ORDINANCE AMENDING TITLE III, DIVISION 5, CHAPTER 2 OF HUMBOLDT COUNTY CODE section 352; amending Subsections 352-2(2) to acknowledge judicial review as part of the process, 352-3 modifications to the following definitions: Administrative Civil Penalty, Code Enforcement Investigator, Completion Date, Costs, Imposition Date, Responsible Party, Violation, 352-4 to process methods of providing notice, 352-5(a) to address accrual of fines, 352-5(b) to provide time for a responsible party to remedy violation, 352-5(d) to address subsequent Notices of Violations, 352-5e addressing unpaid administrative civil penalties, 352-5(f) adding provisions related to permit issuance, 352-5(g) adding provisions for Unpermitted Building use for unpermitted cannabis operations, 352-5(h) issuance of corrective permits, 352-6 to add reference to 352-5(c), 352-6(b)(3)(D) to eliminate a criteria related to assessing administrative civil penalties, 352-8 to modify the contents of a Notice of Violation, 352-9 to clarify appeal of a administrative civil penalty, 352-10 to clarify contents of notice of Administrative civil penalty appeal hearing, 352-11 to clarify conducting the Administrative Civil Penalty Appeal Hearing, 352-12 to clarify actions in response to findings of the Hearing Officer, 352-14 to clarify collection of administrative civil penalties, 352-15 to correct capitalization, 352-16 to correct capitalization, 352-16(j) to address timing of civil penalty assessment hearing, 352-18 to address timing of the administrative civil penalty assessment appeal hearing, 352-19 to clarify conducting administrative civil penalty assessment appeal hearing, 352-22 remove a content item from Notice of Administrative Civil Lien, 352-23 to clarify timing of imposition of Administrative Civil Penalty Lien, 352-26 to include other remedies as part of an enforcement action, 352-28 to allow prosecutor to determine degree of violation.

NOW, THEREFORE, the Board of Supervisors of the County of Humboldt ordains as follows**:**

SECTION 1. PURPOSE OF AMENDMENTS TO THE PUBLIC NUISANCES, ABATEMENT AND PENALTIES PROVISTIONS OF THE HUMBOLDT COUNTY CODE.

The purpose of the modifications to the Administrative Civil Penalties portion of the Nuisance, Abatement and Penalties Provisions of the Humboldt County Code is to clarify existing process and procedures and the existing intent of the Code.

SECTION 2. ADMINISTRATIVE CIVIL PENALTIES

The following modifications are made to Section 352 of the Humboldt County Code (additions are shown in underlined text and deletions are shown in stricken text):

352-1. Authority.

This Chapter is enacted pursuant to California Government Code Section 53069.4 and is intended to be the primary procedure for the imposition of administrative civil penalties within the unincorporated area of Humboldt County. (Ord. 2576, § 5, 6/27/2017)

352-2. Purpose, Intent and Scope.

(a) The purpose of this Chapter is to provide alternative remedies to correct Violations of the Humboldt County Code and other ordinances adopted by the County of Humboldt, and where necessary, penalize Responsible Parties for such Violations. The procedure for the imposition of administrative civil penalties set forth herein shall not be exclusive, but shall be cumulative and in addition to all other civil and criminal remedies provided by law. Nothing in this Chapter shall prevent the County of Humboldt from using any other available remedies to address and correct Violations, either in lieu of, or in addition to, the imposition of administrative civil penalties pursuant to this Chapter. The goal of this Chapter is to induce compliance with this Code and other law for the protection of the public health, safety and general welfare. Penalties are a means to an end and not a goal in themselves. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(b) The Humboldt County Board of Supervisors hereby finds and determines that enforcement of the Humboldt County Code, other ordinances adopted by the County of

Humboldt and conditions on entitlement set forth in permits and/or agreements that have been issued or approved by the County of Humboldt are matters of local concern and serve important public purposes. Under the authority of, and consistent with, California Government Code Section 53069.4, the County of Humboldt adopts this administrative civil penalty procedure in order to achieve the following goals: (Ord. 2576, § 5, 06/27/2017)

(1) To protect the public health, safety and welfare of the communities and citizens in the County of Humboldt. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(2) To provide for an administrative process that has objective criteria for the imposition of penalties and provides for a process to appeal the imposition of such administrative civil penalties and for judicial review of final County decisions. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(3) To provide a method to penalize Responsible Parties who fail or refuse to comply with the provisions of the Humboldt County Code and other ordinances adopted by the County of Humboldt, or conditions on entitlement set forth in permits and/or agreements issued or approved by the County of Humboldt. Vicarious liability is not intended, but those who own and control property are responsible to maintain it in lawful condition even if an unlawful condition is created by others. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(4) To minimize the expense and delay associated with pursuing alternative remedies through the civil and/or criminal justice system. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(c) All final administrative orders made pursuant to the administrative civil penalty procedures set forth in this Chapter shall be subject to review ~~only~~ as provided in California Government Code Section 53069.4 and California Code of Civil Procedure Section 1094.6. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

352-3. Definitions.

(a) *Administrative Costs.* Any and all costs relating to staff time expended in the performance of enforcement activities authorized under this Chapter, including, without limitation, obtaining title reports, recording documents, noticing Responsible Parties, scheduling and participating in further hearings, collection activities and other such costs.

(b) *Administrative Civil Penalty*. The amount to be charged to a Responsible Party for substantiated code enforcement violation(s) under this Chapter.

(cb) *Appellant.* Any Responsible Party that files an appeal of the Code Enforcement Unit's determination that a Violation has occurred or exists.

(dc) *Attorney's Fees.* Any and all legal fees incurred by the prevailing party in any administrative proceeding to impose and/or recover administrative civil penalties pursuant to the provisions of this Chapter. Recovery of Attorney's Fees by the prevailing party is limited to those administrative proceedings in which the County of Humboldt elects, at the initiation of that individual proceeding, to seek recovery of its own legal fees. In no administrative proceeding shall an award of Attorney's Fees to a prevailing party exceed the amount of reasonable legal fees incurred by the County of Humboldt in the administrative proceeding.

(ed) *Beneficial Owner.* Any mortgagee of record, beneficiary under a recorded deed of trust, or the owner or holder of any lease of record; provided, however, that the United States, the State of California and the County of Humboldt shall not be deemed to be Beneficial Owners by virtue of any lien for unpaid taxes.

(fe) *Category 1 Violations.* Primarily procedural Violations that are committed through neglect or oversight and have a negligible impact on the health, safety, comfort and/or general welfare of the public.

(gf) *Category 2 Violations.* Violations that are committed unintentionally through neglect or oversight and have a significant and/or substantial impact on the health, safety, comfort and/or general welfare of the public.

