

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- 2
- 3
- 4
- 5

6
7

9

10
11
12

13

14

15

16

17
18
19
20

21
22
23

24
25
26
27
28

SECTION 2. Chapter 2 of Division 1 of Title 1 of the San Bernardino County Code is repealed in its entirety.

~~CHAPTER 2: VIOLATIONS AND ENFORCEMENT~~

~~Section~~

~~11.0201 Purposes and Remedies.~~

~~11.0202 Enforcement Remedies and Penalties are Cumulative and Discretionary; Not Exclusive; Declaration of Public Nuisance.~~

~~11.0203 Authority to Inspect.~~

~~11.0204 Continuing Violations.~~

~~11.0205 Acts Including Causing, Aiding and Abetting.~~

~~11.0206 Criminal Actions.~~

~~11.0207 Civil Actions.~~

~~11.0208 Administrative Citation Actions.~~

~~11.0209 Recording of a Notice of Pendency.~~

~~11.0210 Filing Notice of Action.~~

~~11.0211 Costs and Damages.~~

~~11.0212 Treble Damages.~~

~~11.0201 Purposes and Remedies.~~

~~The Board of Supervisors has determined that the enforcement of the Codified Ordinances of the County of San Bernardino (also known as the San Bernardino County Code) is an important public service and vital to the protection of the public's health, safety, and quality of life. The Board of Supervisors has determined a need for alternative methods of enforcing the San Bernardino County Code (hereinafter referred to as this "Code"). At the discretion of the County, violations of this Code may be addressed through the institution of a criminal action, a civil action, and/or an administrative action as set forth in this Chapter.~~

~~11.0202 Enforcement Remedies and Penalties are Cumulative and Discretionary; Not Exclusive; Declaration of Public Nuisance.~~

~~All remedies and penalties provided for in this Chapter shall be cumulative and discretionary and not exclusive of other applicable provisions of this Code or other applicable State or Federal law. Each and every violation of this Code is hereby declared unlawful and a public nuisance. The conviction and punishment (whether by fine, imprisonment, or both) of any person hereunder pursuant to a criminal action, or the imposition of a monetary administrative penalty pursuant to an administrative citation (as defined in section 11.0208), shall not relieve such person from the responsibility of correcting, removing, or abating the violation; nor prevent the enforced correction, removal, or abatement thereof by the County, its employees, agents, or representatives. The correction, removal, or abatement of a violation begun after the issuance of a criminal citation or the filing of a criminal complaint shall not be a defense to the infraction or misdemeanor so charged and, following a conviction or plea of nolo contendere shall not be grounds for dismissal of the action or for the waiver, stay, or reduction, of any fine established in this Chapter. Further, the procedures established in this Chapter for the use of administrative citations, and the procedures established in other titles and chapters of this Code for administrative abatement and summary abatement as a means for addressing violations of this Code, shall be in addition to criminal and civil or other legal or equitable remedies established by law which may be pursued to address violations of this Code. The use of this Chapter shall be at the sole discretion of the County. In the exercise of such discretion in selecting an appropriate code enforcement remedy, the County shall not be required to institute available code enforcement remedies in any particular order, or to prefer the application of one remedy to another.~~

~~11.0203 — Authority to Inspect.~~

~~All persons authorized to enforce the provisions of this Code are authorized to enter upon any property or premises within the unincorporated areas of the County of San Bernardino to investigate violations of this Code, and to make any inspection as may be necessary in the performance of their enforcement duties, subject to~~

1 ~~constitutional constraints and laws respecting the rights of privacy. These investigations~~
2 ~~and inspections may include the taking of photographs, samples, or other physical~~
3 ~~evidence, and the making of video and/or audio recordings. All such entries and~~
4 ~~inspections shall be done in a reasonable manner. If an owner, lawful occupant, or the~~
5 ~~respective agent, employee, or representative thereof, will not consent to the entry~~
6 ~~and/or inspection, the County may seek an administrative inspection warrant pursuant~~
7 ~~to the procedures provided by Code of Civil Procedure sections 1822.50 through~~
8 ~~1822.59, as may be amended from time to time, or the successor provisions thereto,~~
9 ~~and related case law.~~

10 **~~11.0204 — Continuing Violations.~~**

11 ~~Each and every day, and any portion of which, any violation of this Code (or of~~
12 ~~the provisions of any code adopted and incorporated by reference by this Code) is~~
13 ~~committed, continued, or permitted, shall be deemed a new and separate offense and~~
14 ~~shall be punishable or actionable as set forth in this Chapter.~~

15 **~~11.0205 — Acts Including Causing, Aiding and Abetting.~~**

16 ~~Whenever in this Code any act or omission is made unlawful, it shall include~~
17 ~~causing, permitting, aiding or abetting such act or omission.~~

18 **~~11.0206 — Criminal Actions.~~**

19 ~~(a) — Criminal Penalties for Violations. It is unlawful for any person to violate~~
20 ~~any provision of this Code, or to violate any provision of any permit issued pursuant to~~
21 ~~this Code, or the conditions of approval for such permit granted pursuant to this Code.~~
22 ~~Unless otherwise specified in another part of this Code, any person committing such~~
23 ~~violation shall be deemed guilty of a misdemeanor.~~

24 ~~(1) — Misdemeanor Violations. Except as provided below, upon~~
25 ~~conviction of a misdemeanor, or upon a plea of nolo contendere (commonly called "no~~
26 ~~contest"), the penalty shall be a base fine of not less than \$500.00 and not more than~~
27 ~~\$1,000.00, or by imprisonment in the County jail for a period of not more than six~~
28 ~~months, or by both such base fine and imprisonment. Any court costs that the court~~

1 ~~may otherwise be required to impose pursuant to applicable State law or local~~
2 ~~ordinance shall be imposed in addition to the base fine. The court, or judge thereof, in~~
3 ~~the order granting probation, may suspend the imposing or the execution of the~~
4 ~~sentence and may direct that the suspension may continue for a period of time not~~
5 ~~exceeding three years, and upon those terms and conditions as it shall determine. The~~
6 ~~court, or judge thereof, in the order granting probation and as a condition thereof, may~~
7 ~~imprison the defendant in a county jail for a period not exceeding the maximum time~~
8 ~~fixed by law in the case.~~

9 ~~(A) — Violations of Chapter 84.28. — Any person violating any~~
10 ~~provision of Chapter 84.28 is guilty of a misdemeanor. Notwithstanding the foregoing, a~~
11 ~~misdemeanor violation may be cited, charged, and prosecuted as an infraction. Upon~~
12 ~~conviction of a misdemeanor, or upon a plea of nolo contendere (commonly called "no~~
13 ~~contest") involving misdemeanor violations of Chapter 84.28, the penalty shall be as~~
14 ~~follows:~~

15 ~~(I) — Any person convicted of a misdemeanor for operating~~
16 ~~a short-term residential rental unit without a valid permit in violation of Chapter 84.28~~
17 ~~shall be punished by a base fine of up to \$1,000.00 upon a first conviction, by a base~~
18 ~~fine of up to \$2,000.00 for a second conviction, by a base fine of up to \$5,000.00 upon a~~
19 ~~third or subsequent conviction, or by imprisonment in the County jail for a period of not~~
20 ~~more than six months, or by both such base fine and imprisonment;~~

21 ~~(II) — Any person convicted of a misdemeanor for operating~~
22 ~~a permitted short-term residential rental unit in violation of Chapter 84.28 shall be~~
23 ~~punished by a base fine of up to \$1,000.00 upon a first conviction, by a base fine of up to~~
24 ~~\$2,000.00 upon a second conviction for violations occurring within a 12-month period,~~
25 ~~by a base fine of up to \$5,000.00 upon a third or subsequent conviction for violations~~
26 ~~occurring within a 12-month period, or by imprisonment in the County jail for a period of~~
27 ~~not more than six months, or by both such base fine and imprisonment.~~

28 ~~(B) — Violations of Chapter 84.34. — Upon conviction of a~~

~~misdemeanor, or upon a plea of nolo contendere (commonly called "no contest") involving misdemeanor violations of Chapter 84.28, the penalty shall be as follows:~~

~~(I) — Any person convicted of a misdemeanor for cannabis cultivation in violation of Chapter 84.28 where the number of cannabis plants located on the premises is less than 200 shall be punished by a base fine of up to \$1,000.00 upon a first conviction; by a base fine of up to \$1,500.00 for a second conviction; by a base fine of up to \$3,000.00 upon a third or subsequent conviction; by imprisonment in the County jail for a period of not more than six months; or by both such base fine and imprisonment;~~

~~(II) — Any person convicted of a misdemeanor for commercial cannabis activity related to operation of a dispensary, or delivery, manufacturing, transportation, distribution, or cultivation where the number of cannabis plants located on the premises is greater than 200 in violation of Chapter 84.28, shall be punished by a base fine of up to \$3,000.00 upon a first conviction; by a base fine of up to \$6,000.00 upon a second conviction; by a base fine of up to \$10,000.00 upon a third or subsequent conviction; or by imprisonment in the County jail for a period of not more than six months; or by both such base fine and imprisonment.~~

~~(2) — Infraction Violations. — Notwithstanding the foregoing, a misdemeanor violation may be cited, charged, and prosecuted as an infraction. Where so prosecuted, or where specified in a section or chapter of this Code that the violation of a certain section or sections shall be an infraction, then that shall be the type of offense and each such violation shall be punishable, except as otherwise provided herein, upon conviction or upon a plea of nolo contendere (commonly called "no contest"), by a base fine not exceeding \$100.00 for a first violation; a base fine not exceeding \$200.00 for a second violation of the same Code section within one year; and a base fine not exceeding \$500.00 for each additional violation of the same Code section within one year of the first violation. However, violations of building and safety provisions of this Code cited, charged, and prosecuted as infractions shall be~~

1 ~~punishable by a base fine not exceeding \$100.00 for a first violation; a base fine not~~
2 ~~exceeding \$500.00 for a second violation of the same Code section within one year;~~
3 ~~and a base fine not exceeding \$1,000.00 for each additional violation of the same Code~~
4 ~~section within one year of the first violation. The maximum fines imposed in this Section~~
5 ~~are based upon the provisions of Government Code section 25132 and will be~~
6 ~~increased automatically and without amendment to this Section upon any amendment~~
7 ~~to Government Code section 25132 increasing the amount of fines permitted. Any court~~
8 ~~costs that the court may otherwise be required to impose pursuant to applicable State~~
9 ~~law or local ordinance shall be imposed in addition to the base fine.~~

10 ~~(b) — Criminal Citations.~~

11 ~~(1) — If any person is arrested by a peace officer, fire marshal, fire~~
12 ~~prevention officer, code enforcement officer, animal control officer, public health officer,~~
13 ~~or any other officer authorized to enforce this Code for a violation of any provision of this~~
14 ~~Code (hereinafter “arresting officer”), whether punishable as a misdemeanor or as an~~
15 ~~infraction, the arresting officer shall issue a notice to appear (the citation) to such~~
16 ~~person, pursuant to Penal Code sections 853.5 and 853.6, and request that the person~~
17 ~~sign the notice to appear, which shall constitute the person’s written promise to appear~~
18 ~~in court. After obtaining the written promise to appear, the arresting officer must~~
19 ~~immediately release the person.~~

20 ~~(2) — If the person cited refuses to sign the notice to appear, the arresting~~
21 ~~officer, unless the arresting officer is a sworn peace officer, must immediately release~~
22 ~~the person and refer the matter to the Office of County Counsel or other appropriate~~
23 ~~agency for appropriate action.~~

24 **~~11.0207 — Civil Actions.~~**

25 ~~(a) — Injunctive Relief and Abatement. At the request of any person authorized~~
26 ~~to enforce this Code, the County Counsel or District Attorney may commence~~
27 ~~proceedings for the abatement, removal, correction and enjoinder of any act or~~
28 ~~omission that constitutes or will constitute a violation of this Code, or any permit issued~~

~~pursuant to this Code, or any condition(s) of approval for such permit granted pursuant thereto, and an order requiring the violator(s) to pay civil penalties and/or abatement costs. Where multiple violators are involved, they shall be jointly and severally liable for the civil penalties and/or abatement costs.~~

