

**LAND USE AND DEVELOPMENT CODE
ARTICLE (*)
CANNABIS CULTIVATION**

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Sec. 1.0 Authority and Title

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code section 11362.83, and Government Code section 25845, the Board of Supervisors does enact this Article.

Sec. 1.1 Findings and Purpose

To be revised

Sec. 1.2 Definitions

As used herein the following definitions shall apply:

- A. "Accessory Structure" means a separate and legally permitted building or structure located on the same Legal Parcel as a Primary Place of Residence. The structure must be permitted pursuant to applicable building codes and, although it may be permitted for other uses, it must also be permitted specifically for Cannabis Cultivation. For purposes of Commercial Cannabis Cultivation, the Accessory

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Structure must be detached from any habitable space. Notwithstanding the foregoing, for purposes of Personal Use Cultivation, an Accessory Structure may include an attached garage, but Cultivation may not take place in any space inhabited by humans, and must comply with all other local regulations pertaining to Accessory Structures to the extent they are applicable to an attached structure.

- B. "Annual Cannabis Permit" (ACP) means a permit issued by Nevada County in final form allowing the permit holder to conduct Commercial Cannabis Activities as set forth in the permit.
- C. "Cannabis" shall have the same meaning as that set forth in Health and Safety Code Section 11018, as may be amended. Cannabis, Medical Cannabis, and the Cultivation thereof, as defined in this Article shall not be considered an agricultural activity, operation or facility under Civil Code Section 3482.5 or an Agricultural Product as defined in Section L-II 3.3 of the Nevada County Land Use and Development Code, or an Agricultural Operation as defined in Sections L-II 3.3, L-II 6.1 and L-XIV 1.1 of the Nevada County Land Use and Development Code. For purposes of this Article, Cannabis does not include hemp, hemp products or hemp by-products.
- D. "Canopy" and "Canopy Area" mean the designated area(s) at a licensed and permitted Premises, except Nurseries, that will contain mature cannabis plants at any point in time, as follows:
 - Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain the entirety of mature plants at any point in time, including all of the space(s) within the boundaries;
 - Canopies must be clearly identified on site plans, and may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, Accessory Structure walls, or fencing. This definition does not include ancillary spaces such as spaces used for, drying, curing, or trimming.
 - Canopy boundaries shall encompass the entire plant. Cannabis plants which extend outside the boundaries are considered outside the "Canopy" boundaries and would be considered out of compliance with this ordinance.
- E. "Child Care Center" means any licensed child care center, daycare center (including small family), childcare home, or any preschool.
- F. "Church" means a structure or lease portion of a structure, which is used primarily for religious worship and related religious activities.
- G. "Commercial Cannabis Activity" means all commercial cannabis-related activities contemplated by or for which a license may be required by the State of California as codified in the California Business & Professions Code, California Code of Regulations, California Government Code, Health and Safety Code, Labor Code and Revenue and Taxation Code) or as amended respectively.
- H. "Commercial Cannabis Cultivation" means Cultivation of Medical Cannabis only for any purpose other than Cultivation of no more than 6 plants for Personal Use consistent with state regulations.
- I. "Cultivation" or "Cultivate" means the grading, planting, growing, harvesting, drying, curing, trimming, , or storage, or any combination of these activities, of one or more Cannabis plants or any part thereof in any location, Indoor or Outdoor, including from within a fully enclosed and secure building.
- J. "Daycare Center" means resident or non-resident-based daycare services for over 14 children including resident children, under the age of 10 years old, if located within a residence, or as provided for in the Health and Safety Code section 1596.76 or as amended.
- K. "Day Care, Small Family" means where resident child daycare services are provided in the home for 8 or fewer children, including the resident children, under the age of 10 years old, or as provided for in Health and Safety Code section 1596.78(c), or as amended.
- L. "Designated Responsible Party(ies)" means the individual/entity legally and primarily responsible for all the Commercial Cannabis Activities on the Parcel and/or Premises related to Commercial Cannabis Activities. The Designated Responsible Party(ies) must be licensed by the State of California for the Commercial Cannabis Activities which he/she/they intend on conducting in Nevada County. If the

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licensee is not the property owner, the legal property owner of any Parcel and/or Premises upon which any Commercial Cannabis Activity will be conducted in Nevada County will also be considered a Designated Responsible Party.

- M. "Enforcing Officer" means the Community Development Agency Director, Code Enforcement Program Manager, Building Department Director, Environmental Health Director, Sheriff, or their respective authorized designees, or any other official authorized to enforce local, state or federal laws.
- N. "Habitable Space" means space intended for or which is used for habitation by humans or which is occupied by humans.
- O. "Hazardous Materials" means any substance that is "flammable, explosive, reactive, corrosive or toxic," as further defined in California Health and Safety Code Sections 25501 and 25503.5, as may be amended.
- P. "Hearing Officer" means a person designated by the Board of Supervisors to conduct administrative hearings as provided in Section G-IV 5.9 of this Article.
- Q. "Identification card" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., as may be amended.
- R. "Indoor" or "Indoors" means Cultivation using exclusively artificial light within a detached fully enclosed and secure Accessory Structure using artificial light at a rate above twenty-five watts per square foot and that complies with the California Building Code (Title 24, California Code of Regulations) for that specific occupancy type, as adopted by the County of Nevada, except for structures that are exempt from the requirement to obtain a building permit under the Nevada County Land Use and Development Code. For purposes of Personal Use only, "Indoor" or "Indoors" shall also include Cultivation inside a private Residence or attached garage, but not in areas inhabited by humans, including, but not limited to bedrooms and kitchens.
- S. "Local Authorization," as required by California Code of Regulations, §8100(b)(6), California Code of Regulations, §8110, California Business and Professions Code §26050.1(a)(2), or as amended respectively and by any other regulation requiring local license, permit or other local authorization to engage in Commercial Cannabis Activity, means a permit issued in final form by the Locally Designated Contact specifically allowing the holder of said permit to engage in the Commercial Cannabis Activity within the limitations set forth in said permit and allowing for the type of Commercial Cannabis Activity sought by the individual seeking the state license.
- T. "Locally Designated Contact" means the Community Development Agency Director of Nevada County or his/her designee(s).
- U. "Medical Cannabis" shall mean Cannabis recommended by a licensed physician, in accordance with California Health and Safety Code Sections 11362.5 through 11362.83, commonly referred to as the Compassionate Use Act and the Medical Cannabis Program Act.
- V. "Mixed Light" means the Cultivation of mature or immature Cannabis plants in an Accessory Structure permitted in compliance with local building codes and permitted specifically for Cannabis Cultivation using light deprivation and/or one of the artificial lighting models described below:
 - "Mixed Light Tier 1": the use of artificial light at a rate of six watts per square foot or less;
 - "Mixed Light Tier 2": the use of artificial light at a rate above six watts and below or equal to twenty watts per square foot." "Mixed Light" cultivation must take place in an Accessory Structure permitted in compliance with local building codes and permitted specifically for Cannabis Cultivation.
- W. "Non-Remunerative Cultivation" means the Cultivation of Medical Cannabis only by a Primary Caregiver on behalf of a Qualified Individual for no monetary compensation. Non-remunerative Cultivation must comply with all Commercial Cannabis Cultivation regulations.
- X. "Outdoor" or "Outdoors" means Cultivation of Cannabis in any location that is not "Indoors" nor "Mixed Light" and which is cultivated without the use of any artificial light at any time.