(hg) *Category 3 Violations.* Violations that are committed intentionally or through inexcusable neglect and have a minimal impact on the health, safety, comfort and/or general welfare of the public.

(ih) *Category 4 Violations.* Violations that are committed intentionally or through inexcusable neglect and have a significant and/or substantial impact on the health, safety, comfort and/or general welfare of the public. Category 4 Violations shall include, but not be limited to, the commercial cultivation of cannabis in Violation of any applicable local or state laws, regulations, policies, procedures, permits and agreements and any violation of building, health and safety, or zoning requirements that exists as a result of or to facilitate the illegal cultivation of cannabis.

(ji) *Code Enforcement Investigator.* Any and all code enforcement officers assigned by the Humboldt County Code Enforcement Unit to ~~correct~~ investigate Violations ~~through the imposition of administrative civil penalties as set forth in~~ pursuant to this Chapter.

(kj) *Code Enforcement Unit.* The Humboldt County Code Enforcement Unit, including any and all Code Enforcement Investigators employed thereby.

(lk) *Completion Date.* The date on which a continuing Violation is corrected or otherwise remedied ~~by the Responsible Party~~ as set forth in this Chapter.

(ml) *Costs.* The total of ~~A~~any and all Administrative ~~c~~Costs and/or Administrative Civil Penalties, and Attorney's Fees incurred during the performance of the enforcement activities authorized under this Chapter. The Costs to be charged to a Responsible Party from a single Notice of Violation for substantiated code enforcement violation(s) under this Chapter shall not exceed one-half the fair market value of the affected property or properties. On an appropriate showing, a hearing officer or a court may relieve a Responsible Party of some or all Costs if necessary to avoid a violation of the Eighth Amendment to the U.S. Constitution or otherwise to do substantial justice.

(nm) *Imposition Date.* ~~(1)~~ The date on which administrative civil penalties start to accrue, ~~which shall not be more than ten (10) calendar days after service of a Notice of Violation and Proposed Administrative Civil Penalty~~ pursuant to Section 352-5(a).

~~(2) For repeat, subsequent or ongoing cannabis Violations or Violations that exist as a result of or to facilitate illegal cultivation of cannabis, the imposition of administrative civil penalties will start to accrue after service of a Notice of Violation and Proposed Administrative Civil Penalty. If all the following are found to be true by the Code Enforcement Unit or the court, then the date on which administrative civil penalties start to accrue shall not be more than ten (10) calendar days after service of a Notice of Violation and Proposed Administrative Civil Penalty:~~

~~(A) A tenant is in possession of the Property.~~

~~(B) Owner or its agent can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis.~~

~~(C) Owner or its agent did not know the tenant was illegally cultivating cannabis and no complaint, property inspection, or other information caused the Owner or its agent to have actual notice of the illegal cannabis cultivation.~~

(on) *Owner.* The owner of record of the Property on which a Violation has occurred or exists whose name and address appears on the last equalized secured property tax assessment roll, or, in the case of any public entity, the representative thereof.

(po) *Premises.* Any lot or parcel of land upon which a building is situated, including any improved or unimproved portion thereof, and adjacent streets, sidewalks, parkways and parking areas.

(qp) *Personal Property.* Articles of personal or household use or ornament, including, but not limited to, furniture, furnishings, automobiles and boats. As used herein the term "Personal Property" does not include intangible property such as evidence of indebtedness, bank accounts and other monetary deposits, documents of title or securities.

(rq) *Property.* Any Premises, Personal Property and/or Real Property located within the unincorporated area of Humboldt County.

(sr) *Real Property.* Any lot or parcel of land, including any alley, sidewalk, parkway or unimproved public easement.

(ts) *Responsible Party.* Any Owner, Beneficial Owner, person, business, company or other entity, and the parent or legal guardian of any person under eighteen (18) years of age, who has caused, permitted, or maintained a Violation on Property that person owns, occupies or controls, or who conducted or otherwise allowed a Violation to occur. No vicarious or strict liability is intended by this definition, but a Responsible Party shall be culpable for a failure to act to correct a Violation and for negligent failure to learn of a Violation.

(ut) *Violation.* Any act or omission for which an administrative civil penalty may be imposed pursuant to this Chapter, including:

(1) Any failure to comply with the provisions of the Humboldt County Code.

(2) Any failure to comply with the provisions of any other uniform codes and/or ordinances adopted by the Humboldt County Board of Supervisors, including, but not limited to, building and zoning ordinances.

(3) Any failure to comply with any lawful order issued by the Humboldt County Board of Supervisors or any other board, commission, department, hearing officer,

examiner or official authorized to issue orders by the Humboldt County Board of Supervisors, including, but not limited to, the Humboldt County Planning Commission, the Humboldt County Code Enforcement Unit, the Humboldt County Planning and Building Director, the Humboldt County Health and Human Services Director and the Humboldt County Health Officer.

(4) Any failure to comply with any condition imposed by any entitlement, permit, contract or environmental document issued or approved by the County of Humboldt or the State of California. (Ord. 2138a, § 1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017; Ord. 2646, § 2, 7/28/2020)

352-4. Method of Giving Notice.

(a) Any and all notices, findings and orders required by this Chapter may be served by any of the following methods:

(1) By personal service on each Responsible Party.

(2) By first class and certified mail, postage prepaid, return receipt requested, to each Responsible Party at the address shown on the last available equalized secured property tax assessment roll for the Property on which the Violation occurred or exists, or any other address of each Responsible Party otherwise known by the Code Enforcement Unit, and by posting in a prominent and conspicuous place on the Property at which the Violation occurred or exists or abutting public right-of-way; however, if access is denied because a common entrance to the Property is restricted by a locked gate or similar impediment, the Property may be posted at that locked gate or similar impediment. Service by certified mail and posting shall be deemed complete on the date a notice, finding or order has been both mailed and posted as set forth herein. When the notice is mailed and posted on different dates, service shall be deemed complete only upon the later of these dates.

(b) ~~The failure of the Code Enforcement Unit to serve, or attempt to serve, any notice, finding or order on any person required herein shall not invalidate any proceedings set forth in this Chapter as to any other person duly served.~~ If no address is known, or can be identified, by the Code Enforcement Unit, any and all notices, findings and orders required by this Chapter shall be so mailed to such person at the address of the Property on which the Violation occurred or exists and posted as provided in subdivision

(a)(2) of this section. If notice is given as required by this section, ~~The~~ the failure of any Responsible Party to accept, or otherwise receive, any notice, finding or order required by this Chapter shall not affect the validity of any proceeding initiated hereunder.

