

ANALYSIS

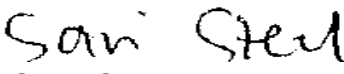
This ordinance amends Title 8 - Consumer Protection, Business and Wage Regulations, Division 2 - Business Regulations of the Los Angeles County Code by adding Chapter 8.44 (Abatement of Unpermitted Commercial Cannabis Activity), which:

(1) Declares any unpermitted commercial cannabis activity within the unincorporated areas of the County of Los Angeles to be unlawful and a public nuisance;

(2) Establishes administrative procedures for the abatement of a public nuisance, including an opportunity to appear and be heard before the County abates the nuisance; and

(3) Establishes administrative procedures for imposing penalties and costs of abatement.

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Requested: 09-07-2021
Revised: 1-5-2022

ORDINANCE NO. _____

This ordinance establishes the procedures for abatement of a public nuisance and imposition of related penalties and costs resulting from Unpermitted Commercial Cannabis Activity.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Chapter 8.44 is hereby added to read as follows:

Chapter 8.44 Abatement of Unpermitted Commercial Cannabis Activity

8.44.010 Purpose and Title.

8.44.020 Definitions.

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8.44.040 Notice of Violation and Order to Abate.

8.44.050 Contents of Notice of Violation and Order to Abate.

8.44.060 Service of Notice of Violation and Order to Abate.

8.44.070 Recordation of Notice of Pending Nuisance Abatement.

8.44.080 Administrative Review Hearing Before Abatement by County.

8.44.090 Enforcement.

8.44.100 Abatement by Owner(s) or Occupant(s).

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8.44.120 Notice of Costs of Abatement; Request for Hearing.

8.44.130 Collection of Costs of Abatement; Special Assessment and

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8.44.140 Notice of Administrative Penalty; Request for Hearing.

8.44.150 Contesting the Costs of Abatement and Administrative

Penalties.

8.44.160 Hearing Procedures.

8.44.170 Subsequent Violation Costs.

8.44.180 Non-exclusive Remedies and Penalties.

8.44.010 Purpose and Title.

This Chapter establishes administrative procedures to abate a public nuisance from Unpermitted Commercial Cannabis Activity and recover abatement costs. The administrative procedures include an opportunity to appear and be heard before the County abates the nuisance. This Chapter also establishes administrative procedures to impose penalties related to Unpermitted Commercial Cannabis Activity.

8.44.020 Definitions.

For the purposes of this Chapter, the following definitions apply:

A. "Administrative Hearing Officer" means the person appointed by the Issuing Department to conduct the administrative proceedings under sections 8.44.080, 8.44.120, and 8.44.140 of this Chapter.

B. "Board of Supervisors" or "Board" means the Board of Supervisors of the County of Los Angeles.

C. "Cannabis" means all parts of the plant *Cannabis Sativa* Linnaeus, *Cannabis Indica*, or *Cannabis Ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, Manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant incapable

of germination. "Cannabis" does not mean "industrial hemp" as defined by section 11018.5 of the Health and Safety Code.

D. "Cannabis Product" means cannabis that has undergone a process through which the plant material has been transformed into a concentrate, including concentrated cannabis, or an edible or topical product containing cannabis, or concentrated cannabis and other ingredients.

E. "Commercial Cannabis Activity" means and includes the Cultivation, possession, Manufacture, Distribution, processing, storing, Laboratory Testing, packaging, Labeling, transportation, Delivery, or Sale of Cannabis and Cannabis Products, and possession of any fixtures and equipment used for Commercial Cannabis Activity, including storage structures, hoop structures, greenhouses and frames, irrigation lines, pesticides, fertilizers, and tents. "Commercial Cannabis Activity" does not mean Cannabis used for personal purposes allowed under State law.

F. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis.

G. "Delivery" means the commercial transfer of Cannabis or Cannabis Products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned, leased, or controlled by the retailer.