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- Y. "Parcel" means any legal parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the California Government Code).
- Z. "Parks" means private and public parks, playgrounds, play lots, athletic fields, tennis courts, public outdoor gathering area, recreational area, restrooms and similar facilities.
- AA. "Permitting Authority" means the Community Development Agency Director or his/her designee(s).
- BB. "Personal Use" means cannabis cultivated for the personal use, not for any commercial purpose and not for sale, donation, gifting, or any other purpose other than the personal use of the individual who Cultivates. Personal Use does not include Cannabis which is Cultivated for non-remuneration.
- CC. "Premises" means a single, legal Parcel of property. Where contiguous legal Parcels are under common ownership or control, such contiguous legal Parcels shall be counted as a single "Premises" for purposes of this Article.
- DD. "Primary Place of Residence" shall mean the Residence at which an individual resides, uses or otherwise occupies on a full-time, regular basis.
- EE. "Qualified Caregiver" shall have the definition set forth in Health and Safety Code Section 11362.7(d), as may be amended.
- FF. "Qualified Individual" shall have the definition as set forth in Health and Safety Code Sections 11362.7(c) and (f), as may be amended.
- GG. "Residence" shall mean a fully enclosed permanent structure used, designed or intended for human occupancy that has been legally established, permitted, and certified as single-family or multi-family dwelling in accordance with the County Land Use and Development Code. Recreational Vehicles (RVs), trailers, motorhomes, tents or other vehicles or structures which are used, designed, or intended as temporary housing shall not constitute a Residence for purposes of this Article, whether or not such vehicle or structure is otherwise permitted or allowed under the Nevada County Land Use and Development Code.
- HH. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.
- JJ. "Sensitive Site" means a School, Church, Park, Child or Day Care Center, or Youth-Oriented Facility.
- KK. "Sheriff" or "Sheriff's Office" means the Nevada County Sheriff's Office or the authorized representatives thereof.
- LL. "Transport" and "Transfer" mean the movement by a Cultivator who holds a Distributor Transport Only (Self-Transport) license from the State of California of a their own Cannabis off their own Cultivation site.
- MM. "Youth-oriented Facility" means any facility that caters to or provides services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

Sec. 1.3 Nuisance Declared; Cultivation Restrictions

- A. The Cultivation of Cannabis, either Indoors, Mixed Light or Outdoors, on any Parcel or Premises in an area or in a quantity greater than as provided herein, or in any other way not in conformance with or in violation of the provisions of this Article and/or state law, is hereby declared to be a public nuisance that may be abated by any means available by law. The provisions of Section L-II 5.19 (Nonconforming Uses and Structures) of the Nevada County Land Use and Development Code shall not apply to the Cultivation of Cannabis hereby declared to be a public nuisance. No person owning, leasing,

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occupying, or having charge or possession of any Parcel or Premises within the County shall cause, allow, suffer, or permit such Premises to be used for the Cultivation of Cannabis in violation of the California Health and Safety Code or this Article.

- B Cannabis Cultivation is prohibited on any Parcel or Premises within the unincorporated territory of Nevada County except on Parcels or Premises with a legally established Residence.
- C. Cannabis Cultivation may be undertaken only as follows:
 - 1. On a Parcel improved with a permanent, occupied, legally permitted Residence or on a Parcel under common ownership which is adjacent to a Parcel with a permanent, occupied, legally permitted Residence.
 - 2. Only by an individual or entity who Cultivates Commercially for medical purposes and in accordance with federal, state and local law.
 - 3. By an individual for Personal Use in accordance with Sec. 1.4.
- D. Indoor and Mixed-Light Cannabis Cultivation may occur only within a permitted Accessory Structure that meets the definition of Indoor and/or Mixed-Light and complies with all applicable provisions of the County's Land Use and Development Code and which is permitted for purposes of the specified type of Cannabis Cultivation. Cultivation shall not take place in a kitchen, bathroom, bedrooms, common areas or any other space in the structure which is used as designed or intended for human occupancy. Structures that are exempt from the requirement to obtain a building permit under the Nevada County Land Use and Development Code shall not be used for the Cultivation of Cannabis. Notwithstanding the above, Cannabis Cultivation for Personal Use may be Cultivated inside a private residence, but not in bedrooms or kitchens.

Sec. 1.4 Personal Use Cannabis Cultivation

The following regulations apply to the Cultivation of Cannabis for Personal Use only:

Zoning and Maximum Grow Sizes:

For Personal Use only, Cannabis Cultivation may occur only on a Parcel or Premises with an occupied Legally

Permitted Primary Residence and only in zones as set forth as follows:

- 1. R-1, R-2, R-3 and R-A (Residential Designation) on Parcels of any size:
 - Indoors: Maximum of 6 plants, mature or immature.
 - Mixed Light, or Outdoors: Cultivation is prohibited.
- 2. R-A (Rural and Estate Designation):
 - Parcels of 5.00 acres or more:
 - Indoors, Mixed-Light and Outdoors or a combination of methods: a maximum of 6 plants, mature or immature
- 3. AG, AE, FR, and TPZ:
 - Parcels of equal to or less than 1.99 acres:
 - Indoors: a maximum of 6 plants, mature or immature.
 - Mixed-Light and Outdoors: Cultivation is prohibited.
 - Parcels of 2.00 acres or greater:
 - Indoors, Mixed-Light and Outdoors: a maximum of 6 plants, mature or immature.

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B. The following setbacks apply to all Cannabis Cultivation sites regardless of purpose or Cultivation method:

1. For all Parcels or Premises: 100 linear feet measured from the edge of the Canopy Area to the adjacent property lines.
2. In a mobile home park as defined in Health and Safety Code Section 18214.1, 100 feet from mobile home that is under separate ownership.

Cultivation of Cannabis is prohibited on any Parcel or Premises located within the following areas:

1. Upon any Premises located within 1,000 feet of any Sensitive Site. This setback is measured from the edges of the designated Canopy Area to the property line of the Sensitive Site.
2. In any location where the Cannabis would be visible from the public right-of-way or publicly traveled private roads at any stage of growth.
3. Within any setback area required by this Article.

C. All Cannabis Cultivation areas shall comply with the following requirements:

1. All Cannabis Cultivation sites shall be adequately secure to prevent unauthorized entry, including a secure locking mechanism that shall remain locked at all times when the Cultivator is not present within the Cultivation area.
2. Cannabis Cultivation shall not adversely affect the health, safety, or general welfare of persons at the Cultivation site or at any nearby residence by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, light, or vibration, by the use or storage of hazardous materials, processes, products or wastes, or by any other way. The Cultivation of Cannabis shall not subject residents of neighboring parcels who are of normal sensitivity to reasonably objectionable odors.
3. All electrical, mechanical, and plumbing used for Indoor or Mixed-Light Cultivation of Cannabis shall be installed with valid electrical, mechanical, and plumbing permits issued and inspected by the Nevada County Building Department, which building permits shall only be issued to the legal owner of the Premises. The collective draw from all electrical appliances on the Premises shall not exceed the maximum rating of the approved electrical panel for the primary legal Residence on the Parcel. The maximum rating shall be as established in the manufacturer specifications for the approved electrical panel.
4. All structures used for Cultivation of Cannabis shall contain effective ventilation, air filtration and odor-reducing or odor-eliminating filters to prevent odor, mold and mildew in any area used for Cultivation or which is used as, designed or intended for human occupancy, or on adjacent Premises.
5. Indoor grow lights shall comply with the California Building, Electrical and Fire Codes as adopted by the County of Nevada. Gas products (including, without limitation, CO₂, butane, propane and natural gas), or generators shall not be used within any structure used for Indoor Cultivation. Grow light systems associated with Cultivation shall be shielded to confine light and glare to the interior of the structure at all times, shall not be visible during the night time hours, and shall conform to all applicable building and electrical codes.
6. All lights used for the Cultivation of Cannabis shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the Parcel upon which they are placed, and shall comply with the requirements of Section L-II 4.2.8.D. of the Nevada County Land Use and Development Code. Lights are not permitted to be detectable during the night time hours. If lights are to be used during night time hours, black out or light barriers must be used to ensure no light is visible during night time hours.

