

ORDINANCE NO. 3112
AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 13 OF THE LAKE COUNTY
CODE RELATING TO ADMINISTRATIVE FINES AND PENALTIES

THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE ORDAINS AS
FOLLOWS:

Section 1: Article VII of Chapter 13 of the Lake County Code is hereby amended to read as follows:

"Sec. 13-45. - Citation and Authority.

45.1 This article is adopted pursuant to Government Code section 53069.4 and may be cited as the Lake County Administrative Fines and Penalties Ordinance.

Sec. 13-46. - Purpose and Intent.

46.1 The purpose of this article, relating to administrative fines and penalties is to provide alternative remedies to address acts or omissions as set forth in Section 13-48 herein. Violations may be corrected, abated, or addressed in a number of ways. It is the intent of this article to provide the County with an additional remedy to correct violations and, where necessary, to penalize violators for failure to comply with County codes and ordinances.

46.2 This article is adopted in order to achieve the following goals:

- a. To protect the public health, safety and welfare of the communities and citizens in the County of Lake;
- b. To provide for an administrative process for the imposition of penalties and for a process to appeal the imposition of administrative penalties;
- c. To provide for a method to penalize responsible parties who fail or refuse to comply with provisions of the County Code, ordinances, or conditions of entitlement in the County of Lake; and
- d. To minimize the expense and delay where the alternative remedy is to pursue responsible parties in the civil or criminal justice system.

46.3 All final administrative orders made pursuant to the procedures set forth in this article shall be subject to review only as provided for in Government Code Section 53069.4.

Sec. 13-47. - Definitions.

47.1 For purposes of this article, the following words and phrases shall have the

following meanings:

- a. "Administrative Citation" means a citation issued pursuant to this Section imposing an Administrative Fine pursuant to Sections 13-48, 13-49, and/or 13-50.
- b. "Administrative Costs" means all direct and indirect costs incurred as a result of an Administrative Citation hearing, including, but not limited to, reasonable attorney fees, and costs relating to the initial review, scheduling, and processing of the administrative hearing.
- c. "Administrative Fine" or "Administrative Penalty" means the fine or penalty imposed on the Responsible Person for an Administrative Violation.
- d. "Administrative Processing Agency" means the entity contracted by the County to process Administrative Citations, or, in the absence of such a contract, means the County.
- e. "Administrative Violation" means any violation of this Code, applicable statutory provisions, ordinances, uniform codes adopted by the County, orders issued by a commission, board, hearing officer, or other body authorized to issue orders, or any conditions or requirements imposed on or by any entitlement, permit, or environmental document issued or approved by the County.
- f. "Cannabis Operations" means any activity involving cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of cannabis, of cannabis products or of ancillary products and accessories, whether or not carried on for gain or profit.
- g. "Continuing Violation" means a violation of Lake County Code that persists from day to day. A Continuing Violation does not include an Administrative Violation that is corrected by the Responsible Party through the immediate cessation or discontinuation of any prohibited activity or by the immediate implementation of a required activity as determined by the Issuing Department.
- h. "Days" shall mean calendar days.
- i. "Enforcement Costs" means all direct and indirect costs incurred by the Issuing Department in investigating, inspecting, or abating any Administrative Violation, including, but not limited to, noncompliance fees and costs incurred in preparing for and attending an Administrative Citation hearing.
- j. "Enforcement Officer/Official" means any police officer, inspector, or other employee or agent of the County having the power to enforce any Administrative

Violation, including Enforcement Officers of non-County entities that have the authority to perform such enforcement through agreements with any County Departments.

- k. "High Severity Violation" means violation of considerable environmental impact at the time it first occurs and which impact will be greatly acerbated by its continuing to occur.
- l. "Initial Review of Citation" means the imposition of an Administrative Citation is appealed, an Initial Review will be completed by the head official of the Issuing Department or their designee and a determination made if the citation should be upheld.
- m. "Issuing Department" means the County department or office that has authority and responsibility for enforcing Administrative Violations subject to an Administrative Citation, including non-County entities that have the authority to perform such enforcement through agreements with any County Departments.
- n. "Minor" means any person under the age of eighteen years.
- o. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.
- p. "Population Center" means a geographic area where persons have congregated to reside such as an urbanized area or urban cluster.
- q. "Responsible Person(s)" means any person, as defined in this Section, who is any of the following:
 - i. A person who causes or materially contributes to the causation of an Administrative Violation;
 - ii. A person who maintains or allows an Administrative Violation to continue by his or her action or inaction;
 - iii. A person whose agent, employee, consultant, or independent contractor causes or materially contributes to the causation of an Administrative Violation;
 - iv. An on-site manager of a business who is responsible for the activities occurring at the premises where an Administrative Violation occurs;
 - v. A trustee or other person who is given the legal authority to manage property on behalf of someone else where an Administrative Violation occurs;
 - vi. A person who is a parent or guardian having custody and control of a Minor who contributes to the causation of an Administrative Violation;

vii. A person who is the owner of, or who exercises control over, or any lessee or sub lessee with the current right of possession and control of, real property where a property related Administrative Violation occurs.

