil Penalties. Where a violation is subject to civil penalties, including under Section 1-7.1, the enforcing officer may calculate and impose civil penalties through a notice and order.
- (d) Costs. A responsible party is liable for all associated abatement costs.
- (e) Appeals.
 - (1) Right of Appeal. A notice, order, decision, or determination made by an administrative official pursuant to Section 1-7.3(a), may be appealed by any person affected by the administrative action to a hearing officer.
 - (2) Form and Timing. An appeal must be made in writing and submitted to the enforcing officer within 10 calendar days from the date of the administrative action.
 - (3) Appeal Waiver. Failure to file a timely appeal constitutes a waiver of the right to an appeal hearing and adjudication of any administrative action.
 - (4) Appeal Withdrawal. An appeal may be withdrawn at any time prior to the commencement of the appeal hearing, except that the withdrawn appeal hearing may be converted to an abatement hearing pursuant to subsection (f) below, and heard on the same date and time as scheduled for the appeal hearing.
- (f) Effect of Failure to Appeal.
 - (1) Final Determination of Violation. A notice and order for which no timely appeal is filed is a final determination and conclusive evidence of the responsible party's liability for abating the violation.
 - (2) Recording Notice of Abatement Proceedings. If the violation continues after issuance of a notice and order and an appeal is not timely filed, the enforcing officer may record in the office of the county recorder a notice of abatement proceedings describing the property and certifying the nature of the violation and that the owner has been so notified of the violation.
 - (3) Abatement Hearing. The enforcing officer may, at the enforcing officer's sole discretion, set the matter for an abatement hearing before a hearing officer. An abatement hearing does not affect a prior final determination issued in the matter.
 - (4) Determination of Abatement Costs and Civil Penalties.
 - i. Determination Issuance. If the notice and order is not timely appealed the enforcing officer will issue a determination of abatement costs and civil penalties.
 - ii. Determination Contents. The determination must contain:
 - a. The street address and/or a description of the property sufficient to identify the property upon which the violation exists or existed;

- b. A statement that the property described was found to be in violation of this code and a brief description of the conditions that constituted the violation(s);
 - c. The total estimated penalties incurred to date, as well as a statement of daily penalties for any continuing violation of this code;
 - d. A statement that the owner may appeal the amount of abatement costs and/or civil penalties;
 - e. A statement that the failure of an owner to appeal the amount of abatement costs and/or civil penalties constitutes a waiver of any right to an administrative hearing for this matter and failure to exhaust administrative remedies; and
 - f. A statement that payment of the abatement costs and/or civil penalties does not excuse the owner's obligation to correct any violation that continues to exist on the property.
- iii. Final Determination. A determination of abatement costs and civil penalties for which no timely appeal is filed is a final determination and conclusive evidence of the responsible party's liability for the abatement costs and civil penalties contained therein.
- (g) Notice of Hearing.
- (1) The notice of appeal hearing or abatement hearing must contain:
- i. The street address and/or a description of the property sufficient to identify the property upon which the violation exists or existed;
 - ii. The name(s) of the owner(s) or occupant(s) of the property as indicated on the latest equalized Sonoma County tax roll;
 - iii. A statement that the property described was found to be in violation and a brief description of the conditions that constituted the violation(s);
 - iv. The date, time and location of the hearing;
 - v. A statement that if a violation is found to exist or have existed that the costs will be a special assessment against the property and that a lien will be placed upon the property for the costs of abatement;
 - vi. A statement that costs include, but are not limited to, administrative overhead, salaries and expenses incurred by the following departments: agriculture/ weights & measures, permit and resource management, public health, transportation and public works, emergency services, county counsel and the district attorney;
 - vii. A statement that in order for any oral or written evidence, or any claim, defense or privilege to be considered it must be presented to the hearing officer at or before the time of the hearing and that failure to do so will constitute a waiver and may prevent such evidence or claim, defense or privilege from being considered in any later proceeding; and