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7. Noise levels generated by Cultivation shall not exceed the standards set forth in Table L-II 4.1.7 (Exterior Noise Limits) of the Nevada County Zoning Ordinance applicable to the Land Use Category and Zoning District for the Premises on which the Cultivation occurs.
 8. If the person(s) Cultivating Cannabis on any Legal Parcel is/are not the legal owner(s) of the parcel, the person(s) who is Cultivating Cannabis on such Parcel shall: (a) give written notice to the legal owner(s) of the Parcel prior to commencing Cultivation of Cannabis on such Parcel, and (b) shall obtain a signed and notarized Nevada County issued authorization form from the legal owner(s) consenting to the specific Cannabis Activity for which a local permit and state license are being sought on the Parcel and provide said authorization to Nevada County prior to the commencement of any Cultivation activities and at least annually thereafter. A copy of the most current letter of consent shall be displayed in the same immediate area as designated in the permit and license, in such a manner as to allow law enforcement and other Enforcing Officers to easily see the authorization without having to enter any building of any type. Such authorization must also be presented immediately upon request by an Enforcing Officer.
 9. The use of Hazardous Materials shall be prohibited in the Cultivation of Cannabis except for limited quantities of Hazardous Materials that are below State of California threshold levels of 55 gallons of liquid, 500 pounds of solid, or 200 cubic feet of compressed gas. Any Hazardous Materials stored shall maintain a minimum setback distance of 100 feet from any private drinking water well, spring, water canal, creek or other surface water body, and 200 feet from any public water supply well. The production of any Hazardous Waste as part of the Cultivation process shall be prohibited.
 10. All Premises used for the Cultivation of Cannabis shall have a legal and permitted water source on the Parcel and shall not engage in unlawful or unpermitted drawing of surface water or permit illegal discharges of water from the Parcel.
 11. All Premises used for the Cultivation of Cannabis shall have a legal and permitted sewage disposal on the Parcel and shall not engage in unlawful or unpermitted drawing of surface water or permit illegal discharges of water from the Parcel.
- D. Accessory Structures used for the Cultivation of Cannabis shall meet all of the following criteria:
1. The Accessory Structure, regardless of size, shall be legally constructed in accordance with all applicable development permits and entitlements including, but not limited to, grading, building, structural, electrical, mechanical and plumbing permits approved by applicable federal, state and local authorities prior to the commencement of any Cultivation activity. The conversion of any existing accessory structure, or portion thereof, for Cultivation shall be subject to these same permit requirements and must be inspected for compliance by the applicable federal, state and local authorities prior to commencement of any Cultivation activity. Any Accessory Structure must also be permitted for the specific purpose of Commercial Cannabis Cultivation.
 2. The Accessory Structure shall not be built or placed within any setback as required by the Nevada County Land Use and Development Code or approved development permit or entitlement.
 3. The Accessory Structure shall be equipped with permanently installed and permitted electricity, and shall not be served by temporary extension cords. Electrical wiring conductors shall be sized based on the currently adopted California Electrical Code with anticipated loads identified.
 4. The Accessory Structure shall be equipped with a permanently installed and permitted odor control filtration and ventilation system adequate to prevent any odor, humidity, or mold problem within the structure, on the Parcel, or on adjacent Parcels.
 5. If the Accessory Structure is a greenhouse, the panels shall be of glass or polycarbonate.

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6. Any structure used for Indoor Cultivation of Cannabis shall have a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" x 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy these requirements. Indoor or Indoors, for purposes of Commercial Cannabis Cultivation means within a space which is not habitable by humans.
7. Any structure used for Mixed-Light Cultivation of Cannabis shall have a roof supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" x 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Exterior walls may be constructed with transparent material such as glass or polycarbonate. Plastic sheeting, regardless of gauge, or similar products do not satisfy these requirements. Mixed-Light for purposes of Commercial Cannabis Cultivation means within a space which is not habitable by humans.
- E. Where the provisions of this Article are more restrictive than the Nevada County Land Use and Development Code, the provisions of this Article shall govern.
- F. Nothing herein shall limit the ability of the Chief Building Official or designee, Fire Marshall or designee, or any other state or local employees or agents from entering the property to conduct the inspections authorized by or necessary to ensure compliance with this Article, or the ability of the Sheriff to make initial inspections or independent compliance checks. The Enforcing Officer is authorized to determine the number and timing of inspections that may be required.
- G. All Canopy Areas must be adequately secured to prevent unauthorized entry and entry by children and include a locking gate that shall remain locked at all times when a Designated Responsible Party is not present within the Cultivation area. The Cultivation site shall also be developed so it is not visible from a public right of way.
- H. Indoor and/or Mixed-Light Commercial Cannabis Cultivation under this subsection shall be allowed only inside a detached Accessory Structure on the same property as the Private Residence. Notwithstanding the above, Cannabis Cultivation of up to 6 immature or mature plants for Personal Use may be Cultivated inside a private Residence or attached garage except that it may not be Cultivated in any space inhabited by humans, including but not limited to bedrooms and kitchens.
- I. Cannabis-related activities which are not expressly permitted by this Article are prohibited in the County of Nevada. (Ord. 2405, 1/12/16; Ord. 2416, 7/26/16; Ord. 2426, 1/10/17)

Sec. 1.5 Commercial Cannabis Cultivation

Except as explicitly allowed in this ordinance, Commercial Cannabis Activities are prohibited. All Commercial Cannabis Activities must conform to the regulations and requirements set forth in Sec. 1.4 in addition to the following regulations and requirements:

Commercial Cannabis Cultivation is permitted as follows:

- A. Commercial Cannabis Cultivation may occur only on a Parcel or Premises with an occupied Legally Permitted Residence, or on a vacant Parcel adjacent to a Parcel with an occupied Legally Permitted Residence under common ownership, and only in zones as set forth as follows:
 1. R-1, R-2, R-3 and R-A (Regardless of General Code Designation) and TPZ:

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Commercial Cannabis Cultivation is prohibited.

2. AG, AE, FR :

Parcels of less than 2.00 acres:

Commercial Cannabis Cultivation is prohibited.

Parcels 2.00 acres up to 4.99 acres:

Indoors: a maximum of 500 square feet of Canopy

Mixed-Light and Outdoors: Commercial Cannabis Cultivation is prohibited.

Parcels 5.00 acres up to 9.99 acres:

Indoors, Mixed-Light, Outdoors or a combination of said methods: a maximum of 2,500 square feet of Canopy

Parcels of 10.00 acres up to 19.99 acres:

Indoors, Mixed-Light, Outdoors or a combination of said methods: a maximum of 5,000 square feet of Canopy

Parcels of 20 acres or greater:

Indoors, Mixed-Light, Outdoors or a combination of said methods: a maximum of 10,000 square feet of Canopy

- B The six (6) plants permitted to be Cultivated on any Parcel or Premises for Personal Use is in addition to the amounts allowed for Commercial Cannabis Cultivation.
- C Commercial Cannabis may be Cultivated on a vacant Parcel adjacent to a Parcel with a legally permitted and occupied Residence under common ownership as long as the total Canopy Area allowed under the ordinance for the Parcel on which a Residence exists is not exceeded.
- D All those engaged in Commercial Cannabis Cultivation in Nevada County must possess and maintain the appropriate Commercial Cannabis license(s) from the State of California. State licenses must cover and allow for the Commercial Cannabis Cultivation activities being conducted in Nevada County.
- E The holder of an Annual Cannabis Permit for Commercial Cannabis Cultivation or for Non-Remuneration Cultivation in Nevada County may also Transport their own Cannabis from their licensed and permitted Premises to other State of California licensees to the extent allowed under California State law without obtaining an additional permit from Nevada County. The permit from Nevada County, however, must indicate that Transportation/Distribution is specifically allowed. In order to engage in Transport of Cannabis products, however, proof of possession of a "Distributor Transport Only" (Self-Distribution only) California State license, as set forth in California Code of Regulations, Title 16, Division 42, Chapter 1, Article 1 §5315, allowing for transport of Cannabis from the Cultivation site must be provided to the County of Nevada, if said license is necessary under state law. Said state license must be maintained in good standing in order to engage in the Transport of cannabis in the County of Nevada. This provision does not authorize the holder of an ACP to transport Cannabis from Cultivation sites of other licensees.
- F Commercial Cannabis Activity in County of Nevada may only be conducted by individuals and/or entities licensed by the State of California to engage in the activity for which a permit was issued by the County of Nevada. Commercial Cannabis Activities may not commence, and the Nevada County permit is not valid, until the appropriate license is obtained from the State of California.
- G Cannabis may be Cultivated for Medical Purposes only.