r. "Violation" shall mean any act or omission for which Administrative Penalties may be imposed pursuant to this article.

Sec. 13-48. - Imposition of Administrative Penalties.

48.1 Administrative Penalties shall be imposed, enforced, collected and reviewed in compliance with the provisions of this Article. Administrative penalties may be imposed by the Enforcement Official for any of the following acts or omissions:

- a. All violations of the Lake County Code;
- b. Failing to comply with any condition imposed by any entitlement, permit, contract, or environmental document issued or approved by the County of Lake; and
- c. Failing to obtain and/or maintain any permit related to cannabis operations which is required, issued, and/or approved by the County of Lake.

48.2 **Amount of Penalty: Infraction.** If the Lake County Code designates the violation as an infraction, an administrative fund up to the maximum fine or penalty amounts for infractions set forth in subdivision (b) of Government Code section 25132 may be imposed if the violation is not addressed and/or abated in compliance with Section 48.7 herein. Each day the illegal condition exists is deemed a separate violation, the amount of which penalty to be imposed shall be calculated based upon the number of calendar days from the date of transmittal of the Notice of Violation through the date for abatement specified in the Notice of Violation.

48.3 **Amount of Penalty: Other**

Except as otherwise specified herein, if this Code does not designate the violation as an infraction, an administrative penalty may be imposed within the amounts set forth below if the violation is not addressed and/or abated or successfully appealed by the date specified in the Notice of Violation:

- a. Up to one thousand dollars (\$1000.00) for each calendar day from the date of the transmittal of the Notice of Violation through the date of actual abatement of the violations specified in said Notice.
- b. Determination of Administrative Penalty Imposed.
In determining the amount of any administrative penalty under this Section, the enforcement official shall take into consideration the circumstances of the violation, the degree of harm caused by the violation, any prior history of

violations, the Responsible Person(s)' ability to pay the fine, the market value of the cannabis cultivation which is in violation of this Section, and other factors in the furtherance of justice.

- c. Resolution. The Board of Supervisors may adopt a resolution at an open and public meeting which further clarifies and describes the manner in which the particular circumstances of a violation of this Article may impact the determination of the degree of severity of that violation and the corresponding penalty imposed.
- d. In the event the violations include is the illegal use of a structure and the that violation may be corrected by obtaining the appropriate permit, up to a maximum of five (5) times the amount of the standard fee for the permit may be charged as to that violation alone.
- e. Payment of the administrative penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action.
- f. The administrative penalty imposed shall be made payable to the County of Lake.

Sec. 13-49. Administrative Penalties for Failure to Maintain Required County Permit(s) for Cannabis Operations, Engaging in Cannabis Operations Beyond the Scope of an Existing County Permit and/or Engaging in Cannabis Operations While a Permit Application is Pending But Not Approved

49. 1 Purpose. It is imperative that cannabis operations occur in Lake County pursuant to existing and appropriate County permits. Certain misconduct poses such critical risk to the health and safety of the County's residents. Failure to maintain such permits, to engage in cannabis operations beyond the scope of an existing County permit, and/or to engage in cannabis operations after a permit has been applied for but before it has been approved, significantly deprives the County of adequate land use planning, ignores the requirements of the California Environmental Quality Act (CEQA), thereby creating the possibility of substantial jeopardy to the environment, and impacts the safety of all County residents. The jeopardy to the environment is significant fine and prolonged when cannabis cultivation operations occur without proper licensure and permitting, creating devastating water pollution, dangerous erosion, and leaching of chemicals and toxins into the County's water supply. A civil penalty in the form of a fine must be imposed. Further, the failure to obtain the necessary permits to engage in cannabis cultivation legally in Lake County is a fraud against the County, depriving the County of the tax to which it is lawfully due, and constitutes an unlawful business practice which puts those engaged in permitted cannabis cultivation operations at a distinct and significant disadvantage. Said violations are not designated as infractions and any fine imposed as a consequence of such violation is not a tax or fee under Article XIII C, Section One, subdivision (c)(5) of the California Constitution and is subject only to the Excessive Penalties Clause of Article 1, section 17 of the California Constitution and the Eighth Amendment of the

