



Legislation Text

File #: 21-908, Version: 1

Memorandum

Date: September 14, 2021

To: The Honorable Lake County Board of Supervisors

From: Anita Grant, County Counsel

Subject: Discussion and Consideration of an Ordinance Amending Article VII of Chapter 13 of the Lake County Code relating to Administrative Fines and Penalties

Executive Summary:

Attached here for your Board's review and consideration is a draft of an ordinance which would amend Article VII of Chapter 13 of the Lake County Code relating to Administrative Fines and Penalties.

Your Board had requested further changes/additions/inclusions to be made to Article VII. I have endeavored to make those adjustments here to the extent legally advisable and did make some further clarifying adjustments as well to avoid a disjointed presentation of this Article.

I am hopeful the track changes will present clearly in the draft document, but in the event that is not the case, a fully formatted version is included here with the substantive changes highlighted in yellow for your convenience. Additionally, the further changes to the ordinance are delineated as follows:

1. Definitions -
 - Section 13-47 (f) removed the words "other than personal use" from the first line of the definition of "cannabis operations"
 - Section 13-47(g) adjusted the definition of a continuing violation to show it is a violation that persists from day to day.
 - Section 13-47(k) is added to include "High Severity Violation"
 - Section 13-47(l) replaces what would be a definition of a hearing officer with the Initial Review of Citation process conducted by a County department. The hearing officer references were added but never thoroughly described to make them useable. Those references and a more thorough procedural description can easily be added in at your Board's direction.

Section 13-47(p) added a definition for “Population Centers”.

- Section 13-47(q)(iii) Consultant is added.
- 2. Section 13-48.3c adds and clarifies how the Board may determine to further clarify the imposition of penalties for particular violations through the adoption of a resolution.
- 3. Section 13-49 and 13-50 now distinguish respectively between those violations relating to cannabis operations where permits are not maintained, activities exceed the scope of an existing permit, or operations began after a permit was applied for but before such permit was issued and those violations deemed to be of high severity. High severity violations include situations where cannabis operations are occurring without any attempt to obtain a County permit and specifically identifies community growth boundaries and population centers. It further identifies that other circumstances may be deemed by your Board to constitute high severity violations in other provisions of the Lake County Code, including the facilitation of illegal cannabis operations.

Section 13-49 allows for per day violations and abatement for first and second violations within a twenty-four month period (rather than twelve-month period). A third violation will result in a significant per day fine and will render all Responsible Persons associated with the premises subject to the violation(s) to be ineligible for a County permit for cannabis operations for a period of not less than ten years.

Section 13-50 now provides for increased per plant penalties and results in any Responsible Persons determined to have violated that section to be permanently ineligible for a County permit for cannabis operations.

- 4. The standard administrative appeal procedure of Section 13-58 now clarifies that it is inapplicable to High Severity Violations. High Severity Violations would now be subject to an expedited hearing process as described in Section 13-59. Times for corrective action by a Responsible Person, time to appeal, and time for the appeal to be heard have all been shortened in response to the type of violation involved.

This draft is presented on this date to receive any further direction as to any additions, and/or changes to be made.

Thank you.

If not budgeted, fill in the blanks below only:

Estimated Cost: _____ Amount Budgeted: _____ Additional Requested: _____ Future Annual Cost: _____

Consistency with Vision 2028 (check all that apply):

☐ Not applicable

- | | | |
|--|--|--|
| <input type="checkbox"/> Well-being of Residents | <input type="checkbox"/> Public Safety | <input type="checkbox"/> Disaster Prevention, Preparedness, Recovery |
| <input type="checkbox"/> Economic Development | <input type="checkbox"/> Infrastructure | <input type="checkbox"/> County Workforce |
| <input type="checkbox"/> Community Collaboration | <input type="checkbox"/> Business Process Efficiency | <input type="checkbox"/> Clear Lake |

Recommended Action:

Consideration of an Ordinance Amending Article VII of Chapter 13 of the Lake County Code relating to Administrative Fines and Penalties