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- H. A maximum of 3 Cultivation permits (including those allowing for Transportation) will be issued per person or entity for purpose of engaging in Commercial Cannabis Activities. No person or entity may have any financial interest in more than 3 Commercial Cannabis businesses and/or enterprises in Nevada County. To the extent ownership of a Commercial Cannabis business or enterprise includes an individual or entity with ownership interest in more than 3 sites in Nevada County, a permit will not be issued.
- I. A Qualified Caregiver who Cultivates Cannabis exclusively for the personal medical use may cultivate no more than five hundred (500) square per Qualified Individual for up to five (5) specified Qualified Individuals for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, if said Qualified Caregiver does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code. Cultivation under this provision, however, must otherwise comply with all other regulations applying to Commercial Cultivation of Cannabis under this Article.

Sec. 1.6 Permitting of Commercial and Non-Remuneration Cannabis Activities

Permitting to engage in Commercial Cannabis Activities or Non-Remunerative Cannabis Cultivation in Nevada County is a two-prong process. One must obtain both a land use permit and an Annual Cannabis Permit. Land use permits will be issued only to the legal owner of the Parcel or Premises.

- A. Administrative Development Permit (ADP) requirements are as follows:
 - 1. Canopy sizes of a combined total of up to 2,500 sq. feet (Indoors, Mixed-Light or Outdoors) on allowed Parcels and in allowed zones.
 - 2. ADP permits will automatically expire within two (2) years of the date of issuance unless an application to renew the permit is received at least ninety (90) days prior the expiration of the permit.
 - 3. Compliance with all local ADP permitting requirements is necessary.
 - 4. ADP permits are not transferrable or assignable to any other person, entity or property.
 - 5. Applicant must provide the following as part of their application for an ADP:
 - a. A complete application
 - b. A list of all individuals and/or entities with any financial interest in the Commercial Cannabis Activity, including names, addresses, titles, nature and extent of financial interest, and disclosure of all financial interest in any and all cannabis businesses in the County.
 - c. Copy of approved identification
 - d. A detailed site plan setting forth the intended location of the canopy area, detailed description of intended activities, setbacks, descriptions of existing and proposed structures and any other aspects required to show compliance with this Article.
 - e. Irrigation water service verification
 - f. Sewer/septic service verification
 - g. Electrical service verification
 - h. A security plan
 - i. Copy of Deed to Property indicating applicant ownership
 - j. Acknowledgement of standards set forth in ordinance
 - k. Copy of valid state license allowing for type of Commercial Cannabis Activity applied for
 - l. Lease information
 - m. Payment of applicable fees

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- n. Provide proof of purchase of a Certificate of Deposit from a State of California licensed commercial banking institution in the amount of \$5,000.00 which may be accessed by County of Nevada.
 - 6. Applicant must allow for right of entry and inspections to ensure permit eligibility and compliance
 - 7. Secondary Access Requirement Exemption:
Secondary access may be waived at the discretion of the permitting authority if applicant attests that there will be no special events held on the premises, that the general public will not have access to the premises that no more than ten (10) employees will be on site and any given time
 - 8. Renewals may be subject to approval of the Zoning Administrator if, in the opinion of the Permitting Authority, the renewal application or inspection reveals substantial or significant change to the nature and/or extent of the use for which the original ADP was issued. If the renewal application and inspection do not reveal any substantial or significant change in the nature or extent of the use for which the original ADP was issued, and the site has remained substantially in compliance with County regulations and state law, the application may be renewed for another two years.
- B. Conditional Use Permit (CUP) requirements are as follows:
- 1. Canopy sizes of a combined total of 2,501-10,000 sq. feet (Indoors, Mixed-Light or Outdoors
on allowed Parcels and in allowed zones.
 - 2. Permits will automatically expire within two years of the date of issuance unless an application
to renew the permit is received at least 90 days prior the expiration of the permit.
 - 3. All CUP permits are subject to initial approval by the Planning Commission.
 - 4. Renewals may be subject to approval of the Planning Commission if, in the opinion of the Permitting Authority, the renewal application or inspection reveals substantial or significant change to the nature and/or extent of the use for which the original CUP was issued. If the renewal application and inspection do not reveal any substantial or significant change in the nature or extent of the use for which the original CUP was issued, and the site has remained substantially in compliance with County regulations and state law, the application may be renewed for another two years.
 - 5. Compliance with all CUP permitting requirements is necessary.
 - 6. CUP permits are not transferrable or assignable to any other person, entity or property.
 - 7. Applicant must provide the following as part of their application for a CUP:
 - a. A complete application
 - b. The exact location of the proposed activity
 - c. A list of all individuals and/or entities with any financial interest in the Commercial Cannabis Activity, including names, addresses, titles, nature and extent of financial interest, and disclosure of all financial interest in any and all cannabis businesses in the County.
 - d. Background information, including but not limited to a statement that the applicant and owner have submitted to a Live Scan background check no earlier than 30 days prior the date of application
 - e. A copy of approved identification
 - f. A detailed site plan setting forth the intended location of the Canopy Area, detailed description of intended activities, setbacks, descriptions of existing and proposed structures and any other aspects required to show compliance with this Article.
 - g. Irrigation water service verification
 - h. Sewer/septic service verification

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- i. Electrical service verification
 - j. A security plan
 - k. Copy of Deed to Property indicating applicant ownership
 - l. Acknowledgement of standards set forth in ordinance
 - m. Copy of valid state license allowing for type of Commercial Cannabis Activity applied for
 - n. Lease information
 - o. Payment of applicable fees
 - p. Provide proof of purchase of a Certificate of Deposit from a State of California licensed commercial banking institution in the amount of \$5,000.00 which may be accessed by County of Nevada.
8. Applicant must allow for right of entry and inspections to ensure permit eligibility and compliance
9. Secondary Access Requirement Exemption:
 Secondary access may be waived at the discretion of the permitting authority if applicant attests that there will be no special events held on the premises, that the general public will not have access to the premises, that no more than 10 employees will be on site at any given time, and that CalFire and/or local fire authorities approve the exemption.
- C. Annual Cannabis Permit (ACP): This permit will be issued to the individual/entity engaging in the Commercial Cannabis Activity and Non-Remuneration Cultivation.
1. Permit for Commercial Cannabis Activities:
 Applicant must submit the following information as part of the application process:
- a. A complete application
 - b. The exact location of the proposed activity
 - c. A copy of all applications of licensure submitted to the State of California related to cannabis activities.
 - d. A list of all individuals and/or entities with any financial interest in the Commercial Cannabis Activity, including names, addresses, titles, nature and extent of financial interest, and disclosure of all financial interest in any and all cannabis businesses in the County.
 - e. Background information, including but not limited to a statement that the applicant and owner have submitted to a Live Scan background check no earlier than 30 days prior the date of application
 - f. Tax identification information
 - g. Detailed description of any law enforcement and/or code enforcement activities at the Premises proposed for the Cannabis Activities
 - h. Copy of approved identification
 - i. A detailed site plan setting forth the intended location of the canopy area, detailed description of intended activities, setbacks, descriptions of existing and proposed structures and any other aspects required to show compliance with this Article.
 - j. Irrigation water service verification
 - k. Sewer/septic service verification
 - l. Electrical service verification
 - m. A security plan
 - n. Notarized landlord authorization to engage in activity or deed of ownership
 - o. Acknowledgement of standards set forth in ordinance
 - p. Copy of valid state license allowing for type of Commercial Cannabis Activity applied for