H. "Distribution" means the procurement, Sale, and transport of Cannabis and Cannabis Products.

I. "Enforcement Officer" means any County employee or agent of the Issuing Department.

J. "Hearing Board" means the County board delegated by the Board of Supervisors to conduct and preside over the administrative abatement proceedings under Government Code section 25845 and this Chapter.

K. "Hearing Officer" means and includes the Hearing Board, or the Office of County Hearing Officer, as defined in this section, or the Board of Supervisors, who may conduct and preside over the administrative abatement proceedings under this Chapter.

L. "Issuing Department" means the County department that issues a notice of violation and order to abate Unpermitted Commercial Cannabis Activity and/or a notice of violation and administrative penalty, and administers and enforces this Chapter.

M. "Labeling" means any label or other written, printed, or graphic matter upon a Cannabis Product, its container or wrapper, or that accompanies any Cannabis Product.

N. "Laboratory Testing" means a laboratory, facility, or entity that offers or tests Cannabis or Cannabis Products.

O. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a Cannabis Product.

P. "Office of County Hearing Officer" means the office to which the Board of Supervisors has delegated its authority, by ordinance, if it so elects, to conduct the administrative hearings under Government Code sections 25845 and 27720, and this Chapter.

Q. "Occupant" means any Person(s) with possession, use, or apparent control of the Premises.

R. "Owner" means one or more individuals, Person(s), partnerships, or corporations holding any interest in the title of the property where the Commercial Cannabis Activity is being conducted.

S. "Person" means natural persons, corporations, unincorporated associates, estates, trusts, and any other legal entities, including the Owner(s), majority stockholders, officers, general partners, joint ventures, members, executors, administrators, and trustees of any such legal entity.

T. "Premises" means the designated structure or structures, and land owned, leased, or otherwise held under the control of the Owner(s) and/or Occupant(s) where Commercial Cannabis Activity is being conducted.

U. "Sale" means any transaction in which, for any consideration, Cannabis or Cannabis Products is transferred from one Person to another, and includes the Delivery of Cannabis or Cannabis Product, and/or the soliciting or receiving of Cannabis or Cannabis Products.

V. "Unpermitted Commercial Cannabis Activity" means Commercial Cannabis Activity as defined in this Chapter that is conducted without land use approvals under Title 22 of the Los Angeles County Code and without any other approvals required for Commercial Cannabis Activity under the Los Angeles County Code.

8.44.030 Declared Unlawful and a Public Nuisance.

No Person may establish, maintain, cause to be maintained, or allow any Unpermitted Commercial Cannabis Activity, as defined in this Chapter, within the unincorporated area of the County of Los Angeles. All Unpermitted Commercial Cannabis Activity within the unincorporated area of the County of Los Angeles is declared to be unlawful and a public nuisance that may be abated under this Chapter, or any other lawful means. Any Person violating any provision of this Chapter may be subject to administrative enforcement, and/or civil and/or criminal prosecution.

8.44.040 Notice of Violation and Order to Abate.

Whenever an Enforcement Officer determines that Unpermitted Commercial Cannabis Activity is being conducted upon any property within an unincorporated area of the County, the Enforcement Officer may issue a notice of violation and order to abate Unpermitted Commercial Cannabis Activity to the Owner(s) and any Occupant(s).

8.44.050 Contents of Notice of Violation and Order to Abate.

The notice of violation and order to abate Unpermitted Commercial Cannabis Activity must:

- A. Identify the Owner(s) of the property upon which the Unpermitted Commercial Cannabis Activity exists, as named in the records of the Los Angeles County Assessor, and identify any Occupant(s), if known, or who are reasonably identifiable.

B. Describe the location of the property by its commonly used street address, if any.

C. Identify the property by reference to the Assessor's parcel number.

D. Contain a statement that Unpermitted Commercial Cannabis Activity exists on the Premises.

E. Describe the Unpermitted Commercial Cannabis Activity and the actions required to abate it.

F. Contain a statement that any Owner(s) and any Occupant(s) must abate the Unpermitted Commercial Cannabis Activity within 10 calendar days after service of the notice of violation and order to abate unless a shorter time period is provided in the notice of violation and order to abate.