United States Constitution. While said violations shall constitute a public nuisance, the procedures established in this section are in addition to any other procedures or legal remedies used to address violations of County ordinances, including but not limited to nuisance abatement procedures. The administrative penalty imposed pursuant to this Section may be charged consequent to a nuisance abatement process or may occur as a separate billing apart from the nuisance abatement process.

49.2 Amount of Administrative Penalty Imposed. The Administrative Penalty imposed by this Section is so imposed as a separate violation for each day the violation continues to persist beginning at the time a notice of violation is served upon the responsible party or parties. The Administrative Fine shall continue to accrue until the violation is remedied. For purposes of this Section, conducting cannabis cultivation operations in the unincorporated areas of the County in violation of Section 13-49 herein may only be remedied by the Responsible Person(s) by both self-abatement of all such unpermitted operations or and by the application by the responsible party or parties for the required County permit(s) within the 30 day-period described hereinbelow. Those fines described in Section 49.2 (a) through (c) hereinbelow will not become a debt owed to the County if the violations giving rise to said fines are corrected within 30 days.

- a. A First Violation of this Section. If the violation is not corrected within thirty (30) days, an administrative fine of one thousand dollars (\$1,000.00) per day per violation will be assessed until such time as the Responsible Person(s) self-abates or abatement action is completed by the County.
- b. A Second Violation of this Section. If a second violation occurs within a twenty-four month period, commencing from date of issuance of the prior administrative citation to the same Responsible Person(s) or on the same premises if the property owner remains the same, the administrative fine shall be three thousand dollars (\$3,000.00) per day per violation until such time as the Responsible Person(s) self-abates or abatement action is completed by the County.
- c. A Third Violation of this Section. For a third such violation within a twenty-four-month period commencing from date of issuance of the prior administrative citation to the same Responsible Person(s), or on the same premises if the property owner remains the same, the administrative fine shall be five thousand dollars (\$5,000.00) per day per violation. until such time as the Responsible Person(s) self-abates or abatement action is completed by the County.

Permit Ineligibility . Additionally, no Responsible Person(s) associated with the premises subject to said violation(s) shall be eligible for a County permit for Cannabis Operations of any kind for a period of no less than ten (10) years.

Sec. 13-50. Administrative Penalties for Failure to Obtain Required County Permit(s) for Cannabis Operations and Other "High Severity Violations.

50.1 Purpose. Certain misconduct poses such critical risk to the health and safety of the County's residents. The jeopardy to the environment is significant and prolonged when cannabis cultivation operations occur without proper licensure and permitting, creating devastating and enduring water pollution, dangerous erosion, and leaching of chemicals and toxins into the County's water supply. The jeopardy to the health and safety of County residents can be extreme when such unpermitted operations occur within exclusionary zones, community growth boundaries and other population centers. Such misconduct shall be deemed to constitute violations of "High Severity" which, for purposes of this Article means a violation occurring within community growth boundaries or other population centers, a violation of considerable environmental impact at the time it first occurs and which impact will be greatly acerbated by its continuing to occur.

Civil penalties must be imposed. Further, the failure to obtain the necessary permits to engage in cannabis cultivation legally in Lake County is a fraud against the County, depriving the County of the tax to which it is lawfully due, and constitutes an unlawful business practice which puts those engaged in permitted cannabis cultivation operations at a distinct and significant disadvantage. Said violations are not designated as infractions and any fine imposed as a consequence of such violation is not a tax or fee under Article XIII C, Section One, subdivision (e)(5) of the California Constitution and is subject only to the Excessive Penalties Clause of Article 1, section 17 of the California Constitution and the Eighth Amendment of the United States Constitution. While such high severity violations shall constitute a public nuisance, the procedures established in this section are in addition to any other procedures or legal remedies used to address violations of County ordinances, including but not limited to nuisance abatement procedures. The administrative penalty imposed pursuant to this Section may be charged consequent to a nuisance abatement process or may occur as a separate billing apart from the nuisance abatement process.

50.2 Notice of Violation. The corrective period and appeal period specified in the Notice of Violation described in Section 13-54 herein shall be abbreviated for High Severity Violations due to the considerable impact of said violations. Said Notice of Violation for violations deemed high severity shall allow for no more than fifteen (15) days and no less than ten (10) days to correct the violation(s).