- viii. A copy of the procedural rules governing such hearings.
- (2) Notice of a hearing must be given in accordance with Section 26-92-050.
- (h) Conduct of Hearings. A Hearing Officer will preside over the administrative hearing. Procedural rules for the conduct of the administrative hearing must be adopted by resolution of the board of supervisors. Procedural rules must, at a minimum, allow for hearing testimony, introducing evidence, and submitting written and oral argument. All evidence and argument must be retained by the county.
- (i) Hearing Officer Decision and Order.
 - (1) The hearing officer must render a decision and order within 20 days after the appeal hearing or abatement hearing is closed. The decision and order must contain:
 - i. Findings. Findings of fact and conclusions of law;
 - ii. Appeal of Violation. For an appeal hearing where a violation is appealed and upheld:
 - a. A statement of the basis for that finding and an order that the violation, if ongoing, be abated within a certain time;
 - b. A statement of costs and a reasonable timeframe for payment;
 - c. An assessment of civil penalties and a reasonable timeframe for payment;
 - d. At the hearing officer's discretion, additional daily civil penalties if the violation is not abated within the time set by subsection (a); and
 - e. At the hearing officer's discretion, additional remedies in accordance with Section 1-7.4.
 - iii. Appeal of Costs and Civil Penalties. For an appeal hearing where only costs and civil penalties are appealed:
 - a. A statement of costs and a reasonable timeframe for payment;
 - b. An assessment of civil penalties and a reasonable timeframe for payment; and
 - c. At the hearing officer's discretion, additional daily civil penalties until the violation is abated.
 - iv. Abatement Hearing. For an abatement hearing:
 - a. An order that the violation be abated within a certain time; and
 - b. An assessment of additional daily civil penalties if the violation is not abated within the time set by subsection (a).
 - v. A statement that the decision is a final decision, subject to judicial review in accordance with California Government Code Section 53069.4 or California Code of Civil Procedure Section 1094.6, or both, as applicable.
 - (2) A copy of the hearing officer's decision and order must be mailed, by certified mail, to the owner and occupant of the property, and the appellant.

- (3) Within 15 days of the hearing officer rendering a decision and order, a request may be made by either party or the hearing officer to correct technical, mathematical or clerical errors, mistakes, or any other minor changes in the decision and order. These corrections are limited to changes that do not affect the factual or legal basis of the decision and order. Notice of the request must be given to the other parties to the proceeding.
- (j) Abatement Liens.
- (1) Liens. If the property owner is responsible for any costs pursuant to this chapter, such costs will become a lien against the property as is authorized by the Government Code and this section.
 - (2) Contents of Abatement Lien. A notice of abatement lien may be recorded which states the property owner, the date upon which abatement of the nuisance was required, a description of the real property subject to the lien, the amount of the abatement costs incurred to date and, if applicable, the date upon which the abatement was complete. If the abatement has not yet been completed, the notice must so state and must also indicate that the lien is a partial lien and that additional abatement costs will be incurred in the future.
 - (3) Supplemental Notice. It is the intent of the board of supervisors that abatement costs incurred after the filing of the notice of abatement lien relate back to the date upon which the lien was recorded for purposes of priority; however, in order to preserve its rights, after all abatement costs have been incurred and the abatement is complete, a supplemental notice of abatement lien may be recorded. The supplemental notice must contain all of the information required for the original notice and must also refer to the recordation date and recorder's document number of the original notice.
 - (4) Termination of Abatement Lien. If a lien is recorded and abatement costs are later paid, the enforcing officer must prepare a termination of lien and provide it to the property owner upon request.
- (k) Recording of Hearing Officer's Decision and Order. The enforcing officer may record a copy of the hearing officer's decision and order in the office of the Sonoma County recorder. If the violation is corrected and abatement costs are paid, the enforcing officer must prepare a notice of correction and provide it to the property owner.
- (l) Civil Action to Enforce Final Determination or Hearing Officer Decision and Order. If the property owner does not comply with a final determination or a hearing officer decision and order, the enforcing officer is authorized to request that county counsel seek judicial enforcement.
- (m) Civil Abatement Action. Nothing in this section, nor any action taken under this section, prohibits the county from filing a judicial action to address an ongoing violation in accordance with Section 1-7(f)(1).

Sec. 1-7.4. – Other Remedies

- (a) Authority. The remedies authorized by this Section may be imposed by the enforcing officer, the hearing officer, or the court.

(b) Environmental Restoration.

- (1) Environmental Restoration Requirement. The enforcing officer may require the responsible party to restore the environment when the violation has caused or may cause significant environmental damage, as determined by the enforcing officer.
- (2) Environmental Restoration Measures. Environmental restoration measures may include the following: restoring the ground surface to its natural topographic condition; replacing or restoring soil; revegetation and reforestation; habitat restoration; sediment removal and erosion control; stream, wetland, and riparian corridor restoration; removal of equipment, fill, sediment, paving, culverts, and structures; and soil, surface water, and groundwater decontamination and remediation.
- (3) Environmental Restoration Plan. Dependent on the scale of the environmental damage or complexity of the environmental restoration, the enforcing officer may require the submission of an Environmental Restoration Plan for review and approval prior to undertaking required environmental restoration.
- (4) Failure to Comply. If a responsible party fails to submit a required Environmental Restoration Plan, pursue environmental restoration with due diligence and in good faith, or timely complete the required environmental restoration, the county is authorized to do the following:
 - i. Perform the environmental restoration. The responsible party will be liable to the county for all costs related to restoring the property.
 - ii. Bring a judicial action to enforce compliance with the final determination or order requiring environmental restoration.