~~(b) — Civil Remedies and Penalties. Any person, whether acting as principal, agent, employee, owner, lessor, lessee, landlord, tenant, occupant, operator, contractor, or otherwise, who violates any provision of this Code, or any permit issued pursuant to this Code, or any condition(s) of approval for such permit granted pursuant thereto, shall be liable for a civil penalty not to exceed \$1,000.00 per violation for each day or any portion thereof, that the violation continues to exist. In determining the amount of civil penalty to be imposed, both as to the daily rate and the subsequent total amount for any given violation, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting the violation; the nature and persistence of such conduct; the length of time over which the conduct occurred or was repeated; the assets, liabilities, and net worth of the violator; whether the violator is a corporate entity or an individual; and any corrective action taken by the violator.~~

~~(c) — Attorney's Fees and Costs of Enforcement. In any civil action brought by the County, including but not limited to a proceeding to abate a public nuisance, whether by seeking injunctive relief and/or an abatement order, or other order, attorney's fees and costs of enforcement may be recovered by the prevailing party. Such recovered attorney's fees shall not exceed the amount of reasonable attorney's fees incurred by the County in that action or proceeding (Government Code section 25845). Costs of enforcement shall include, but not be limited to, administrative costs and any and all costs incurred in the physical abatement of any nuisance and any and all costs incurred by the County in the correction or remedying of a violation of this Code. Notwithstanding the above language, no attorney's fees shall be recovered in any administrative proceeding held pursuant to Section 11.0208 or any related appeal~~

1 ~~to the Superior Court or the Courts of Appeal.~~

2 **~~11.0208 — Administrative Citation Actions.~~**

3 ~~(a) — Application. All violations of any provision of the “Codified Ordinances of~~
4 ~~the County of San Bernardino,” more commonly known as the San Bernardino County~~
5 ~~Code, Titles 1 through 8, inclusive, and hereinafter to include any and all additional titles~~
6 ~~as may be enacted and adopted by the County of San Bernardino Board of Supervisors,~~
7 ~~are subject to enforcement through the use of administrative citations in accordance~~
8 ~~with Government Code section 53069.4 and this Section. Administrative citations may~~
9 ~~be issued for any violation of this Code including but not limited to those violations not~~
10 ~~occurring in the presence of the Enforcement Officer (as defined below) issuing the~~
11 ~~citation where the issuing officer determines through investigation that the responsible~~
12 ~~party (as defined below) committed, caused, allowed, or is otherwise responsible for the~~
13 ~~violation. The following procedures shall govern the imposition, enforcement, collection,~~
14 ~~administrative review, and judicial review of administrative citations and penalties.~~

15 ~~(b) — Definitions. For the purposes of this Chapter, certain words are defined as~~
16 ~~follows:~~

17 ~~ADMINISTRATIVE CITATION. A citation issued pursuant to this Chapter, stating~~
18 ~~that one or more violations of this Code has occurred and stating the amount of the~~
19 ~~administrative penalty to be paid by the responsible party.~~

20 ~~ADMINISTRATIVE COSTS. All costs incurred by or on behalf of the County from~~
21 ~~the first discovery of the violation of this Code through the appeal process and until~~
22 ~~compliance is achieved, including but not limited to, staff time in investigating the~~
23 ~~violation, inspecting the property where the violation occurred, preparing investigation~~
24 ~~reports, sending notices, preparing for and attending any appeal hearing, telephone~~
25 ~~contacts, and correspondence. ADMINISTRATIVE COSTS shall not include attorney's~~
26 ~~fees.~~

27 ~~CODIFIED ORDINANCES OF THE COUNTY OF SAN BERNARDINO, SAN~~
28 ~~BERNARDINO COUNTY CODE, and this CODE. The Codified Ordinances of San~~

~~Bernardino County, including all pertinent provisions of State codes as from time to time adopted and incorporated therein, enacted by the Board of Supervisors of the County of San Bernardino, acting pursuant to authority granted under the County Charter, Government Code sections 25126, 25127, and 25128; or other applicable law.~~

~~COUNTY. San Bernardino County and, as it is also known, the County of San Bernardino, a political subdivision of the State of California, as enacted by the State Legislature by the Statutes of California passed at the Fourth Session of the Legislature, Chapter LXXVIII, April 26, 1853.~~

~~ENFORCEMENT OFFICER. Any County employee, Special District employee, or agent of the County with the authority to enforce any provision of this Code, specifically:~~

~~(A) The Code Enforcement Chief, Program Manager, each Code Enforcement Supervisor, and each Code Enforcement Officer or other designated employee of the Code Enforcement Division of the Land Use Services Department, or successor department thereto;~~

~~(B) The Building Official, each Regional Building and Safety Supervisor, each Building Inspector, and other designated employees of the Building and Safety Division of the Land Use Services Department;~~

~~(C) The Fire Chief/Fire Warden, Fire Marshal, and other designated employees of the San Bernardino County Fire Protection District;~~

~~(D) The Director, each Inspector, and other designated employees of the Environmental Health Services Division of the Department of Public Health;~~

~~(E) The Division Chief, each Animal Control Supervisor/Officer, and other designated employees of the Animal Care and Control Program of the Department of Public Health;~~

~~(F) The Sheriff-Coroner, each Deputy Sheriff (all ranks), and other designated employees of the Department of the Sheriff-Coroner;~~

~~(G) The Director and other designated employees of the Public Works~~

Department; and

(H) ~~Any other Director and other designated employees of a County department or Special District as designated by the County Administrative Officer or the Board of Supervisors.~~

~~PERSON. Without limitation, any natural person, firm, association, club, organization, corporation, partnership, business, business trust, company or other entity, which is recognized by law as the subject of rights or duties.~~

~~RESPONSIBLE PARTY. For the purpose of this chapter and except as otherwise specified in Titles 1 through 8, inclusive, of this Code, RESPONSIBLE PARTY shall mean:~~

~~(A) Each person who commits or causes a violation of any provision of Titles 1 through 8, inclusive, of this Code to occur, exist, or continue;~~

~~(B) Each person who is the parent or legal guardian of the minor person who commits or causes a violation of any provision of Titles 1 through 8, inclusive, of this Code to occur, exist, or continue;~~

~~(C) Each person who has a legal or equitable ownership interest in any parcel of real property located within the unincorporated area of the County of San Bernardino and who commits, causes, or otherwise allows the violation of any provision of Titles 1 through 8, inclusive, of this Code to occur, exist, or continue on such parcel;~~

~~(D) Each person who, although not an owner, nevertheless has a legal right or legal obligation to exercise possession and control over any parcel of real property located within the unincorporated area of the County of San Bernardino and who commits, causes, or otherwise allows the violation of any provision of Titles 1 through 8, inclusive, of this Code to occur, exist, or continue on such parcel;~~

~~(E) Each business entity that commits, causes, or allows, a violation of any provision of Titles 1 through 8, inclusive, of this Code to occur, exist, or continue, when the violation is most reasonably attributable to that business entity;~~

~~(F) Each person who, without limitation, is an owner, operator,~~

~~manager, employee, agent, intern, or volunteer, of a business entity as set forth in subdivision (E), who: (1) acts for the benefit of, or at the direction of, the business entity; and (2) acts in the furtherance of, or aids and abets in the commission, causation, or allowance of, a violation of any provision of Titles 1 through 8, inclusive, of this Code.~~

~~(c) — Content of Citation. The administrative citation shall be issued on a form approved by the County Administrative Officer in consultation with County Counsel. The administrative citation form may be tailored to the specific needs of the issuing department as approved by the County Administrative Officer; however, all administrative citations regardless of the issuing County Department shall contain the following information:~~

~~(1) — The name and mailing address of the responsible party.~~

~~(2) — The administrative citation shall refer to the date(s) and location of the violation and the approximate time(s), if applicable, that the violation was observed.~~

~~(3) — The administrative citation shall identify each violation by the applicable Section number of this Code and by either the Section's title or a brief descriptive caption; or by reference to the applicable permit describing the condition violated.~~

~~(4) — The administrative citation shall describe the action(s) required to correct the violations.~~

~~(5) — The administrative citation shall require the responsible party to immediately correct the violation where appropriate or otherwise indicate a reasonable compliance deadline date and shall explain the consequences of failure to correct the violation.~~

~~(6) — The administrative citation shall state the amount, if any, of the penalty imposed for the violation. Multiple violations may be listed on the same citation form. In the event of multiple violations, the administrative citation shall list the penalty amount, if any, for each violation and the total amount of all of the penalties. For continuing violations pertaining to building, plumbing, electrical, or other similar~~

~~structural or zoning issues, and where such continuing violations do not create an immediate danger to health or safety, the administrative citation shall provide for a reasonable period of time to correct or otherwise remedy the violation prior to the imposition of the penalty. Otherwise, the penalty may be imposed immediately.~~

~~(7) — The administrative citation shall contain a notation box for the Enforcement Officer to indicate whether or not the citation is issued as a “warning only” and without penalty. The administrative citation shall also include a notation box that may be used by the Enforcement Officer to indicate that the penalty will be waived if the violation is corrected by the compliance deadline date indicated on the citation form.~~

~~(8) — The administrative citation shall explain how the penalty shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the penalty within this time period.~~

~~(9) — The administrative citation shall identify all appeal rights and include instructions on how to appeal the citation, including instructions regarding the advance deposit hardship waiver.~~

~~(10) — The administrative citation shall contain the printed name and the signature of the Enforcement Officer issuing the citation and, where reasonably possible to obtain it, the signature of the responsible party (or managing employee if the responsible party is a business entity), if he or she can be located, as set forth in Division (d) below.~~

~~(d) — Service of Citation.~~

~~(1) — If the responsible party is present at the scene of the violation, the Enforcement Officer shall attempt to obtain their signature on the administrative citation and shall deliver a copy of the administrative citation to them.~~

~~(2) — If the responsible party is a business, and the business owner is on the premises, the Enforcement Officer shall attempt to deliver the administrative citation to the business owner. If the Enforcement Officer is unable to serve the business owner on the premises and the Enforcement Officer can only locate the manager or on-site~~

1 ~~supervisor, the administrative citation may be issued in the name of the business and a~~
2 ~~copy given to the manager or on-site supervisor. A copy of the administrative citation~~
3 ~~shall also be mailed to the business owner by certified mail, return receipt requested,~~
4 ~~and by first class mail. If a copy of the administrative citation that is sent by certified~~
5 ~~mail is returned by the United States Postal Service unsigned or marked "unclaimed"~~
6 ~~and/or "refused," then service by first class mail shall be deemed effective provided it is~~
7 ~~also not returned by the United States Postal Service.~~

8 ~~(3) — If a responsible party cannot be located at the property, then a copy~~
9 ~~of the administrative citation shall be posted in a conspicuous place on or near that~~
10 ~~property, if practicable, and a copy mailed by certified mail, return receipt requested,~~
11 ~~and by first class mail, to each responsible party at their last known addresses as they~~
12 ~~appear on the last County equalized assessment role, or any other available public~~
13 ~~records related to title or ownership of the property that is the subject of the~~
14 ~~administrative citation. If the copy of the administrative citation sent by certified mail to~~
15 ~~a responsible party is returned by the United States Postal Service with the mail receipt~~
16 ~~unsigned, or marked "unclaimed" and/or "refused," then service by first class mail shall~~
17 ~~be deemed effective provided it is also not returned by the United States Postal Service.~~

18 ~~(4) — The failure of any responsible party to receive a copy of the~~
19 ~~administrative citation shall not affect the validity of the proceedings.~~

20 ~~(e) — Administrative Penalties and Costs.~~

21 ~~(1) — Unless otherwise provided in this Code or indicated in subsection~~
22 ~~(e)(1)(A) below, the amount of penalty to be imposed for a violation of this Code and~~
23 ~~assessed by means of an administrative citation shall be \$100.00 for the first~~
24 ~~occurrence of a violation; \$200.00 for the second occurrence of the same violation~~
25 ~~within one year; and \$500.00 for the third and each subsequent occurrence of the same~~
26 ~~violation within one year. The maximum fines imposed in this Section are based upon~~
27 ~~the provisions of Government Code section 25132 and will be increased automatically~~
28 ~~and without amendment to this Section upon any amendment to Government Code~~

~~section 25132 increasing the amount of fines permitted.~~

~~(A) If the violation concerns a short-term residential rental subject to Chapter 84.28, the following fines shall apply:~~