50.3 Penalties for High Severity Violations.

- a. **The Failure to Obtain Required County Permits for Cannabis Cultivation Operations - Per Plant Penalty.** For any cannabis cultivation operations for which a County permit is required but not obtained, there shall be a per-cannabis-plant penalty imposed. until such time as the Responsible Person(s) self-abates or abatement action is completed by the County. Said penalty constitutes a debt against the County from the date of the notice of violation and is due and payable immediately upon the date of the notice of violation and continues until the violation is corrected. The following per-plant penalties shall apply:

- i. 1-10 plants - a per plant per day penalty of up to \$100.00 per plant.
 - ii. 11-25 plants - a per plant per day penalty of up to \$200.00 per plant.
 - iii. 25-50 plants - a per plant per day penalty of up to \$300.00 per plant.
 - iv. 51 or more plants - a per plant per day penalty of up to \$500.00 per plant.
- b. **Permit Ineligibility.** Any Responsible Person(s) determined to have violated this section shall be deemed permanently ineligible to obtain any County permit(s) for cannabis operations in the unincorporated area of the County of Lake.
- c. Additionally, in situations where no County permit has been obtained to cultivate cannabis as required by law, if it is determined that said cultivation presents an imminent danger to public health, safety, and welfare, summary abatement procedures may be immediately employed.

50.4 Other High Severity Violations - Other violations deemed by Lake County Code to be High Severity Violations for purposes of the imposition of Administrative Fines. Certain other violations may be deemed as High Severity if the conditions rise to the level of impact described in Section 50.1 herein. Such violations may include action deemed to be High Severity Violations elsewhere in the Lake County Code, actions which facilitate unpermitted cannabis cultivation and/or which result in significant environmental impacts to neighboring property owners, and/or which contravene the orders of this Board during a locally-declared emergency. Said violations shall be subject to the maximum penalty/fine authorized by this Article.

Sec. 13-51. Additional Penalties and Remedies.

Any person owing fines and/or penalties pursuant to this Section shall be liable in an action brought in the name of the county for recovery of such fines and/or penalties. These recovery costs may include reasonable attorney fees incurred in the action if the county prevails, as the county reserves the right to seek to recover reasonable attorney fees, on a case by case basis, pursuant to California Government Code Section 25845, subdivision c. In those cases in which the County seeks to recover reasonable attorney fees, the other party may likewise do so. All such costs recovered by the County pursuant to this chapter shall be placed in the Code Enforcement Fund described in Section 13-48.2 of the Lake County Code.

Additionally, the District Attorney, or the County Counsel with agreement of the District Attorney, may bring a civil action pursuant to California Business and Professions Code section 17206 to enforce this Section.

Sec. 13-52. Interest

Any administrative fine and/or penalty shall accrue interest at the same annual rate as any civil judgment. Interest shall accrue on the following day after the penalty becomes a final decision or order.

Sec. 13.53. Adjustment of Penalties. The Board of Supervisors may adjust the penalties for specific Administrative Violations through the adoption of a Resolution for that purpose.

Sec. 13-54. Notice of Violation.

- a. If the Enforcement Official determines that public or private property, or portions thereof, is being maintained or permitted to exist in a manner for which administrative penalties may be imposed pursuant to this article which pertains to building, plumbing, electrical, structural or zoning issues, the responsible party(ies) shall be provided with a reasonable period of time to correct the violation prior to imposition of the administrative penalties, except in those cases in which there is an immediate danger to health and safety. Except as herein otherwise provided in regard to High Severity Violations as described in Section 50.2 herein which may abbreviate the time for correction, the reasonable period of time for purposes of this section shall not exceed thirty (30) days from service of the written Notice of Violation.
- b. **Manner of Giving Notice.** The Enforcement Official shall post a copy of the Notice of Violation in a plainly visible place on the property and shall serve a copy of the Notice of Violation upon those persons and in the same manner as described in Section 13-6.2.
- c. **Use of Monies Collected.** All monies collected as a result of the imposition of said administrative Penalties shall be remitted to the County Treasurer-Tax Collector who shall place said monies in a Code Enforcement Fund. The purpose of this fund shall be to pay the costs associated with the code enforcement program in the County. This program may include participation by multiple County departments, which departments shall be compensated through the Code Enforcement Fund in a manner to be agreed upon by the program participants.