G. Contain a statement that any Owner(s) and any Occupant(s) who abate the nuisance must notify the Issuing Department no later than three calendar days after the abatement, using the contact information provided in the notice.

H. Notify the recipient(s) of the notice that a hearing will be held before an Administrative Hearing Officer or a Hearing Officer. The notice must specify the date, time, and location of the hearing, and state that all Owner(s) and any Occupant(s) will be given an opportunity to be heard and to present evidence at the same hearing regarding the Unpermitted Commercial Cannabis Activity existing on the Premises, and why the Unpermitted Commercial Cannabis Activity should not be abated by the County.

I. Contain a statement that, unless the Owner(s) and any Occupant(s) abate the Unpermitted Commercial Cannabis Activity, the County will proceed with abatement after a hearing under Government Code section 25845, and the Owner(s) will be liable for all costs of abatement incurred by the County, including administrative costs, and any costs of the physical abatement of the nuisance that may be made a special assessment added to the County assessment roll and become a lien on the real property, or may be placed on the unsecured tax roll.

J. Contain a statement that upon issuing the notice of violation and order to abate Unpermitted Commercial Cannabis Activity, the Enforcement Officer may record a notice of pending nuisance proceeding under Section 8.44.070 of this Chapter with the Los Angeles County Registrar-Recorder/County Clerk's Office.

8.44.060 Service of Notice of Violation and Order to Abate.

A. The notice of violation and order to abate Unpermitted Commercial Cannabis Activity under Section 8.44.040 must be served as follows:

1. By personal delivery to the Owner(s) and to any Occupant(s); or
2. By mailing it by overnight mail or overnight courier service to the Owner(s) at the address as it appears on the last assessment roll and to any Occupant(s) of the property at the address thereof, and by posting the notice of violation and order to abate at a location on the property reasonably likely to provide notice to the Owner(s) and any Occupant(s). If the records of the Los Angeles County Assessor show that ownership has changed since the last assessment roll was completed, the notice of violation and order to abate must also be mailed to the new

Owner(s) at the address appearing in the records. If the notice of violation and order to abate is served by overnight mail or overnight courier service, then the time periods in subsection 8.44.050.F. must be extended by one calendar day.

B. Service under paragraph A.1., above, is deemed effective at the time of personal delivery. Service under paragraph A.2., above, is deemed effective on the later of either the date deposited with the United States Postal Service by overnight delivery or courier service, or the date of posting.

C. The failure of any Owner(s) and/or Occupant(s) to receive a notice of violation and order to abate served consistent with the requirements of this Chapter does not affect the validity of the proceedings under this Chapter.

8.44.070 Recordation of Notice of Pending Nuisance Abatement.

A. Upon issuance of a notice of violation and order to abate Unpermitted Commercial Cannabis Activity under Sections 8.44.040 to 8.44.060, the Enforcement Officer may record a notice of pending nuisance abatement proceeding with the Los Angeles County Registrar-Recorder/County Clerk's Office. A notice of pending nuisance abatement proceeding must legally describe the property and the Unpermitted Commercial Cannabis Activity in violation of this Chapter.

B. If a notice of pending nuisance abatement and order to abate Unpermitted Commercial Cannabis Activity is recorded, the Enforcement Officer must serve and record a notice of final disposition when the nuisance abatement proceeding has been completed, including any hearings or appeals, and the completion of any work required to abate the nuisance. If the work to abate the

nuisance is performed at County expense, the notice of final disposition must not be issued until all costs of abatement have been paid, or a lien for those costs has been recorded. The notice of final disposition must be served upon any party served with the notice of violation and order to abate Unpermitted Commercial Cannabis Activity.