~~(I) Any person operating a short-term residential rental without a valid permit in violation of Chapter 84.28, the citation fine amount shall be \$1,000.00 per violation per day accruing until the violator indicates and Code Enforcement confirms the violation has been abated;~~

~~(II) Any person operating a permitted short-term residential rental in violation of Chapter 84.28, the citation fine amount shall be \$1,000.00 for a first citation, \$2,000.00 for a second citation for violations occurring within a 12-month period, and \$5,000.00 upon a third or subsequent citation for violations occurring within a 12-month period.~~

~~(B) If the violation concerns commercial cannabis activity subject to Chapter 84.34, the following fines shall apply:~~

~~(I) If the commercial cannabis activity occurring on a property involves the cultivation of cannabis not authorized by Sections 84.34.040 and 84.34.050, and the number of cannabis plants located on the premises does not exceed 200, the citation fine amount shall be \$1,000.00 for a first citation; \$1,500.00 for a second citation; and \$3,000.00 upon a third or subsequent citation;~~

~~(II) If the commercial cannabis activity occurring on a property involves the cultivation of cannabis and the number of cannabis plants located on the premises exceeds 200, the citation fine amount shall be \$3,000.00 for a first citation; \$6,000.00 for a second citation; and \$10,000.00 upon a third or subsequent citation;~~

~~(III) If the commercial cannabis activity occurring on a property involves the operation of a dispensary, or delivery, manufacturing, transportation or distribution, as defined in section 84.34.020, the citation fine amount shall be \$3,000.00 for a first citation; \$6,000.00 for a second citation; and \$10,000.00~~

1 ~~upon a third or subsequent citation.~~

2 ~~(2) — If the violation is not corrected within the time limits established in~~
3 ~~this Code, then additional administrative citations may be issued for the same violation.~~
4 ~~The amount of the penalty shall increase at the rate specified above.~~

5 ~~(A) — Payment of the penalty shall not excuse the failure to correct~~
6 ~~the violation nor shall it bar further enforcement action by the County.~~

7 ~~(B) — The penalties assessed shall be due to the County (or to the~~
8 ~~County's designated collection/processing agent for the issuing County Department or~~
9 ~~Special District Department) within 30 calendar days from the date the administrative~~
10 ~~citation is issued.~~

11 ~~(C) — Except as provided below, any person who fails to pay to the~~
12 ~~County (or the County's designated collection/processing agent for the issuing County~~
13 ~~Department) any penalty imposed pursuant to the provisions of this Chapter shall be~~
14 ~~liable for payment of the applicable late payment charges as follows:~~

15 ~~(I) — For payments received within 30 days after the due~~
16 ~~date, a late fee in the amount of 50 percent of the administrative fine is due.~~

17 ~~(II) — For payments received more than 30 days after the~~
18 ~~due date, a late fee in the amount of 50 percent of the original administrative fine is due,~~
19 ~~plus an additional 50 percent of the original administrative fine is due.~~

20 ~~(D) — The County may collect any past due administrative citation~~
21 ~~penalty or late payment charge by use of any available means, including without~~
22 ~~limitation, the recording of a notice of lien, describing the real property affected and the~~
23 ~~amount of the costs and administrative citation penalties claimed by the County with the~~
24 ~~Office of the County Recorder. The County may transmit notice of the award of~~
25 ~~administrative costs and administrative citation penalties, or notice of the judgment~~
26 ~~thereon arising from a collection or other legal action, to the Treasurer/Tax Collector~~
27 ~~who shall place the amount thereof on the assessment role as a special assessment to~~
28 ~~be paid with County taxes, unless sooner paid. The County may also recover its~~

1 ~~collection costs. A judgment or award of such costs, penalties or damages may be~~
2 ~~enforced as set forth above and may also be enforced in any other manner provided by~~
3 ~~law.~~

4 ~~(E) In any appeal hearing, the issuing County Department may~~
5 ~~also recover its administrative costs incurred in investigating, inspecting, and abating or~~
6 ~~remedying the violation of the County Code, in attempting to collect any and all~~
7 ~~penalties and late fees, and in defending the citation at the appeal hearing.~~

8 ~~(F) All administrative citation penalties collected pursuant to~~
9 ~~these provisions shall be deposited into specific funds maintained by or on behalf of the~~
10 ~~respective issuing County Departments for the purpose of funding their enforcement of~~
11 ~~this Code.~~

12 ~~(f) Appeal of Administrative Citation:~~

13 ~~(1) Notice of Appeal. Any responsible party in whose name an~~
14 ~~administrative citation has been issued may appeal the administrative citation by filing a~~
15 ~~written notice of appeal with the County Department that issued the administrative~~
16 ~~citation. If the issuing County Department has designated a processing agent, then the~~
17 ~~responsible party shall file their written notice of appeal with the issuing County~~
18 ~~Department's designated processing agent. The written notice of appeal must be filed~~
19 ~~within 20 calendar days of the date the administrative citation was served in a manner~~
20 ~~set forth in Division (d) of this Section. The written notice of appeal shall be filed~~
21 ~~together with an advance deposit, consisting of a cashier's check, for the full amount of~~
22 ~~the penalty stated on the administrative citation. Failure to file a written notice of appeal~~
23 ~~and the full amount of the advance deposit within this time period shall constitute a~~
24 ~~waiver of the right to appeal the administrative citation.~~

25 ~~(2) Advance Deposit Hardship Waiver. Any person intending to appeal~~
26 ~~an administrative citation and who is financially unable to make the advance deposit as~~
27 ~~required by this Section may file a written request for an advance deposit hardship~~
28 ~~waiver. The written request must be filed prior to filing the notice of appeal. The written~~

request shall be filed with the issuing County Department. A County-approved form shall be made for this purpose. The person requesting the advance deposit hardship waiver shall indicate on the corresponding notice of appeal that an advance deposit hardship waiver request has been submitted.

~~(3) — Advance Deposit Hardship Waiver Evaluation Procedures. Pending a decision by the County Department's Director, or the Director's designee to grant or deny the request, the advance deposit requirement shall be stayed and no administrative hearing shall be scheduled. The Director, or the Director's designee, may waive the advance deposit requirement and issue a waiver only if the person requesting the waiver submits to the Director's attention a sworn affidavit, together with any supporting documents or materials, reasonably demonstrating to the Director the person's actual financial inability to submit the advance deposit in advance of the appeal hearing. Within ten days of receipt of the advance deposit hardship waiver request, the Director or the Director's designee shall issue a written decision to grant or deny the request. If the request is denied the written decision shall explain the reason(s) for denial of the waiver and shall state the due date for payment of the advance deposit. The written decision of the Director, or the Director's designee, shall be sent via first class mail to the requesting party and shall be final. An administrative hearing shall not be scheduled until the advance deposit is received. If the request is denied and the advance deposit is not remitted within the time frame indicated in the written decision, the right to an appeal shall be deemed waived and payment of the administrative penalty shall become due immediately. The amount due shall be subject to all applicable late fees, which shall accrue from the original due date as indicated on the administrative citation.~~

~~(4) — Contents of Notice of Appeal. The notice of appeal shall be submitted on County-approved forms and shall contain the following information:~~

~~(A) — A brief statement setting forth the appealing person's (hereinafter "appellant") interest in the proceedings;~~

1 ~~(B) — A brief statement of the material facts which the appellant~~
2 ~~claims supports their contention that they did not commit, cause, or otherwise allow a~~
3 ~~violation of one or more provisions of Titles 1 through 7, inclusive, of this Code to occur,~~
4 ~~exist, or continue as alleged in the administrative citation at issue; or that they are not a~~
5 ~~responsible party as defined at Section 11.0208(b)(7) of this Chapter.~~

6 ~~(C) — A mailing address at which the appellant agrees that notice~~
7 ~~of any additional proceeding, or an order relating to the imposition of an administrative~~
8 ~~citation penalty, shall be received and accepted by the appellant by first class mail.~~

9 ~~(D) — The notice of appeal must be signed and dated by the~~
10 ~~appellant.~~

11 ~~(5) — Administrative Hearing. — The resolution of an appeal of an~~
12 ~~administrative citation issued under the authority of this Section shall be by an~~
13 ~~administrative hearing conducted according to the procedures set forth in this Section.~~
14 ~~The provisions of this Code at Title 1: Government and Administration, Division 2:~~
15 ~~Departments, Offices, Commissions, Chapter 27: Administrative Hearings; County~~
16 ~~Hearing Officer, shall not apply. Upon the issuing County Department's designated~~
17 ~~processing agent's receipt of a timely, written notice of appeal from the appellant, an~~
18 ~~administrative hearing shall be held as follows:~~

19 ~~(A) — Hearing Date. — The date of the hearing shall be set for a date~~
20 ~~that is no later than 60 days from the date the notice of appeal is received by the issuing~~
21 ~~County Department's processing agent, unless otherwise stayed by the timely~~
22 ~~submission of an advance deposit hardship waiver, as indicated above.~~

23 ~~(B) — Notice of Hearing. — Notice of the administrative hearing shall~~
24 ~~be given to the appellant at least ten calendar days before the hearing. The notice may~~
25 ~~be delivered to the appellant or mailed by first class mail to the address listed in the~~
26 ~~notice of appeal. Neither personal service nor service by certified mail shall be~~
27 ~~required.~~

28 ~~(C) — Hearing Officer. — The administrative hearing shall be held~~

1 ~~before the Director of the issuing County Department or his or her designee. The~~
2 ~~hearing officer shall not be the Enforcement Officer who issued the administrative~~
3 ~~citation or their immediate supervisor. The Director of the issuing County Department,~~
4 ~~through the County's contracting process, may contract with a qualified provider for~~
5 ~~administrative processing and collection services to provide hearing officers to conduct~~
6 ~~administrative hearings and process administrative citations, including the collection of~~
7 ~~payments of administrative citation penalties, administrative costs, and late charges.~~

8 ~~The Board of Supervisors finds that contracting with a qualified~~
9 ~~provider for administrative hearing officers as set forth in this Section is equivalent to the~~
10 ~~establishment of an office of County hearing officer as provided for and for the purpose~~
11 ~~intended by Government Code section 25845(i). The Board of Supervisors further finds~~
12 ~~that the decision of the hearing officer so appointed shall be deemed a recommendation~~
13 ~~adopted by the Board of Supervisors without further notice, and shall be deemed~~
14 ~~equivalent to and for the purpose intended by Government Code section 25845(h).~~

15 ~~(D) Conduct of the Hearing.~~

16 ~~(I) The Enforcement Officer who issued the~~
17 ~~administrative citation shall not be required to participate in the administrative hearing.~~
18 ~~The contents of the Enforcement Officer's case file shall be admitted as prima facie~~
19 ~~evidence of the facts stated therein. The hearing officer shall not be limited by the~~
20 ~~technical or formal rules of evidence. The issuing County Department shall bear the~~
21 ~~burden of proof at the administrative hearing to establish the existence of a violation of~~
22 ~~this Code by a preponderance of the evidence. The hearing officer shall have the~~
23 ~~discretion to exclude evidence if its probative value is substantially outweighed by the~~
24 ~~probability that its admission will cause an undue consumption of time. The~~
25 ~~Enforcement Officer establishing or confirming the occurrence or existence of a violation~~
26 ~~of this Code shall be deemed the complaining or reporting party. Personal or other~~
27 ~~identifying information regarding any other reporting party shall be deemed both~~
28 ~~irrelevant and subject to the federal and state constitutional rights of privacy; and,~~

1 ~~therefore, shall not be subject to review or disclosure.~~

2 ~~(II) — Provided that proper notice of the administrative~~
3 ~~hearing has been served as required by this or other applicable chapters of this Code,~~
4 ~~an appellant who fails to appear at the administrative hearing shall be deemed to have~~
5 ~~waived each of the following: the right to such hearing, the adjudication of issues~~
6 ~~presented at the hearing, and any and all rights afforded to the appellant under this~~
7 ~~Code. The appellant shall also be deemed to have failed to exhaust their administrative~~
8 ~~remedies.~~

9 ~~(III) — Notwithstanding Subdivision (f)(5)(D)(II) above, if the~~
10 ~~appellant fails to appear at the administrative hearing, the hearing officer shall make~~
11 ~~their determination based on the information contained in the Enforcement Officer's~~
12 ~~case file and the appellant's notice of appeal.~~

13 ~~(IV) — The only evidence that shall be permitted at the~~
14 ~~administrative hearing and considered by the administrative hearing officer in reaching a~~
15 ~~decision, is that evidence which is relevant to the proof or disproof of:~~