(c) The Code Enforcement Unit shall cause a copy of the Notice of Violation and Proposed Administrative Civil Penalty to be recorded in the office of the County Recorder of Humboldt County no sooner than ten (10) calendar days after service of said Notice of Violation and Proposed Administrative Civil Penalty. (Ord. 2138a, § 1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017; Ord. 2585, § 6, 11/7/2017; Ord. 2646, § 2, 7/28/2020).

(d) The Code Enforcement Unit shall cause a copy of any Finding of Violation and Order Imposing Administrative Civil Penalty as issued by a hearing officer pursuant to the administrative hearing process in Section 352-9 to be recorded in the office of the County Recorder of Humboldt County no sooner than ten (10) calendar days after the findings become final pursuant to Section 352-12. Where the violations are found unsubstantiated, dismissed, or otherwise resolved by a settlement of the parties, the Code Enforcement Unit shall record in the office of the County Recorder of Humboldt County documentation of that resolution.

352-5. Imposition of Administrative Civil Penalty.

(a) Any and all Violations may be subject to an A~~a~~dministrative C~~c~~ivil P~~p~~enalty of up to ten thousand dollars ($10,000.00), or as allowed by applicable State law, whichever is higher, per calendar day up to and including the ninetieth (90th) calendar day.

(1) Fines shall accrue until the Completion Date or, as to a Responsible Party, when it no longer owns or controls the property on which the Violation occurred or to which it related.

(2) Fines shall not start to accrue until ten (10) calendar days after a Notice of Violation has been finally adjudicated. Final adjudication occurs on the earliest of:

(i) If the Responsible Party does not timely appeal a Notice of Violation and Proposed Administrative Civil Penalty pursuant to Section 352-9, the last date that party might have done so.

(ii) If the Responsible Party timely appeals a Notice of Violation and Proposed Administrative Civil Penalty pursuant to Section 352-9, upon service of the Hearing Officer's Finding of Violation and Order Imposing Administrative Civil Penalty, if no request for judicial review of the Hearing Officer's imposition of the final administrative civil penalty is timely filed with the Humboldt County Superior Court pursuant to California Government Code Section 53069.4(b)(1)-(2).

(iii) If the Responsible Party timely requests judicial review of the Hearing Officer's imposition of the final administrative civil penalty pursuant to California Government Code Section 53069.4(b)(1)-(2), unless the Humboldt County Superior Court overturns the administrative decision, upon service of a final, non-appealable judgment in the court action.

~~Administrative civil penalties may be imposed by the Code Enforcement Unit as set forth in this Chapter or the court if the Violation requires court enforcement without an administrative process.~~

(b)

(1) In the case of a continuing Violation, the Code Enforcement Unit or the court shall provide the Responsible Party with a reasonable period of time, not to exceed ten (10) calendar days, to correct or otherwise remedy the Violation ~~prior to the~~ before imposition of the A~~a~~dministrative C~~c~~ivil P~~p~~enalty, except in situations in which the Violation creates an immediate danger to the health, safety and/or general welfare of the public.

(2) If a Responsible Party demonstrates that a Violation cannot be corrected or otherwise remedied in that time, the Code Enforcement Unit or court shall allow additional time provided the Responsible Party commences the correction or other remedy within the ten (10)-day period and diligently pursues it to completion.

In the case of a continuing violation that is not corrected within this 10-day period it shall be incumbent upon the Responsible Party to contact the Code Enforcement Unit and notify it on the date that the violation is corrected. Fines shall be paused as of the date of notice; however, if the Code Enforcement Unit later determines the violation has not been corrected, fines shall accrue during this period and continue each day thereafter until ended pursuant to section 352-5(a).

~~(2) In the case of a continuing cannabis Violation or a Violation that exists as a result of or to facilitate illegal cultivation of cannabis, the Code Enforcement Unit or the court shall immediately impose the administrative civil penalty except if all of the following are found to be true by the Code Enforcement Unit or the court, then the Code Enforcement Unit or the court shall provide the Responsible Party with a reasonable period of time, not to exceed ten (10) calendar days, to correct or otherwise remedy the Violation prior to the imposition of the administrative civil penalty:~~

~~(A) A tenant is in possession of the Property.~~

~~(B) Owner or its agent can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis.~~

~~(C) Owner or its agent did not know the tenant was illegally cultivating cannabis and no complaint, property inspection, or other information caused the Owner or its agent to have actual notice of the illegal cannabis cultivation.~~

(c) Each calendar day that a Violation occurs, continues or exists between the Imposition Date and the Completion Date shall constitute a separate Violation.

(d) If a Violation occurs, continues or exists after ninety (90) calendar days from the Imposition Date of the initial administrative civil penalty, an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter. If so, Administrative Civil Penalties for future instances of the same violation shall accrue under the last Notice of Violation and no fines shall continue to accrue under prior Notices of Violation.

(e) The imposition of ~~a~~Administrative C~~c~~ivil P~~p~~enalties pursuant to the provisions of this Chapter shall be in addition to any and all available criminal, civil, or other legal and/or equitable remedies established by local or State law; no election of remedies shall apply. In addition, the County of Humboldt may withhold issuance of any licenses, permits and other entitlements to a Responsible Party on any project that is subject to any unpaid A~~a~~dministrative C~~c~~ivil P~~p~~enalties more than (90) calendar days after final adjudication as that term is defined in subdivision (a) of this section. (Ord. 2138a, § 1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017; Ord. 2646, § 2, 7/28/2020)

(f) Permit Approval.

Provided that the applicant for such permits is not a Responsible Party as to existing Violations on the property that have been finally adjudicated as that term is defined in subdivision (a) of this section, the County will separately consider and process pursuant to the County's zoning, building and safety, and other applicable ordinances permitting requests from the Responsible Party unrelated to those existing violations. These permits may include, but are not limited to, grading and as-built permitting requests. However, the County need not issue permits that would have the effect of legalizing violation of the Subdivision Map Act under Government Code section 66499.35(c). This Ordinance's authorization of the withholding of permits from a Responsible Party who is willfully noncompliant with this Code is an expression of the disentitlement doctrine as expressed in such cases as *Moffat v. Moffat* (1980) 27 Cal.3d 645, 652.

(g) Unpermitted Buildings Use for Unpermitted Cannabis Operations.

A Responsible Party may also prepare for County review and approval a plan and description of any non-cannabis continued use of unpermitted structures that party wishes to retain if the following criteria are met:

(1) the structure or infrastructure is intended for a use permitted by this Code and other applicable law and suitable for such use;

(2) the building is within the curtilage of an existing residence, defined hereunder as within (2) acres of the residence on the same parcel;

(3) the structure or infrastructure can be permitted under applicable ordinances and other laws; and

(4) the structure or infrastructure poses no environmental threat to neighboring properties.