8.44.080 Administrative Review Hearing Before Abatement by County.

A. Whenever the Enforcement Officer has issued a notice of violation and order to abate Unpermitted Commercial Cannabis Activity under Section 8.44.040, the notice must state that a hearing will be held to determine whether the Unpermitted Commercial Cannabis Activity still exists, and why the Unpermitted Commercial Cannabis Activity should not be abated by the County under this Chapter. The hearing must be held no less than 11 calendar days, but no more than 45 calendar days from the date the notice of violation and order to abate was served, except for hearings before the Board of Supervisors as described below. The hearing required under this Chapter may be presided over by any of the following:

1. Board of Supervisors. Upon a decision by an Administrative Hearing Officer, appointed by the Issuing Department under subsection D, below, that includes the finding of a violation and a public nuisance, and recommends the nuisance be abated by the County, the matter must be scheduled for a public hearing before the Board of Supervisors. Notice of the public hearing before the Board must be sent to the Owner(s) and any Occupant(s) of the property at least 10 calendar days before the public hearing. At the public hearing, the Board of Supervisors must determine whether a public nuisance exists and whether the nuisance should be abated by the County.

Following the public hearing, the decision by the Board is final. Notice of the Board's decision must be reflected in the Board of Supervisors' Statement of Proceedings.

2. A Hearing Board. If the Board of Supervisors establishes a Hearing Board under Government Code section 25845, it must have three members appointed by, and serving at the pleasure of, the Board of Supervisors. The Hearing Board must hold a hearing on whether a public nuisance exists and whether the nuisance should be abated by the County. The Hearing Board must make a written recommendation to the Board of Supervisors, which may adopt the recommendation without a further hearing or set the matter for a *de novo* hearing before the Board of Supervisors. The decision by the Board of Supervisors is final. Notice of the Board's decision must be reflected in the Board of Supervisors' Statement of Proceedings.

3. Office of County Hearing Officer. If an Office of County Hearing Officer has been established by the Board of Supervisors under Government Code section 27720 and is delegated authority to act as the hearing officer under Government Code section 25845, the Office of County Hearing Officer must hold a hearing, and make written findings on whether a public nuisance exists and whether the nuisance should be abated by the County. The Office of County Hearing Officer's decision is final and no further hearing by the Board of Supervisors is required. The decision by the Office of County Hearing Officer must be provided to the Clerk of the Board of Supervisors.

B. At any hearing, the Owner(s) and any Occupant(s) of the property must be given an opportunity to present evidence on whether conditions constituting a nuisance

under Section 8.44.030 remain on the Premises, and if so, whether the nuisance should be abated by the County.

C. In hearings before either the Office of County Hearing Officer or the Hearing Board, evidence must be reviewed and a written decision or recommendation that affirms, reverses, or modifies the determinations in the notice of violation and order to abate must be provided to the Owner(s) and any Occupant(s). Written decisions and recommendations prepared by either the Office of County Hearing Officer or the Hearing Board must include findings regarding the existence of any Unpermitted Commercial Cannabis Activity, actions taken by the Owner(s) and/or Occupant(s) to abate the nuisance, and, if applicable, the additional steps required by the County to abate the nuisance and to bring the property into compliance. Both the written decision and written recommendation must also state whether the Owner(s) are responsible for any costs of abatement under Section 8.44.110 if the abatement is to be performed by the County. If the Office of County Hearing Officer or the Hearing Board finds that no nuisance exists, or that the nuisance has been abated, or for any other reason(s) the matter should not continue, the nuisance abatement proceeding will be deemed completed, and no further action by the Owner(s) or any Occupant(s) will be required as to that notice of violation and order to abate that is the subject of that nuisance abatement proceeding.

