

**LAND USE AND DEVELOPMENT CODE  
CHAPTER II ARTICLE III SECTION 3.30  
CANNABIS CULTIVATION**

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## **A. 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.

## **B. Findings and Purpose**

1. On October 9, 2015, the State of California enacted AB 266 (codified in the Business & Professions Code, the Government Code, the Health and Safety Code, the Labor Code, and the Revenue and Taxation Code) regulating commercial cultivation of cannabis and providing a standard definition of “cannabis” that includes marijuana and certain components of cannabis plants, SB 643 (codified in the Business & Professions Code) establishing standards for the issuance of prescriptions for medical cannabis as well as a comprehensive licensing scheme, and AB 243 (codified in the Business & Professions Code, the Fish and Game Code, the Health and Safety Code, and the Water Code) regulating medical cannabis cultivation. All three bills (together, the “Medical Cannabis Regulation and Safety Act” or MCRSA) became effective on January 1, 2016.
2. In January of 2016, the Board of Supervisors passed Ordinance No. 2405 amending this Article, including provisions which banned outdoor cultivation. Also in January of 2016, Resolution 16-038 was passed authorizing the placement of Measure W on the June 2016 ballot. Measure W put amendments made to Article V, sections G-IV 5.4(C) and (E) to the vote of the people. In February of 2016, the Board of Supervisors passed Resolution 16-082 memorializing the intent of the Board to repeal the ban on outdoor cultivation and to consider and adopt other outdoor regulations if Measure W failed to pass at the next available meeting after the results of the June 7, 2016 election were certified. On June 7, 2016, Measure W failed to pass, and those results were certified on July 19, 2016. Consistent with the intent stated in Resolution 16-082, a Board of Supervisors subcommittee met with local cannabis cultivation advocates on three occasions to attempt to craft regulations to put into place while repealing the outdoor cultivation ban. Consensus was not reached. Action is necessary to uphold the commitment to repeal the outdoor cultivation ban and to adopt other regulations.
3. On November 8, 2016, California voters passed Proposition 64, known as the Adult Use of Marijuana Act (AUMA). AUMA legalized the nonmedical use and personal cultivation of up to six living cannabis plants within, or upon the grounds of, a private residence, by persons 21 years of age and older. Proposition 64 provided that a county may not ban personal indoor cultivation of up to six plants within a person’s private residence or certain accessory structures, but may reasonably regulate such indoor grows. The County desires to comply with the limited allowance for indoor personal cultivation of nonmedical cannabis as set forth in Proposition 64, while maintaining reasonable regulations regarding such cultivation activities to address the potentially significant land use, building, public safety and other impacts associated with unregulated indoor grows and to protect the public health, safety and welfare, and preserve the peace and integrity of neighborhoods within the unincorporated areas.
4. In June 2017, the Legislature enacted SB 94 (codified in the Business & Professions Code) that integrated MCRSA with AUMA to create the “Medicinal and Adult-Use Cannabis Regulation and Safety Act” (MAUCRSA). Under MAUCRSA, a single regulatory system governs the medical and adult use cannabis industry in California. Under MAUCRSA, counties may regulate or ban cultivation of marijuana within their jurisdiction. The Legislature has therefore recognized the importance of retained local control over cannabis cultivation within the County’s jurisdiction.
5. The Federal Controlled Substances Act, 21 U.S.C. sections 801, et seq., classifies cannabis as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and

that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, cannabis. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of cannabis for medical purposes.