If unpermitted cannabis cultivation is subsequently identified on the property, Responsible Parties will be subject to Administrative Civil Penalties as described in Section 352-5. Where a structure or infrastructure does not meet these criteria, a Responsible Party may seek approval through the processes otherwise available under the County's building and planning codes. Responsible Parties are responsible to obtain and comply with all processes for all building and planning permits and to pay associated fees.

(h) Corrective Permits

A Responsible Party may apply at any time for permits necessary to correct violations identified by a Notice of Violation. In such event, the County shall separately consider and process these applications as otherwise provided by this Code and applicable law. However, the County need not issue permits that would have the effect of legalizing violation of the Subdivision Map Act under Government Code section 66499.35(c).

352-6. Amount of Administrative Civil Penalty.

(a) The amount of the administrative civil penalty to be imposed shall be set by the Code Enforcement Unit or the court according to the following schedule, subject to the cap set forth in Section 352-5(c):

(1) Category 1 Violations shall be subject to an administrative civil penalty of one dollar ($1.00) to one thousand dollars ($1,000.00) per calendar day. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2333, §1, 11/2/2004; Ord. 2576, § 5, 6/27/2017)

(2) Category 2 Violations shall be subject to an administrative civil penalty of one thousand dollars ($1,000.00) to three thousand dollars ($3,000.00) per calendar day. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2333, §1, 11/2/2004; Ord. 2576, § 5, 6/27/2017)

(3) Category 3 Violations shall be subject to an administrative civil penalty of three thousand dollars ($3,000.00) to six thousand dollars ($6,000.00) per calendar day. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2333, §1, 11/2/2004; Ord. 2576, § 5, 6/27/2017)

(4) Category 4 Violations shall be subject to an administrative civil penalty of six thousand dollars ($6,000.00) to ten thousand dollars ($10,000.00), or such higher amount as is allowed by applicable state law, ~~whichever is higher~~, per calendar day. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2333, §1, 11/2/2004; Ord. 2576, § 5, 6/27/2017)

(b) In determining which Violation category a Violation should be placed, and the amount of the administrative civil penalty to be imposed, the Code Enforcement Unit or the court shall consider, without limitation, all of the following factors: (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2576, § 5, 06/27/2017)

(1) The severity of the Violation's impact on the health, safety and/or general welfare of the public, including, without limitation, the type and seriousness of the injuries or damages, if any, suffered by any member of the public. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(2) The number of complaints received regarding the Violation at issue. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(3) The willfulness and/or negligence of the Responsible Party. In assessing the degree of willfulness and/or negligence, all of the following factors shall be considered:

(A) How much control the Responsible Party had over the events which caused the Violation to occur. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(B) Whether the Responsible Party took reasonable precautions against the events which caused the Violation to occur. (Ord. 2138a, § 1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(C) Whether the Responsible Party knew, or should have known, the impacts associated with the conduct which caused the Violation to occur. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

~~(D) The level of sophistication of the Responsible Party in dealing with compliance issues. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)~~

(4) The number of times in which the Responsible Party has committed the same or similar Violations in the previous three (3) years. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(5) The amount of administrative staff time which was expended in investigating or addressing the Violation at issue. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(6) The amount of administrative civil penalties which have been imposed in similar situations. (Ord. 2138a, § 1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(7) The efforts made by the Responsible Party to correct the Violation and remediate the impacts thereof. (Ord. 2576, § 5, 6/27/2017)

(c) The factors of willfulness and severity of impact are considered together in determining in which category a particular Violation should be placed. For example, a Violation involving little impact could be determined to be a Category 2 Violation or a Category 3 Violation, depending on the degree of willfulness associated therewith. Similarly, an unintentional Violation could be determined to be a Category 1 Violation or a Category 2 Violation, depending on the severity of the impact arising therefrom. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

352-7. Issuance of Notice of Violation and Proposed Administrative Civil Penalty by Code Enforcement Unit.

Whenever the Code Enforcement Unit determines that a Violation has occurred, the Code Enforcement Unit shall prepare, and serve upon each Responsible Party, a "Notice of Violation and Proposed Administrative Civil Penalty," as set forth in this Chapter. The Notice of Violation and Proposed Administrative Civil Penalty may be combined with a Notice to Abate Nuisance issued pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

352-8. Contents of Notice of Violation and Proposed Administrative Civil Penalty.

The Notice of Violation and Proposed Administrative Civil Penalty shall contain all of the following:

(a) The name and last known address of each Responsible Party known to the Code Enforcement Unit.

(b) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists.

(c) A description of the specific acts or omissions that gave rise to the Violation and the specific provision of each code, ordinance, regulation, condition of approval or other legal requirement that has been violated and identification of the Violation category that the Violation falls within.

(d) An order to correct or otherwise remedy any continuing Violation within ten (10) calendar days after service of the Notice of Violation and Proposed Administrative Civil Penalty, except in situations in which the Violation creates an immediate danger to the health, safety and/or general welfare of the public provided that a Responsible Party may request more time to correct or otherwise remedy a Violation pursuant to section 352-5(b)(2) of this chapter.

(e) A statement that each calendar day the Violation occurs, continues or exists between the Imposition Date and the Completion Date shall constitute a separate Violation ~~up to the ninetieth (90th) calendar day~~.

(f) The amount of the proposed administrative civil penalty that may accrue ~~will be incurred~~ each calendar day the Violation occurs, continues or exists between the Imposition Date and the Completion Date ~~up to the ninetieth (90th) calendar day.~~

(g) A statement that the Responsible Party may file with the Code Enforcement Unit a written appeal of the determination that a Violation has occurred or exists and/or the amount of the proposed administrative civil penalty within ten (10) calendar days after service of the Notice of Violation and Proposed Administrative Civil Penalty.

(h) A statement that an appeal of the Code Enforcement Unit's determination that a Violation has occurred and/or the amount of the proposed administrative civil penalty must be prepared using the form provided with the Notice of Violation and Proposed Administrative Civil Penalty, and shall contain all of the following information:

(i) The name and current address of each Responsible Party.

(ii) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists.

(iii) A brief statement setting forth the Appellant's interest in the proceedings.

(iv) A brief statement of the material facts which support the Appellant's contention that no Violation occurred or exists and that an administrative civil penalty should not be imposed as a result thereof, if applicable.

(v) A brief statement of the material facts which support the Appellant's contention that the amount of the proposed administrative civil penalty is inappropriate under the circumstances, if applicable.

