

COUNTY OF SAN LUIS OBISPO
OFFICE OF COUNTY CANNABIS HEARING OFFICER
ADMINISTRATIVE HEARING RULES OF PROCEDURE

1. **INTENT AND PURPOSE:** These rules of procedure shall be followed when a Cannabis Hearing Officer conducts an administrative hearing relating to permit revocation, permit suspension, administrative fine or nuisance abatement pursuant to County Code.
2. **CONDUCT OF HEARING:** The Cannabis Hearing Officer shall conduct and preside over administrative hearings by the County relating to permit revocation, permit suspension, administrative fine or nuisance abatement in accordance with County Code and these rules of procedure.
3. **FAILURE TO APPEAR:** Failure to appear at the hearing shall constitute a waiver of any right to object to the decision of the Cannabis Hearing Officer.
4. **REPRESENTATION OF PARTIES:** During the hearing, the parties may be represented by counsel or other representative of the party's choice.
5. **SUBPOENAS:** The Cannabis Hearing Officer may issue subpoenas and subpoenas duces tecum for the attendance of witnesses and/or the production of documents upon a showing that the witnesses or documents are reasonably necessary for presentation of the case, material to the issues involved in the case, and will not be cumulative in nature. Party witnesses or records shall not be subject to subpoena except upon a showing that the party would be unable to adequately present their case in the absence of such witness or records. A subpoena may be served on any resident of the State of California or any person or business entity found within the state. All subpoenas shall be obtained from the Cannabis Hearing Officer. The party requesting the subpoena is responsible for serving it and for the payment of any required costs or witness fees and mileage. An application for a subpoena requiring the production of books, records, maps and documents shall be supported by an affidavit such as is prescribed by Section 1985 of the Code of Civil Procedure. A party shall make the written request for issuance of a subpoena sufficiently in advance of the scheduled hearing date so that the subpoenaed party has an adequate opportunity to fully comply with the subpoena prior to the commencement of the hearing. Subpoenas shall be restricted to compelling the appearance of a person or the production of records at the hearing and shall not be utilized for purposes of prehearing discovery, except, for good cause shown, a subpoena for the production of records may be issued requiring a third party to produce records to the requesting party before the date set for hearing, and in such instance, the requesting party shall provide copies to other party(ies) upon request and payment of any copying costs.

6. WITNESSES: Each party shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, impeach any witness, and to rebut evidence.
7. OATH/AFFIRMATION: In any proceeding before the Cannabis Hearing Officer, oral testimony offered as evidence shall be taken only on oath or affirmation administered by the Cannabis Hearing Officer or the Clerk of the County Cannabis Hearing Officer. The witness, or witnesses together, shall be asked to raise their right hand and to swear, or at their election affirm, that the testimony they shall give will be the truth, the whole truth, and nothing but the truth.
8. OFFICIAL NOTICE: At the request of any party the Cannabis Hearing Officer may take official notice of any fact that may be judicially noticed by the courts of California. The Cannabis Hearing Officer shall inform the parties of the matters to be noticed and those matters shall be noted in the record. Each party shall be given a reasonable opportunity to refute any request for the Cannabis Hearing Officer to take official notice.
9. EVIDENCE: The technical rules relating to evidence, including but not limited to the California Evidence Code, will not apply during the hearing. The Cannabis Hearing Officer may allow any relevant evidence to be admitted. The Cannabis Hearing Officer may reject any evidence he or she deems to be unreliable, irrelevant, or unduly repetitious. The Cannabis Hearing Officer shall not consider any oral or documentary evidence presented outside of the hearing unless the parties stipulate in writing to such evidence and the stipulation is made part of the hearing record.
10. ORDER OF PROCEEDING: The Cannabis Hearing Officer shall follow this order of proceeding in each hearing. The Cannabis Hearing Officer may vary this order only if he or she determines, and states on the record, that special circumstances exist which justify the variance:
 - a. Announce the beginning of the proceedings and begin the recording of the hearing;
 - b. Identify the hearing;
 - c. Request that all attendants at the hearing state their names;
 - d. Explain to attendants how the hearing will proceed and address any necessary notifications required by these procedures;
 - e. Hear any preliminary motions or objections;
 - f. Allow parties to make opening statements;

- g. Allow County to present evidence and witnesses;
 - h. Allow respondent to present evidence and witnesses;
 - i. Allow parties to present rebuttal evidence and witnesses;
 - j. Allow parties to make closing statements;
 - k. Explain the procedure for issuance of the final written decision; and
 - l. Close the hearing and terminate the recording of the hearing.
11. **PRIVILEGE:** California rules of privilege shall apply during the hearing.
12. **RECORDING:** The hearing shall be recorded and made available to all parties by request as a recording.
13. **CONTINUANCE:** The Cannabis Hearing Officer may approve one good faith request for a continuance up to five (5) days by each party upon good cause shown in advance of the hearing date. A request for continuance to allow additional time for the issuance and service of a subpoena shall not generally constitute good cause. No additional requests for a continuance by any party shall be granted unless it is agreed upon by all parties in writing.
14. **MOTIONS:** Any motions by the parties shall be in writing or made orally on the record during the hearing and shall clearly state the action requested and the grounds relied upon.
15. **BURDEN OF PROOF:** The County shall have the initial burden of proof. If the County establishes a violation of County Code has occurred, respondent shall have the burden to prove whether the nuisance has been voluntarily abated. The proof required shall be a preponderance of the evidence.
16. **COMMUNICATION WITH THE HEARING OFFICER:** All substantive oral communications with the Cannabis Hearing Officer shall be held in the presence of all parties. Any substantive written communications with the Cannabis Hearing Officer shall be served on all parties. The Cannabis Hearing Officer shall disclose any unilateral communications with any party during the hearing. Aside from the hearing location, involved property address, involved party information, estimated time required to conduct the hearing, and discussions regarding other similar procedural issues, Cannabis Hearing Officers and County employees shall not engage in any ex parte discussion regarding the nature of the alleged violation(s) prior to the hearing. A copy of the Cannabis Enforcement Officer's Notice of Nuisance Abatement/Violation, and any other