6. The County's unique geographic and climatic conditions, which include dense forested areas receiving substantial precipitation, along with the sparse population in many areas of the County, provide conditions that are favorable to cannabis cultivation. Cannabis growers can achieve a high per-plant yield with high economic value because of the County's favorable growing conditions.
7. MAUCRSA does not provide comprehensive local regulation of cannabis cultivation. The unregulated cultivation of cannabis in the unincorporated area of Nevada County can adversely affect the health, safety, and well-being of the County and its residents.
8. Since approximately 2011, Nevada County has experienced an increase in citizen complaints regarding the odor, threats to public safety and other nuisances that cultivation sites can and have created. In May of 2012, Nevada County enacted Article 5 of the General Code setting forth comprehensive civil regulations governing the cultivation of medical cannabis within the unincorporated areas of Nevada County to address the adverse effects to the health, safety, and well-being of the County and its residents could suffer as the result of unregulated cannabis cultivation. The regulations in Article 5 have proven to be inadequate to control the negative impacts of cannabis cultivation. Since the adoption of Article 5, there has been increased cannabis cultivation through the unincorporated areas of the County in violation of the provisions of that ordinance. In addition, the graduated areas for cultivation and setback requirements based on parcel size and the complex regulations required to define cultivation areas have proven cumbersome and problematic to administer and enforce.
9. According to the Nevada County Sheriff, unregulated cannabis cultivation is occurring in residential areas, in close proximity to residences, and on vacant, unsupervised and unsecured properties. Despite existing local regulations regarding cannabis cultivation, Nevada County has continued to experience significant numbers of citizen complaints regarding odor, threats to public safety, significant increases in criminal activity, degradation of the natural environment, malodorous and disagreeable smells, and other hazards and other nuisances arising from cannabis cultivation. The revised provisions contained in this Article are intended to address these nuisances and concerns, and simplify the regulations to be more readily understood by those affected and improve the enforcement process, and to more effectively control the adverse impacts associated with cannabis cultivation as stated herein, while accommodating the desires of qualified patients and their primary caregivers.
10. Nevada County and other public entities have reported other adverse impacts from cannabis cultivation, including but not limited to increased risks of criminal activity, acts of violence in connection with attempts to protect or steal cannabis grows, degradation of the natural environment, unsanitary conditions, violations of building codes, malodorous and disagreeable odors, and negative effects on physical, mental and community health. The creation of persistent strong odors as cannabis plants mature and flower is offensive to many people, results in complaints of respiratory problems, and creates an attractive nuisance, alerting persons to the location of valuable cannabis plants and creating an increased risk of crime. Cultivation sites have been the subject of serious criminal activity and associated violence including armed robberies, assault, battery, home invasion robberies, homicides and burglaries. An increasing number of sites are very visible to, and easily accessible by, the public, including children and youth. To protect the cannabis, some of these cultivation sites use aggressive and vicious dogs, booby-trap devices and persons with weapons that threaten severe bodily harm or death to those who attempt to access the site. Left unregulated, cultivation sites also result in loitering, increased traffic, noise, environmental health issues, unreasonable odors and other public nuisances that are harmful to the public health, safety and welfare of the surrounding community and its residents. Current

regulations have not sufficiently curtailed this activity, requiring additional regulations to protect the health and safety of the community and its residents.

11. The indoor cultivation of substantial amounts of cannabis within a residence presents potential health and safety risks to those living in the residence, especially to children, including, but not limited to, increased risk of fire from grow light systems and improper electrical wiring, exposure to fertilizers, pesticides, anti-fungus/mold agents, and exposure to potential property crimes targeting the residence.
12. Cultivation of any amount of cannabis at locations or premises within 1,000 feet of a school, church, park, child or day care center, or youth-oriented facility creates unique risks that the cannabis plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with cannabis cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of cannabis in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the cannabis.
13. As recognized by the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Cannabis Grown for Medical Use, the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime. In addition, the indoor cultivation of cannabis without compliance with basic building code requirements creates increased risks of electrical fire, mold, mildew, plumbing issues and other damage to persons and property.
14. Comprehensive regulation of premises used for cannabis cultivation is proper and necessary to address the risks and adverse impacts as stated herein, that are especially significant if the amount of cannabis cultivated on a single premises is not regulated and substantial amounts of cannabis are thereby allowed to be concentrated in one place. In Nevada County, the typical outdoor growing season for Cannabis is approximately April through September of each year. Surrounding counties have adopted restrictions and, in some cases, bans on the cultivation of cannabis in their jurisdictions. Nevada County continues to encounter increasing numbers of Cannabis Cultivation sites of increasing sizes, in locations which conflict with the provisions of this Ordinance and operate in manners which create public nuisance to the surrounding community and its residents. There is an immediate need to provide certainty and guidance to those who might choose to cultivate cannabis in Nevada County and to preserve the public peace, health and safety of Nevada County residents by regulating and addressing the public nuisances associated with cannabis cultivation.
15. It is the purpose and intent of this Article to implement State law by regulating the cultivation of cannabis in a manner consistent with State law. It is also the intent of this Article to balance the needs of medical patients and their caregivers and to promote the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Nevada. This Article is intended to be consistent with State law. The intent and purpose of this Article is to establish reasonable regulations regarding the manner in which cannabis may be cultivated, including restrictions on the amount and location of cannabis that may be cultivated on any premises, in order to protect the public health, safety, and welfare in Nevada County, and to address the adverse impacts previous local regulations have failed to curtail.
16. The limited right of qualified patients and their primary caregivers under State law to cultivate cannabis plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Article, the County will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of cannabis in the unincorporated area of Nevada County.
17. Nothing in this Article shall be construed to allow any activity relating to the cultivation, distribution, processing, storage, transportation or consumption of cannabis that is otherwise illegal under State or Federal law. No provision of this Article shall be deemed to be a defense or immunity to any action brought against any person in Nevada County by the

Nevada County District Attorney, the Attorney General of the State of California, or the United States of America.