Sec. 13-55. Notice of Imposition of Administrative Penalties.

55.1 Notice of Violation. If the violation is not corrected within the period stated in the Notice of Violation, if the violation is deemed one of High Severity, or if the violation creates an immediate danger to health or safety, a Notice of Imposition of Administrative Penalties may be issued by the enforcement official.

55.2 Contents of Notice. The Notice of Imposition of Administrative Penalties shall be issued on a form approved by the County Counsel and shall contain the following information:

- a. The date, location and approximate time the violation was observed;
- b. The ordinance, statute, or condition imposed by any entitlement, permit, contract or environmental document violated and a brief description the violation;
- c. The amount of the administrative penalty imposed for the violation;
- d. A statement that the responsible party may appeal the imposition of the administrative penalty within fifteen (15) days of the date the Notice of Imposition is served unless the violation is deemed to be a High Severity Violation, in which case the time to appeal shall be the time within which said Notice allows for the violation to be abated by a Responsible Person(s);
- e. Instructions on how to appeal the Notice of Imposition of Administrative Penalties;
- f. A statement that if the responsible party fails to request an appeal of the Notice of Imposition of the Administrative Penalties, the imposition of the penalty shall be final;
- g. A statement that any responsible party upon whom an administrative penalty has been imposed may seek judicial review of the order imposing the penalty pursuant to Government Code Section 53069.4; and
- h. The signature of the Enforcement Officer.
- i. The failure of the Notice of Imposition of Administrative Penalties to set forth all required contents shall not affect the validity of the proceedings.

Sec. 13-56. Service of Notice of Imposition of Administrative Penalties.

The Notice of Imposition of Administrative Penalties shall be served in the same manner as provided for in Section 13-6.2 for service of a Notice of Violation.

Sec. 13-57. Hardship Waiver.

57.1 A Responsible Person(s) may request a hardship waiver to reduce the amount of a penalty imposed pursuant to this Article.

- a. A hardship waiver for a fine reduction may be requested no later than fifteen (15) calendar days after the Administrative Violation is served. This Responsible Person(s) is required to make a showing that they have made a bona fide effort to comply after the first violation and that payment of the full amount would impose an undue financial burden on them. The head official of the Issuing Department, or their designee, is charged with reviewing fine reduction requests.

- b. Any Responsible Party receiving a fee reduction pursuant to this paragraph retains the right to appeal the Administrative Violation pursuant to Subsection 13-57; however, the time for appeal shall not be extended due to any fine reduction request pursuant to this paragraph.

Sec. 13-58. - Administrative Appeal.

58.1 Applicability. The Administrative Appeal procedure described in Section 13-58 is applicable to an appeal of all administrative citations **other than High Severity Violations** which Are Subject to an Expedited Review Process as described in Section 13-59 herein.

58.2 Initial Review. The Responsible Person may contest an Administrative Citation no later than ten (10) calendar days after the Administrative Violation is served. The appeal request must be in writing, specifying the basis for the appeal in detail, and filed with the administrative processing agency as indicated in the Administrative Citation. The Initial Review will be completed by the head official of the Issuing Department or their designee.

- a. If, following the initial review, the citation is upheld, the Responsible Person shall be notified by mail and informed of their obligation to pay the Administrative Fine within fifteen (15) days of the mailing, or of their right to request an Administrative Hearing.

58.3 Hearing Before the Board of Supervisors- Filing Requirements

- a. If the Responsible Person chooses to contest the outcome of the Initial Review, within fifteen (15) days of the mailing of the results of the Initial Review, the Responsible Person shall submit a written request, on an official form provided by the County, requesting an Administrative Hearing before the Board of Supervisors. Said form, hereinafter referred to as a Request for Administrative Hearing, shall include an advance deposit in the full amount of the Administrative Fine or one thousand dollars (\$1,000), whichever is less, or written proof of financial hardship as specified in Section 13-53 herein. A hearing shall be scheduled with the Board of Supervisors when the aforementioned conditions are met.
- b. In lieu of the advance deposit required, written proof of financial hardship, which shall be in the form of a declaration signed by the Responsible Person under penalty of perjury, along with supporting documentation as specified by the County, shall be filed with the Issuing Department.
- c. A Responsible Person who fails to submit a Request for Administrative Hearing within fifteen (15) days, or who fails to make the required deposit or provide written proof of financial hardship, will have waived the right to contest the Initial

Review and shall pay the Administrative Fine in accordance with the timeline set forth in paragraph (a)(1), above.

