

# Amendments to Sonoma County Code Chapters 1 & 26 and Administrative Procedures

**Board of Supervisors**

**August 11, 2020**

**File ID: 2020-0792**

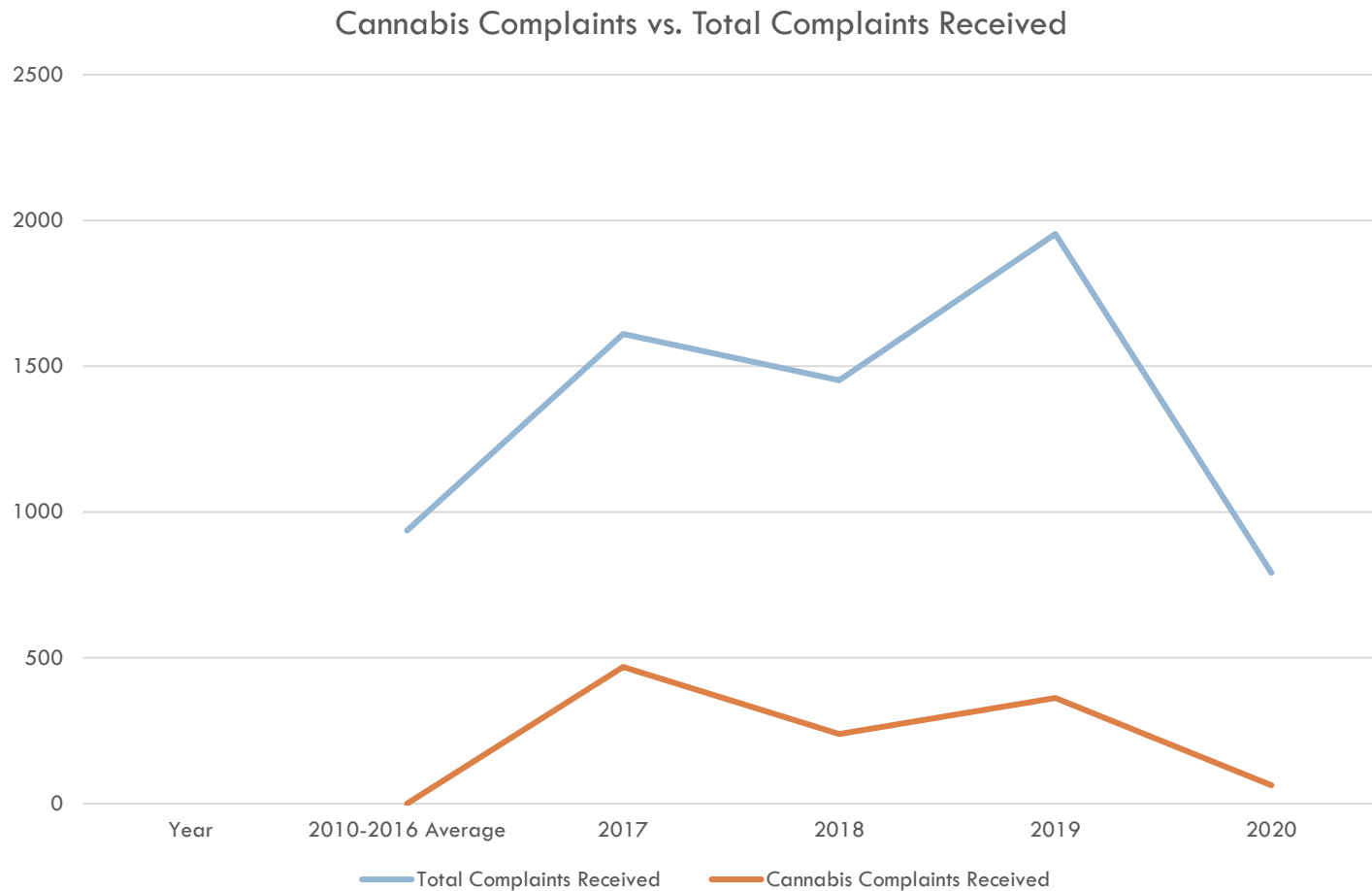


# Background

- ❑ **Code Enforcement Data**
- ❑ Between 2010-2016 received an average of 936 complaints per year.
- ❑ In 2016 began enforcement of vacation rentals.
- ❑ In January 2017, added enforcement of cannabis land use regulations for both permitted and unpermitted cannabis cultivation operations.