18. On (DATE), the Nevada County Board of Supervisors reviewed and approved Resolution (XXXX) adopting the Nevada County Commercial Cannabis Cultivation Environmental Impact Report (EIR) providing detailed information about the environmental impacts related to cannabis cultivation activities as well as mitigation measures regarding cannabis cultivation activities in the County of Nevada.

### C. Definitions

As used herein the following definitions shall apply:

1. "Accessory Structure" means a separate and legally permitted building or structure located on the same 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. Notwithstanding the foregoing, an Accessory Structure may include an attached structure, 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.
2. "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.
3. "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.
4. "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 any permit received pursuant to this ordinance.
5. "Childcare Center" means any licensed childcare center, daycare center (including small family), childcare home, or any preschool.
6. "Church" means a structure or lease portion of a structure, which is used primarily for religious worship and related religious activities.
7. "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 its Business & Professions Code, Code of Regulations, Government Code, Health and Safety Code, Labor Code and Revenue and Taxation Code, as may be amended from time to time.

8. "Commercial Cannabis Cultivation" means Cultivation of Medical Cannabis only, excluding Cultivation of no more than six (6) plants for Personal Use consistent with state law, and Cultivation of Industrial Hemp.
9. "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 Hemp plants or any part thereof in any location, Indoor or Outdoor, including from within a fully enclosed and secure building.
10. "Daycare Center" means resident or non-resident-based daycare services for over 14 children including resident children, under the age of ten (10) years old, if located within a residence, or as provided for in the Health and Safety Code section 1596.76 or as amended.
11. "Daycare, 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 ten (10) years old, or as provided for in Health and Safety Code section 1596.78(c), or as amended.
12. "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 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.
13. "Enforcing Officer" means the Community Development Agency Director, Code Compliance Program Manager, Building Department Director, Environmental Health Director, Sheriff, Fire Authority, or their respective authorized designees, or any other official authorized to enforce local, state or federal laws.
14. "Fire Authority" means the CAL Fire unit chief, Fire Marshal, or the Fire Chief of any local fire protection district located in whole or in part within the County of Nevada, and all chief officers, Office of Emergency Services staff, contractors or designees, company officers and trained prevention staff as may be designated by a Fire Chief to enforce the provisions of this Article.
15. "Habitable Space" means space intended for or which is used for habitation by humans or which is occupied by humans.
16. "Hazardous Materials" means any hazardous material as defined in California Health and Safety Code section 25501, as may be amended.
17. "Hearing Body" means a body designated by the Board of Supervisors to conduct administrative hearings as provided in Section L-II 5.23 of this Chapter.
18. "Identification card" shall have the same definition as California Health and Safety Code Section 11362.7, as may be amended.
19. "Immature Plant" means a cannabis plant which is not flowering.
20. "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.
21. "Industrial Hemp" or "Hemp" means the hemp crop as defined in Health and Safety Code section 11018.5.

22. "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 Permitting Authority 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.
23. "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.
24. "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.
25. "Non-Remunerative Cultivation" means the Cultivation of Medical Cannabis only by a Primary Caregiver on behalf of a Qualified Patient for no monetary compensation except for actual expenses as allowed by Health and Safety Code section 11362.765(c). Non-remunerative Cultivation must comply with all Commercial Cannabis Cultivation regulations.
26. "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.
27. "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).
28. "Parks" means private and public parks, playgrounds, play lots, athletic fields, tennis courts, public outdoor gathering area, recreational area, restrooms and similar facilities.
29. "Permitting Authority" means the Community Development Agency Director, Fire Authority, Building Director, Planning Director, Environmental Health Director, Code Compliance Program Manager, and/or Fire Authority and/or their designee(s).
30. "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.
31. "Premises" refers to the site where Cultivation occurs, and includes at least one legal Parcel but may include multiple Parcels if such Parcels are under common ownership or control and at least one Parcel contains a legally permitted and occupied Primary Place of Residence.
32. "Primary Caregiver" shall have the definition set forth in Health and Safety Code section 11362.7(d), as may be amended.
33. "Primary Place of Residence" shall mean the Residence at which an individual resides, uses or otherwise occupies on a full-time, regular basis.
34. "Qualified Patient" shall have the definition as set forth in Health and Safety Code sections 11362.7(c) and (f), as may be amended.