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- q. Lease information
 - r. Payment of applicable fees
 - s. Proof of purchase of a Certificate of Deposit from a State of California licensed commercial banking institution in the amount of \$5,000.00 which may be accessed by County of Nevada.
2. Non-Remunerative ACP applicants must submit the following:
- a. A complete application
 - b. The exact location of the proposed Cultivation
 - c. Sufficient proof that the applicant is a Qualified Caregiver
 - d. Copies of valid recommendations from qualified physicians for each Qualified Individual for whom Cannabis is being Cultivated.
 - e. Background information, including but not limited to a statement that the applicant and owner have submitted to a Live Scan background check no earlier than 30 days prior the date of application.
 - f. Detailed description of any law enforcement and/or code enforcement activities at the Premises proposed for the Cannabis Cultivation
 - g. Copy of approved identification
 - h. A detailed site plan setting forth the intended location of the canopy area, detailed description of intended activities, setbacks, descriptions of existing and proposed structures and any other aspects required to show compliance with this Article.
 - i. Irrigation water service verification
 - j. Sewer/septic service verification
 - k. Electrical service verification
 - l. A security plan
 - m. Notarized landlord authorization to engage in activity or deed of ownership
 - n. Acknowledgement of standards set forth in ordinance
 - o. Lease information
 - p. Payment of applicable fees
3. Applicant must allow for inspections to ensure permit eligibility and compliance
4. Secondary Access Requirement Exemption:
 Secondary access may be waived at the discretion of the permitting authority if applicant attests that there will be no special events held on the premises, that the general public will not have access to the premises, that no more than 10 employees will be on site at any given time, and that CalFire and/or local fire authorities approve the exemption.
5. This ACP must be renewed annually.
- D. Setback Variances will be considered only relating to Accessory Structures and Outdoor Cultivation Canopy Areas, will be granted and issued at the discretion of the Building/Planning Directors or their designees, and only as follows:
- 1. Except as set forth in subsections (c)(i) and (c)(ii) below, no variance will be considered for any other provision of this Article including, but not limited to, plant count/grow area size, minimum parcel size, zoning designations or methods of cultivation.
 - 2. Variances will not be granted if the variance results in a setback of less than 30 feet from the property line.
 - 3. Set Back Easement:
 - a. Maximum of 40% variance of required setback.

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- b. The majority of the burden of the setback must remain with the original owner
 - c. The easement must contain the following language: "This easement may be used to meet the setback requirements to construct an Accessory Structure for the purpose of Cultivating Cannabis or for the Outdoor Cultivation of Cannabis."
 - d. All other legal and local requirements of a setback easement must be met.
 - e. Under no circumstances will a setback easement result in a setback of less than 30 feet from the property line.
4. The Planning Director, and/or his/her designee, has the discretion to authorize construction of an Accessory Structure a distance less than 1000 feet from a state and/or federal Park if the following criteria are met:
- a. the proposed site is at least 300 feet from the property line of the State or Federal Park; and
 - b. the portion of the State or Federal Park that is adjacent to the Parcel or Premises upon which the Accessory Structure is proposed to be constructed is inaccessible by the public, not frequented by the public and is unimproved.
 - c. The Planning Director, and/or his/her designee, has the authority to submit the application through the Planning Commission process for approval, if, in his/her discretion, such approval is appropriate.
- E. Transition Period.

The issuance of Conditional Use Permits (CUP) or Administrative Development Permits (ADP) may be withheld if any violations of Nevada County Municipal Codes exist on the Parcel or Premises upon which Commercial Cannabis Activities are proposed to be conducted. At the discretion of the Community Development Agency Director, Environmental Health Director, the Planning Director, Code Compliance Program Manager and/or Building Director, or their respective designee(s), applicants may be given up to two years from the date of the submission of the application for Cannabis Activity permits, including use and development permits, to bring existing violations into compliance with local regulations. For this section to apply, all required permits to correct code defects must be submitted and substantial progress toward compliance made during this transition period. Failure to correct said code violations by the initial expiration of the original permit may result in the permit not being renewed. Nothing in this provision precludes the County from proceeding to seek revocation of use permits for failure to correct code defects. This provision does not apply to any structure in which Cannabis Activities will be conducted which was not previously property permitted or to any code violations which adversely impact health and safety. Structures which will be used for Cannabis Activities must be in compliance with all local and state regulations prior to the commencement of Commercial Cannabis Activities unless said structures were previously properly permitted. This provision providing for a transition period expires two years from the date this ordinance is initially adopted, after which time, no CUP or ADP will be issued for Commercial Cannabis Activities unless the Parcel and/or Premises, and all structures on said Parcel, are fully compliant with the Nevada County Municipal Codes.

Sec. 1.7 Change in Land Use

The County shall encourage any person proposing to construct or operate a new or relocated School, Sensitive Site, Church, Park, Day Care, or Child Care Center, or Youth-Oriented Facility to consider whether the proposed location of such use is within 1,000 feet of a Premises upon which Cannabis is known to be Cultivated. Upon request, the Sheriff's Office shall inform any person proposing to construct or operate a new or relocated School, Church, Park, Day Care, Child Care Center, or Youth-Oriented Facility regarding

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whether there is a Premises upon which Cannabis is known to be cultivated within 1,000 feet of the proposed location of such use, and, if so, shall also inform the person, owning, leasing, occupying, or having charge or possession of the Premises upon which Cannabis is known to be cultivated that such a use is being proposed within 1000 feet of the Premises. (Ord. 2405, 1/12/16)

Sec. 1.8 Denial or Revocation of an Annual Cannabis Permit

In addition to existing County regulations and processes related to permit revocation, the following provisions apply:

Denial or revocation of license; remedies.

- (A) The Permitting Authority may deny an application for an original or renewal license, or revoke an original or renewal license, for any of the following reasons:
- (1) Discovery of untrue statements submitted on a license application.
 - (2) Revocation or suspension of any State license required to engage in Commercial Cannabis Activities.
 - (3) Previous violation by the applicant, or violation by the licensee, of any provision of the Nevada County Code or State law, including any land use permit conditions associated with the licensee's business operations.
 - (4) Failure of the background check conducted by the Permitting Authority, including the person's most recent Live Scan report. A failed Live Scan is a Live Scan report that includes any felony conviction within the past 10 years and/or reflects that the person is currently on parole or probation related to a felony conviction. Felony convictions for cannabis-related offenses prior to June 1, 2013 will not result in a failed Live Scan, unless the offense involved sales to a minor.
 - (5) Failure to meet any of the general eligibility requirements to obtain a license as set forth in this Article.
 - (6) Violation of, or the failure or inability to comply with, any of the restrictions or requirements for the issuance of a license or conducting business operations as set forth in this Article, including any administrative rules or regulations promulgated by the Permitting Authority or any conditions associated with the issuance of the license or any associated land use permit or other permit.
 - (7) Violation of, or failure to comply with, any land use or other permit requirements associated with the licensee's Commercial Cannabis Activities, including but not limited to zoning, building, and agricultural permits as may be required for the activity and the operations site.
 - (8) Violation of, or failure to comply with, any State or local law in conducting business operations, including any laws associated with the MAUCRSA.
 - (9) With the exception of those employed at a cultivation site, allowing any person between the ages of 18 and 21 years of age to enter a cultivation site, manufacturing facility, or distribution facility, or allowing any person younger than 18 years of age to enter a cultivation site, manufacturing facility, or distribution facility without a parent or legal guardian.
 - (10) Failure to contain all irrigation run-off, fertilizer, pesticides, and contaminants on-site.

