

1.41.110 Civil penalties.

A. The council finds that there is a need for alternative methods of enforcement of the Chula Vista Municipal Code and applicable state codes. The council further finds that the assessment of civil penalties through an administrative hearing procedure for code violations is a necessary alternative method of code enforcement. The administrative assessment of civil penalties established in this section is in addition to any other administrative or judicial remedy established by law which may be pursued to address violations of the municipal code or applicable codes.

B. Civil penalties may be assessed against a responsible party for continued violations of the municipal code or applicable state codes, whether of the same section or any combination, that reflect a continuing disregard for the requirements of such laws. The director may issue a notice and order to the responsible party assessing a civil penalty pursuant to this section. The civil penalty may be enforced against the responsible party as a lien pursuant to CVMC 1.41.140.

C. Except for violations of land grading ordinances contained in Chapter 15.04 CVMC, civil penalties may be assessed at a daily rate not to exceed \$1,000 per violation per day, ~~and not to exceed a total of \$100,000 per tax assessor's parcel number in the case of unimproved real property or \$100,000 per each structure against which violations have existed on a single tax assessor's parcel number for any related series of violations.~~

D. The civil penalty for violations of land grading permits or land grading work done without the issuance of a permit shall be based on an estimate by the director of grading work performed. The rate of civil penalties shall be as follows:

1. Less than 250 cubic yards, but not meeting the requirements for an exemption from grading permit under CVMC 15.04.150: \$1,000 per violation;
2. Two hundred fifty-one (251) to 500 cubic yards: \$5,000 per violation;
3. Five hundred one (501) to 1,000 cubic yards: \$10,000 per violation;
4. Over 1,001 cubic yards: \$25,000 per violation;
5. In the event any individual, firm, company, developer or property owner causes a second violation of the land grading permit ordinance, either on the same property or different property and whether or not part of the same development, the rate of civil penalties shall be doubled. For third and subsequent violations, the rate of civil penalties shall be multiplied by a factor of four.

E. Civil penalties under this section may be accrued retroactive to the date the violations were first discovered, as evidenced by the issuance of a notice of violation pursuant to CVMC 1.41.030, or any later date determined by the director. In determining the amount to be imposed on a daily rate, the director shall consider the following factors:

1. Duration of the violation;
2. Frequency or occurrence of the violation;
3. Frequency or occurrence of other violations during the period of accrual;
4. Seriousness of the violation in relation to its threat or impact upon public health, welfare or safety;
5. History of the violations;
6. Activity taken by the responsible party to obstruct or interfere with correction of the problem;
7. Good faith or bad faith efforts by the responsible party to comply;
8. The impact of the violation on the surrounding property and community;
9. The financial ability of the responsible party to have corrected the violation in a timely fashion.

F. The director shall comply with Chapter 1.40 CVMC concerning notice of the proposed civil penalties and the right to a hearing to contest or confirm. Unless contested, the notice and order shall be final and be enforced pursuant to CVMC 1.41.160. If contested, the hearing examiner shall limit the hearing to the following issues:

1. Whether the responsible party maintained a use or condition on real property that violated the municipal code or state law on the dates specified; and
2. Whether the civil penalty assessed is consistent with the criteria expressed in subsection (E) of this section. The hearing examiner may, however, exercise discretion pursuant to CVMC 1.40.020(E) and increase or decrease the penalties assessed to a level determined to be supported by the evidence meeting the criteria under subsection (E) of this section.

G. The director shall issue a final order based on the proceedings under subsection (E) of this section and establish a date for payment, following which date an enforcement lien shall be imposed upon the property. The imposition of an enforcement lien may be made a part of the proceedings and notice and order under CVMC 1.41.100 or this section. (Ord. 2718 § 3, 1998).

Chapter 5.66

MEDICAL MARIJUANA DISPENSARIES

Sections:

- 5.66.010 Definitions.
- 5.66.020 Operation of medical marijuana dispensaries prohibited.
- 5.66.030 Violation – Penalty.
- 5.66.040 Public nuisance.

5.66.010 Definitions.

“Medical marijuana dispensary” is any fixed facility or location where, under the purported authority of California Health and Safety Code Section 11362.5 et seq. or otherwise, marijuana is cultivated, made available, sold, transmitted, distributed, given or otherwise provided to, by, or among three or more persons for medical purposes.

“Medical marijuana dispensary” shall not include the following uses, so long as such uses comply with this code, Health and Safety Code Section 11362.5 et seq., and other applicable law:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
5. A hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

“Persons” shall include any individual or entity regardless of status as a qualified patient or primary caregiver.

“Primary caregiver” shall be defined in the same manner as such term is defined in California Health and Safety Code Section 11362.5.

“Qualified patient” shall be defined as any individual who obtains and uses marijuana for medical purposes upon the recommendation of a physician. (Ord. 3204 § 2, 2011).

5.66.020 Operation of medical marijuana dispensaries prohibited.

A. The operation of a medical marijuana dispensary, as defined in this chapter, is prohibited in the City of Chula Vista, and no person or association of persons, however formed, shall operate or locate a medical marijuana dispensary in the City. The City shall not issue, approve, or grant any permit, license or other entitlement for the establishment or operation of a medical marijuana dispensary in the City of Chula Vista.

B. This chapter does not apply where preempted by state or federal law. (Ord. 3204 § 2, 2011).

5.66.030 Violation – Penalty.

Any person found to be in violation of any provision of this chapter shall not be subject to the criminal enforcement remedies set forth in Chapter 1.20 CVMC, Chapter 1.24 CVMC or any other criminal law violation and enforcement provision set forth in this code, as a result of such violation. (Ord. 3204 § 2, 2011).

5.66.040 Public nuisance.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be, and is hereby declared, a public nuisance, which may be abated by the city pursuant to the procedures set forth in this code, and be subject to any associated civil remedies. (Ord. 3204 § 2, 2011).