35. "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.
36. "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.
37. "Sensitive Site" means a School, Church, Park, Child or Day Care Center, or Youth-Oriented Facility.
38. "Sheriff" or "Sheriff's Office" means the Nevada County Sheriff's Office or the authorized representatives thereof.
39. "Support Area" means an area associated with immature plants, drying, curing, grading, trimming, rolling, storing, packaging, and labeling of non-manufactured cannabis products.
40. "Transport" means the movement of Cannabis by a person or entity holding a Distributor Transport Only (Self-Transport) license from the State of California to transport its own Cannabis off its own Cultivation site.
41. "Violator" means any person or entity who causes, permits, maintains, conducts or otherwise suffers or allows a violation of this Article and/or a nuisance to exist, including but not limited to the owner(s) of the Parcel or Premises, the occupant(s) if other than the owner(s), the holder(s) of any permit obtained pursuant to this Article, any Designated Responsible Party, and/or any person or entity who causes a public nuisance as described in Section D of this Article, including any person or entity who causes such nuisance on property owned by another.
42. "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.

#### **D. Nuisance Declared; Cultivation Restrictions**

1. Cannabis Cultivation, 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, any permit issued pursuant to 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 Cannabis Cultivation hereby declared to be a public nuisance. No person owning, leasing, occupying, or having charge or possession of any Parcel or Premises within the County shall cause, allow, suffer, or permit such Parcel or Premises to be used for Cannabis Cultivation in violation of the California Health and Safety Code or this Article.
2. 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.
3. Cannabis Cultivation is hereby prohibited and declared a nuisance pursuant to this Article, except that Cannabis Cultivation may be undertaken in accordance with this Article as follows:

- a. On Premises improved with a permanent, occupied, legally permitted Residence.
  - b. Only by an individual or entity who engages in Commercial Cannabis Cultivation for medical purposes or Cultivation of Industrial Hemp, and in accordance with state and local law.
  - c. By an individual for Personal Use in accordance with Subsection E below and in accordance with state and local law.
4. Indoor and Mixed-Light Cannabis Cultivation may occur only within a permitted Accessory Structure that meets the requirements of this Article 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 may be used for Commercial Cannabis Cultivation if meeting all requirements of the Nevada County Land Use and Development Code for that specific structure. Notwithstanding the above, Cannabis Cultivation for Personal Use may occur inside a private residence, but not in bedrooms or kitchens.
5. Cultivation of Cannabis is prohibited on any Premises located within the following areas:
- a. Upon any Premises located within 1,000 feet of any Sensitive Site. This setback is measured from the edges of the designated Canopy Area and from any Support Area to the property line of the Sensitive Site.
  - b. 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.
  - c. Within any setback area required by this Article.
6. All Cannabis Cultivation areas shall comply with the following requirements:
- a. All Cannabis Cultivation Premises 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.
  - b. 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. Cannabis Cultivation shall not subject residents of neighboring parcels who are of normal sensitivity to reasonably objectionable odors.
  - c. 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 or their authorized agent. The collective draw from all electrical appliances on the Premises shall not exceed the maximum rating of the approved electrical panel for the Parcel. Electrical utilities shall be supplied by a commercial power source. If generators are used for emergency purposes as approved by the Enforcing Officer all generators shall be located in containment sheds while in use to reduce generator noise to no greater than 50dB as measured at 100 feet from any sensitive habitat or known sensitive species. This would be an annual requirement and verified yearly when the ACP is renewed. If conformance is not shown, the permit shall be denied or the held in abeyance until the project infraction is brought into conformance with this Article.
  - d. Cultivation of Cannabis indoors 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.

- e. All structure and site utilities (plumbing, electrical and mechanical) shall comply with the California Building Standards Codes as adopted by the County of Nevada.
  - f. All lights used for Cannabis Cultivation 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 Premises, and shall comply with the requirements of Section L-II 4.2.8.D. of this Chapter. Lights are not permitted to be detectable during the nighttime hours. If lights are to be used during nighttime hours, black out or light barriers must be used to ensure no light is visible during nighttime hours.
  - g. Noise levels generated by Cultivation shall not exceed the standards set forth in Table L-II 4.1.7 (Exterior Noise Limits) of this Chapter applicable to the Land Use Category and Zoning District for the Premises on which the Cultivation occurs.
  - h. If the person(s) engaging in Cannabis Cultivation is/are not the legal owner(s) of the Parcel, the person(s) who is engaging in Cannabis Cultivation on such Parcel shall: (a) give written notice to the legal owner(s) of the Parcel prior to commencing Cannabis Cultivation 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 Commercial 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.
  - i. The use of Hazardous Materials shall be prohibited in Cannabis Cultivation 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 from water sources in accordance with Nevada County Land Use and Development Code Chapter X. The production of any Hazardous Waste as part of the Cultivation process shall be prohibited.
  - j. All Premises used for Cannabis Cultivation shall have a legal and permitted water source and shall not engage in unlawful or unpermitted drawing of surface water or permit illegal discharges of water. For purposes of engaging in Cannabis Cultivation pursuant to this Article, water delivery is prohibited.
  - k. All Premises used for Cannabis Cultivation shall have a legal and permitted sewage disposal system and shall not engage in unlawful or unpermitted drawing of surface water or permit illegal discharges of water.
7. Accessory Structures used for the Cannabis Cultivation shall meet all of the following criteria:
- a. 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. Agricultural structures constructed in compliance with the Nevada County Land Use and Development Code may be used for commercial cannabis cultivation that obtain a letter

of exemption issued by the Nevada County Chief Building Official or their approved designee that meet all requirements to receive a letter of agricultural exemption.