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- (11) Failure to allow unannounced inspections of the premises and business operations by the Permitting Authority, Building Official, Fire Marshal, or law enforcement at any time, without notice.
 - (12) Failure to timely pay any local, State, or federal tax associated with or required by the licensee's cannabis business activities, including any taxes required to be paid under the Nevada County Code, as may be amended.
 - (13) Creation or maintenance of a public nuisance.
 - (14) Conviction of a criminal offense that would justify denial of a license.
 - (15) Failure to post and maintain at the Cultivation site, in a prominent location a copy of the local license(s) issued pursuant to this section and a copy of any State license(s) required for the activity.
 - (18) Failure to fully cooperate with a financial audit by the County of Nevada of any and all aspects of the licensee's business, including but not limited to on-site inspection and review of financial transactions, sales records, payroll and employee records, purchase orders, overhead expense records, shipping logs, receiving logs, waste disposal logs, bank statements, credit card processing statements, inventory records, tax records, lease agreements, supplier lists, supplier agreements, policies and procedures, and examination of all financial books and records held by the licensee in the normal course of business.
 - (19) Intentional or negligent diversion of cannabis to minors, or failure to secure and safeguard cannabis from minors.
- (B) The Permitting Authority's denial of any type of license application (original or renewal) or revocation of a license is a final action that is not subject to any further administrative remedy. The only legal remedy available to appeal the Permitting Authority's action is to file a petition for writ of mandate in the superior court under California Code of Civil Procedure section 1085. If an application for an original or renewal license is denied, or if a license is revoked, all commercial cannabis cultivation on the parcel shall cease immediately, subject to the Permitting Authority's discretion to allow operations to continue for a brief period of time to complete miscellaneous wind-down operations.
 - (C) Under no circumstances shall a cause of action for monetary damages be allowed against the County of Nevada, the Permitting Authority, or any County official or employee as a result of a denial or a revocation of a license. By applying for a license, the applicant and owners associated with a non-retail Commercial Cannabis business waive any and all claims for monetary damages against the County, the Licensing Authority, and all other officials and employees of the County of Nevada that may be associated with the denial or revocation of a license.
 - (D) In addition to the authority of the Permitting Authority to revoke any license pursuant to this Article, the Permitting Authority may also elect to pursue one or more of those alternatives set forth in section **** of this Code to address violations of this Chapter, including any of the provisions set forth in Section ****. It shall be a separate offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of this Authority is committed, continued or permitted.
 - (E) Notwithstanding the limitations on civil penalties set forth in ****, civil penalties for violation of this Article of shall be assessed as follows:
 - (1) A fine equal to three times the total of the permit fees per violation; or

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- (2) A fine \$1,000 per violation per day, whichever is greater.
- (3) In any event, the maximum annual penalty per violation per year is \$25,000.
- (F) Whenever a Notice of Violation is issued by the Permitting Authority under section *** for violation of a provision of this Article, the violator shall be provided with seven (7) calendar days from notice of the violation to correct the violation before the imposition of civil penalties are assessed under section ***** of this Code.

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Sec. 1.9 Notice to Abate Unlawful Cannabis Activities

Whenever the Enforcing Officer determines that a public nuisance as described in this Article exists on any Premises within the unincorporated area of Nevada County, he or she is authorized to notify the owner(s) and/or occupant(s) of the Premises, through issuance of a “Notice to Abate Unlawful Cannabis Cultivation”; provided, however, that nothing in this Article shall affect or preclude the Sheriff, or other Enforcing Officer, from taking immediate abatement action without notice of any Cannabis which is Cultivated, possessed, or distributed in violation of state law or when Cannabis Cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in Sections ** through ** would not result in abatement of that nuisance within a short enough time period to avoid that threat. (Ord. 2416, 7/26/16)

This process is in addition to and not exclusive of the permit revocation/denial process set forth in ****. In addition to any procedures set forth in this ordinance, a finding of non-compliance with this ordinance will result in a report of said non-compliance to the State of California licensing authorities, local, state and federal law enforcement agencies and local, state and federal prosecuting.

Sec. 1.10 Contents of Notice

The Notice of Abatement set forth in Section ** shall be in writing and shall:

- A. Identify the owner(s) of the Parcel upon which the nuisance exists, as named in the records of the County Assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.
- B. Describe the location of such Parcel by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.
- C. Identify such Parcel by reference to the Assessor’s Parcel Number.
- D. Contain a statement that unlawful Cannabis Cultivation exists on the Parcel and that it has been determined by the Enforcing Officer to be a public nuisance as described in this Article.
- E. Describe the unlawful Cannabis Cultivation that exists and the actions required to abate it.
- F. Contain a statement that the legal owner and/or occupant are required to abate the unlawful Cannabis Cultivation within five (5) business days after the date that said Notice was served.
- G. Contain a statement that, if the condition is not abated within seven (7) calendar days from the issuance of this Notice, Administrative and Civil Penalties will begin to accrue on the eighth (8th) calendar day.
- H. Contain a statement that the legal owner or occupant may, within five (5) business days after the date that said Notice was served, make a request in writing to the Clerk of the Board of Supervisors for a hearing to appeal the determination of the Enforcing Officer that the conditions existing constitute a public nuisance, or to show other cause why those conditions should not be abated in accordance with the Notice and the provisions of this Article.
- I. Contain a statement that, unless the legal owner or occupant abates the unlawful Cannabis Cultivation, or requests a hearing before the Board of Supervisors or its designee, within the time prescribed in the Notice, the Enforcing Officer will abate the nuisance at the legal owner and/or occupant’s expense. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll. (Ord. 2416, 7/26/16)

Sec. 1.11 Service of Notice to Abate

The Notice set forth in Sections ** and ** shall be served in the following manner:

- A. By delivering it personally to the legal owner of the Parcel and to the occupant, or by mailing it by regular United States mail, together with a certificate of mailing, to the occupant of the Parcel at the address thereof, and to any non-occupying legal owner at his or her address as it appears on the last equalized assessment roll, except that:
 - 1. If the records of the County Assessor show that the ownership has changed since the last equalized assessment roll was completed, the Notice shall also be mailed to the new owner at his or her address as it appears in said records, or
 - 2. In the event that, after reasonable effort, the Enforcing Officer is unable to serve the Notice as set forth above, service shall be accomplished by posting a copy of the Notice on the Parcel upon which the nuisance exists as follows: Copies of the Notice shall be posted along the frontage of the subject Parcel, and at such other locations on the Parcel reasonably likely to provide notice to the owner and any person known by the Enforcing Officer to be in possession of the Parcel. In no event shall fewer than two (2) copies of the Notice be posted on a Parcel pursuant to this section.
- B. The date of service is deemed to be the date of personal delivery, posting, or upon deposit in the U.S. mail. (Ord. 2416, 7/26/16)

Sec. 1.12 Administrative Review

- A. The Board of Supervisors delegates the responsibility to conduct a hearing in conformance with this Article to a Hearing Officer(s).
- B. Any person upon whom a Notice to Abate Unlawful Cannabis Cultivation has been served may appeal the determination of the Enforcing Officer that the conditions set forth in the Notice to Abate constitute a public nuisance to the Hearing Officer(s) or may show cause before the Hearing Officer(s) why those conditions should not be abated in accordance with the provisions of this Article. Any such administrative review shall be commenced by filing a written request for a hearing with the Clerk of the Board of Supervisors within five (5) business days after the date that said Notice to Abate was served. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived. In the absence of a timely filed appeal by way of written request for a hearing that complies fully with the requirements of this Section, the findings of the Enforcing Officer contained in the Notice to Abate shall become final and conclusive on the sixth business day following service of the Notice to Abate. The request for a hearing and appeal shall not be deemed complete and shall not be considered unless it specifies why the cannabis cultivation that is subject to abatement in the Notice to Abate Unlawful Cannabis Cultivation is not in violation of this Article.
- C. Upon timely receipt of a written request for hearing which complies with the requirements of this Section, the Clerk of the Board of Supervisors shall set a hearing date not less than five (5) calendar days or more than twenty (20) calendar days from the date the request was filed. The Clerk of the Board shall send written notice of the hearing date to the requesting party, to any other parties upon whom the Notice to Abate was served, and to the Enforcing Officer. Continuances of the hearing will only be granted on a showing of good cause. Unavailability of an attorney does not constitute "good cause."
- D. Any hearing conducted pursuant to this Article need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- E. The Hearing Officer(s) may continue the administrative hearing from time to time based on showing of good cause as stated above. Unavailability of an attorney does not constitute "good cause."