D. Administrative Hearing Officer's Decision. An Administrative Hearing Officer may be appointed by the Issuing Department to conduct the administrative proceeding under this section. The Administrative Hearing Officer must not be the

Enforcement Officer, or the immediate supervisor of the Enforcement Officer who issued the notice of violation and order to abate. If the matter is heard by an Administrative Hearing Officer, that Administrative Hearing Officer will determine whether a public nuisance exists and, if so, whether it should be abated by the County. The Administrative Hearing Officer's written decision must include findings regarding the existence of any Unpermitted Commercial Cannabis Activity, actions taken by the Owner(s) and/or Occupant(s) to abate the nuisance, and, if applicable, the additional steps required by the County to abate the nuisance and to bring the property into compliance. The written decision must also state whether the Owner(s) are responsible for any costs of abatement under Section 8.44.110 if the abatement is performed by the County. The written decision must also state that the Owner(s) and any Occupant(s) will have an opportunity to appear before the Board of Supervisors and be heard at a public hearing before the abatement by the County. If the Administrative Hearing Officer's written decision finds no nuisance exists, or the nuisance has been abated, or for any other reason(s) the matter should not continue, the nuisance abatement proceeding will be deemed completed, and no further action by the Owner(s) or Occupant(s) will be required as to the notice of violation and order to abate that is the subject of that nuisance abatement proceeding. Service of the Administrative Hearing Officer's decision must be by first class mail, overnight mail, or personal delivery to the parties upon whom the notice of violation and order to abate was served or their representatives, and is deemed effective at the date deposited

with the United States Postal Service by first class mail, or overnight delivery, or at the time of personal delivery.

E. Hearing Board's Recommendation. In the case of a hearing before the Hearing Board, the Hearing Board must make a written recommendation to the Board of Supervisors, which may adopt the recommendation without a further hearing or set the matter for a *de novo* hearing before the Board of Supervisors. The Hearing Board's recommendation does not become final unless a decision is made by the Board of Supervisors under subsection F of this section. Service of the Hearing Board's recommendation must be by first class mail, overnight mail, or personal delivery to the parties upon whom the notice of violation and order to abate was served or their representatives, and is deemed effective on the date deposited with the United States Postal Service by first class mail, or overnight delivery or at the time of personal delivery.

F. Board of Supervisors' Decision. In the case of a hearing before the Board of Supervisors, or the adoption of the Hearing Board's recommendation, the decision by the Board is final, as reflected in the Board of Supervisors' Statement of Proceedings, and will be served by first class mail, overnight mail, or personal delivery to the parties upon whom the notice of violation and order to abate was served or their representatives. Service is deemed effective on the date deposited with the United States Postal Service by first class mail, or overnight delivery, or at the time of personal delivery.

G. Office of County Hearing Officer's Decision. Any decision by the Office of County Hearing Officer is final and will be served by first class mail, overnight mail, or personal delivery to the parties upon whom the notice of violation and order to abate was served or their representatives. Service is deemed effective upon the date deposited with the United States Postal Service by first class mail, or overnight delivery, or at the time of personal delivery.

8.44.090 Enforcement.

If the Owner(s) or Occupant(s) fail to abate any Unpermitted Commercial Cannabis Activity within five calendar days of service of the Office of County Hearing Officer's decision, or the Board of Supervisors' Statement of Proceedings, affirming the existence of the violation and the public nuisance and order of abatement by the County, the Enforcement Officer may take one or more of the following actions:

A. Apply to the Superior Court for an abatement warrant authorizing entry upon the Premises to abate the nuisance using County personnel or private contractors, including removing and destroying all Cannabis, Cannabis Products, any Unpermitted Cannabis Cultivation, and any fixtures and equipment used for Commercial Cannabis Activity. The abatement warrant may also include locking and securing of the Premises.

B. Request that the matter be referred for civil or criminal prosecution to redress, enjoin, and/or abate the public nuisance.

8.44.100 Abatement by Owner(s) or Occupant(s).

Any Owner(s) or any Occupant(s) may abate the Unpermitted Commercial Cannabis Activity or cause it to be abated before the County commences abatement. Any Owner(s) or any Occupant(s) abating Unpermitted Commercial Cannabis Activity must: (1) notify the Enforcement Officer either by email or overnight mail to the email address or physical address, respectively, shown on the notice of violation and order to abate no later than three calendar days after the abatement; and (2) provide documentation that the Unpermitted Commercial Cannabis Activity has been abated in compliance with this Chapter. Abatement will not be deemed completed until the Unpermitted Commercial Cannabis Activity has been entirely removed from the Premises, and an inspection by the Enforcement Officer confirming completion has occurred. Failure to allow the inspection creates a rebuttable presumption that abatement has not occurred.