- b. 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.
  - c. Accessory Structures shall not be served by temporary extension cords. All electrical shall be permitted and permanently installed.
  - d. Accessory Structures used for Indoor Cultivation 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 Premises, or on adjacent Parcels.
  - e. Any structure used for Indoor Cultivation 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, polycarbonate panels, 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.
8. 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.
  9. Nothing herein shall limit the ability of the Enforcing Officer 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.
  10. All Canopy Areas and Support 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 site. The Cultivation site shall also be developed so it is not visible from a public right of way.
  11. 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.

## **E. Personal Use Cannabis Cultivation**

All Cultivation of Cannabis for Personal Use must conform to the regulations and requirements set forth in Section D, above, in addition to the following regulations and requirements.

Personal Use Cannabis Cultivation is allowed as follows:

1. For Personal Use only, Cannabis Cultivation may occur only on a Parcel or Premises with an occupied legally permitted Primary Place of Residence and only in the following zones:
  - a. R-1, R-2, R-3 and R-A (Residential Designation) on Parcels of any size:
    - Indoors: Maximum of six (6) plants, mature or immature.
    - Mixed Light, or Outdoors: Cultivation is prohibited.
  - b. 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 six (6) plants, mature or immature.

c. AG, AE, FR, and TPZ:

Parcels of equal to or less than 1.99 acres:

Indoors: a maximum of six (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 six (6) plants, mature or immature.

2. The following setbacks apply to all Cannabis Cultivation sites regardless of purpose or Cultivation method:
  - a. For all Premises: 100 linear feet measured from the edge of the Canopy Area to the adjacent property lines.
  - b. For all Premises: 100 linear feet measured from the edge of any Support Area to the adjacent property lines.
  - c. 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.

## F. Commercial Cannabis Cultivation

Except as explicitly allowed in this Section, Commercial Cannabis Activities are prohibited. All Commercial Cannabis Activities must conform to the regulations and requirements set forth in Subsection D, above, in addition to the following regulations and requirements:

Commercial Cannabis Cultivation is permitted as follows:

1. Commercial Cannabis Cultivation may occur only on Premises with an occupied legally permitted Primary Place of Residence, and only in zones as set forth as follows:
  - a. R-1, R-2, R-3 and R-A (Regardless of General Code Designation) and TPZ:

Commercial Cannabis Cultivation is prohibited.
  - b. 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.

2. The six (6) plants permitted to be Cultivated on any Premises for Personal Use in accordance with this Article and state law may be Cultivated in addition to the amounts allowed for Commercial Cannabis Cultivation by this Article.
3. Commercial Cannabis may be Cultivated on Premises with multiple Parcels only if there is direct access from one Parcel to the other. The total Canopy Area shall not exceed that allowed area based on the largest of the Parcel sizes. The total Canopy Area shall not exceed the area of the Parcel used for Cultivation. The total Canopy Area and any Support Area must comply with all setback requirements and may not straddle any Parcel boundary. This provision does not prohibit, for example, location of one Canopy Area on one Parcel and another Canopy Area on an adjacent Parcel as long as setback, total square footage, and other requirements of this Article are met.
4. 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.
5. The holder of an Annual Cannabis Permit for Commercial Cannabis Cultivation or for Non-Remuneration Cultivation in Nevada County may also Transport its own Cannabis from its licensed and permitted Premises to the extent allowed by the permit holder's State license and State law without obtaining an additional permit from Nevada County. The permit from Nevada County, however, must indicate that such Transport is specifically allowed. In order to engage in Transport of Cannabis or Cannabis products, the permit holder must provide the County with 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 2, section 5315, allowing for Transport of Cannabis from the Cultivation site as long as 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. Notwithstanding the foregoing, this provision does not authorize the holder of an ACP to Transport Cannabis away from the Cultivation sites of other permit holders.
6. 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.
7. A maximum of three (3) Cultivation permits 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 three (3) Commercial Cannabis businesses and/or enterprises in Nevada County.
8. A Primary Caregiver may cultivate no more than five hundred (500) square feet of Canopy per Qualified Patient for up to five (5) specified Qualified Patients for whom he or she is the Primary Caregiver within the meaning of Section 11362.7 of the Health and Safety Code, if said Primary 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 Cannabis Cultivation under this Article.
9. Cannabis Support Areas are limited to a maximum area equal to 25% of the overall Canopy Area. The Support Area boundary shall be clearly identified on any plans that are submitted and on the Premises.