58.4 Hearing Date - Notice of Hearing. The hearing shall be set for a date that is not less than ten (10) days from the date of mailing of the notice of hearing. The notice of hearing shall state the date, time and place of the hearing and direct the property owners or occupant and other responsible parties to appear and show cause why the administrative fine should not be imposed. The Notice of Hearing may be delivered to the person(s) or may be mailed to the address(es) listed in the Notice of Appeal.

58.5 Continuances. The Board of Supervisors may, in their its discretion, grant or deny a continuance of the hearing date upon a request by the Responsible Person(s) or the Issuing Department and a showing of good cause.

58.6 Failure to Attend a Hearing If the Responsible Person(s) or his or her representative fails to attend the scheduled hearing, he or she shall be deemed to have waived his or her right to an Administrative Hearing. Under these circumstances, the Board of Supervisors shall find the Responsible Person(s) in default, and shall issue a written notice to that effect. A default under this Section shall constitute a forfeiture of the Administrative Fine and a waiver of any right to challenge the assessed Enforcement Costs and Administrative Costs. A default under this Section shall also be a bar to judicial review of the hearing officer decision based upon failure to exhaust administrative remedies. A default under this provision may be set aside by the Board of Supervisors at the request of the Responsible Party upon a showing of good cause for failing to appear at the Administrative Hearing.

- a. If a financial hardship waiver was granted and the Responsible Person is in default as provided above or a challenge to the citation is withdrawn pursuant to above, the Administrative Fine, Enforcement Costs, and Administrative Costs shall be due and payable by the Responsible Person(s) to the County within fifteen (15) calendar days following the date that had been set for the Administrative Hearing.

58.7 Withdrawal of Appeal. A Responsible Person(s) who has been issued an Administrative Citation and who has requested an administrative hearing to challenge the citation as provided in this Article may request in writing that his or her challenge to the citation be withdrawn and the hearing cancelled. Upon receipt of a request to withdraw a challenge to the Administrative Citation, the County shall cancel the pending hearing, and issue a written notice to that effect. A withdrawal under this Subdivision shall constitute a forfeiture of the Administrative Fine and a waiver of any right to challenge the assessed Enforcement Costs and Administrative Costs. A withdrawal under this Subdivision shall also be a bar to judicial review of the hearing officer decision based upon failure to exhaust administrative remedies.

58.8 Procedures at the Administrative Hearing

- a. The Board of Supervisors shall hear all facts and testimony presented and deemed relevant. The hearing is informal in nature, and formal rules of evidence and discovery do not apply. The proceedings shall be audio-recorded by the County. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.
- b. The Board of Supervisors shall only consider evidence that is relevant to whether the violation(s) occurred and whether the recipient of the Administrative Citation has caused or maintained the violation(s) on the date(s) specified in the Administrative Citation.
- c. The County bears the burden of proof at an administrative hearing to establish the existence of the Administrative Violation specified on the citation. The standard of proof in deciding the issues shall be preponderance of the evidence.
- d. The Administrative Citation and any additional documents submitted by the Issuing Department shall be accepted by the Board of Supervisors as prima facie evidence of the respective facts contained in those documents. The Enforcement Officer, or if unavailable, his/her/their supervisor shall attend the hearing.
- e. Each party shall have the opportunity to testify, cross-examine witnesses, and present witnesses and evidence in support of his or her case. Written and oral evidence submitted at the hearing shall be submitted under penalty of perjury. Documentary and other tangible evidence must be authenticated to the satisfaction of the Board of Supervisors. Nothing shall preclude the use of telephonic or other electronic means of communication if deemed appropriate by the Board of Supervisors.
- f. The Board of Supervisors may continue the hearing as necessary. The decision of the Board of Supervisors shall be final upon adoption of an order containing its determination.
- g. The Board of Supervisors' decision shall include that an aggrieved party may file a petition for review with the California Superior Court, County of Lake, pursuant to California Government Code Section 53069.4. The failure of a responsible party to appear at the Administrative Citation hearing shall be deemed a failure to exhaust administrative remedies.

Sec. 13-59 Administrative Appeal - Expedited Hearing Process for High Severity Violations.