(vi) An address at which the Appellant agrees that any additional notices relating to the imposition of the proposed administrative civil penalty may be served by the Code Enforcement Unit.

(i) ~~A statement that a~~An ~~Appellant~~ appeal of the Code Enforcement Unit's determination that a Violation has occurred and/or of the amount of the proposed administrative civil penalty must be signed by Appellant under penalty of perjury. ~~must be signed by the Appellant under penalty of perjury~~.

(j) A statement that, upon receipt of an appeal of the determination that a Violation has occurred and/or the amount of the proposed administrative civil penalty, the Code Enforcement Unit shall set the matter for hearing before a Hearing Officer appointed by the Humboldt County Board of Supervisors pursuant to California Government Code Section 27720, and issue a Notice of Administrative Civil Penalty Appeal Hearing as set forth in this Chapter.

(k) A statement that the date of the Administrative Civil Penalty Appeal Hearing shall be no sooner than fifteen (15) calendar days and no later than sixty (60) calendar days after the date on which the Notice of Administrative Civil Penalty Appeal Hearing is served on the Appellant unless the Appellant agrees otherwise, a hearing officer cannot be made available due to unusual circumstances, or the Code Enforcement Unit demonstrates to the satisfaction of the Hearing Officer that good cause exists to allow it more time to prepare for the hearing.

(l) A statement that the imposition of the A~~a~~dministrative C~~c~~ivil P~~p~~enalty shall become final and the Code Enforcement Unit shall acquire jurisdiction to collect full amount thereof and any and all Administrative Costs and/or Attorney's Fees ten (10) calendar days after a Violation is fully adjudicated as that term is defined in section 352-5, subdivision (a)(2) of this Chapter ~~as follows:~~

~~(i) Within ten (10) calendar days after service of the Notice of Violation and Proposed Administrative Civil Penalty, if an appeal of the Code Enforcement Unit's determination that a Violation has occurred, and/or an appeal of the amount of the administrative civil penalty, is not filed as set forth in this Chapter; or~~

~~(ii) Within twenty (20) calendar days after service of the Finding of Violation and Order Imposing Administrative Civil Penalty, if a request for judicial review of the~~

~~Hearing Officer's imposition of the final administrative civil penalty is not filed with the Humboldt County Superior Court as set forth in this Chapter and California Government Code Section 53069.4(b)(1)-(2); or~~

~~(iii) Within ten (10) calendar days after service of the Humboldt County Superior Court's decision regarding the Hearing Officer's imposition of the final administrative civil penalty, if the Court finds against the Appellant.~~

(m) A statement that the final administrative civil penalty, along with any and all Administrative Costs and/or Attorney's Fees associated therewith, may become a lien against the Property on which the Violation occurred or exists which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310 , et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110 , et seq.

~~(n) A statement that an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter, if a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty.~~ (Ord. 2138a, § 1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2458, § 1, 8/23/2011; Ord. 2576, § 5, 6/27/2017; Ord. 2646, § 2, 7/28/2020)

352-9. Issuance of Notice of Administrative Civil Penalty Appeal Hearing by Code Enforcement Unit.

Upon receipt of a timely appeal of the determination that ~~has~~ a Violation has occurred and/or of the amount of the A~~a~~dministrative C~~c~~ivil P~~p~~enalty by any Responsible Party ~~upon whom a Notice of Violation and Proposed Administrative Civil Penalty was served~~, the Code Enforcement Unit shall set the matter for hearing before ~~the~~ a Hearing Officer and serve a "Notice of Administrative Civil Penalty Appeal Hearing" upon each Appellant as set forth in this Chapter. The Notice of Administrative Civil Penalty Appeal Hearing may be combined with a Notice of Code Enforcement Appeal Hearing issued pursuant to the provisions of this Division. The Administrative Civil Penalty Appeal Hearing shall occur in the time stated in Section 352-8, subdivision (l). (Ord. 2138a, §1, 12/3/1996; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

352-10. Contents of Notice of Administrative Civil Penalty Appeal Hearing.

The Notice of Administrative Civil Penalty Appeal Hearing shall contain all of the following:

(a) The name and last known address of each Responsible Party. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(b) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists. (Ord. 2576, § 5, 6/27/2017)

(c) A statement that at the time and place specified therein~~, which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Appeal Hearing is served on the Appellant~~, the Hearing Officer shall hear testimony and consider evidence concerning the alleged Violation and/or the amount of the proposed administrative civil penalty and any other matters the Hearing Officer deems pertinent. (Ord. 2138a, §1, 12/3/1996; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

(d) A statement that the Appellant may be represented by legal counsel and present testimony and cross-examine the Code Enforcement Investigator and other witnesses at the Administrative Civil Penalty Appeal Hearing. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(e) A statement that the Hearing Officer may take official notice of any fact which may be judicially noticed by the courts of the State of California, either before or after the conclusion of the Administrative Civil Appeal Hearing. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(f) A statement that the Hearing Officer shall have the authority to issue subpoenas for orders to appear and produce documents at the Administrative Civil Penalty Appeal Hearing upon the showing of reasonable necessity by the requesting party. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(g) A statement that the Administrative Civil Penalty Appeal Hearing shall be subject to the requirements set forth in California Government Code Section 11513, as may be amended from time to time. (Ord. 2138a, §1, 12/3/1996; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

(h) A statement that the Administrative Civil Penalty Appeal Hearing shall be recorded (i.e. audio, video and/or stenographic) in order to maintain a record of the proceedings provided however that any unanticipated failure of the recording system shall not affect the validity of the hearing. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(i) A statement that the costs associated with transcribing a recording of the Administrative Civil Penalty Hearing shall be borne by the party or parties requesting such transcription. (Ord. 2576, § 5, 6/27/2017)

(j) A statement that the Hearing Officer may, upon the request of the Appellant or the Code Enforcement Unit, or upon the Hearing Officer's own motion, continue the Administrative Civil Penalty Appeal Hearing for good cause shown. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(k) A statement that, upon the conclusion of the Administrative Civil Penalty Appeal Hearing, the Hearing Officer may terminate the administrative civil penalty proceedings, or impose an Aadministrative Ccivil Ppenalty and order payment thereof in accordance with the requirements and time limits set forth in the Finding of Violation and Order Imposing Administrative Civil Penalty in accordance with Section 352-8(l). (Ord. 2138a, §1, 12/3/1996; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

(l) A statement that the Appellant may contest the Hearing Officer's imposition of a final Aadministrative Ccivil Ppenalty by filing a request for judicial review in the Humboldt County Superior Court within twenty (20) calendar days after service of the Finding of Violation and Order Imposing Administrative Civil Penalties. (Ord. 2138a, §1, 12/3/1996; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

(m) A statement that, if a timely request for judicial review of the Hearing Officer's decision is not filed with the Humboldt County Superior Court within twenty (20) calendar days after service of the Finding of Violation and Order Imposing Administrative Civil Penalty, the final Aadministrative Ccivil Ppenalty, along with any and all Administrative Costs and/or Attorney's fees associated therewith, may become a lien against the Property on which the Violation occurred or exists which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310 , et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110 , et seq. (Ord. 2576, § 5, 6/27/2017)

~~(n) A statement that an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter, if a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)~~

352-11. Administrative Civil Penalty Appeal Hearing.