16 ~~(i) — Ownership of the subject property, when~~
17 ~~applicable;~~

18 ~~(ii) — Whether a person noticed by the issuing~~
19 ~~County Department as a responsible party is, in fact, a responsible party;~~

20 ~~(iii) — Whether a violation of this Code occurred~~
21 ~~and/or continues to occur on the date or dates specified in the administrative citation;~~

22 ~~(iv) — Whether the responsible party has committed,~~
23 ~~caused, maintained, or permitted a violation of this Code on the date or dates specified~~
24 ~~on the administrative citation.~~

25 ~~(v) — The County's administrative costs.~~

26 ~~(g) — Hearing Officer's Ruling.~~

27 ~~(1) — After considering all the testimony and evidence submitted at the~~
28 ~~hearing, the hearing officer shall take the matter under submission. The hearing officer~~

1 ~~shall within a reasonable time issue a written ruling (“Administrative Citation Appeal~~
2 ~~Ruling” or “Ruling”) to uphold or cancel the administrative citation, as to each violation,~~
3 ~~and shall list in the ruling the reasons for that decision.~~

4 ~~(2) If the hearing officer determines that the administrative citation~~
5 ~~should be upheld, then the amount of the penalties set forth in the citation shall not be~~
6 ~~reduced or waived for any reason. As to an administrative citation listing multiple~~
7 ~~violations, the amount of penalties for the violations so upheld shall not be reduced or~~
8 ~~waived for any reason. This Division (g) shall not apply to “warning only” administrative~~
9 ~~citations or to any administrative citation that indicates on its face that the penalty will be~~
10 ~~waived if the violation is corrected by the deadline compliance date and the violation is~~
11 ~~so corrected.~~

12 ~~(3) If the hearing officer cancels the administrative citation, then no~~
13 ~~penalty shall be assessed and any penalty otherwise deposited with the issuing County~~
14 ~~Department, or its designated processing/collection agent, shall be promptly refunded to~~
15 ~~the appellant. As to an administrative citation listing multiple violations, then no~~
16 ~~penalties shall be assessed for the specific violations so cancelled and the amounts of~~
17 ~~such penalties otherwise deposited with the issuing County Department, or its~~
18 ~~designated processing/collection agent, shall be promptly refunded to the appellant.~~

19 ~~(4) The appellant shall be served with a copy of the ruling by first class~~
20 ~~mail within a reasonable time. The ruling shall become final on the date of mailing.~~

21 ~~(5) The ruling shall contain instructions for obtaining judicial review of~~
22 ~~the decision pursuant to California Government Code § 53069.4, as that section may be~~
23 ~~from time to time amended, or the successor provision thereto.~~

24 ~~(6) If the administrative citation is upheld, the Hearing Officer shall also~~
25 ~~award the County its administrative costs. An itemized summary of these costs shall be~~
26 ~~presented at the hearing.~~

27 ~~(h) Judicial Review of Administrative Hearing Officer’s Ruling.~~

28 ~~(1) Notice of Appeal. Within 20 calendar days of the date of the~~

1 ~~delivery or mailing of the ruling to the appellant, the appellant (hereinafter "contestant")~~
2 ~~may contest that decision by filing an appeal to be heard by the Superior Court, and~~
3 ~~paying to the court clerk the filing fee set forth at Government Code section 53069.4, or~~
4 ~~the successor provision thereto. The failure to file the written appeal and to pay the~~
5 ~~filing fee within this period shall constitute a waiver of the right to an appeal and the~~
6 ~~ruling shall be deemed confirmed. The contestant shall serve a copy of the notice of~~
7 ~~appeal in person or by first class mail upon the County Department that had issued the~~
8 ~~original administrative citation.~~

9 ~~(2) — Conduct of the Superior Court Appeal Hearing. The conduct of the~~
10 ~~appeal before the Superior Court is a subordinate judicial duty and may be performed~~
11 ~~by traffic trial commissioners and other subordinate judicial officers at the direction of~~
12 ~~the presiding judge at the Superior Court. The appeal shall be heard de novo, except~~
13 ~~that the contents of the issuing County Department's file in the case shall be received in~~
14 ~~evidence. A copy of the document or instrument of the issuing County Department~~
15 ~~providing notice of the violation and imposition of the administrative penalty (i.e., the~~
16 ~~administrative citation) shall be admitted into evidence as prima facie evidence of the~~
17 ~~facts stated therein. The Court shall request that the issuing Department's file in the~~
18 ~~case be forwarded to the Court, to be received within 15 calendar days of the request.~~

19 ~~(3) — Judgment. The Court shall retain the filing fee regardless of the~~
20 ~~outcome of the appeal. If the Court finds in favor of the contestant, the amount of the~~
21 ~~fee shall be reimbursed to the contestant by the issuing County Department. Any~~
22 ~~deposit of the administrative penalty shall be refunded by the issuing County~~
23 ~~Department in accordance with the judgment of the Court. If the administrative penalty~~
24 ~~has not been deposited and the decision of the Court is against the contestant and in~~
25 ~~favor of the issuing County Department, the issuing County Department may proceed to~~
26 ~~collect the penalty and administrative costs pursuant to the procedures set forth in this~~
27 ~~Code, or in any other manner provided by law.~~

28 ~~**11.0209 — Recording of a Notice of Pendency.**~~

1 Whenever the County institutes a judicial action or proceeding to enforce the San
2 Bernardino County Code, a notice of pendency of the action or proceeding may be filed
3 with the County Recorder's Office. The notice may be filed at the time of the
4 commencement of the action or proceeding, and upon recordation of the notice as
5 provided in this Section, shall have the same effect as a notice recorded in compliance
6 with Section 405.20 of the Code of Civil Procedure.

7 (a) The County Recorder shall record and index the notice of pendency of
8 action or proceeding in the Grantor/Grantee Index.

9 (b) Any notice of pendency of action or proceeding filed in compliance with
10 this Section may, upon motion of a party to the action or proceeding, be vacated upon
11 an appropriate showing of need therefor by an order of a judge of the Court in which the
12 action or proceeding is pending.

13 (1) A certified copy of the "Order to Vacate Notice of Pendency" may
14 be recorded with the County Recorder's Office, and upon the recordation, the notice of
15 pendency of the action or proceeding shall not constitute constructive notice of any of
16 the matters contained therein nor create any duty of inquiry in any person thereafter
17 dealing with the property described therein.

18 (2) An "Order to Vacate Notice of Pendency" shall not be appealable,
19 but the party aggrieved by the order may, within 20 days after service of written notice
20 of the order, or within additional time not exceeding 20 days as the Court may, within
21 the original 20 days allow, but in no event later than 60 days after entry of the order,
22 petition the proper reviewing court to review the order by writ of mandate.

23 (3) No "Order to Vacate Notice of Pendency" shall be effective, nor
24 shall it be recorded with the County Recorder's Office, until the time within which a
25 petition for the filing of a writ of mandate has expired in compliance with this Section.

26 **11.0210 Filing Notice of Action.**

27 Whenever an enforcement action is initiated and prior to filing a notice of
28 pendency, the Code Enforcement Division or other County Department initiating the

~~action, may, pursuant to Government Code section 27280, file with the County Recorder's Office a notice of action identifying the enforcement action taken for violation of the San Bernardino County Code or other applicable law.~~

~~**11.0211 — Costs and Damages.**~~

~~Any person, whether acting as a principal, agent, employee, owner, lessor, lessee, landlord, tenant, occupant, operator or contractor, or otherwise, violating any provision of this Code or the rules, regulations, orders, permits or conditions of approval issued thereunder, shall be liable to the County for costs of abatement and any damages suffered by the County, its agents or agencies, as a result of such violations.~~

~~**11.0212 — Treble Damages.**~~

~~Upon a second or subsequent civil or criminal judgment for a violation of this Code within a two-year period the violator shall be liable to the County for treble the abatement costs, in accordance with Government Code section 25845.5.~~

SECTION 3. Chapter 2 is added to Division 1 of Title 1 of the San Bernardino County Code to read in its entirety as follows:

CHAPTER 2: VIOLATIONS AND ENFORCEMENT

Section

- 11.0201 Purposes and Remedies.**
- 11.0202 Definitions.**
- 11.0203 Enforcement Authority.**
- 11.0204 Code Violations Generally.**
- 11.0205 Written Orders.**
- 11.0206 Criminal Actions.**
- 11.0207 Civil Actions.**
- 11.0208 Administrative Citation Actions.**
- 11.0209 Abatement.**
- 11.0210 Summary Abatements.**

- 1 **11.0211 Filing and Recording of Notices.**
- 2 **11.0212 Costs Incurred for Abatement.**
- 3 **11.0213 Collection of Unpaid Administrative Citations, Administrative**
- 4 **Citations for Continuing Violations, and Administrative and**
- 5 **Abatement Costs.**
- 6 **11.0214 Treble Damages.**

7

8 **11.0201 Purposes and Remedies.**

9 The Board of Supervisors has determined that the enforcement of the Codified

10 Ordinances of the County of San Bernardino (also known as the San Bernardino County

11 Code) is an important public service and vital to the protection of the public’s health,

12 safety, and quality of life. The Board of Supervisors has determined a need for

13 alternative methods of enforcing the San Bernardino County Code (hereinafter referred

14 to as this “Code”). At the discretion of the County, violations of this Code may be

15 addressed through the institution of a criminal action, a civil action, and/or an

16 administrative action as set forth in this Chapter.

17 **11.0202 Definitions.**

18 For the purposes of this Chapter certain words are defined as follows:

19 **Administrative costs.** All costs incurred by or on behalf of the County from the

20 date of the initial discovery of the violation of the County Code through the applicable

21 appeal process and until compliance is achieved. Administrative costs include, but are

22 not limited to: contractor’s costs, staff time in investigating the violation, staff and

23 attorney time in preparing inspection or abatement warrants (where applicable),

24 inspecting the property where the violation occurred, preparing investigation reports,

25 sending notices, preparing for and attending any appeal hearing, telephone contacts,

26 correspondence, the cost of an administrative hearing officer (where applicable), and

27 attorney’s fees (where applicable).

28 **Code Enforcement Officers.** Pursuant to Penal Code sections 829.5 and

1 836.5, a Code Enforcement Officer is any County employee or agent appointed by the
2 Chief Executive Officer working under the general direction of the Code Enforcement
3 Chief who has the authority and duty to investigate and initiate any action necessary to
4 ensure compliance with the provisions of the County Code, the provisions of any code
5 adopted by reference by the County Code, and when designated by the County Code,
6 parking laws and regulations.

7 **Days.** Consecutive, calendar days.

8 **Enforcement officer.** Any County employee, Special District employee, or
9 agent of the County with the authority to enforce or administer any provision of the
10 County Code, including, but not limited to:

11 (a) Code Enforcement Officers

12 (b) The Building Official, each Regional Building and Safety Supervisor, each
13 Building Inspector, and other designated employees of the Building and Safety Division
14 of the Land Use Services Department;

15 (c) The Fire Chief/Fire Warden, the Fire Marshal, and other designated
16 employees of the San Bernardino County Fire Protection District;

17 (d) The Division Chief, each Inspector, and other designated employees of
18 the Environmental Health Services Division of the Department of Public Health;

19 (e) The Division Chief, each Animal Control Supervisor, each Animal Control
20 Officer, and other designated employees of the Animal Care and Control Division of the
21 Department of Public Health;

22 (f) The Sheriff-Coroner, each Deputy Sheriff (all ranks), and other designated
23 employees of the Sheriff's Department;

24 (g) The Director and other designated employees of the Public Works
25 Department;

26 (h) The Chief Executive Officer and any other director and other designated
27 employees of a County department or special district as designated by the Chief
28 Executive Officer, or the Board of Supervisors.

1 **Hearing officer.** Unless otherwise provided for in this chapter, a hearing officer
2 has the same meaning as defined by Chapter 27 of Division 2 of Title 1 of the County
3 Code.

4 **Interested parties.** Those individuals or entities with a recorded deed of trust,
5 assignment, lease, or other document showing a monetary interest in the property at
6 issue, and some ability or potential obligation to cure violations on the property
7 according to the recorded document. It does not include judgment lienholders.

8 **Person.** Means without limitation, any natural person, firm, association, club,
9 organization, corporation, partnership, business, trust, company or other entity.