8.44.110 Liability for Costs of Abatement.

In any enforcement action brought under this Chapter, whether by administrative or judicial proceedings, any Owner(s) who causes, permits, or maintains an Unpermitted Commercial Cannabis Activity will be liable for all costs of abatement incurred by the County, including administrative costs and all costs incurred in the physical abatement of the nuisance. Under Government Code section 25845, reasonable attorneys' fees may also be awarded to the prevailing party. Recovery of attorneys' fees may be limited to the prevailing party in those individual actions or

proceedings in which the County elects, at the initiation of the action or proceeding, to seek recovery of its attorneys' fees.

8.44.120 Notice of Costs of Abatement; Request for Hearing.

The Enforcement Officer must notify, in writing, the Owner(s) served with a notice of violation and order to abate under Section 8.44.060, of the amount of the costs of abatement of the nuisance. The notice of costs of abatement must be served by first class mail. Service is deemed effective on the date deposited with the United States Postal Service by first class mail. Within 10 calendar days of service of such notice, any Owner(s) may request in writing to the Issuing Department a hearing on such costs under Section 8.44.150 of this Chapter. Unless a hearing is requested, payment of the costs of abatement is due within 20 calendar days of service of the notice of costs of abatement.

8.44.130 Collection of Costs of Abatement; Special Assessment and Lien.

If there are any unpaid costs of abatement owed as described in Section 8.44.120, the Board of Supervisors, or the Office of County Hearing Officer, if one is created, may order that all, or any part, of the costs of abatement incurred by the County, including administrative costs and any costs in the physical abatement of the nuisance, be placed upon the County tax roll as a special assessment against the respective parcel(s) of land, or placed on the unsecured roll, under Government Code section 25845. The Board of Supervisors, or the Office of County Hearing Officer, if one is created, may also cause a notice of abatement lien for the unpaid costs of

abatement owed as described in Section 8.44.120 to be recorded against the respective parcel(s) of real property upon which the nuisance exists under Government Code section 25845.

8.44.140 Notice of Administrative Penalty; Request for Hearing.

A. Besides any other remedy prescribed in this Chapter, any Unpermitted Commercial Cannabis Activity as described in Section 8.44.020 is subject to an administrative penalty up to \$30,000 for each day the Unpermitted Commercial Cannabis Activity occurs on the property. The administrative penalty may be imposed through the administrative procedure in this section, under Government Code section 53069.4, or by the Superior Court if the violation is enforced through the judicial process.

B. Whenever an Enforcement Officer issues a notice of violation and order to abate Unpermitted Commercial Cannabis Activity under this Chapter, the Enforcement Officer may separately issue a notice of administrative penalty to: (1) any Owner(s) whose property is the subject of a notice of violation and order to abate Unpermitted Commercial Cannabis Activity issued under Section 8.44.040; and/or (2) any Occupant(s) who causes or contributes to Unpermitted Commercial Cannabis Activity and who is served with a notice of violation and order to abate Unpermitted Commercial Cannabis Activity issued under Section 8.44.040. In assessing the penalty, the Enforcement Officer will give due consideration to the appropriateness of the amount of the penalty with respect to factors the Issuing Department determines to be relevant, including the following: (1) the gravity of the

violation by the Owner and/or Occupant; (2) the good faith of the Owner and/or Occupant; and (3) the history of previous violations.

C. If a notice of administrative penalty is issued, the Enforcement Officer must provide a reasonable period of time, no less than 10 calendar days from the date of service, for the Owner(s) and/or Occupant(s) to correct or otherwise remedy the violation before imposing an administrative penalty. If the Owner(s) and/or Occupant(s) fail to correct or otherwise remedy the violation within 10 calendar days from the date of service, the administrative penalty will be assessed and will continue to accrue from the date of the notice until the Unpermitted Commercial Cannabis Activity is abated.