documents served on all parties, may be provided to the Cannabis Hearing Officer by the Clerk of the Cannabis Hearing Officer prior to the hearing.

17. **CLERK OF THE COUNTY CANNABIS HEARING OFFICER:** The Planning and Building Department and/or the Administrative office shall designate a County employee to act as Clerk of the County Cannabis Hearing Officer. The Clerk of the County Cannabis Hearing Officer may coordinate hearing assignments and schedules directly with Cannabis Hearing Officers. Any written communications from the Cannabis Hearing Officer to the parties shall be served on the parties by the Clerk of the County Cannabis Hearing Officer. Any written communication from a party to the Cannabis Hearing Officer shall be submitted to the Cannabis Hearing Officer care of the Clerk of the County Cannabis Hearing Officer. The submission of a written communication with the Clerk of the County Cannabis Hearing Officer shall constitute adequate service of the communication on the County. Except as otherwise provided, after service of the initial notice on responding party, the mailing of a communication to the responding party, or posting the communication on the County's website, shall constitute adequate service of the communication on the responding party.
18. **DISCLOSURE AND DISQUALIFICATION:** The Cannabis Hearing Officer shall disqualify himself or herself from serving as Cannabis Hearing Officer in a particular matter where he or she has a conflict of interest within the meaning of the Political Reform Act (Government Code Sections 87100 et seq.), and shall otherwise comply with the disqualification provisions of Code of Judicial Ethics, Canon 3.E. Any party may raise objections for the record to the Cannabis Hearing Officer and ask that the Cannabis Hearing Officer disqualify himself or herself. The Cannabis Hearing Officer shall make the decision to grant or deny the request for disqualification.
19. **FINAL WRITTEN DECISION:** Within two (2) calendar days after the close of the hearing, the Cannabis Hearing Officer shall issue a written decision that affirms, reverses, or modifies the Cannabis Enforcement Officer's findings, orders and/or fines in the Notice of Nuisance Abatement/Violation based on review of all relevant documents, evidence, and testimony. The written decision shall indicate the decision is final and may be subject to judicial review in accordance with Code of Civil Procedure sections 1094.5 and 1094.6 and/or Government Code section 53069.4, as applicable. In the event a violation is found to exist, the Cannabis Hearing Officer shall include an order that the unlawful cannabis activity be abated within two (2) calendar days of service of the decision, along with a statement that if the unlawful cannabis activity is not timely abated, the Cannabis Enforcement Officer may enter upon the property and abate the nuisance, and costs incurred by the County in abating the unlawful cannabis activity shall be recoverable in accordance with County Code. In the event a violation is found to exist, and administrative fines are upheld or modified, the Cannabis Hearing Officer shall include an order that said administrative fines are to be paid to the County within twenty (20) calendar days of service of the decision. The County may provide a standard

template written decision form for Cannabis Hearing Officers to use or modify in their sole discretion. The Cannabis Hearing Officer shall serve his or her written decision to the Clerk of the Board of Supervisors and the Clerk of the County Cannabis Hearing Officer within two (2) days of the conclusion of the hearing. The Clerk of the County Cannabis Hearing Officer shall serve a copy of the decision on all parties by either personal service or by mail, postage prepaid, certified, return receipt requested (or by facsimile or email if requested by any party), and include a proof of service as part of the decision. If the written decision is served by mail, service on respondent will be deemed effective two (2) business days after mailing and the time periods set forth above shall be extended by two (2) additional business days. The Cannabis Hearing Officer's written decision shall be final and effective immediately upon issuance.

20. **OFFICIAL RECORD:** The official record of an administrative hearing heard by a Cannabis Hearing Officer shall be comprised of the following: all written notices; all briefs, statements, motions, responses, or objections filed with the Cannabis Hearing Officer prior to or during the proceeding; all exhibits admitted as evidence during the proceeding; a list of participants present at any session of the hearing; the recording of the proceeding; and, the Cannabis Hearing Officer's rulings, including all findings, decisions, and orders. The Cannabis Hearing Officer shall return to the Clerk of the County Cannabis Hearing Officer all evidence submitted at the hearing in the Cannabis Hearing Officer's possession within ten (10) days of issuing a written decision in the matter. The County shall maintain the official record for five years. The County shall provide a copy of the official record, or requested portion thereof, to any party upon written request and payment by the requesting party of the actual costs of duplication.