

ORDINANCE NO. SCC 2021-03

**AN URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF SHASTA AMENDING CHAPTER 1.12 OF THE SHASTA COUNTY CODE
CONCERNING ADMINISTRATIVE PENALTIES**

The Board of Supervisors of the County of Shasta ordains as follows:

SECTION I.

This urgency ordinance is adopted pursuant to California Government Code sections 25123(d) and 25131 and shall take effect immediately upon its approval by at least a four-fifths vote of the Board of Supervisors. The Board finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon the following facts:

1. On April 21, 2021, the Governor of the State of California issued a State of Emergency Proclamation and declared a drought emergency effecting two counties.
2. On May 10, 2021, the Governor of the State of California expanded the drought emergency declaration to 41 counties, including Shasta County.
3. The Governor's State of Emergency Proclamation acknowledges that the State of California is experiencing critically dry conditions.
4. The Governor's Proclamation also notes recent warm temperatures and extremely dry soils have further depleted the expected runoff water from the Sierra-Cascade snowpack, resulting in a historic and unanticipated estimated reduction of 500,000 acre feet of water from reservoirs and stream systems.
5. The United States Bureau of Reclamation has reduced Central Valley Project water deliveries to 0% for agricultural contractors and 25% for municipal and industrial north of delta contractors.
6. Dry conditions and lack of precipitation present urgent problems: drinking water supplies are at risk in many communities; fewer crops can be cultivated and farmers' long-term investments are put at risk; communities heavily dependent on agricultural employment will suffer heightened unemployment and economic hardship; and the risk of wildfires in Shasta is greatly increased.
7. On June 15, 2021, the Board of Supervisors of the County of Shasta declared that a local drought emergency exists throughout Shasta County.
8. On August 20, 2021, the State Water Resources Control Board issued an order imposing water right curtailment requirement in the Sacramento-San Joaquin Delta Watershed.
9. A July, 2018 Report from the California Department of Fish & Wildlife, entitled, "A Review of the Potential Impacts of Cannabis Cultivation on Fish and Wildlife Resources," noted, among others, the following impacts from cannabis cultivation:

- a. Four of the five greatest threats to freshwater biodiversity today are flow modification, water pollution, habit degradation, and species invasions. All four of these threats are common consequences of cannabis cultivation.
 - b. During the growing season for cannabis (May-September), there is very little precipitation. As each cannabis plant requires about 22.7 L (6 gal) of water per day, growers must acquire water through alternate means, most commonly through irrigation by diverting springs and headwater streams. Consequences of water diversion include changes in flow regimes, fish passage barriers, loss of wildlife habitat, changes in water properties, rerouting of streams, and dewatered streams.
 - c. Construction of dams and stream crossings used for cannabis cultivation can have negative impacts on ecosystems.
 - d. Cultivation of cannabis can also result in delivery of sediment, nutrients, petroleum products, and pesticides into streams, degrading the water quality and increasing turbidity.
10. The County has received and continues to receive reports of adverse impacts to and excessive usage of water resources related to the unlawful cultivation of cannabis, including, but not limited to, pumping of excessive quantities of groundwater from permitted and unpermitted wells; groundwater contamination resulting from well use without backflow prevention; theft of municipal water from fire hydrants; illegal extraction and theft of surface waters from natural water bodies and water conveyance systems; discharge of pesticides, herbicides, petroleum products, raw sewage, and other contaminants into surface waters and groundwater; and discharge of sediment into surface waters associated with unpermitted grading activities.
11. It is essential that the changes made by this ordinance to the Shasta County Code be implemented immediately to deter the unlawful cultivation of cannabis and protect water supplies.

SECTION II.

Subsection A of Section 1.12.050 of the Shasta County Code is amended in its entirety to read as follows:

A. Establishing Administrative Fines or Penalties

1. Unless otherwise expressly provided for in this code, any person who violates any regulatory or prohibitory provision of this code is liable for an administrative penalty for each offense which shall not exceed the amount that could be imposed as a fine in a criminal prosecution for that offense if it was determined to be a misdemeanor. Such

an administrative penalty may be assessed and recovered in a civil or administrative action to abate or enjoin a violation of this code.

2. The following shall be applicable to violations of Shasta County Code section 17.88.320 (Cannabis Cultivation).
 - a. Any person who violates any provision of Section 17.88.320 of this code is liable for an administrative penalty of up to ten thousand dollars (\$10,000.00), per day and per violation. Such an administrative penalty may be assessed and recovered in a civil or administrative action to abate or enjoin a violation of this code.
 - b. Any person who commits a Repeat Violation of any provision of Section 17.88.320 of this code is liable for an administrative penalty of up to twenty thousand dollars (\$20,000), per day and per violation. Such an administrative penalty may be assessed and recovered in a civil or administrative action to abate or enjoin a violation of this code.
 - c. "Repeat Violation" is a violation where the person has been subject to action by the County to abate or impose fines or penalties on an earlier violation and, upon later inspection, the County finds a violation of any provision of Section 17.88.320 within a period of one year immediately following the latest of (1) the final order affirming the existence of the previous violation, or (2) the date on which the determination of the existence of the previous violation became final by operation of law.
3. In determining the amount of an administrative fine or penalty, the following factors shall be considered:
 - a. The nature, circumstance, extent, and gravity of the violation.
 - b. Whether the violation is susceptible to restoration or other remedial measures.
 - c. The sensitivity of the resources affected by the violation.
 - d. The cost to the County of bringing the action.
 - e. With respect to the violator, any voluntary restoration or remedial measures undertaken, any prior history of violations, the degree of culpability, economic profits, if any, resulting from, or expected to result as a consequence of, the violation, and such other matters as justice may require.