- F. The Hearing Officer(s) shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the Notice to Abate Unlawful Cannabis Cultivation. The Hearing Officer(s) shall issue a written decision, which shall include findings relating to the existence or nonexistence of the alleged unlawful Cannabis Cultivation at the time the violation was served, findings concerning the propriety and means of abatement of the conditions set forth in the Notice, and whether or not any abatement efforts were made at all after notice of the violation was served. The Hearing Officer(s) shall also determine whether or not the owner(s) had actual knowledge of the unlawful Cannabis Cultivation, or could have acquired such knowledge through the exercise of reasonable diligence. The decision shall be personally served immediately following the hearing, upon the party requesting the hearing, any other parties upon whom the Notice was served, and the Enforcing Officer if the decision is made at the time of the hearing. In the event the Hearing Officer(s) takes the matter under submission, the written findings will be mailed to the parties.
- G. The decision of the Hearing Officer(s) shall be final and conclusive. (Ord. 2416, 7/26/16)

Sec. 1.13 Liability for Costs

- A. In any enforcement action brought pursuant to this Article, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the unlawful Cannabis Cultivation to exist shall be liable for all costs incurred by the County, including, but not limited to, costs, attorneys' fees and administrative civil penalties, including any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this Article, whether those costs are incurred prior to, during, or following enactment of this Article.
- B. In any action by the Enforcing Officer to abate unlawful cannabis cultivation under this Article, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorneys' fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the County elects, at the initiation of that action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding.
- C. Administrative Civil Penalties.
 - 1. In addition to any other remedy prescribed in this chapter, any nuisance as described in this chapter may be subject to an administrative penalty. The administrative penalty may be imposed via the administrative process set forth in this section, as provided by Government Code Section 53069.4, or may be imposed by the court if the violation requires court enforcement without an administrative process.
 - 2. Acts, omissions, or conditions in violation of this chapter that continue to exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the date of service of the Notice of Violation and the effective date are separate violations.
 - 3. In addition to the afore-stated attorneys' fees and costs associated with abatement proceedings, any owner and/or occupant of a property on which Cannabis is being cultivated in violation of this Article or any other regulation related to Cannabis Cultivation will be subject to the imposition of administrative civil penalties as follows:
 - a. A fine equal to three times the total of the permit fees per violation; or
 - b. A fine \$1,000 per violation per day, whichever is greater.
 - c. In any event, the maximum annual penalty per violation per year is \$25,000.

- d. These administrative penalties will begin to accrue on the date 8th day after the Notice of Violation and Proposed Administrative Penalty is served and will continue to accrue until the nuisance is abated to the satisfaction of the Enforcing Officer or as otherwise directed by a Hearing Officer presiding over any hearing regarding abatement of the nuisance;
 - e. These amounts are separate and apart from any administrative civil penalties that may be imposed as permitted under the law for building or safety code violations;
 - f. In determining the amount of the administrative penalty to be imposed, the Enforcing Officer, Hearing Officer(s), or the court if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, extent and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation and any other matters justice may require.
 - g. Nothing in this Article precludes an Enforcing Officer(s) from conducting inspections day to day as permitted by law to determine if a violation has been abated or otherwise corrected;
4. Separate, apart from and in addition to the administrative civil penalties described in G-IV *** above, the following administrative civil penalties may be assessed for violations of any building and safety codes applicable to the Cultivation of Cannabis as follows:
- a. First citation in a 12-month period: \$100 per day/per violation that nuisance remains unabated;
 - b. Second citation in a 12-month period: \$500 per day/per violation that nuisance remains unabated;
 - c. Any violation thereafter in a 12-month period: \$1,000 per day/per violation that nuisance remains unabated;
 - d. Each violation of building and safety codes constitutes a separate violation. Each day or part of any day a nuisance exists constitutes a separate violation;
 - e. Nothing in this Article precludes an Enforcing Officer(s) from conducting inspections day to day as permitted by law to determine if a violation has been abated or otherwise corrected;
 - f. If the violation of the building and safety code is a continuing violation, the Enforcing Officer shall provide a reasonable time, not to exceed five (5) calendar days, for correction of the condition prior to the imposition of penalties. This provision allowing for time to correct the continuing violation does not apply to the administrative civil penalties imposed as a result of any violation other than a violation of the building and safety code as set forth in this subsection;
 - g. In determining the amount of the administrative penalty, the Enforcing Officer, or the court if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, extent and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation and any other matters justice may require.
5. The Enforcing Officer may commence the administrative process by issuance of a Notice of Violation and Proposed Administrative Penalty, which shall state the amount of the proposed administrative penalty, and the reasons therefor. The Notice of Violation and Proposed Administrative Penalty may be combined with a Notice to Abate Unlawful Cannabis Cultivation issued pursuant to Section *** and related provisions.
6. The Notice of Violation and Proposed Administrative Penalty shall be served by certified mail addressed to all of the following: (i) the owner of the property on which the violation exists, at the address shown on the last equalized assessment roll or as otherwise known to the Enforcing Officer; and (ii) anyone known to the enforcing officer to be in possession of, or occupying, the property subject to the Notice of Violation and Proposed Administrative Penalty,

at the street address of the property. The failure to serve any person described in this subsection shall not affect the validity of service or the validity of any penalties imposed upon any other person.

7. The Notice of Violation and Proposed Administrative Penalty shall inform the recipient of their right to request a hearing before the Board of Supervisors. If such a hearing is not requested within ten (10) calendar days after issuance of the Notice of Violation and Proposed Administrative Penalty, the proposed penalty shall become final and conclusive, and the person to whom the Notice was issued shall immediately make payment of the penalty amount to the county. If any person to whom the Notice of Proposed Penalty is issued requests a hearing before the Board of Supervisors, or the Hearing Officer to whom the board has delegated authority, in accordance with this section, the person shall be notified by first class mail, postage prepaid, when the matter has been set for hearing. Failure of the person or persons to whom the notice was issued to appear and present evidence shall constitute a failure to exhaust administrative remedies.
8. After the hearing, the Board or Hearing Officer(s) may impose, modify, or disapprove, in whole or in part, by written order, the proposed penalty set forth in the notice. The decision of the Board of Supervisors or Hearing Officer(s) shall be final and conclusive. Any order of the Board of Supervisors or Hearing Officer(s) shall become effective upon issuance thereof and shall be served by first class mail, postage prepaid, upon the appellant. Payment of an administrative penalty specified in said order shall be made to the County within twenty (20) calendar days of service of the order, unless timely appealed to the Superior Court in accordance with Government Code Section 53069.4(b).
9. Interest shall accrue on all amounts under this section from the effective date of the administrative penalty order, as set forth in this section, to the date fully paid pursuant to the laws applicable to civil money judgments.
10. Administrative civil penalties are assessed on the first day of the Notice of Violation and continue to accrue until the condition is abated. Abatement of unlawful Cannabis Cultivation prior to any hearing or appeal of a Notice to Abate Unlawful Cannabis Cultivation does not absolve the owner and/or occupant of the Premises of the obligation to pay the Administrative Civil Penalties.
11. The Board of Supervisors maintains the right to delegate authority to conduct hearings and render decisions to a Hearing Officer(s).
12. This subsection is effective and will be enforced beginning on January 1, 2017.

D. Lien.

In addition to any other legal remedy, whenever the amount of any administrative civil penalty imposed pursuant to this Article has not been satisfied in full within ninety (90) days and has not been timely appealed to the Superior Court in accordance with Government Code section 536069.4 (b), or if appealed, such appeal has been dismissed or denied, this obligation may be enforced as a lien against the real property on which the violation occurred.

1. The lien provided herein shall have no force and effect until recorded with the County Recorder. Once recorded, the administrative order shall have the force and effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure section 697.340, and may be executed as provided in the California Code of Civil Procedure sections 683.110 to 683.220, inclusive.
2. Interest shall accrue on the principal amount of the lien remaining unsatisfied pursuant to the law applicable to civil money judgments.
3. Prior to recording any such lien, the Enforcing Officer shall prepare and file with the Clerk of the Board of Supervisors a report stating the amounts due and owing.
4. The Clerk of the Board of Supervisors will fix a time, date, and place for the Board of Supervisors to consider the report and any protests or objections to it.