10 **Responsible party.** Except as otherwise provided in Titles 1 through 8,
11 inclusive, a responsible party includes one or more of the following:

12 (a) Each person who has a legal or equitable ownership interest in any parcel
13 of real property located within the unincorporated area of the County (referred to also as
14 “owner”), whether or not the owner of record, and who commits, causes, or otherwise
15 allows a violation of the County Code to occur, exist, or continue on such parcel.

16 (b) Each person, other than a minor, who commits, causes, or otherwise
17 allows a violation of the County Code to occur, exist, or continue.

18 (c) Each person who is the parent or legal guardian of a minor person who
19 commits, causes, or otherwise allows a violation of the County Code to occur, exist, or
20 continue.

21 (d) Each person who, although not an owner, nevertheless has a legal right or
22 legal obligation to exercise possession and control over any parcel of real property
23 located within the unincorporated area of the County and who commits, causes, or
24 otherwise allows a violation of the County Code to occur, exist, or continue on such
25 parcel.

26 (e) Any business entity ~~where~~ to whom a violation of the County Code is
27 reasonably attributable to that entity, in addition to any other responsible party. In such
28 case notices shall be issued in the name of the business entity as a responsible party.

(f) Each person who is an owner of a business entity as described in subdivision (e).

11.0203 Enforcement Authority.

(a) *Jurisdiction.* Regardless of provisions of the County Code that would limit authority to enforce provisions of the Code to specific departments, Enforcement Officers are authorized to enforce all provisions of the County Code, the provisions of any code adopted by reference by the County Code, and when designated by the County Code, parking laws and regulations, except as otherwise provided by state law, in the following areas:

(1) In the unincorporated area of the County, with the exception of those areas owned by or under the jurisdiction of other governmental agencies, unless allowed for by agreement, statute, or other applicable law;

(2) On property owned, leased, or operated by the County, anywhere within the County; and

(3) Where the County has legal standing to enforce provisions of the County Code or any other code, regulation or ordinance anywhere in the County.

(b) *Inspections.* Enforcement Officers are hereby authorized to enter upon any property or premises within the Enforcement Officer's jurisdiction to investigate violations of the County Code, and to make any inspection as may be necessary in the performance of their enforcement duties. Such authorization is subject to constitutional constraints and laws respecting the rights of privacy, in accordance with the provisions of Code of Civil Procedure sections 1822.50 through 1822.59, as may be amended from time to time, or the successor provisions thereto, and related case law.

11.0204 Code Violations Generally.

(a) *Declaration of Public Nuisance.* Each and every violation of the County Code is hereby declared unlawful and a public nuisance.

(b) *Acts Including Causing, Aiding and Abetting.* Whenever in the County Code any act or omission is made unlawful, it shall include causing, permitting, aiding or

1 abetting such act or omission.

2 (c) *Cumulative and Discretionary.* All remedies and penalties provided for in
3 the County Code shall be cumulative and discretionary and not exclusive of other
4 applicable provisions of the County Code or other applicable State or Federal law.

5 (d) *Continuing Violations.* Each and every day, and any portion of which, any
6 violation of the County Code is committed, continued, or permitted, shall be deemed a
7 new and separate offense and shall be punishable or actionable as set forth in this
8 Chapter.

9 (e) *Correction of Nuisance.*

10 (1) The conviction and punishment (whether by fine, imprisonment, or
11 both) of any person hereunder pursuant to a criminal action, or the imposition of a
12 monetary administrative penalty pursuant to an administrative citation (as defined in
13 section 11.0208), shall not relieve such person from the responsibility of correcting,
14 removing, or abating the violation; nor prevent the enforced correction, removal, or
15 abatement thereof by the County, its employees, agents, or representatives.

16 (2) The correction, removal, or abatement of a violation begun after the
17 issuance of a criminal citation or the filing of a criminal complaint shall not be a defense
18 to the infraction or misdemeanor so charged and, following a conviction or plea of nolo
19 contendere shall not be grounds for dismissal of the action or for the waiver, stay, or
20 reduction, of any fine established in this Chapter.

21 (3) The procedures established in this Chapter for the use of
22 administrative citations, administrative abatement and summary abatement, and the
23 procedures established in other titles and chapters of the County Code for
24 administrative abatement and summary abatement as a means for addressing
25 violations of the County Code, shall be in addition to criminal and civil or other legal or
26 equitable remedies established by law which may be pursued to address violations of
27 the County Code. The use of this Chapter shall be at the sole discretion of the County.
28 In the exercise of such discretion in selecting an appropriate code enforcement remedy,

the County shall not be required to institute available code enforcement remedies in any particular order, or to prefer the application of one remedy to another.

(f) *Joint and Several Liability.* Where the violations arise from the joint actions of multiple responsible parties rather than the action of several responsible parties acting independently of one another, then the liability for administrative citations and/or abatement costs shall be joint and several.

11.0205 Written Orders.

(a) *Inspection and issuance of written order.* If an Enforcement Officer, after investigation, determines that one or more violations of the County Code exist on real property within the jurisdiction of the County, as defined in Section 11.0203(a), the County may cause to be served a written order upon each responsible party.

(b) *Contents of written order.* The written order shall be issued on a form containing at least the following information:

- (1) The name and mailing address of the responsible party.
- (2) The date of the property inspection.
- (3) The manner in which the conditions on the property or behavior violate the County Code, or any state or federal code the County is authorized to administratively enforce, and the specific provision that has been violated.
- (4) The corrective actions required to abate the violation(s).
- (5) A declaration that the violations are a public nuisance (hereinafter "nuisance conditions").
- (6) An order stating that the responsible party shall abate the nuisance conditions listed in the written order within a reasonable time determined by the issuing officer in light of the circumstances. If the nuisance condition is a violation that poses an immediate threat to health or safety or relates to a violation(s) of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements that are the result of, or to facilitate cannabis cultivation, the written order may provide for an immediate correction deadline for that violation.

1 (7) A statement that failure to bring the property into compliance with
2 the County Code could subject the responsible party to any or all of the following
3 actions: administrative fines and penalties; County initiated abatement or summary
4 abatement; civil prosecution and penalties; criminal prosecution, including fines and/or
5 imprisonment; and/or the imposition of a lien and/or special tax assessment against the
6 property for abatement costs related to enforcement of the written order, including
7 administrative citations issued for failure to comply with a written order to the extent
8 provided by law.

9 (8) Identification of all appeal rights and instructions on how to appeal
10 the written order, including instructions regarding the advance deposit hardship waiver.

11 (9) A statement that failure on the part of the recipient to appeal the
12 written order shall constitute a waiver of the recipient's right to contest the written order
13 and will constitute a failure of the recipient to exhaust his administrative remedies.

14 (10) Reference to Section 11.0208(f)(5)(D)(IV) describing the evidence
15 permitted at the administrative hearing and considered by the hearing officer in reaching
16 a decision on appeal.

17 (11) A statement that "lessors cannot retaliate against a lessee pursuant
18 to Section 1942.5 of the Civil Code."

19 (12) The name, address, and telephone number of the County staff
20 member the responsible party may contact with questions regarding the written order.

21 The failure of the written order to set forth all required contents shall not
22 affect the validity of the proceedings.

23 (c) *Service of the written order.* Service of the written order shall be served
24 as follows:

25 (1) By U.S. mail, addressed to the owner or the owner's agent, at the
26 address shown on the current assessment roll and addressed to any other person
27 known to be in possession of the property at the street address of the property where
28 the nuisance exists, and,

1 (2) By posting the written order conspicuously in front of the property
2 on which, or in front of which, the nuisance exists, or if the property has no frontage, at
3 a conspicuous location on a roadway closest to the property most likely to give actual
4 notice to the owner and persons in possession of the property.

5 (d) *Right to abate nuisance conditions by responsible party.* Any responsible
6 party shall have the right to have the property rehabilitated or to have the listed
7 nuisance conditions abated in accordance with the written order, at his or her own
8 expense, provided the same is done prior to the expiration of the abatement period set
9 forth in the written order. Upon such abatement in full, abatement proceedings under
10 this ordinance shall terminate. Nothing in this section is intended to excuse an
11 owner/landlord from compliance with California landlord-tenant laws. Additionally,
12 nothing in this section is intended to require an owner/landlord to breach any written
13 agreement with a tenant in possession of the property.

14 (e) *Appeal of the written order.* The right to and the procedure of any appeal
15 of a written order shall be the same as the right and procedures of an appeal of an
16 administrative citation located at Sections 11.0208(f) et seq., with the exception of those
17 provisions specifically set forth below.

18 (1) Notwithstanding Section 11.0208(g), when conducting a hearing
19 requested by a responsible party, including the property owner, to contest a written
20 order, the hearing officer shall determine whether the enforcement officer has
21 demonstrated there is substantial evidence of a public nuisance and whether additional
22 action is necessary to abate the public nuisance. At the conclusion of the hearing, the
23 hearing officer shall make written findings of fact and conclusions of law. The hearing
24 officer's decision shall uphold or overrule, in whole or in part, the Enforcement Officer's
25 determination that a public nuisance exists and whether additional action is necessary
26 to prevent recurrence of the public nuisance. If the hearing officer determines the
27 written order shall be enforced, the hearing officer shall determine a reasonable time for
28 compliance and the decision shall specify a date by which the responsible party shall

1 comply. The hearing officer shall file the decision with the Clerk of the Board of
2 Supervisors within seven days of the conclusion of the hearing. The hearing officer's
3 decision shall be final when it is filed with the Clerk of the Board of Supervisors. The
4 Clerk of the Board of Supervisors shall send the decision to the appellant by U.S. mail
5 and provide a copy to the relevant department. The judicial review provisions in section
6 11.0208(h) shall not apply to the appeal of a written order.

7 **11.0206 Criminal Actions.**

8 (a) Criminal Penalties for Violations. It is unlawful for any person to violate
9 any provision of this Code, or to violate any provision of any permit issued pursuant to
10 this Code, or the conditions of approval for such permit granted pursuant to this Code.
11 Unless otherwise specified in another part of this Code, any person committing such
12 violation shall be deemed guilty of a misdemeanor.

13 (1) Misdemeanor Violations. Except as provided below, upon
14 conviction of a misdemeanor, or upon a plea of nolo contendere (commonly called "no
15 contest"), the penalty shall be a base fine of not less than \$500.00 and not more than
16 \$1,000.00, or by imprisonment in the County jail for a period of not more than six
17 months, or by both such base fine and imprisonment. Any court costs that the court
18 may otherwise be required to impose pursuant to applicable State law or local
19 ordinance shall be imposed in addition to the base fine. The court, or judge thereof, in
20 the order granting probation, may suspend the imposing or the execution of the
21 sentence and may direct that the suspension may continue for a period of time not
22 exceeding three years, and upon those terms and conditions as it shall determine. The
23 court, or judge thereof, in the order granting probation and as a condition thereof, may
24 imprison the defendant in a county jail for a period not exceeding the maximum time
25 fixed by law in the case.

26 (A) Violations of Chapter 84.28. Any person violating any
27 provision of Chapter 84.28 is guilty of a misdemeanor. Notwithstanding the foregoing, a
28 misdemeanor violation may be cited, charged, and prosecuted as an infraction. Upon

conviction of a misdemeanor, or upon a plea of nolo contendere (commonly called "no contest") involving misdemeanor violations of Chapter 84.28, the penalty shall be as follows:

(I) Any person convicted of a misdemeanor for operating a short-term residential rental unit without a valid permit in violation of Chapter 84.28 shall be punished by a base fine of up to \$1,000.00 upon a first conviction, by a base fine of up to \$2,000.00 for a second conviction, by a base fine of up to \$5,000.00 upon a third or subsequent conviction, or by imprisonment in the County jail for a period of not more than six months, or by both such base fine and imprisonment;

(II) Any person convicted of a misdemeanor for operating a permitted short-term residential rental unit in violation of Chapter 84.28 shall be punished by a base fine of up to \$1,000.00 upon a first conviction, by a base fine of up to \$2,000.00 upon a second conviction for violations occurring within a 12-month period, by a base fine of up to \$5,000.00 upon a third or subsequent conviction for violations occurring within a 12-month period, or by imprisonment in the County jail for a period of not more than six months, or by both such base fine and imprisonment.