## **G. 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-step process. One must obtain both a land use permit (either a CCP or an ADP) and an Annual Cannabis Permit. The Permitting Authority may issue permits to Applicants meeting the requirements of this Section G and this Article.

1. Cannabis Cultivation Permit (CCP) requirements are as follows:
  - a. Canopy sizes of a combined total of up to 2,500 sq. feet (Indoors, Mixed-Light or Outdoors) on the Premises.
  - b. Compliance with all local CCP permitting requirements is necessary.
  - c. CCPs are not transferrable or assignable to any other person, entity or property.
  - d. Applicant must provide the following as part of their application for a CCP:
    - i. A complete application.
    - ii. 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.
    - iii. Copy of identification acceptable to County, including but not limited to driver's license or passport.
    - iv. All CCP permits are subject to all of the resource protection standards identified in Section L-II 4.3.3 of this Chapter.
    - v. A detailed site plan setting forth the intended location of the Canopy Area and any Support Area, detailed description of intended activities, setbacks, descriptions of existing and proposed structures and any other information required to show compliance with this Article. In addition the site plan shall include:
      - a) All landmark trees, landmark groves and heritage trees and groves as defined by the Zoning Ordinance. If such trees exist, the applicant shall indicate that the proposed cultivation sites and any proposed ancillary structures would not require removal of any of the listed trees and that all cannabis cultivation and accessory structures are outside the existing drip line of all trees. If any Cultivation or accessory structure would require removal or encroach in the drip line of any trees and the project plans shall be revised to avoid the trees. If any trees or groves are dead, dying, or a public safety hazard as determined by a qualified professional, no further action is required.
      - b) All Prime Farmland, Unique Farmland, or Farmland of Statewide Importance based on the most recent available mapping provided by the California Department of Conservation (CDOC) Farmland Mapping & Monitoring Program (FMMP) that exist on the project site. If such lands exist, the applicant shall show on the site plan(s) that any proposed accessory structure and related improvements (e.g., driveways, staging areas, etc.) have been located on the property in which impacts to mapped farmlands are reduced to the maximum extent practicable. A Management Plan pursuant to LUDC section L-II 4.3.3 shall be required if any cultivation activities or structures encroach into mapped farmland.
    - vi. Irrigation water service verification.
    - vii. Sewer/septic service verification.
    - viii. Electrical service verification.
    - ix. A security plan.
    - x. A light control plan that demonstrates how light used for cultivation purposes would be controlled. Light control measures may include but not be limited to means such as using blackout tarps to completely cover all greenhouses and hoop-houses or restricting the use of lighting between sunset and sunrise.

- xi. All Commercial Cannabis Cultivation applications shall include language in project cultivation plans and on project site plans when applicable, that the grading or building permit for the proposed project shall comply with applicable state and federal air pollution control laws and regulations, and with applicable rules and regulations of the NSAQMD during any construction and during operations of cannabis facilities. Compliance with NSAQMD Rule 226 Dust Control Plan shall be required, and all construction equipment (75 horsepower and greater) shall not be less than Tier 3, less than Tier 4 Interim if construction starts after 2025, and Tier 4 Final if construction starts after 2030. Written documentation that the cannabis facility is in compliance with the NSAQMD shall be provided to the Nevada County Planning Department.
- xii. All Commercial Cannabis Cultivation and Non-Remuneration Cultivation operations are restricted from burning any cannabis or other vegetative materials. The following language shall be included on all site plans: "The burning of any part of the cannabis plant or plant materials that is considered excess or waste is prohibited from being burned."
- xiii. All applications shall include biological pre-screening materials. The materials shall include adequate information to define site constraints and show potentially sensitive biological resource areas. Materials shall include, at a minimum, project location (site address and parcel numbers); site aerials, photographs of proposed areas of disturbance (includes canopy area, accessory structures, and any related improvements [e.g., driveways, staging areas, etc.]), photographs of vegetative cover, a thorough project description describing all phases of construction, all proposed structures and cultivation areas, location of any streams, rivers, or other water bodies, limits and depth of grading, any grading cut or fill in a stream, river, or other water body, any water diversions and/or description of the source of water, water storage locations, and source of electricity (if applicable). If avoidance or protection measures are required, a Habitat Management Plan (HMP) consistent with the requirements of Section L-II 4.3.3 of the Nevada County Land Use and Development Code shall be prepared. If potential impacts on these biological resources cannot be reduced to less than significant levels, no permit shall be issued.
- xiv. Applications shall include a Non-Confidential Records Search to NCIC to determine the potential for Commercial Cannabis Cultivation sites to disturb historic, cultural, or tribal resources. Upon receipt, should the County find the NCIC recommends a cultural resource study, the applicant shall retain a qualified professional to conduct a cultural resource study of the project area. No permit shall be issued until the completion of such report, and if needed, until recommended mitigation is implemented, or a plan has been submitted to the County for implementation.
- xv. All applications that include ground disturbance shall include a note on the plans that if subsurface archeological and/or paleontological features or unique geologic features are discovered during construction or ground disturbance, all activities within 50-feet of the find shall cease and the County shall be notified immediately. A qualified archaeologist/paleontologist shall be retained by the County to assess the find and shall have the authority to prescribe all appropriate protection measures to future work. If buried human remains are discovered during construction or ground disturbance, all activities shall cease and the County shall be notified immediately. The County shall notify the coroner to examine the remains. If the remains are determined to be of Native American origin, the Native American Heritage Commission shall be notified, and all sections details in Section 5097.98 of the California Public Resources Code shall be followed.
- xvi. Copy of Deed to Property indicating applicant ownership.
- xvii. Acknowledgement of standards set forth in ordinance.

