

CHAPTER 26
PROPOSED AMENDMENTS

Sec. 26-88-252. – Enforcement.

~~(a) Violations.~~

- ~~(1) Any activity performed contrary to the provisions of Section 26-88-250 through 26-88-258 is hereby declared to be a violation of this chapter and a public nuisance.~~
- ~~(2) Any violation of a term, condition, or the approved plans and specifications of any permit issued pursuant to Section 26-88-250 through 26-88-256 shall constitute a violation of this chapter.~~
- ~~(3) Each and every day during the portion of which any violation of Sections 26-88-250 through 26-88-258 or any permit issued thereunder is committed, continued, or allowed to continue shall be a separate offense.—~~

(a) Enforcement.

- (1) Enforcement of Violations. A violation of Sections 26-88-250 through 258 is subject to enforcement under Chapter 1.
- (2) Enforcing Officer. The Director and the Agricultural Commissioner are authorized to enforce the provisions of Sections 26-88-250 through 258 and serve as the enforcing officer for purposes of Chapter 1.

~~Complaints regarding the noncompliance of commercial cannabis activity or personal cultivation with Sections 26-88-250 through 26-88-258, as applicable, will be addressed by the agency having jurisdiction which may conduct an investigation to determine whether there was a violation of the county code, a zoning standard, or a use permit condition. Sheriff reports, online searches, citations, aerial photos or neighbor documentation may constitute proof of a violation. The agency having jurisdiction shall have discretion to investigate or prosecute any potential violation.~~

(b) Suspension, Revocation or Modification.

- (1) Cause for Revocation. Any permit, license or approval issued pursuant to under Sections 26-88-250 through 258 this chapter may be suspended, revoked, or modified by the agency having jurisdiction, if the Director or the Agricultural Commissioner determines any of the following:
 - a. Circumstances under which the permit was granted have changed and the public health, safety, and welfare require the suspension, revocation, or modification;

- b. The permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the permit application; or
- c. ~~One (1) or more of the~~ conditions or standards of the permit ~~has~~ not been substantially fulfilled or ~~has~~ been violated.

~~(2) Revocation Process. Any suspension, revocation, or modification action taken by the Department of Agriculture/Weights and Measures shall be subject to prior notice and the opportunity for an administrative hearing review and appeal procedure pursuant to Chapter 36. Any suspension, revocation, or modification action taken by the Permit and Resource Management Department shall be subject to review and appeal procedures pursuant to Chapter 26. The revocation of any cannabis permit shall have the effect of terminating the permit and denying the privileges granted by the permit.~~

~~(3) Effect of Revocation.~~

- a. ~~The revocation of a cannabis permit terminates the permit and the privileges granted by the permit.~~
- b. ~~Upon revocation,~~ The permit holder and each person who meets the definition of cannabis business owner of the permit holder ~~shall not~~ apply for or be issued a permit for any commercial cannabis activity for ~~a period of~~ at least ~~two (2)~~ years.

~~(d) Administrative Remedies.~~

- ~~(1) The remedies provided for in this section apply to violations verified by the agency having jurisdiction, and shall be cumulative and not exclusive. This section is not intended to, and does not, establish any criminal liability. Administrative Enforcement Action. A violation of Section 26-88-250 through 26-88-258 or any permit issued thereunder shall be subject to civil enforcement and abatement methods pursuant to Section 1-7.3 of the county code, as determined by the agency having jurisdiction.~~
- ~~(2) Administrative Citations. Any person violation or causing a violation of any provision of Sections 26-88-250 through 26-88-258 or any permit issued pursuant to those sections may be issued an administrative citation by the agency having jurisdiction pursuant to Section 1-7-6.~~
 - a. ~~Any person issued an administrative citation shall be liable for and shall remit payment of any fine(s) assessed in connection with the citation in compliance with Section 1-7-6 of this code.~~
 - b. ~~Any person issued an administrative citation may appeal the citation to a hearing officer in compliance with Section 1-7.6 of this code.~~

Cannabis Civil Penalties Schedule

Violation	First Offense	Second Offense	Third Offense

Exceedance of Allowed or Permitted Cultivation Area	\$20 per square foot	\$30 per square foot	\$50 per square foot
Non-compliance with Standard or Condition	\$1,000	\$5,000	\$10,000
Unpermitted Cannabis Use	\$10,000	\$25,000	\$50,000

~~a. Civil Penalties In addition to any and all other costs, fees, penalties and expenses which may be assessed or imposed as a result of a violation of the county code, the following civil penalties may be applied to violations associated with commercial cannabis activity, as determined by the agency having jurisdiction. 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 the third violation within two (2) years. 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.~~

~~b. For 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 the third violation within two (2) years.~~

~~In the event that the use or structure in violation may be permitted with an appropriate permit up to a maximum of fifty (50) times the amount of the standard fee for each required approval, review and permit.~~

~~Three Strikes Penalty.~~

~~Upon receipt of any combination of three (3) administrative citations, verified violations, or hearing officer determinations of violation of any of the permit requirements or standards issued to the owner or operator at any property or combination of properties of the same owner or operator within a two-year period, the permit for a cannabis operation is revoked, subject to prior notice and to appeal. Appeals shall be filed within ten (10) days of the notice of revocation. Upon revocation, an application to reestablish a cannabis operation at the subject property shall not be accepted for a minimum period of two (2) years.~~

~~Removal of Violation. The penalties imposed by this section may not apply if the agency having jurisdiction establishes that within five (5) days after the date of mailing or hand delivery of notice of the existence of the violation, the person removed from the property the cannabis, the cannabis equipment, the use, or structure which constituted that violation.~~