# Background (Cont.)

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- In 2018, enforcement duties were expanded to include storm water and encroachment violations.
- In 2020, Code Enforcement began enforcement of Chapter 13A for hazardous vegetation management
- 2020 added enforcement of local and state public health orders.

# Code Amendment Goals:

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- Enhance code clarity and certainty.
- Consolidate enforcement provisions in a single location in Chapter 1.
- Ensure penalty scalability for egregious violators.
- Encourage compliance for permitted operators.

# Chapter 1 Amendments

- Add definitions, e.g. violation and responsible party
- Ensure authority to file civil nuisance abatement action and seek remedies is not limited
- Eliminate duplication of enforcement provisions
- Clarify failure to appeal equals final determination
- Clarify provisions for civil penalty appeals
- Allow broader use of administrative enforcement provisions

# Penalties for Unpermitted Grading

- Apply penalties from Vineyard and Orchard Development and Agricultural Grading and Drainage (VESCO) to Construction Grading
- Current grading penalties
  - ▣ Up to \$100 1<sup>st</sup> vio/ \$200 2<sup>nd</sup> vio/ \$500 per day
- VESCO penalties
  - ▣ Depend on severity of violation and impact to property, public, or environment instead of duration
  - ▣ Up to \$500 / \$50,000 / \$100,000

# Environmental Restoration Remedy

- Violators generally abate a violation in any way that complies with the code.
- Devastating environmental impacts may remain after abatement.
- New remedy would allow County to require specific environmental restoration outcomes and methods.
- Examples: restoring to natural topography, revegetation, restoring natural stream flow, etc.



# Unpermitted grading



# Unpermitted grading



# Water diversion



# Correction Period

- State law requires correction period for building, plumbing, electrical and other similar violations.
- Correction period not required zoning violations.
- Zoning violations can often be moved, started, and stopped - civil penalties could always be evaded.
- Recommendation:
  - ▣ Align correction period provision with state law.
  - ▣ Remove Sec. 26-88-252(d)(5) that states penalties “may not” and has been misinterpreted as a mandatory correction period for cannabis violations.

# Cannabis Penalties: Per Plant Option

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- ❑ Penalties scale depending on size of violation.
- ❑ Dissuades new and repeat large-scale illegal cultivators.
- ❑ Recognizes extreme profitability of cannabis cultivation.
- ❑ Used by Stanislaus, Placer, Fresno, and Sacramento Counties, and the Cities of Malibu and Redding.

# Per plant option



# Remove the “three strikes penalty” (Sec. 26-88-252(d)(4))

- County already has authority to revoke a cannabis permit (Sec. 26-88-252(c)).
- Provides County no discretion by requiring permit revocation for only minor violations.
- Requires revocation at multiple sites because of one common business owner.

# Cannabis & Vacation Rental Code Changes

- Technical corrections and consolidation in Chapter 1 are intended to:
  - ▣ Reduce duplication and potential inconsistency
  - ▣ Remove uncertainty
  - ▣ Clarify code language



# Administrative Hearing Procedures

## □ Goals:

- Update 1988 Resolution governing administrative hearings held by a hearing officer.
- Maintain informal, flexible nature
- Establish more structure for contentious hearings

## □ Issues addressed:

- Power and limitations of hearing officers, ex parte communications, subpoenas, continuances, argument and evidence, hearing procedures and speaker presentation rules, post hearing argument, site inspections.

# Authority to Directly File Litigation

- Nuisance abatement is generally pursued administratively; however, certain egregious cases necessitate directly filing litigation.
- Departments recommend the Board expand their authority to file litigation in lieu of the administrative process:
  - ▣ From cases with significant health and safety risks to any egregious case (e.g. environmental damage.
  - ▣ Return regularly to Board for review of cases.

# Recommended Action

- Adopt a Resolution introducing, reading the title of, and waiving further reading of an Ordinance amending Chapters 1 and 26 to improve code enforcement efforts.
- Adopt a Resolution updating the rules and procedures for administrative hearings.
- Adopt a Resolution broadening authority for Permit Sonoma Director and County Counsel to file litigation to abate egregious violations.

# Questions?