59.1 Hearing Before the Board of Supervisors- Filing Requirements

A Responsible Person(s) may request an Administrative Hearing before the Board of

Supervisors within the time specified in the Notice of Violation, which time period shall be not less than ten (10) days and no more than fifteen (15) days from the date the Notice is issued. Said form, hereinafter referred to as a Request for Administrative Hearing, shall include an advance deposit in the full amount of the Administrative Fine or one thousand dollars (\$1,000), whichever is less, or written proof of financial hardship as specified in Section 13-53 herein. A hearing shall be scheduled with the Board of Supervisors when the aforementioned conditions are met on the next available regularly scheduled meeting of the Board.

- a. In lieu of the advance deposit required, written proof of financial hardship, which shall be in the form of a declaration signed by the Responsible Person(s) under penalty of perjury, along with supporting documentation as specified by the County, shall be filed with the Issuing Department within the time period specified in this Notice of Violation.

59.2 A Responsible Person(s) who fails to submit a Request for Administrative Hearing within the time to appeal specified in the Notice, or who fails to make the required deposit or provide written proof of financial hardship, will have waived the right to contest the violation(s) and shall pay the Administrative Fine as specified in Section 59.1.

59.3 **Hearing Date - Notice of Hearing.** The expedited hearing shall be set for the next available regularly scheduled meeting of the Board of Supervisors. The notice of hearing shall state the date, time and place of the hearing and direct the property owners or occupant and other responsible parties to appear and show cause why the administrative fine should not be imposed. The Notice of Hearing may be delivered to the person(s) or may be mailed to the address(es) listed in the Notice of Appeal. The decision of the Board of Supervisors shall be final.

59.4 With the exception noted herein in Sections 59.2 and 59.3, the hearing procedure shall adhere to the requirements of Section 13-58 herein.

Sec. 13-60. - Review of Board of Supervisor's Decision.

60.1 **Notice of Appeal.** Within twenty (20) days of service of the Board's decision, a person may contest the decision by filing an appeal to be heard by the Superior Court. There is a court filing fee which must be paid to file the Notice of Appeal. Failure to file a written appeal and to pay the filing fee within this time period shall constitute a waiver of the right to an appeal and the decision shall be deemed confirmed. A copy of the Notice of Appeal shall be served in person or by first class mail upon the Clerk of the Board of Supervisors.

60.2 **Conduct of Hearing.** The conduct of the appeal is a subordinate judicial duty and may be performed by a court commissioner and other subordinate judicial officials at the direction of the presiding judge of the court. The appeal shall be heard de novo, except that the contents of the County's file in the case shall be received into evidence. A copy of

the Notice of Imposition of Administrative Penalties and the Board's decision, shall be admitted into evidence as prima facie evidence of the fact stated therein.

60.3 Judgment. The court shall retain the filing fee regardless of the outcome of the appeal. If the court finds in favor of the Appellant(s), the amount of the fee, if paid, shall be reimbursed to the Appellant(s) by the County and any deposit of the fine or penalty shall be refunded by the County in accordance with the judgment of the court. If the fine or penalty has not been deposited and the decision of the court is against the Appellant(s), the County may proceed to collect the penalty pursuant to the procedures set forth in this ordinance, or in any other manner provided by law.

Sec. 13-61. - Payment and Collection of Administrative Penalties.

61.1 Any person(s) against whom an administrative penalty has been imposed shall pay the administrative penalty within fifteen (15) days of service of the Notice of Imposition of Administrative Penalties, not appealed to the Board of Supervisors, or within ten (10) days of service of the Board of Supervisor's decision on appeal. The enforcement official may take the action set forth in this section to collect the unpaid penalties.

61.2 An administrative penalty shall accrue interest at the same annual rate as any civil judgment. Interest shall accrue commencing the day after payment is due.

61.3 The amount of any unpaid administrative penalty, plus interest, may be declared a lien on any real property owned by the responsible party(ies) within the County of Lake against whom an administrative penalty has been imposed, as follows:

- a. Notice shall be given to the Responsible Person(s) prior to the recordation of the lien, and shall be served in the same manner as provided for in Section 13-6.2 for service of a Notice of Violation;
- b. The lien shall attach when the Enforcement Officer records a Notice of Lien listing the delinquent unpaid administrative penalties with the County Recorder's office. The lien shall specify the amount of the lien, the date of the code violations, the date of the final administrative decision, the street address(es), legal description, and assessors parcel number of the parcel on which the lien is imposed, and the name and address(es) of the record owner of the parcel; and
- c. In the event the lien is discharged, released, or satisfied, either through payment or through foreclosure, notice of the discharge containing the information specified in subparagraph [b] above shall be recorded by the enforcement officer.