- xviii. Copy of valid state license application allowing for type of Commercial Cannabis Activity applied for (if available).
  - xix. Lease information.
  - xx. Payment of applicable fees.
  - xxi. Provide proof of purchase of a Certificate of Deposit from a commercial banking institution approved by the Enforcing Officer in the amount of \$5,000.00 which may be accessed by County of Nevada.
  - xxii. A valid email address and acknowledgement that the applicant agrees to accept service of any notice required or allowed by this Article via email.
- e. Applicant must allow for right of entry and inspections to ensure permit eligibility and compliance.
  - f. Secondary Access and Dead End Road Requirement Exemption:
  - g. 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 and that the general public will not have access to the Premises.
  - h. Applicant shall obtain and keep a valid and active ACP for the CCP to remain active. If an ACP is not obtained within six months of issuance of the CCP, or if the ACP is revoked or denied renewal, the County may take any actions allowed by this Article or by law to revoke the CCP.
2. Administrative Development Permit (ADP) requirements are as follows:
- a. Canopy sizes of a combined total of 2,501-10,000 sq. feet (Indoors, Mixed-Light or Outdoors on the Premises).
  - b. Compliance with all ADP permitting requirements is necessary.
  - c. ADPs are not transferrable or assignable to any other person, entity or property.
  - d. Applicant must provide a complete application that contains all requirements of the CCP application listed in Section G.1.d, above.
  - e. Applicant must allow for right of entry and inspections to ensure permit eligibility and compliance.
  - f. Secondary Access and Dead End Road 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 the Premises at any given time, and that the Fire Authority approves the exemption.
  - g. Applicant shall obtain and keep a valid and active ACP for the ADP to remain active. If an ACP is not obtained within six months of issuance of the ADP, or if the ACP is revoked or denied renewal, the County may take any actions allowed by this Article or by law to revoke the ADP.
3. Annual Cannabis Permit (ACP): This permit may be issued to the individual/entity engaging in the Commercial Cannabis Activity and Non-Remuneration Cultivation.
- a. Permit for Commercial Cannabis Activities:  
Applicant must submit the following information as part of the application process:
    - i. A complete application.
    - ii. The exact location of the proposed Cannabis Activity.
    - iii. A copy of all applications of licensure submitted to the State of California related to the proposed Cannabis Activities.
    - iv. 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.
    - v. Tax identification information.