5. The Clerk of the Board of Supervisors shall serve the owner of the property with a hearing notice not less than ten (10) calendar days before the hearing date. The notice must set forth the amount of the delinquent administrative penalty that is due. Notice must be delivered by first class mail, postage prepaid, addressed to the owner at the address shown on the last equalized assessment roll or as otherwise known. Service by mail is effective on the date of mailing and failure of the owner to actually receive notice does not affect its validity.
 6. Any person whose real property is subject to a lien pursuant to this section may file a written protest with the Clerk of the Board of Supervisors and/or may protest orally at the Board of Supervisors meeting. Each written protest or objection must contain a description of the property in which the protesting party is interested and the grounds of such protest or objection.
 7. At the conclusion of the hearing, the Board of Supervisors will adopt a resolution confirming, discharging, or modifying the lien amount.
 8. Within thirty (30) days following the Board of Supervisors' adoption of a resolution imposing a lien, the Clerk of the Board of Supervisors will file same as a judgment lien in the Nevada County Recorder's Office.
 9. Once the County receives full payment for outstanding principal, penalties, interest and costs, the Clerk of the Board of Supervisors will either record a Notice of Satisfaction or provide the owner with a Notice of Satisfaction for recordation at the Nevada County Recorder's Office. This Notice of Satisfaction will cancel the County's lien under this Section.
 10. The lien may be foreclosed and the real party sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The County shall be entitled to its attorneys' fees and costs.
- E. Administrative penalties imposed pursuant to this Section shall also constitute a personal obligation on each person who causes, permits, maintains, conducts or otherwise suffers or allows the nuisance to exist. In the event the administrative penalties are imposed pursuant to this Section on two or more persons for the same violation, all such persons shall be jointly and severally liable for the full amount of the penalties imposed. In addition to any other remedy, the County may prosecute a civil action through the Office of the County Counsel to collect any administrative penalty imposed pursuant to this Section.
- F. The Board of Supervisors delegates the responsibility to conduct a hearing in conformance with this Article to a Hearing Officer(s). (Ord. 2416, 7/26/16)

Sec. 1.14 Abatement by Owner or Occupant

Any owner or occupant may abate the unlawful Cannabis Cultivation or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the Enforcing Officer. Abatement prior to the hearing will not absolve an owner or occupant from paying costs, fees and administrative penalties which accrued up to the date of abatement. Proof of Abatement should be provided to the Hearing Officer(s) at the time of hearing. (Ord. 2416, 7/26/16) Abatement will not preclude or forestall a report to the appropriate state agency and/or local, state law and/or federal enforcement and/or prosecuting authorities.

Sec. 1.15 Enforcement

Whenever the Enforcing Officer becomes aware that an owner or occupant has failed to abate any unlawful Cannabis Cultivation within five (5) business days of the date of service of the Notice to Abate Unlawful Cannabis Cultivation, unless timely appealed, or as of the date of the decision of the Hearing Officer(s) requiring such abatement, the Enforcing Officer may take one or more of the following actions:

- A. Enter upon the property and abate the nuisance by County personnel, or by private contractor under the direction of the Enforcing Officer. The Enforcing Officer may apply to a court of

competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary. If any part of the work is to be accomplished by private contract, that contract shall be submitted to and approved by the Board of Supervisors prior to commencement of work. Nothing herein shall be construed to require that any private contract under this Code be awarded through competitive bidding procedures where such procedures are not required by the general laws of the State of California; and/or

- B. Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance; and/or
- C. Issue administrative citations in accordance with Section L-II 5.23, et seq., of the Nevada County Land Use and Development Code; and/or
- D. Take any other legal action as may be authorized under State or local law to abate and/or enforce the provisions of this Article. (Ord. 2416, 7/26/16)

Sec. 1.16 Accounting

The Enforcing Officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the Hearing Officer(s) showing the cost of abatement, the administrative penalties, and the administrative costs and fees for each parcel. (Ord. 2416, 7/26/16)

Sec. 1.17 Notice of Hearing on Accounting; Waiver by Payment

Upon receipt of the account of the Enforcing Officer, the Sheriff's Office shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than five (5) business days after the date of mailing of the notice, the Hearing Officer(s) will meet to review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement, the administrative penalties, and the cost of administration to the Enforcing Officer prior to the time set for the hearing by the Hearing Officer(s). Unless otherwise expressly stated by the owner, payment of the cost of abatement, the administrative penalties and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable. (Ord. 2416, 7/26/16)

Sec. 1.18 Hearing on Accounting

- A. At the time fixed, the Hearing Officer shall meet to review the report of the Enforcing Officer. An owner may appear at said time and be heard on the questions whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed.
- B. The report of the Enforcing Officer shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.
- C. The Hearing Officer(s) shall also determine whether or not the property owner(s) had actual knowledge of the unlawful Cannabis Cultivation, or could have acquired such knowledge through the exercise of reasonable diligence. If it is determined at the hearing that the property owner(s) did not have actual knowledge of the unlawful Cannabis Cultivation, and could not have acquired such knowledge through the exercise of reasonable diligence, costs for the abatement shall not be assessed against such Parcel or otherwise attempted to be collected from the owner(s) of such Parcel.
- D. Failure to attend a properly noticed hearing shall constitute a waiver and the Hearing Officer shall issue an order for costs, administrative penalties and fees as requested by the Enforcing Officer at the hearing. (Ord. 2416, 7/26/16)

Sec. 1.19 Modifications

The Hearing Officer(s) shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report. (Ord. 2416, 7/26/16)

Sec. 1.20 Special Assessments and Lien

The Board of Supervisors may order that the cost of abating nuisances pursuant to this Article, the administrative penalties, and the administrative costs and fees as confirmed by the Board be placed upon the County tax roll by the County Auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to Section 25845 of the Government Code; provided, however, that the cost of abatement, the administrative penalties, and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll. The Board of Supervisors may also cause notices of abatement liens to be recorded against the respective parcels of real property pursuant to Section 25845 of the Government Code. (Ord. 2416, 7/26/16)

Sec. 1.21 Summary Abatement

Notwithstanding any other provision of this Article, when any unlawful Cannabis Cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in Sections ** through ** would not result in abatement of that nuisance within a short enough time period to avoid that threat, the Enforcing Officer may direct any officer or employee of the County to summarily abate the nuisance as permitted by law. The Enforcing Officer shall make reasonable efforts to notify the persons identified in Section ** but the formal notice and hearing procedures set forth in this Article shall not apply. The County may nevertheless recover its costs for abating that nuisance in the manner set forth in Sections ** through ** (Ord. 2416, 7/26/16)

Sec. 1.22 No Duty to Enforce

Nothing in this Article shall be construed as imposing on the Enforcing Officer or the County of Nevada any duty to issue a Notice to Abate Unlawful Cannabis Cultivation, nor to abate any unlawful Cannabis Cultivation, nor to take any other action with regard to any unlawful Cannabis Cultivation, and neither the Enforcing Officer nor the County shall be held liable for failure to issue an order to abate any unlawful Cannabis Cultivation, nor for failure to abate any unlawful Cannabis Cultivation, nor for failure to take any other action with regard to any unlawful Cannabis Cultivation.

Sec. 1.23 Reporting of Violations

Violation of this ordinance, including operating any Commercial Cannabis Activity without a valid and appropriate license from the State of California or permit from the County of Nevada, may result in permit revocation and/or denial of permit or denial of permit renewal. Any individual or entity found to be operating Commercial Cannabis Activities in violation of this ordinance, local permitting requirements, or without a valid and appropriate state license will be reported to the State of California licensing authorities, the district attorney's office, and any other local, state and/or federal enforcing and prosecuting agencies.