61.4 The amount of the unpaid administrative penalties, plus interest, may be declared a special assessment against any real property owned by the responsible party(s) within the County of Lake against whom an administrative penalty has been imposed. The Board may impose the special assessment on one or more parcels. The enforcement officer may present a resolution to the Board to declare a special assessment, and upon passage and

adoption thereof shall cause a certified copy thereof to be recorded with the County Recorder's office. The assessment may then be collected at the same time and in the same manner as ordinary taxes are collected, and shall be subjected to the same penalties and the same procedure and sale in the case of delinquent assessments as is provided for ordinary property taxes.

61.5 The amount of the unpaid administrative penalties, plus interest, may be collected by commencement of a civil action to collect the said penalties.

61.6 The amount of the unpaid administrative penalties, plus interest, may be collected by assignment of the amount owing to a collection agency.

61.7 The County may use any civil legal remedy available to collect any unpaid Administrative Penalty including, but not limited to, injunctive relief, Franchise Tax Board intercept, specific performance, and any and all of the remedies heretofore described and described in Section 13.57 hereinbelow. The County may assess additional fees to cover the costs of the collection of any unpaid Administrative Penalty. The County may assigned the collection of Administrative Penalties to a consultant under contract with the County and operating on the County's behalf.

Sec. 13-62. Non-Exclusive Remedies and Penalties.

62.1 All remedies and penalties provided for in this article shall be cumulative and not exclusive. Enforcement by use of any administrative, criminal or civil action, citation or administrative proceeding or abatement remedy does not preclude the use of additional citations or other remedies as authorized by other ordinance or law. Enforcement remedies may be employed concurrently or consecutively. Conviction and punishment of, payment of penalties by, or enforcement against any person hereunder shall not relieve such person(s) from the responsibility of correcting, removing or abating the violation, nor prevent the enforced correction, removal or abatement thereof. Each and every day during any portion of which any violation of Lake County ordinances or the rules, regulations, orders, permits or conditions of approval issued thereunder is committed, continued, or permitted by such person(s), shall be deemed a separate and distinct offense.

62.2 **Treble damages.** Upon a second or subsequent civil or criminal judgment for a violation of a land use ordinance within a two-year period, a violator shall be liable to the county for treble the abatement costs, in accordance with Government Code Section 25845.5, and as amended.

62.3 **Injunctive relief and abatement.** Whenever, in the judgment of the Enforcement Official, any person is engaged in any act or practice which constitutes a violation of any provision of a land use ordinance or any rule, regulation, order, permit or conditions of approval, the County Counsel or District Attorney may commence judicial proceedings for the abatement, removal, correction and enjoinder thereof and require the violator to

pay civil penalties as set forth in this Article.

62.4 Civil remedies and penalties. Any person, whether acting as principal, agent, employee, owner, lessor, lessee, tenant, occupant, operator, contractor or otherwise, who willfully violates the provisions of any land use ordinance or any rule, regulation, order or conditions of approval issued thereunder by committing, causing, allowing, maintaining, continuing or otherwise permitting a violation of any land use ordinance shall be liable for an applicable civil penalty described in this Article.

62.5 Nothing in this Chapter shall be construed to prevent the County of Lake from pursuing any and all other legal remedies that may be available, including but not limited to civil actions filed by County Counsel seeking any and all appropriate relief such as civil injunctions, penalties, and forfeiture."

Section 2: The proposed ordinance is exempt under CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that the project will have no significant effect on the environment, because the Ordinance restricts to certain zoning areas what is already an allowed agricultural use and does not expand allowable uses beyond those designated as agricultural. The Director of the Community Development Department is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

Section 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section 4: This ordinance shall take effect on the 21st day of October, 2021 and before the expiration of fifteen days after its passage, it shall be published at least once in a newspaper of general circulation printed and published in the County of Lake.


The Foregoing Ordinance was introduced before the Board of Supervisors on the 14th day of September, 2021, and passed by the following vote on the 21st day of September, 2021.

AYES: Supervisors Simon, Crandell, Scott, Pyska, and Sabatier

NOES: None

ABSENT OR NOT VOTING: None

COUNTY OF LAKE


Bruno Sabatier (Sep 23, 2021 09:24 PDT)
Chair Board of Supervisors



ATTEST: CAROL J. HUCHINGSON
Clerk of the Board of Supervisors

By: Johanna DeLong
Johanna DeLong (Sep 27, 2021 12:47 PDT)
Deputy

APPROVED AS TO FORM:
ANITA L. GRANT

By: _____