(B) Violations of Chapter 84.34. Upon conviction of a misdemeanor, or upon a plea of nolo contendere (commonly called "no contest") involving misdemeanor violations of Chapter 84.28, the penalty shall be as follows:

(I) Any person convicted of a misdemeanor for cannabis cultivation in violation of Chapter 84.28 where the number of cannabis plants located on the premises is less than 200 shall be punished by a base fine of up to \$1,000.00 upon a first conviction; by a base fine of up to \$1,500.00 for a second conviction; by a base fine of up to \$3,000.00 upon a third or subsequent conviction; by imprisonment in the County jail for a period of not more than six months; or by both such base fine and imprisonment;

(II) Any person convicted of a misdemeanor for commercial cannabis activity related to operation of a dispensary, or delivery,

1 manufacturing, transportation, distribution, or cultivation where the number of cannabis
2 plants located on the premises is greater than 200 in violation of Chapter 84.28, shall be
3 punished by a base fine of up to \$3,000.00 upon a first conviction; by a base fine of up to
4 \$6,000.00 upon a second conviction; by a base fine of up to \$10,000.00 upon a third or
5 subsequent conviction; or by imprisonment in the County jail for a period of not more
6 than six months; or by both such base fine and imprisonment.

7 (2) Infraction Violations. Notwithstanding the foregoing, a
8 misdemeanor violation may be cited, charged, and prosecuted as an infraction. Where
9 so prosecuted, or where specified in a section or chapter of this Code that the violation
10 of a certain section or sections shall be an infraction, then that shall be the type of
11 offense and each such violation shall be punishable, except as otherwise provided
12 herein, upon conviction or upon a plea of nolo contendere (commonly called “no
13 contest”), by a base fine not exceeding \$100.00 for a first violation; a base fine not
14 exceeding \$200.00 for a second violation of the same Code section within one year;
15 and a base fine not exceeding \$500.00 for each additional violation of the same Code
16 section within one year of the first violation. However, violations of building and safety
17 provisions of this Code cited, charged, and prosecuted as infractions shall be
18 punishable by a base fine not exceeding \$100.00 for a first violation; a base fine not
19 exceeding \$500.00 for a second violation of the same Code section within one year;
20 and a base fine not exceeding \$1,000.00 for each additional violation of the same Code
21 section within one year of the first violation. The maximum fines imposed in this Section
22 are based upon the provisions of Government Code section 25132 and will be
23 increased automatically and without amendment to this Section upon any amendment
24 to Government Code section 25132 increasing the amount of fines permitted. Any court
25 costs that the court may otherwise be required to impose pursuant to applicable State
26 law or local ordinance shall be imposed in addition to the base fine.

27 (b) Criminal Citations.

28 (1) If any person is arrested by a peace officer, fire marshal, fire

1 prevention officer, code enforcement officer, animal control officer, public health officer,
2 or any other officer authorized to enforce this Code for a violation of any provision of this
3 Code (hereinafter "arresting officer"), whether punishable as a misdemeanor or as an
4 infraction, the arresting officer shall issue a notice to appear (the citation) to such
5 person, pursuant to Penal Code sections 853.5 and 853.6, and request that the person
6 sign the notice to appear, which shall constitute the person's written promise to appear
7 in court. After obtaining the written promise to appear, the arresting officer must
8 immediately release the person.

9 (2) If the person cited refuses to sign the notice to appear, the arresting
10 officer, unless the arresting officer is a sworn peace officer, must immediately release
11 the person and refer the matter to the Office of County Counsel or other appropriate
12 agency for appropriate action.

13 **11.0207 Civil Actions.**

14 (a) Injunctive Relief and Abatement. At the request of any person authorized
15 to enforce this Code, the County Counsel or District Attorney may commence
16 proceedings for the abatement, removal, correction and enjoinder of any act or
17 omission that constitutes or will constitute a violation of this Code, or any permit issued
18 pursuant to this Code, or any condition(s) of approval for such permit granted pursuant
19 thereto, and an order requiring the violator(s) to pay civil penalties and/or abatement
20 costs. Where multiple violators are involved, they shall be jointly and severally liable for
21 the civil penalties and/or abatement costs.

22 (b) Civil Remedies and Penalties. Any person, whether acting as principal,
23 agent, employee, owner, lessor, lessee, landlord, tenant, occupant, operator, contractor,
24 or otherwise, who violates any provision of this Code, or any permit issued pursuant to
25 this Code, or any condition(s) of approval for such permit granted pursuant thereto, shall
26 be liable for a civil penalty not to exceed \$1,000.00 per violation for each day or any
27 portion thereof, that the violation continues to exist. In determining the amount of civil
28 penalty to be imposed, both as to the daily rate and the subsequent total amount for any

1 given violation, the court shall consider all relevant circumstances, including, but not
2 limited to, the extent of the harm caused by the conduct constituting the violation; the
3 nature and persistence of such conduct; the length of time over which the conduct
4 occurred or was repeated; the assets, liabilities, and net worth of the violator; whether
5 the violator is a corporate entity or an individual; and any corrective action taken by the
6 violator.

7 (c) **Attorney's Fees and Costs of Enforcement.** In any civil action brought by
8 the County, including but not limited to a proceeding to abate a public nuisance,
9 whether by seeking injunctive relief and/or an abatement order, or other order,
10 attorney's fees and costs of enforcement may be recovered by the prevailing party.
11 Such recovered attorney's fees shall not exceed the amount of reasonable attorney's
12 fees incurred by the County in that action or proceeding (Government Code section
13 25845). Costs of enforcement shall include, but not be limited to, administrative costs
14 and any and all costs incurred in the physical abatement of any nuisance and any and
15 all costs incurred by the County in the correction or remedying of a violation of this
16 Code. Notwithstanding the above language, no attorney's fees shall be recovered in
17 any administrative proceeding held pursuant to Section 11.0208 or any related appeal
18 to the Superior Court or the Courts of Appeal.

19 **11.0208 Administrative Citation Actions.**

20 (a) *Application.* All violations of any provision of the "Codified Ordinances of
21 the County of San Bernardino," more commonly known as the San Bernardino County
22 Code, Titles 1 through 8, inclusive, and hereinafter to include any and all additional titles
23 as may be enacted and adopted by the County of San Bernardino Board of Supervisors,
24 are subject to enforcement through the use of administrative citations in accordance
25 with Government Code section 53069.4 and this Section. Administrative citations may
26 be issued for any violation of this Code including but not limited to those violations not
27 occurring in the presence of the Enforcement Officer (as defined below) issuing the
28 citation where the issuing officer determines through investigation that the responsible

1 party (as defined below) committed, caused, allowed, or is otherwise responsible for the
2 violation. The following procedures shall govern the imposition, enforcement, collection,
3 administrative review, and judicial review of administrative citations and penalties.

4 (b) *Issuance.* Upon discovering that a violation of the County Code exists on
5 a property, an enforcement officer may issue an administrative citation which shall state
6 the violation(s) and the penalty to be paid by the responsible party.

7 (c) *Content of Citation.* The administrative citation shall be issued on a form
8 approved by the County Executive Officer in consultation with County Counsel. The
9 administrative citation form may be tailored to the specific needs of the issuing
10 department as approved by the County Executive Officer; however, all administrative
11 citations regardless of the issuing County Department shall contain the following
12 information:

13 (1) The name and mailing address of the responsible party.

14 (2) A reference to the date(s) and location of the violation and the
15 approximate time(s), if applicable, that the violation was observed.

16 (3) The identification of each violation by the applicable Section
17 number of the County Code and by either the Section's title or a brief descriptive
18 caption; or by reference to the applicable permit describing the condition violated.

19 (4) A description of the action(s) required to correct the violations.

20 (5) A requirement that the responsible party to immediately correct the
21 violation where appropriate or otherwise indicate a reasonable compliance deadline
22 date and shall explain the consequences of failure to correct the violation.

23 (6) The amount, if any, of the penalty imposed for the violation.
24 Multiple violations may be listed on the same citation form. In the event of multiple
25 violations, the administrative citation shall list the penalty amount, if any, for each
26 violation and the total of all of the penalties. For continuing violations pertaining to
27 building, plumbing, electrical, or other similar structural or zoning issues, and where
28 such continuing violations do not create an immediate danger to health or safety, the

administrative citation shall provide for a reasonable period of time to correct or otherwise remedy the violation prior to the imposition of the penalty. For such violations that pose an immediate danger to health or safety, the penalty may be imposed immediately.

(A) Notwithstanding the above, where the continuing violation concerns violations of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements that exist as a result of, or to facilitate, the illegal cultivation of cannabis, the penalty may be imposed immediately unless a property owner or their agent has presented sufficient evidence to the Enforcement Officer or hearing officer to satisfy the requirements of Government Code section 53069.4(a)(2)(C).

(7) A notation box for the enforcement officer to indicate whether or not the citation is issued as a “warning only” and without penalty. The administrative citation shall also include a notation box that may be used by the enforcement officer to indicate that the penalty will be waived if the violation is corrected by the compliance deadline date indicated on the citation form.

(8) An explanation of how the penalty shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the penalty within this time period.

(9) Identify all appeal rights and include instructions on how to appeal the citation, including instructions regarding the advance deposit hardship waiver.

(10) The printed name and the signature of the enforcement officer issuing the citation and, where reasonably possible to obtain it, the signature of the responsible party (or managing employee if the responsible party is a business entity), if he or she can be located, as set forth in subsection (d) below.

(d) *Service of Citation.*

(1) If the responsible party is present at the scene of the violation, the Enforcement Officer shall attempt to obtain their signature on the administrative citation

1 and shall deliver a copy of the administrative citation to them.

2 (2) If the responsible party is a business, and the business owner is on
3 the premises, the Enforcement Officer shall attempt to deliver the administrative citation
4 to the business owner. If the Enforcement Officer is unable to serve the business owner
5 on the premises and the Enforcement Officer can only locate the manager or on-site
6 supervisor, the administrative citation may be issued in the name of the business and a
7 copy given to the manager or on-site supervisor. A copy of the administrative citation
8 shall also be mailed to the business owner by certified mail, return receipt requested,
9 and by first class mail. If a copy of the administrative citation that is sent by certified
10 mail is returned by the United States Postal Service unsigned or marked "unclaimed"
11 and/or "refused," then service by first class mail shall be deemed effective provided it is
12 also not returned by the United States Postal Service.

13 (3) If a responsible party cannot be located at the property, then a copy
14 of the administrative citation shall be posted in a conspicuous place on or near that
15 property, if practicable, and a copy mailed by certified mail, return receipt requested,
16 and by first class mail, to each responsible party at their last known addresses as they
17 appear on the last County equalized assessment role, or any other available public
18 records related to title or ownership of the property that is the subject of the
19 administrative citation. If the copy of the administrative citation sent by certified mail to
20 a responsible party is returned by the United States Postal Service with the mail receipt
21 unsigned, or marked "unclaimed" and/or "refused," then service by first class mail shall
22 be deemed effective provided it is also not returned by the United States Postal Service.

23 (4) The failure of any responsible party to receive a copy of the
24 administrative citation shall not affect the validity of the proceedings.

25 (e) *Administrative Penalties and Costs.*

26 (1) Unless otherwise provided in the County Code or as indicated
27 below, the amount of penalty to be imposed for a violation of the County Code and
28 assessed by means of an administrative citation shall be in the maximum amounts set

1 forth in Government Code section 25132 and will be increased automatically and
2 without amendment to this Section upon any amendment to Government Code section
3 25132 increasing the maximum amount of fines permitted.

4 (A) If the violation concerns a short-term residential rental
5 subject to Chapter 84.28, the following fines shall apply:

6 (I) Any person operating a short-term residential rental
7 without a valid permit in violation of Chapter 84.28, the citation fine amount shall be
8 \$1,000.00 per violation per day accruing until the violator indicates, and Code
9 Enforcement confirms, the violation has been abated;

10 (II) Any person operating a permitted short-term
11 residential rental in violation of Chapter 84.28, the citation fine amount shall be
12 \$1,000.00 for a first citation, \$2,000.00 for a second citation for violations occurring
13 within a twelve-month period, and \$5,000.00 upon a third or subsequent citation for
14 violations occurring within a twelve-month period.