At the time and place specified in the Notice of Administrative Civil Penalty Appeal Hearing, ~~which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Appeal Hearing is served on the Appellant,~~ the Hearing Officer shall hear the sworn testimony of the Code Enforcement Investigator, the Appellant and/or his or her representatives and all other competent persons desiring to give testimony concerning the alleged Violation and/or the amount of the proposed administrative civil penalty and any other matters the Hearing Officer deems pertinent. The Administrative Civil Penalty Appeal Hearing shall be recorded (i.e. audio, video and/or stenographic) in order to maintain a record of the proceedings but any unexpected failure of the recording system shall not affect the validity of the hearing or any decision resulting from it. The costs associated with transcribing a recording of the Administrative Civil Penalty Hearing shall be borne by the party or parties requesting such transcription. The Administrative Civil Penalty Appeal Hearing may be combined with a Code Enforcement Appeal Hearing held pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/3/1996; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

352-12. Issuance of Finding of Violation and Order Imposing Administrative Civil Penalty by the Hearing Officer.

(a) Upon conclusion of the Administrative Civil Penalty Appeal Hearing, the Hearing Officer shall determine whether or not a Violation has occurred or exists as set forth in the Notice of Violation and Proposed Administrative Civil Penalty. If it is found that a Violation has not occurred, the Hearing Officer shall terminate the administrative civil penalty proceedings. If it is found that a Violation has occurred or exists, the Hearing Officer shall affirm, reduce or suspend the proposed administrative civil penalty in accordance with the criteria set forth in this Chapter.

(b) The Hearing Officer shall prepare, and serve upon each Responsible Party, a "Finding of Violation and Order Imposing Administrative Civil Penalty." The Finding of Violation and Order Imposing Administrative Civil Penalty may be combined with a Finding of Nuisance and Order of Abatement issued pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/3/1996; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

(cb) In situations where the Responsible Party has taken immediate steps to remedy a Violation that did not impact the health, safety or general welfare of the public, the Hearing Officer may reduce the administrative proposed Aadministrative Ccivil Ppenalty or suspend a percentage of the Responsible Party's payment in addition to the discretion afforded the Hearing Officer under other provisions of this Chapter. If the Responsible Party complies with the terms and conditions of the payment suspension for a period of one (1) year after the date on which the Finding of Violation and Order Imposing Administrative Penalty is served thereon, the Responsible Party will no longer be liable for the any suspended amount. However, if the Responsible Party does not comply with the terms and conditions of the payment suspension set forth in the Finding of Violation and Order Imposing Administrative Civil Penalty, the suspended portion of the penalty shall become immediately due and payable. In no event shall an administrative civil penalty be reduced to an amount that is less than the minimum amount set forth in this Chapter for the Violation category imposed. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

(c) A Finding of Violation and Order Imposing Administrative Civil Penalty issued by the Hearing Officer shall be final in all respects unless overturned or modified on appeal review by the Humboldt County Superior Court. A Finding of Violation and Order Imposing Administrative Civil Penalty shall be accompanied by instructions for obtaining judicial review of the Hearing Officer's decision as set forth in California Government Code Section 53069.4(b)(1)-(2). (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

352-13. Judicial Review of Finding of Violation and Order Imposing Administrative Civil Penalty.

(a) Appellant may contest the Hearing Officer's imposition of a final administrative civil penalty by either:

(1) Pursuant to California Government Code Section 53069.4(b)(1)-(2), an Appellant may file a request for judicial review in the Humboldt County Superior Court within twenty (20) calendar days after service of the Finding of Violation and Order Imposing Administrative Civil Penalty. The Appellant shall serve a copy of the request for judicial review of the Finding of Violation and Order Imposing Administrative Civil Penalty upon the Code Enforcement Unit either in person or by first class mail.

(2) Pursuant to California Code of Civil Procedure Section 1094.6, an Appellant may file a petition of writ of mandate within the time specified in that Section 1094.6. The appeal of the Hearing Officer's imposition of a final administrative civil penalty shall be governed by California Code of Civil Procedure Section 1094.6, as such section may be amended from time to time.

(b) If the Humboldt County Superior Court finds against the Appellant, the Code Enforcement Unit may proceed to collect the administrative civil penalty as set forth in this Chapter.

(c) The failure to file a request for judicial review of a Finding of Violation and Order Imposing Administrative Civil Penalty in accordance with the requirements set forth in California Government Code Section 53069.4(b)(1)-(2) or Code of Civil Procedure Section 1094.6 shall constitute a waiver of the right to contest the Hearing Officer's decision. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017; Ord. 2646, § 2, 7/28/2020)

352-14. Jurisdiction to Collect Administrative Civil Penalties.

(a) The Code Enforcement Unit shall acquire jurisdiction to collect the final Aadministrative Cc~~i~~vil Pp~~e~~nalty along with any and all Administrative Costs and/or Attorney's fees associated therewith ~~as follows~~ ten (10) calendar days after a Violation is finally adjudicated as that term is defined in Section 352-5, subdivision (a)(2) of this Chapter.

(b) The Humboldt County Board of Supervisors may create a revolving fund or funds from which the Administrative Costs and Attorney's Fees resulting from the enforcement of this Chapter may be paid, and into which the receipts from the collection of

administrative civil penalties and the Costs associated therewith shall be paid. (Ord. 2576, § 5, 6/27/2017)

(c) The Planning Director, personally or through assistants so designated, is authorized to reduce and/or eliminate Administrative Costs, Attorney's Fees, and/or administrative civil penalties and may enter into a compliance agreement with ~~Owner, Beneficial Owner, Occupier or any other person in charge or control of the property~~ a Responsible Party ~~which~~ to reduce and/or eliminate Administrative Costs, Attorney's Fees, and/or administrative civil penalties in exchange for compliance to correct or otherwise remedy the Violation to preserve the public health, safety, and welfare of the County residents because the primary goal of this Chapter is compliance, not punishment. (Ord. 2585, § 6, 11/7/2017)

352-15. Issuance of Notice of Administrative Civil Penalty Assessment by Code Enforcement Unit.