D. Each notice of administrative penalty must contain the following information:

1. A statement that unless the Unpermitted Commercial Cannabis Activity is corrected within 10 calendar days after the service of the notice of administrative penalty, or an appeal under this Chapter is timely requested, an administrative penalty will be imposed on the Owner(s) and/or Occupant(s);
2. The name of the Owner(s) and/or Occupant(s);
3. The code section violated;
4. The address where the code violation occurred;
5. A description of the code violation;
6. The names of the Issuing Department and Enforcement Officer;

7. That the Owner(s) and/or Occupant(s) is liable for an administrative penalty up to \$30,000 per day for each day that the violation continues unabated; and

8. The procedures to pay the administrative penalty or to request an administrative hearing to contest the imposition of the administrative penalty.

E. The notice of administrative penalty must be served:

1. By mailing it by first class or overnight mail to the Owner(s) at the address appearing on the last assessment roll and the Occupant(s) of the property at the address thereof, and by posting the notice at the property at a location reasonably likely to provide notice to the Owner(s) and/or Occupant(s); or

2. By personal delivery to the Owner(s) and/or Occupant(s);

3. Service under subsection 8.44.140.F., paragraph 1, above, will be deemed effective on the later of either the date deposited with the United States Postal Service or the date of posting. Service under subsection 8.44.140.E., paragraph 2, above, will be deemed effective at the time of personal delivery.

F. The failure of any Owner(s) and/or Occupant(s) to receive a notice of administrative penalty served consistent with this Chapter does not affect the validity of the proceedings.

G. Any Owner(s) and/or Occupant(s) served with a notice of administrative penalty may request a hearing before an Administrative Hearing Officer or the Office of County Hearing Officer, if one has been created, to contest the imposition of the administrative penalty under Section 8.44.150 of this Chapter. If the matter is heard

by an Administrative Hearing Officer, it must not be the Enforcement Officer or the immediate supervisor of the Enforcement Officer that issued the notice of administrative penalty or the notice of violation and order to abate. The request must be made in writing and filed with the Issuing Department within 10 calendar days following service of the notice of the administrative penalty. The request must include a statement indicating the basis on which the Owner(s) and/or Occupant(s) contests the imposition of the administrative penalty. The request must also include the address of the Owner(s) and/or Occupant(s) for correspondence by the Administrative Hearing Officer or the Office of County Hearing Officer. The hearing required under this section may be combined with the hearing required under Section 8.44.120 involving the same property.

H. Unless a Person served with a notice of administrative penalty requests an administrative hearing to contest the imposition of the administrative penalty under this Chapter, the notice of administrative penalty will constitute the final administrative order of the County regarding the administrative penalty, which will be due and payable to the County by the Owner(s) and/or Occupant(s) within 20 calendar days following service of the notice of administrative penalty.

I. The administrative penalty imposed under this Chapter will be in addition to any other fines and/or penalties imposed for violations of local, State, and/or federal law.

J. An administrative penalty will be due only if it is determined at the final administrative review hearing under Section 8.44.080 that there was a nuisance on the property.

8.44.150 Contesting the Costs of Abatement and Administrative Penalties.

A. Costs of Abatement. Any timely request for hearing to contest the costs of abatement incurred by the County in the abatement of Unpermitted Commercial Cannabis Activity under Section 8.44.120 may be set for hearing by the Issuing Department, Administrative Hearing Officer, or Office of County Hearing Officer, if one is created. The hearing may be combined with any hearing to contest the administrative penalty imposed under Section 8.44.140 involving the same property. The hearing will be set within 30 days following any such request for a hearing under Section 8.44.120. At the hearing, the Owner(s) and County may provide evidence regarding the amount and reasonableness of the costs of abatement. Following the hearing, the Administrative Hearing Officer or the Office of County Hearing Officer may make such modifications as deemed necessary and issue a written decision with findings and any order for payment of the costs of abatement. Any order of the Administrative Hearing Officer or the Office of County Hearing Officer will become effective upon issuance and must be served by first class mail, addressed to the Owner(s) notified under Section 8.44.120. Service is deemed effective on the date deposited with the United States Postal Service. Payment of the costs of abatement must be made to the County within 20 calendar days of the service of the decision and order for payment of