15 (B) If the violation concerns commercial cannabis activity subject
16 to Chapter 84.34, the following fines shall apply:

17 (I) If the commercial cannabis activity occurring on a
18 property involves the cultivation of cannabis not authorized by Sections 84.34.040 and
19 84.34.050, and the number of cannabis plants located on the premises does not exceed
20 200, the citation fine amount shall be \$1,000.00 for a first citation; \$1,500.00 for a
21 second citation; and \$3,000.00 upon a third or subsequent citation;

22 (II) If the commercial cannabis activity occurring on a
23 property involves the cultivation of cannabis and the number of cannabis plants located
24 on the premises exceeds 200, the citation fine amount shall be \$3,000.00 for a first
25 citation; \$6,000.00 for a second citation; and \$10,000.00 upon a third or subsequent
26 citation;

27 (III) If the commercial cannabis activity occurring on a
28 property involves the operation of a dispensary, or delivery, manufacturing,

1 transportation or distribution, as defined in section 84.34.020, the citation fine amount
2 shall be \$3,000.00 for a first citation; \$6,000.00 for a second citation; and \$10,000.00
3 upon a third or subsequent citation.

4 (2) If the violation is not corrected within the time limits established in
5 the County Code, then additional administrative citations may be issued for the same
6 violation. The amount of the penalty shall increase at the rate specified above.

7 (A) Payment of the penalty shall not excuse the failure to correct
8 the violation nor shall it bar further enforcement action by the County.

9 (B) The penalties assessed shall be due to the County (or to the
10 County's designated collection/processing agent for the issuing County Department or
11 Special District Department) within 30 calendar days from the date the administrative
12 citation is issued.

13 (C) Except as provided below, any person who fails to pay to the
14 County (or the County's designated collection/processing agent for the issuing County
15 Department) any penalty imposed pursuant to the provisions of this Chapter shall be
16 liable for payment of the applicable late payment charges as follows:

17 (I) For payments received within 30 days after the due
18 date, a late fee in the amount of 50 percent of the administrative fine is due.

19 (II) For payments received more than 30 days after the
20 due date, a late fee in the amount of 50 percent of the original administrative fine is due,
21 plus an additional 50 percent of the original administrative fine is due.

22 (D) The County may collect any past due administrative citation
23 penalty or late payment charge by use of any available means, including without
24 limitation, the recording of a notice of lien, describing the real property affected and the
25 amount of the costs and administrative citation penalties claimed by the County with the
26 Office of the County Recorder. The County may transmit notice of the award of
27 administrative costs and administrative citation penalties, or notice of the judgment
28 thereon arising from a collection or other legal action, to the Treasurer/Tax Collector

1 who shall place the amount thereof on the assessment role as a special assessment to
2 be paid with County taxes, unless sooner paid. The County may also recover its
3 collection costs. A judgment or award of such costs, penalties or damages may be
4 enforced as set forth above and may also be enforced in any other manner provided by
5 law.

6 (E) In any appeal hearing, the issuing County Department may
7 also recover its administrative costs incurred in investigating, inspecting, and abating or
8 remedying the violation of the County Code, in attempting to collect any and all
9 penalties and late fees, and in defending the citation at the appeal hearing.

10 (F) All administrative citation penalties collected pursuant to
11 these provisions shall be deposited into specific funds maintained by or on behalf of the
12 respective issuing County Departments for the purpose of funding their enforcement of
13 the County Code.

14 (f) *Appeal of Administrative Citation.*

15 (1) Notice of Appeal. Any responsible party in whose name an
16 administrative citation has been issued may appeal the administrative citation by filing a
17 written notice of appeal with the County Department that issued the administrative
18 citation. If the issuing County Department has designated a processing agent, then the
19 responsible party shall file their written notice of appeal with the issuing County
20 Department's designated processing agent. The written notice of appeal must be filed
21 within 20 calendar days of the date the administrative citation was served in a manner
22 set forth in ~~subsection~~Division (d) of this Section. The written notice of appeal shall be
23 filed together with an advance deposit, consisting of a cashier's check, for the full
24 amount of the penalty stated on the administrative citation. Failure to file a written
25 notice of appeal and the full amount of the advance deposit within this time period shall
26 constitute a waiver of the right to appeal the administrative citation.

27 (2) Advance Deposit Hardship Waiver. Any person intending to appeal
28 an administrative citation and who is financially unable to make the advance deposit as

1 required by this Section may file a written request for an advance deposit hardship
2 waiver. The written request must be filed prior to filing the notice of appeal. The written
3 request shall be filed with the issuing County Department. A County-approved form
4 shall be made for this purpose. The person requesting the advance deposit hardship
5 waiver shall indicate on the corresponding notice of appeal that an advance deposit
6 hardship waiver request has been submitted.

7 (3) Advance Deposit Hardship Waiver Evaluation Procedures.
8 Pending a decision by the County Department's Director, or the Director's designee to
9 grant or deny the request, the advance deposit requirement shall be stayed and no
10 administrative hearing shall be scheduled. The Director, or the Director's designee,
11 may waive the advance deposit requirement and issue a waiver only if the person
12 requesting the waiver submits to the Director's attention a sworn affidavit, together with
13 any supporting documents or materials, reasonably demonstrating to the Director the
14 person's actual financial inability to submit the advance deposit in advance of the
15 appeal hearing. Within ten days of receipt of the advance deposit hardship waiver
16 request, the Director or the Director's designee shall issue a written decision to grant or
17 deny the request. If the request is denied the written decision shall explain the
18 reason(s) for denial of the waiver and shall state the due date for payment of the
19 advance deposit. The written decision of the Director, or the Director's designee, shall
20 be sent via first class mail to the requesting party and shall be final. An administrative
21 hearing shall not be scheduled until the advance deposit is received. If the request is
22 denied and the advance deposit is not remitted within the time frame indicated in the
23 written decision, the right to an appeal shall be deemed waived and payment of the
24 administrative penalty shall become due immediately. The amount due shall be subject
25 to all applicable late fees, which shall accrue from the original due date as indicated on
26 the administrative citation.

27 (4) Contents of Notice of Appeal. The notice of appeal shall be
28 submitted on County-approved forms and shall contain the following information:

1 (A) A brief statement setting forth the appealing person's
2 (hereinafter "appellant") interest in the proceedings;

3 (B) A brief statement of the material facts which the appellant
4 claims supports their contention that they did not commit, cause, or otherwise allow a
5 violation of one or more provisions of Titles 1 through 7, inclusive, of this Code to occur,
6 exist, or continue as alleged in the administrative citation at issue; or that they are not a
7 responsible party as defined at Section 11.0208(b)(7) of this Chapter.

8 (C) A mailing address at which the appellant agrees that notice
9 of any additional proceeding, or an order relating to the imposition of an administrative
10 citation penalty, shall be received and accepted by the appellant by first class mail.

11 (D) The notice of appeal must be signed and dated by the
12 appellant.

13 (5) Administrative Hearing. The resolution of an appeal of an
14 administrative citation issued under the authority of this Section shall be by an
15 administrative hearing conducted according to the procedures set forth in this Section.
16 The provisions of this Code at Title 1: Government and Administration, Division 2:
17 Departments, Offices, Commissions, Chapter 27: Administrative Hearings; County
18 Hearing Officer, shall not apply. Upon the issuing County Department's designated
19 processing agent's receipt of a timely, written notice of appeal from the appellant, an
20 administrative hearing shall be held as follows:

21 (A) Hearing Date. The date of the hearing shall be set for a date
22 that is no later than 60 days from the date the notice of appeal is received by the issuing
23 County Department's processing agent, unless otherwise stayed by the timely
24 submission of an advance deposit hardship waiver, as indicated above.

25 (B) Notice of Hearing. Notice of the administrative hearing shall
26 be given to the appellant at least ten calendar days before the hearing. The notice may
27 be delivered to the appellant or mailed by first class mail to the address listed in the
28 notice of appeal. Neither personal service nor service by certified mail shall be

1 required.

2 (C) Hearing Officer. The administrative hearing shall be held
3 before the Director of the issuing County Department or his or her designee. The
4 hearing officer shall not be the Enforcement Officer who issued the administrative
5 citation or their immediate supervisor. The Director of the issuing County Department,
6 through the County's contracting process, may contract with a qualified provider for
7 administrative processing and collection services to provide hearing officers to conduct
8 administrative hearings and process administrative citations, including the collection of
9 payments of administrative citation penalties, administrative costs, and late charges.

10 The Board of Supervisors finds that contracting with a qualified
11 provider for administrative hearing officers as set forth in this Section is equivalent to the
12 establishment of an office of County hearing officer as provided for and for the purpose
13 intended by Government Code section 25845(i). The Board of Supervisors further finds
14 that the decision of the hearing officer so appointed shall be deemed a recommendation
15 adopted by the Board of Supervisors without further notice, and shall be deemed
16 equivalent to and for the purpose intended by Government Code section 25845(h).

17 (D) Conduct of the Hearing.

18 (I) The Enforcement Officer who issued the
19 administrative citation shall not be required to participate in the administrative hearing.
20 The contents of the Enforcement Officer's case file shall be admitted as prima facie
21 evidence of the facts stated therein. The hearing officer shall not be limited by the
22 technical or formal rules of evidence. The issuing County Department shall bear the
23 burden of proof at the administrative hearing to establish the existence of a violation of
24 this Code by a preponderance of the evidence. The hearing officer shall have the
25 discretion to exclude evidence if its probative value is substantially outweighed by the
26 probability that its admission will cause an undue consumption of time. The
27 Enforcement Officer establishing or confirming the occurrence or existence of a violation
28 of this Code shall be deemed the complaining or reporting party. Personal or other

1 identifying information regarding any other reporting party shall be deemed both
2 irrelevant and subject to the federal and state constitutional rights of privacy; and,
3 therefore, shall not be subject to review or disclosure.

4 (II) Provided that proper notice of the administrative
5 hearing has been served as required by this or other applicable chapters of this Code,
6 an appellant who fails to appear at the administrative hearing shall be deemed to have
7 waived each of the following: the right to such hearing, the adjudication of issues
8 presented at the hearing, and any and all rights afforded to the appellant under this
9 Code. The appellant shall also be deemed to have failed to exhaust their administrative
10 remedies.

11 (III) Notwithstanding ~~Subsection~~division (f)(5)(D)(II)
12 above, if the appellant fails to appear at the administrative hearing, the hearing officer
13 shall make their determination based on the information contained in the Enforcement
14 Officer's case file and the appellant's notice of appeal.

15 (IV) The only evidence that shall be permitted at the
16 administrative hearing and considered by the administrative hearing officer in reaching a
17 decision, is that evidence which is relevant to the proof or disproof of:

18 (i) Ownership of the subject property, when
19 applicable;

20 (ii) Whether a person noticed by the issuing
21 County Department as a responsible party is, in fact, a responsible party;

22 (iii) Whether a violation of this Code occurred
23 and/or continues to occur on the date or dates specified in the administrative citation;

24 (iv) Whether the responsible party has committed,
25 caused, maintained, or permitted a violation of this Code on the date or dates specified
26 on the administrative citation.

27 (v) The County's administrative costs.

28 (g) *Hearing Officer's Ruling.*

1 (1) After considering all the testimony and evidence submitted at the
2 hearing, the hearing officer shall take the matter under submission. The hearing officer
3 shall within a reasonable time issue a written ruling (“Administrative Citation Appeal
4 Ruling” or “Ruling”) to uphold or cancel the administrative citation, as to each violation,
5 and shall list in the ruling the reasons for that decision.

6 (2) If the hearing officer determines that the administrative citation
7 should be upheld, then the amount of the penalties set forth in the citation shall not be
8 reduced or waived for any reason. As to an administrative citation listing multiple
9 violations, the amount of penalties for the violations so upheld shall not be reduced or
10 waived for any reason. This ~~Division-subsection~~ (g) shall not apply to “warning only”
11 administrative citations or to any administrative citation that indicates on its face that the
12 penalty will be waived if the violation is corrected by the deadline compliance date and
13 the violation is so corrected.

14 (3) If the hearing officer cancels the administrative citation, then no
15 penalty shall be assessed and any penalty otherwise deposited with the issuing County
16 Department, or its designated processing/collection agent, shall be promptly refunded to
17 the appellant. As to an administrative citation listing multiple violations, then no
18 penalties shall be assessed for the specific violations so cancelled and the amounts of
19 such penalties otherwise deposited with the issuing County Department, or its
20 designated processing/collection agent, shall be promptly refunded to the appellant.