Once jurisdiction to collect the final Aa~~a~~dministrative Cc~~i~~ivil Pp~~p~~enalty and any and all Administrative Costs and/or Attorney's fees associated therewith has been acquired as set forth in this Chapter, the Code Enforcement Unit may prepare, and serve upon each Responsible Party and the Clerk of the Humboldt County Board of Supervisors, a "Notice of Administrative Civil Penalty Assessment" as set forth herein. The Notice of Administrative Civil Penalty Assessment may be combined with a Notice of Nuisance Abatement Assessment issued pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

352-16. Contents of Notice of Administrative Civil Penalty Assessment.

The Notice of Administrative Civil Penalty Assessment shall contain all of the following:

(a) The name and last known address of each Responsible Party. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

(b) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

(c) The total amount of the final Aadministrative Ccivil Ppenalty that was imposed pursuant to the Finding of Violation and Order Imposing Administrative Civil Penalty. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

(d) A description of the actions taken by the Code Enforcement Unit to impose the Aadministrative Ccivil Ppenalty. (Ord. 2576, § 5, 6/27/2017)

(e) An itemized account of the Administrative Costs and/or Attorney's Fees associated with the imposition of the aAdministrative cCivil Ppenalty, as well as any and all payments previously received from each Responsible Party. (Ord. 2576, § 5, 6/27/2017)

(f) The total amount of the assessment proposed to be levied against the Property on which the Violation occurred or exists in order to recover the Aadministrative Ccivil Ppenalty and/or the Administrative Costs and/or Attorney's Fees associated therewith. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

(g) A statement that the Responsible Party may file with the Code Enforcement Unit a written objection to the proposed assessment within ten (10) calendar days after service of the Notice of Administrative Civil Penalty Assessment. (Ord. 2576, § 5, 6/27/2017)

(h) A statement that an objection to the proposed assessment shall be limited to the amount of the Aadministrative Ccivil Ppenalty and/or the Administrative Costs and/or Attorney's Fees associated therewith, and must be prepared using the form provided with the Notice of Administrative Civil Penalty Assessment. (Ord. 2576, § 5, 6/27/2017)

(i) A statement that, upon receipt of an objection to the proposed assessment, the Code Enforcement Unit shall set the matter for hearing before the Humboldt County Board of Supervisors, and issue a Notice of Administrative Civil Penalty Assessment Appeal Hearing. (Ord. 2576, § 5, 6/27/2017)

(j) A statement that the date of the Administrative Civil Penalty Assessment Appeal Hearing shall be no sooner than fifteen (15) calendar days and no later than sixty (60) days after the date on which the Notice of Administrative Civil Penalty Assessment is served on the Responsible Party except as otherwise provided in this chapter. (Ord. 2576, § 5, 6/27/2017)

(k) A statement that the proposed assessment shall be deemed final and summarily approved by the Humboldt County Board of Supervisors without holding an Administrative Civil Penalty Assessment Appeal Hearing as set forth in this Chapter, if

an objection to the proposed assessment is not filed within ten (10) calendar days after service of the Notice of Administrative Civil Penalty Assessment. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

(l) A statement that the final assessment, as approved by the Humboldt County Board of Supervisors, may become a lien against the Property on which the Violation occurred or exists which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310 , et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110 , et seq. (Ord. 2576, § 5, 6/27/2017)

~~(m) A statement that an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter, if a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)~~

352-17. Issuance of Notice of Administrative Civil Penalty Assessment Appeal Hearing by Code Enforcement Unit.

Upon receipt of an objection to a proposed assessment filed by any Responsible Party upon whom a Notice of Administrative Civil Penalty Assessment was served, the Code Enforcement Unit shall set the matter for hearing before the Humboldt County Board of Supervisors, and serve a “Notice of Administrative Civil Penalty Assessment Appeal Hearing” upon the objecting party or parties as set forth in this Chapter. The Notice of Administrative Civil Penalty Assessment Appeal Hearing may be combined with a Notice of Cost Recovery Hearing issued pursuant to the provisions of this Division. (Ord. 2576, § 5, 6/27/2017)

352-18. Contents of Notice of Administrative Civil Penalty Assessment Appeal Hearing.

The Notice of Administrative Civil Penalty Assessment Appeal Hearing shall contain all of the following:

(a) The name and last known address of each Responsible Party. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(b) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

(c) A statement that at the time and place specified therein, ~~which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Assessment Appeal Hearing is served on the objecting party,~~ the Humboldt County Board of Supervisors shall hear testimony and consider evidence concerning the validity of the proposed assessment and any other matters deemed pertinent. (Ord. 2576, § 5, 6/27/2017)

(d) A statement that the Appellant may be represented by legal counsel and present testimony and cross-examine the Code Enforcement Investigator and other witnesses at the Administrative Civil Penalty Assessment Appeal Hearing. (Ord. 2576, § 5, 6/27/2017)

(e) A statement that, upon conclusion of the Administrative Civil Penalty Assessment Appeal Hearing, the Humboldt County Board of Supervisors may confirm, deny or modify and revise the proposed assessment either in whole or in part, and that such action shall be final and conclusive as to all matters pertaining to the proposed assessment. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

(f) A statement that the final assessment, as approved by the Humboldt County Board of Supervisors, may become a lien against the Property on which the Violation occurred or exists which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310 , et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110 , et seq. (Ord. 2576, § 5, 6/27/2017)

~~(g) A statement that an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter, if a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)~~

(g~~h~~) ~~-~~A statement that the Administrative Civil Penalty Assessment Appeal Hearing shall be recorded (i.e., audio, video and/or stenographic) in order to maintain a record of

the proceedings but that the unanticipated failure of recording equipment will not invalidate the hearing or its result. (Ord. 2585, § 6, 11/7/2017)

352-19. Administrative Civil Penalty Assessment Appeal Hearing.