SECTION III.

Subdivision 3 of Subsection B of Section 1.12.050 of the Shasta County Code is amended in its entirety to read as follows:

3. In imposing a fine or penalty, the enforcing officer, or an authorized designee, shall inform the person determined to be responsible for the code violation and the owner or

possessor of the property on which the violation exists if other than the person determined to be responsible, by written notice delivered by U.S. mail or personally, of the alleged violations and resulting administrative fine or penalty amount. Except as otherwise provided by this code or other applicable law, the person determined to be responsible for the code violation, the owner of the property, and the possessor of the property, shall each be jointly and severally liable and responsible for any and all fines or penalties imposed.

SECTION IV.

Subdivision 4 of Subsection B of Section 1.12.050 of the Shasta County Code is amended in its entirety to read as follows:

4. Opportunity to Correct or Remedy.

- a. If a violation is of a continuing or ongoing nature, and if the violation pertains to building, plumbing, electrical, sewage disposal or other similar structural environmental health or zoning issues that the enforcing officer determines will not create an immediate danger to health or safety, the written notice shall specify a reasonable period of time of at least five calendar days, and as determined by the enforcing officer, to correct or otherwise remedy the violation prior to the imposition of the fine or penalty.
- b. Notwithstanding Section 1.12.050(B)(4)(a) of this code, and except as provided in Section 1.12.050(B)(4)(c) of this code, administrative fines or penalties shall be imposed immediately for the violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis as established in Section 17.88.320 of this code.
- c. The provisions of Section 1.12.050(B)(4)(a) of this code shall apply to the imposition of administrative fines or penalties against owners of properties for the violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis as established in Section 17.88.320 of this code, if all of the following are true:
 - (i) A tenant or person other than the owner of the property is in possession of the property that is the subject of the administrative action.
 - (ii) The property owner or his/her agent can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis or that the person responsible for the violation is in possession of the property without the permission of the owner.
 - (iii) The property owner or his/her agent did not know the tenant or person was illegally cultivating cannabis and no complaint, property inspection, or other

information caused the property owner or agent to have actual notice of the illegal cannabis cultivation.

If all of the foregoing requirements are not satisfied, then such fines or penalties shall be imposed immediately against owners of properties as provided in Section 1.12.050(B)(4)(b) of this code.

Section 1.12.050(B)(4)(c) of this code shall apply only to owners of properties and shall not apply to the immediate imposition of such administrative fines or penalties against tenants or other persons in possession of the property or other persons determined to be responsible for the code violation.

SECTION V.

All provisions of Section 1.12.050 of the Shasta County Code not specifically amended by this Ordinance remain unaltered and in full force and effect.

SECTION VI.

The County finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect adverse physical change in the environment) and 15061(b)(3) (there is no possibility the activity in question may have a significant adverse effect on the environment). In addition to the foregoing general exemptions, the following categorical exemptions apply: sections 15307 (actions taken as authorized by local ordinance to assure protection of natural resources) and 15308 (actions taken as authorized by local ordinance to assure protection of the environment). There are no unusual circumstances under CEQA Guidelines section 15300.2(c). Each exemption stands as a separate and independent basis for determining that this ordinance is not subject to CEQA.

SECTION VII.

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance or its application to any person or circumstance is held invalid for any reason, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause, phrase, or provision thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or provisions be declared unconstitutional or invalid.

SECTION VIII.

All former ordinances and resolutions, or parts thereof, conflicting or inconsistent with the provisions of this Ordinance are hereby superseded by this Ordinance. The adoption of this ordinance shall not in any manner affect any action or prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, be construed as a waiver of any license, fee, or penalty required by or resulting from any such ordinance, or affect the validity of any bond (or cash deposit in lieu thereof) required to be posted, filed, or deposited pursuant to such ordinance.

SECTION IX.

This Ordinance shall be and the same is hereby declared to be in full force and effect immediately upon its passage by a four-fifths (4/5) or greater vote. The Clerk shall cause this Ordinance to be published as required by law.

DULY PASSED AND ADOPTED this 24th day of August, 2021, by the Board of Supervisors of the County of Shasta by the following vote:

AYES: Supervisors Chimenti, Moty, Rickert, Jones, and Baugh
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None



JOE CHIMENTI, CHAIR
Board of Supervisors
County of Shasta
State of California

ATTEST:

MATTHEW P. PONTES
Clerk of the Board of Supervisors

By 
Deputy