

Update on the Cannabis Abatement Ordinance (01/12/2022)

At the December 14, 2021, Board of Supervisors meeting, the Board adopted the addition of County Code section 84.34.080 related to the abatement of items used in the unlawful cultivation of cannabis. With the new ordinance in place, Code Enforcement has established the following cannabis abatement program, which will allow for expedited clean-up of these violations.

- Property owners will be issued a Notice of Intent to Abate (NTA) when these violations are found at sites that have been cleared of cannabis by the property owner or by Sheriff's Marijuana Enforcement Team (MET)
- The NTA will mark the start an enforcement process which gives property owners 20 days to comply and to remove the cannabis related items found on their properties
- If the property owner does not comply, an abatement warrant will be obtained by Code Enforcement and posted on the property. A Code Enforcement contractor may then enter the property and abate the cannabis related items that remain
- Once the abatement has been completed, an abatement invoice for the cost of the clean-up will be prepared by Code Enforcement and sent to the property owner to ensure full cost recovery

It should be noted that Code Enforcement has seen an increase in self-abatement occurring as these illegal cannabis operators witness the work that the Sheriff's MET and Code Enforcement's Cannabis Abatement Team have been conducting in our communities. That said, hundreds of illegal cannabis cultivation cases remain open and are candidates for abatement.

To focus on abatements to properties most in need, Code Enforcement intends to prioritize efforts based on:

- The location of the blighted property (i.e., near residential/population centers)
- Properties where there are major health/safety issues

This prioritization approach will allow Code to address the most pressing abatement issues first, while continuing to encourage self-abatements on other properties.

Questions and Answers

Why are property owners given 20 days to comply?

The 20-day timeframe is the least amount of time allowed by County Code. The recent amendments to Chapter 2, Division 1 of Title 1 which were adopted by the Board of Supervisors at the meeting on 12/14/21 detail what must be included in a written order (NTA). The code goes on to read that the procedure and right to appeal of a written order shall be the same as an administrative citation (sec 11.0205 (e)). It then refers you to section 11.0208(f) which states that the appeal period for an administrative citation is 20 days. Therefore, 20 days that must be given to the responsible party in order to file an appeal to the NTA. If the County doesn't give those 20 days to appeal and do the work before that time frame, the responsible party can come back and say that they were not given the 20 day appeal period and we will be in violation of due process.

When does the 20-day timeframe start?

The 20-day timeframe starts the day the Code Officer writes and posts the NTA. This will most often occur when they are out with MET and verify a cannabis grow. MET will abate the cannabis while the items used to facilitate the grow will remain. The Code Officer will draft the NTA while on the site with MET and post it. It can also occur at other properties in which MET is not involved.

It is important to note that Code will only post the NTA when they have confirmed cannabis on site. If they have not confirmed cannabis, they cannot prove that these items were used for cannabis cultivation which will not allow for an abatement warrant to be sought for cannabis abatement purposes.

Approximately how long will it take to issue the warrant? What all is involved in that process?

There is a template for an abatement warrant. Code Enforcement will complete it for each site the same day the violations are observed. Code then takes the warrant to the local court and have a judge sign it. This process can be completed in one day and the warrant is good for 14 days. Code's abatement warrants require a 24 hour notice to the responsible party. Once the warrant is signed, Code will go out the next day to post the 24 hour notice at the property. The 24 hour notice alerts the responsible party that Code will be out to the property after 24 hours have expired to serve the abatement warrant.

Does the County have enough Code Enforcement contractors in place to abate all these properties after warrants are issued?

The County has begun a pilot program to help inform the true level of effort and resources necessary to abate these grows.

Code is establishing internal abatement processes/procedures in order to organize abatements and make sure they take care of them as soon as possible with the resources available. This includes prioritizing abatement locations and making sure Code has enough contractors to complete the work we issue. Code currently has four "board up" contractors that can complete the work and staff are beginning work on a specific cannabis abatement RFP to obtain more contractors.

Since these cannabis related abatements are new for the County, these processes and procedures will need to be tested in order to determine what works best. The time frames provided, 20 day NTA, 21 day warrant posting and 22nd day abatement are the absolute best case scenario in the shortest amount of time allowed by code. Staff hope to meet these tight time frames but will adjust as we test these new processes/procedures.

Will the County be able to charge the property owners for all the abatement costs?

Yes.