(a) At the time and place specified in the Notice of Administrative Civil Penalty Assessment Appeal Hearing~~, which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Assessment Appeal Hearing is served on the objecting party~~, the Humboldt Board of Supervisors shall hear testimony and consider evidence concerning the ~~validity~~ amount of the proposed assessment; no matter what was, or might have been, resolved in a hearing pursuant to section 352-11 of this Chapter ~~and any other matters deemed pertinent.~~ The purpose of the hearing shall be to ensure the correct calculation of the Civil Penalty Assessment and not to relitigate a Violation. The Administrative Civil Penalty Assessment Appeal Hearing may be combined with a Cost Recovery Hearing held pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

(b) Upon conclusion of the Administrative Civil Penalty Assessment Appeal Hearing, the Humboldt County Board of Supervisors will adopt a resolution confirming, discharging, or modifying the proposed assessment either in whole or in part. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

(c) A resolution of the Humboldt County Board of Supervisors confirming, discharging or modifying a proposed assessment shall be final and conclusive as to all matters pertaining to the proposed assessment. Any appeal of the resolution confirming, discharging or modifying a proposed assessment shall be governed by California Code of Civil Procedure Section 1094.6, as such section may be amended from time to time. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

352-20. Summary Approval of Proposed Administrative Civil Penalty Assessments.

If an objection to the proposed assessment is not filed by a Responsible Party within ten (10) calendar days after service of the Notice of Administrative Civil Penalty Assessment, the Humboldt County Board of Supervisors shall summarily approve the proposed assessment without holding an Administrative Civil Penalty Assessment Appeal Hearing. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

352-21. Issuance of Notice of Administrative Civil Penalty Lien by Code Enforcement Unit.

Upon confirmation of the proposed assessment by the Humboldt County of Board of Supervisors, the Code Enforcement Unit shall prepare, and serve upon each Responsible Party a "Notice of Administrative Civil Penalty Lien," as set forth in this Chapter. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

352-22. Contents of Notice of Administrative Civil Penalty Lien.

The Notice of Administrative Civil Penalty Lien shall contain all of the following:

(a) The name and last known address of each Responsible Party. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

(b) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

(c) A description of the proceedings to impose and collect the administrative civil penalty, including, without limitation, the Imposition Date, the Completion Date and the date on which the Administrative Civil Penalty Assessment was approved by the Humboldt County Board of Supervisors. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

(d) A description of the actions taken by the Code Enforcement Unit to impose and collect the administrative civil penalty and/or the Administrative Costs and/or Attorney's Fees associated therewith. (Ord. 2576, § 5, 6/27/2017)

(e) The amount of the Administrative Civil Penalty Assessment to be charged against the Property on which the Violation occurred or exists in order to recover the administrative civil penalty and/or the Administrative Costs and/or Attorney's Fees associated therewith. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

(f) A claim of lien in the amount of the Administrative Civil Penalty Assessment to be charged against the Property on which the Violation occurred or exists in order to recover the administrative civil penalty and/or the Administrative Costs and/or Attorney's Fees associated therewith. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)

(g) A statement that upon the recordation of the Notice of Administrative Civil Penalty Lien, which shall be no sooner than forty-five (45) calendar days after service of such notice, the Administrative Civil Penalty Lien shall have the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310 , et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110 , et seq. (Ord. 2576, § 5, 6/27/2017)

(h) A statement that the Administrative Civil Penalty Lien may be foreclosed, and the real property subject to such lien sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. (Ord. 2576, § 5, 6/27/2017)

~~(i) A statement that an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter, if a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)~~

352-23. Imposition of Administrative Civil Penalty Lien.

(a) Upon the passage of forty-five (45) calendar days after service of the Notice of Administrative Civil Penalty Lien, the Code Enforcement Unit shall cause said Notice of Administrative Civil Penalty Lien to be recorded in the Humboldt County Clerk-

Recorder's Office. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2458, §1, 8/23/2011; Ord. 2576, § 5, 6/27/2017)

(b) Upon recordation of the Notice of Administrative Civil Penalty Lien, ~~which shall be no sooner than forty-five (45) calendar days after service of such notice,~~ the Administrative Civil Penalty Lien shall have the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310 , et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110 , et seq. The Administrative Civil Penalty Lien shall have no force or effect until recorded by the Humboldt County Clerk-Recorder's Office. (Ord. 2576, § 5, 6/27/2017)

(c) Interest shall accrue on the principal amount of the Administrative Civil Penalty Lien remaining unsatisfied pursuant to the law applicable to civil money judgments. (Ord. 2576, § 5, 6/27/2017)

(d) The Administrative Civil Penalty Lien may be foreclosed and the real property subject to such lien sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. (Ord. 2585, § 6, 11/7/2017)

352-24. Collection of Costs and Attorney's Fees Prior to Recordation of Notice of Administrative Civil Penalty Lien.

The Humboldt County Revenue Recovery Office may accept payment of any amount due at any time prior to recordation of a Notice of Administrative Civil Penalty Lien with the Humboldt County Clerk-Recorder's Office pursuant to the provisions of this Chapter. (Ord. 2585, § 7, 11/7/2017)

352-25. Satisfaction of Administrative Civil Penalty Lien.

Once the County receives full payment of the administrative civil penalty and/or the Administrative Costs and/or Attorney's Fees associated therewith, the Code Enforcement Unit will either record a Notice of Satisfaction or provide each Responsible Party with a Notice of Satisfaction for recordation at the Humboldt County Clerk-Recorder's Office. Such notice shall cancel the Administrative Civil Penalty Lien. (Ord. 2576, § 5, 6/27/2017)

352-26. Enforcement by Civil Action.

As an alternative to the procedures set forth in this Chapter, the Code Enforcement Unit may correct or otherwise remedy a Violation through the prosecution of a civil action ~~brought by the Humboldt County Counsel's Office~~, including an action for injunctive relief or by any other remedy available at law or in equity; no election of remedies shall apply. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings or receivership, prohibiting the maintenance of the Violation. (Ord. 2138a, §1, 12/3/1996; Ord. 2576, § 5, 6/27/2017)

352-27. Treble Damages.

Upon entry of a second or subsequent civil or criminal judgment for a Violation that may be abated in accordance with the Nuisance Abatement procedures set forth in this Division within a two-year period, the court may order the Responsible Party to pay treble damages to the County. (Ord. 2576, § 5, 6/27/2017)

352-28. Misdemeanor Penalty.

Any person found to be in violation of any provision of this Chapter shall be guilty of a misdemeanor unless the prosecutor determines, in the interest of justice, to prosecute it as an infraction. (Ord. 2576, § 5, 6/27/2017)

SECTION 3. EFFECTIVE DATE.
This ordinance shall take effect and be in force thirty (30) days from the date of its adoption.

PASSED, APPROVED AND ADOPTED this day of on the following vote, to wit:

AYES: Supervisors: --
NOES: Supervisors: --
ABSENT: Supervisors: --

_____
Michelle Bushnell, Chair

Board of Supervisors of the County of Humboldt, State of California

(SEAL)

ATTEST:

Tracy Damico, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: _____
Kaleigh Maffei, Deputy Clerk