21 (4) The appellant shall be served with a copy of the ruling by first class
22 mail within a reasonable time. The ruling shall become final on the date of mailing.

23 (5) The ruling shall contain instructions for obtaining judicial review of
24 the decision pursuant to California Government Code § 53069.4, as that section may be
25 from time to time amended, or the successor provision thereto.

26 (6) If the administrative citation is upheld, the Hearing Officer shall also
27 award the County its administrative costs. An itemized summary of these costs shall be
28 presented at the hearing.

1 (h) *Judicial Review of Administrative Hearing Officer's Ruling.*

2 (1) Notice of Appeal. Within 20 calendar days of the date of the
3 delivery or mailing of the ruling to the appellant, the appellant (hereinafter "contestant")
4 may contest that decision by filing an appeal to be heard by the Superior Court, and
5 paying to the court clerk the filing fee set forth at Government Code section 53069.4, or
6 the successor provision thereto. The failure to file the written appeal and to pay the
7 filing fee within this period shall constitute a waiver of the right to an appeal and the
8 ruling shall be deemed confirmed. The contestant shall serve a copy of the notice of
9 appeal in person or by first class mail upon the County Department that had issued the
10 original administrative citation.

11 (2) Conduct of the Superior Court Appeal Hearing. The conduct of the
12 appeal before the Superior Court is a subordinate judicial duty and may be performed
13 by traffic trial commissioners and other subordinate judicial officers at the direction of
14 the presiding judge at the Superior Court. The appeal shall be heard de novo, except
15 that the contents of the issuing County Department's file in the case shall be received in
16 evidence. A copy of the document or instrument of the issuing County Department
17 providing notice of the violation and imposition of the administrative penalty (i.e., the
18 administrative citation) shall be admitted into evidence as prima facie evidence of the
19 facts stated therein. The Court shall request that the issuing Department's file in the
20 case be forwarded to the Court, to be received within 15 calendar days of the request.

21 (3) Judgment. The Court shall retain the filing fee regardless of the
22 outcome of the appeal. If the Court finds in favor of the contestant, the amount of the
23 fee shall be reimbursed to the contestant by the issuing County Department. Any
24 deposit of the administrative penalty shall be refunded by the issuing County
25 Department in accordance with the judgment of the Court. If the administrative penalty
26 has not been deposited and the decision of the Court is against the contestant and in
27 favor of the issuing County Department, the issuing County Department may proceed to
28 collect the penalty and administrative costs pursuant to the procedures set forth in this

Code, or in any other manner provided by law.

11.0209 Abatement.

To the extent the nuisance conditions stated in a written order are not completely corrected by the responsible party having charge of the property, and/or the responsible party is otherwise determined to be non-responsive to the written order issued pursuant to Section 11.0205, and to the extent that no timely appeal of the written order is requested, or the administrative appeal process has been completely exhausted, the enforcement officer or his or her designee may cause the nuisance conditions to be abated by County staff or pursuant to a public or private contract in any reasonable manner and enter the property for such purpose. Upon request of the enforcement officer or his or her designee, other County departments shall cooperate fully and shall render all reasonable assistance in abating any such nuisance conditions.

11.0210 Summary Abatements.

Notwithstanding the administrative procedures for abating a nuisance pursuant to this Chapter, the County may summarily abate a public nuisance if the enforcement officer determines the nuisance constitutes an immediate threat to public health and safety. If immediate action becomes necessary, the enforcement officer may summarily abate a public nuisance even though the enforcement officer initiated an administrative proceeding under this Chapter.

11.0211 Filing and Recording of Notices.

(a) *Recording a Notice of Action.* Whenever an enforcement action is initiated, including when a written order is issued pursuant to Section 11.0205, and prior to recording a notice of pendency, the Code Enforcement Division or other County Department initiating the action may record with the County Recorder a notice of action identifying the enforcement action taken for violation of the County Code or other applicable law. The notice of action shall be served by certified mail return receipt requested and first class mail to the address shown on the current assessment roll and addressed to any other person known to be in possession of the property at the street

address of the property where the nuisance exists. The notice of action shall state:

(1) That the County is the agency on whose behalf the notice of action is filed.

(2) The date of the written order.

(3) The street address of the property, if available.

(4) The legal description of the property.

(5) The assessor's parcel number of the property.

(6) That nuisance conditions exist on the property.

(7) The name and address of the owner of the property, if known.

(8) The amount of any costs incurred to date by the County in abating or restraining the nuisance conditions.

(9) The amount of any administrative citations issued to date as a result of the nuisance conditions on the subject parcel.

(10) That the costs of abatement and/or the amounts of administrative citations or penalties only reflect the costs of abatement and the amount accrued as of the date of the notice of action, and that the amount shown may increase over time and/or until such time as abatement is complete and all costs and the amounts of administrative citations or penalties have been paid in full to San Bernardino County.

(11) That unpaid abatement costs or administrative citations may be specially assessed and that such special assessment is not subject to extinguishment by the sale or foreclosure of the property or by sale of the property for unpaid property taxes.

(12) That the notice of action shall not be removed until the violations are abated and all costs incurred by the County are recovered, and any criminal fines or administrative citations have been paid.

(b) *Recording of a Notice of Pendency.* Whenever the County institutes a judicial action or proceeding to enforce the San Bernardino County Code, a notice of pendency of the action or proceeding may be recorded in the County Recorder's Office.

1 The notice may be recorded at the time of the commencement of the action or
2 proceeding, and upon recordation of the notice as provided in this Section, shall have
3 the same effect as a notice recorded in compliance with section 405.20 of the Code of
4 Civil Procedure.

5 (1) The County Recorder shall record and index the notice of pendency
6 of action or proceeding in the Grantor/Grantee Index.

7 (2) Any notice of pendency of action or proceeding filed in compliance
8 with this Section may, upon motion of a party to the action or proceeding, be vacated
9 upon an appropriate showing of need therefor by an order of a judge of the Court in
10 which the action or proceeding is pending.

11 **11.0212 Costs Incurred for Abatement.**

12 Any person, whether acting as a principal, agent, employee, owner, lessor,
13 lessee, landlord, tenant, occupant, operator or contractor, or otherwise, violating any
14 provision of the County Code or the rules, regulations, orders, permits or conditions of
15 approval issued thereunder, shall be liable to the County for all costs of abatement
16 incurred by the County, including, but not limited to, administrative costs, and any and
17 all costs incurred in the physical abatement of the nuisance, and any damages suffered
18 by the County, its agents or agencies, as a result of such violations. In accordance with
19 Government Code section 25845(b), administrative and abatement costs incurred by
20 the County for abating a nuisance or public nuisance under this chapter shall be
21 collected in the following manner:

22 (a) *Account of expense, filing of report.* An itemized account shall be kept of
23 the expenses incurred by the County in the abatement, restraint, or prevention of any
24 nuisances or public nuisances. Upon the completion of the abatement or the work
25 associated with the prevention or restraint of the violations of the County Code, the
26 appropriate County staff member shall prepare a report specifying the work done, with
27 itemized and total costs of the work, and description of the real property upon which the
28 nuisances or public nuisances is or was located.

1 (b) *Invoicing and notice.* Except in cases of extreme financial hardship and
2 upon advice of County Counsel, the responsible County department shall seek to
3 recover all costs incurred by the County referenced in subsection (a) from the
4 responsible party. To do this an invoice shall be mailed as set forth in Section
5 11.0205(c). In addition to stating the amount owed to the County by the responsible
6 party, the invoice shall state that if the invoice is not paid by the responsible party that
7 the County may order the amount of the invoice to be placed as a special assessment
8 against the parcel and/or cause a notice of lien to be filed against the parcel. The
9 invoice shall also advise the responsible party of their right to appeal the invoice or the
10 amount of the invoice. If the responsible party does not request an appeal, or fails the
11 appeal, and the invoice is not paid within the time set forth by the notice, the responsible
12 County department may seek approval of the special assessment from the Board of
13 Supervisors as a consent calendar item which shall also be recorded on title as a notice
14 of abatement lien.

15 (c) *Appeal of the invoice/notice of cost assessment.* Any appeal of the
16 County's invoice or notice of cost assessment shall comply with the procedures listed in
17 Sections 11.0205(e)(1) and 11.0208(f). If the appeal of the invoice/notice of cost
18 assessment concerns abatement costs for summary abatements initiated pursuant to
19 Section 11.0210, and the appealing party so requests in the notice of appeal, then the
20 hearing officer shall also determine whether the public nuisance actually existed at the
21 time of abatement.

22 (d) *Resolution and assessment.* If in an appeal the hearing officer determines
23 that the property should be assessed, and the amount to be assessed has not been
24 paid within 20 days of the date the decision is mailed to the appellant, the County shall
25 cause the same to be recorded on the assessment roll. The assessment shall be
26 collected at the same time and in the same manner as ordinary taxes within the San
27 Bernardino County are collected, and shall be subject to the same penalties and the
28 same procedure and sale in case of delinquency as provided for ordinary County taxes.

1 All laws applicable to the levy, collection and enforcement of County taxes shall be
2 applicable to the special assessment. Notices or instruments relating to the abatement
3 proceeding or special assessment may be recorded with the County Recorder.

4 **11.0213 Collection of Unpaid Administrative Citations, Administrative**
5 **Citations for Continuing Violations, and Administrative and Abatement Costs.**

6 (a) Administrative citations for continuing violations may be issued for the
7 existence of violations of a continuing nature accruing each and every day after
8 issuance of a prior notice to the responsible party in the form of a written order, notice of
9 violation, a notice and order, or an administrative citation (hereafter "notice") to correct
10 the violation, so long as the violation remains in existence.

11 (b) The County may collect any past due administrative citation penalties,
12 administrative and abatement costs, and late payment charges as imposed or, as set
13 forth in a final decision of a hearing officer or judgment of the Superior Court (arising
14 from judicial review of a hearing officer's decision), and all costs of collection associated
15 therewith, in any manner provided by law including, but not limited to, the methods
16 described in California Government Code section 25845. At its discretion, the County
17 may place a special assessment on the County tax roll against the parcel of real
18 property where the violation(s) occurred. Thereafter the amount of the assessment shall
19 be collected at the same time and in the same manner as County taxes are collected,
20 and be subject to the same penalties. On property for which no property tax is currently
21 due, the lien shall be collected at the same time taxes on the property are collected, and
22 in a similar manner.

23 (c) In its sole discretion, in the event the County collects past due amounts
24 through placement of a special assessment on the County tax roll, the County may
25 record a notice of lien with the County Recorder, describing the parcel of real property
26 affected and the amount of the administrative citation penalties, administrative and
27 abatement costs, late payment charges, and/or costs associated with the recording of
28 the notice of lien and perfecting the special assessment.

(d) All administrative citation penalties collected pursuant to these provisions shall be deposited into specific funds maintained by or on behalf of the respective issuing department for the purpose of funding its enforcement of the County Code.

11.0214 Treble Damages.

Upon a second or subsequent civil or criminal judgment for a violation of this Code within a two-year period the violator shall be liable to the County for treble the abatement costs, in accordance with Government Code section 25845.5.

SECTION 4. The Board declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion of it irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions of it be declared invalid and unconstitutional. If for any reason any portion of this Ordinance is declared invalid or unconstitutional, then all other provisions of it shall remain valid and enforceable.

SECTION 5. This ordinance shall take effect thirty (30) days from the date of adoption.

CURT HAGMAN, Chairman
Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD

LYNNA MONELL, Clerk of the
Board of Supervisors

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF SAN BERNARDINO)

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County,
5 State of California, hereby certify that at a regular meeting of the Board of Supervisors
6 of said County and State, held on the _____ day of _____, 2021, at which
7 meeting were present Supervisors: _____

8 and the Clerk, the foregoing ordinance was passed and adopted by the following vote,
9 to wit:

10 AYES: SUPERVISORS:

11 NOES: SUPERVISORS:

12 ABSENT: SUPERVISORS:

13 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official
14 seal of the Board of Supervisors this ____ day of _____, 2021.

15 LYNNA MONELL, Clerk of the
16 Board of Supervisors of
17 San Bernardino County,
18 State of California

19 _____
20 Deputy

21 Approved as to Form:

22 STEVEN O'NEILL
23 Interim County Counsel

24 By: _____
25 JOLENA E. GRIDER
26 Deputy County Counsel

27 Date: _____
28