

1 BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

2 ORDINANCE NO. _____

3 AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 13 TO ESTABLISH
4 ADMINISTRATIVE FINES FOR VIOLATIONS OF LAKE COUNTY CODE RELATING TO
5 THE FAILURE TO OBTAIN AND/OR MAINTAIN ANY PERMIT REQUIRED, ISSUED,
6 AND/OR APPROVED BY THE COUNTY OF LAKE

7 WHEREAS, the adult-use cannabis industry is a burgeoning industry in California, but because
8 it is so new, both the positive and negative impacts associated with the growth of this industry remain
9 somewhat unknown; and

10 WHEREAS, the County of Lake has suffered significant and, in some cases, irrevocable,
11 environmental harm as a result of past actions related to illegal cultivation, including, but not limited to,
12 the creation of massive earthen dams, heavy spillage of insecticides and other toxins into the County's
13 waterways, and wide-spread erosion resulting from illegal grading; and

14 WHEREAS, one of the most significant dangers to the County residents and the environment
15 are those persons who engage in adult-use cannabis operations without having obtained the necessary
16 County permits because such operations have had no environmental review and operate outside the
17 law, thereby imperiling the safety and security of the County; and

18 WHEREAS, the County of Lake is in the process of developing a comprehensive system to
19 permit specified adult-use cannabis operations to operate in a manner designed to ensure industry
20 success while at the same time protecting public safety; and

21 WHEREAS, it is critical to the above-described development, given the breadth and scope of
22 the environmental damage at risk, that significant deterrents in the form of administrative fines be
23 established to ensure compliance with the land use and permitting regulations imposed by the County.

24 NOW THEREFORE, the Board of Supervisors of the County of Lake hereby ordains as
25 follows:

26 **Section One:** Section 13.-3.1(e) of Chapter 13 of the Lake County Code is hereby amended to add

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An Ordinance Amending Certain Sections of Chapter 13 to Establish
Administrative Fines for Violations of the Lake County Code Relating to the
Failure to Obtain and/Or Maintain Any Permit Related to Cannabis Operations

subsection (16) to read as follows:

"Sec. 13-3. Definitions . . .

e. . . .

(16) Any failure to obtain and/or maintain any permit related to cannabis operations which is required, issued, and/or approved by the County of Lake."

Section Two: Section 48.1 of Chapter 13 of the Lake County Code is hereby amended to read as follows:

"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."

Section Three: Section 48.2 of Chapter 13 of the Lake County Code is hereby amended to read as follows:

"48.2 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. 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.”

Section Four: Section 13-52 of Chapter 13 of the Lake County Code is hereby amended to add Section 13-52.2 to read as follows:

“52.2 Administrative Fines for Failure to Obtain and/or Maintain Any Permit Related to Cannabis Operations Which is Required, Issued, and/or Approved by the County.

Certain misconduct poses such critical risk to the health and safety of the County's residents and the environment that a significant fine must be imposed distinct from those fines described in Section 52.1 hereinabove. 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 Fines Clause of Article 1, section 17 of the California Constitution and the Eighth Amendment of the United States Constitution. While the failure to obtain a permit required for cannabis operations 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.

a. Administrative Fine Imposed

The Administrative Fine imposed pursuant to Section 13-52.3 is so imposed as a separate violation for each day the violation continues to persist. The Administrative Fine so imposed shall accrue as of the date indicated in the Notice of Violation and shall continue to accrue until the violation is remedied.

(1) Any person engaged in adult-use cannabis operations without having first obtained any and all required County permits is in violation of this prohibition and, if the violation is not corrected within 30 days, shall be liable for an administrative fine of \$1000 per day per violation.

(2) For a second such violation within a twelve-month period commencing from date of

issuance of the prior administrative citation to the same person, or on the same premises if the property owner remains the same, the administrative fine shall be \$3,000 per day per violation. (3) For a third such violation within a twelve-month period commencing from date of issuance of the prior administrative citation to the same person, or on the same premises if the property owner remains the same, the administrative fine shall be \$5,000 per day per violation. requirements, and conditions determined necessary under the law then existing.

b. Definitions

(1) *Responsible Party* means i) each person committing the violation or causing a condition on a parcel of real property located within the jurisdiction of the County of Lake which gives rise to the violation; ii) each person who has an ownership interest in that property; or iii) each person who, although not an owner, nevertheless has a legal right or a legal obligation to exercise possession and control over that property.

(2) *Cannabis Operations* means any business activity involving cannabis other than personal use, 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.

(3) *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."

Section Five: CEQA Review. This Board finds that the monetary amounts imposed by this ordinance are fines/penalties and are therefore exempt from the provisions of the California Environmental Quality Act ("CEQA").

Section Six: This Board finds that the fines and penalties authorized by this Ordinance are not taxes and are exempt from the provisions of Article XIII C of the California Constitution pursuant to Section 1

of Article XIII C, subdivision (e)(5).

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

Section Eight: This ordinance shall take effect on the ____ day of ____, 2018 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 ____ day of ____, 2018, and passed by the following vote on the ____ day of ____, 2018.

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

Chair, Board of Supervisors

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

By: _____
Deputy

APPROVED AS TO FORM:

ANITA L. GRANT
County Counsel

By: _____

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