costs of abatement of the Administrative Hearing Officer or the Office of County Hearing Officer. If the total assessed costs of abatement determined under this section are not paid in full within 20 calendar days after service of the decision and order by the Administrative Hearing Officer or the Office of County Hearing Officer, the unpaid amounts may be collected under Section 8.44.130. Interest will accrue on all amounts due under this section from the date of the decision and order to the date paid under the laws applicable to civil money judgments.

B. Administrative Penalty. Any timely written request for a hearing to contest an administrative penalty imposed under Section 8.44.140 may be set for hearing by the Issuing Department, Administrative Hearing Officer, or Office of County Hearing Officer, if one is created. The hearing officer designated to hear the matter may combine the hearing with any hearing to contest the costs of abatement imposed under Section 8.44.120 involving the same property. The hearing must be set within 60 calendar days following a request for a hearing under subsection 8.44.140.H., or at the date a hearing is scheduled to contest costs of abatement, whichever is later. At the hearing, the Owner(s) and/or the Occupants and the County may provide evidence regarding the justification and reasonableness of the administrative penalty. Following the hearing, the Administrative Hearing Officer or the Office of County Hearing Officer may assess an administrative penalty by a written order with findings. In assessing the penalty, the Administrative Hearing Officer or the Office of County Hearing Officer will give due consideration to the appropriateness of the amount of the penalty with respect to factors the Administrative Hearing Officer or the Office of County Hearing

Officer determines to be relevant, including the following: (1) the gravity of the violation by the Owner and/or Occupant; (2) the good faith of the Owner and/or Occupant; and (3) the history of previous violations.

C. The decision of the Administrative Hearing Officer or the Office of County Hearing Officer is final and is not subject to additional administrative review. Any order of the Administrative Hearing Officer or the Office of County Hearing Officer will become effective upon issuance and must be served by first class mail. Service is deemed effective on the date deposited with the United States Postal Service. Payment of the administrative penalty specified in the order must be made to the County within 20 calendar days of service of the order, unless timely appealed to the Superior Court under Government Code section 53069.4, subdivision (b). Interest will accrue on all amounts due under this section from the date of the order requiring payment of such penalty to the date paid under the laws applicable to civil money judgments.

8.44.160 Hearing Procedures.

The Administrative Hearing Officer, or the Hearing Officer, may establish procedures for the conduct of the hearings under this Chapter. Any hearing under this Chapter may be continued by the Administrative Hearing Officer, or the Hearing Officer, if good cause is shown. If any Owner(s) and/or Occupant(s) served with a notice of violation and order to abate Unpermitted Commercial Cannabis Activity has requested a hearing under this Chapter, but fails to appear and present evidence at

the hearing, the Administrative Hearing Officer or Hearing Officer may base the decision solely upon the evidence submitted by the Enforcement Officer.

8.44.170 Subsequent Violation Costs.

Upon a second or subsequent civil or criminal judgment for violation of this Chapter within a two-year period, a violator is liable to the County for three times the costs of abatement under Government Code section 25845.5.

8.44.180 Non-exclusive Remedies and Penalties.

All remedies and penalties for the abatement of public nuisances provided for in this Chapter are cumulative and not exclusive. Enforcement remedies may be concurrent or consecutive. Conviction and punishment of, or enforcement against, any Person does not relieve such Person from the responsibility of correcting, removing, or abating a violation, or prevent the correction, removal, or abatement by the County. Each day, or any portion thereof, during which any violation of this Chapter is committed, continued, or permitted by any Person, is a separate and distinct offense.

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