- vi. Detailed description of any law enforcement and/or code enforcement activities at the Premises proposed for the Cannabis Activities.
  - vii. Copy of identification acceptable to County, including but not limited to driver's license or passport.
  - viii. A detailed site plan setting forth the intended location of the Canopy Area and any Support Area, detailed description of intended Cannabis Activities, setbacks, descriptions of existing and proposed structures and any other aspects required to show compliance with this Article.
  - ix. Irrigation water service verification.
  - x. Sewer/septic service verification.
  - xi. Electrical service verification.
  - xii. A security plan.
  - xiii. Notarized landlord authorization to engage in activity or deed of ownership.
  - xiv. Acknowledgement of standards set forth in ordinance.
  - xv. Copy of valid state license application allowing for type of Commercial Cannabis Activity applied for (if available).
  - xvi. Lease information.
  - xvii. Payment of applicable fees as may be established and amended by the County.
  - xviii. A valid email address and acknowledgement that the applicant agrees to accept service of any notice required or allowed by this Article via email.
- b. Non-Remunerative ACP applicants must submit the following:
- i. A complete application.
  - ii. The exact location of the proposed Cultivation.
  - iii. Sufficient proof that the applicant is a Qualified Caregiver.
  - iv. Copies of valid recommendations from qualified physicians for each Qualified Individual for whom Cannabis is being Cultivated.
  - v. 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.
  - vi. Detailed description of any law enforcement and/or code enforcement activities at the Premises proposed for the Cannabis Cultivation.
  - vii. Copy of approved identification.
  - viii. A detailed site plan setting forth the intended location of the Canopy Area and any Support Area, detailed description of intended activities, setbacks, descriptions of existing and proposed structures and any other information required to show compliance with this Article.
  - ix. Irrigation water service verification.
  - x. Sewer/septic service verification.
  - xi. Electrical service verification.
  - xii. A security plan.
  - xiii. Notarized landlord authorization to engage in activity or deed of ownership.
  - xiv. Acknowledgement of standards set forth in ordinance.
  - xv. Lease information.
  - xvi. Payment of applicable fees as may be established and amended by the County.
  - xvii. A valid email address and acknowledgement that the applicant agrees to accept service of any notice required or allowed by this Article via email.
- c. Applicant must allow for right of entry and inspections to ensure permit eligibility and compliance.
- d. Secondary Access and Dead End Road Requirement Exemption:  
 Secondary access may be mitigated 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 the Premises at any given time, and that Fire Authority approves the exemption.

- e. ACPs must be renewed annually.
4. In the event that the proposed site plan does not meet the setback requirements of this Article, the applicant may propose use of an easement agreement with an adjacent property owner in order to satisfy the setback requirements (a "Setback Easement"). Setback Easements relating to Indoor, Mixed-Light and Outdoor Cultivation and Support Areas will be granted and issued at the discretion of the Permitting Authority, and only as follows:
- a. Setback Easements are intended to allow limited flexibility for purposes of compliance with setback requirements only. Except as set forth in subsections below, no Setback Easement will be considered for any other provision of this Article including, but not limited to, Canopy Area, minimum parcel size, zoning designations or methods of cultivation.
  - b. Setback Easements must comply with the following:
    - i. Setback Easement area cannot exceed 40% of the required setback.
    - ii. The majority of the burden of the setback must remain with the applicant.
    - iii. The easement must contain the following language: "This easement may be used to meet the Nevada County setback requirements to construct an Accessory Structure for the purpose of Cultivating Cannabis Indoors, Mixed-Light, or Outdoors pursuant to the Nevada County Code."
    - iv. All other legal and local requirements of a Setback Easement must be met.
  - c. The Permitting Authority 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:
    - i. the proposed site is at least 300 feet from the property line of the State or Federal Park; and
    - ii. 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 and is unimproved.

The Permitting Authority has the authority to submit the application through the Planning Commission process for approval if, in his/her discretion, such approval is appropriate.

5. Transition Period for Non-Cannabis Violations on the Premises.

The issuance of Cannabis Cultivation Permits, Administrative Development Permits, or Annual Cannabis Permits may be withheld if any violations of Nevada County Municipal Codes not related to Cannabis Activities exist on the Parcel or Premises upon which Commercial Cannabis Activities are proposed to be conducted. At the discretion of the Permitting Authority, 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 building code and other violations not related to Cannabis Activities 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 an ACP may result in the ACP not being renewed. Nothing in this provision precludes the County from proceeding to seek revocation of land use permits for failure to correct code defects. This provision does not apply to any structure, other site improvements in which Cannabis Activities will be conducted which was not previously properly permitted, or to any code violations which adversely impact health and safety, including but not limited to electrical or fire hazards. Structures, grading, and utilities 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 Article is initially adopted, after which time, no CCP or ADP will be issued for Commercial Cannabis Activities unless the Parcel and/or Premises, and all improvements thereon, are fully compliant with the Nevada County Municipal Codes.

## **H. Change in Land Use**

To the extent feasible, 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 Cultivation is permitted or where a Notice to Abate has been issued within the past year. Upon request, the Enforcing Officer shall inform any person proposing to construct or operate a new or relocated School, Church, Park, Daycare, Childcare Center, or Youth-Oriented Facility regarding whether there is such a Premises 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 that Premises that such a use is being proposed within 1000 feet of the Premises. (Ord. 2405, 1/12/16)

## **I. Denial, Suspension, and Revocation of Permits**

1. Denial – Initial Application for Any Permit.  
An application for any permit to be issued pursuant to this Article shall be denied following review of the application if the Permitting Authority determines that the applicant has not complied with the requirements of Section G of this Article or makes any of the findings listed in subsection 5 below.
2. Denial – Renewal of ACP.  
Renewal of an existing Annual Cannabis Permit shall be denied if the Permitting Authority makes any of the findings listed in Subsection 5 below.
3. Suspension of ACP.  
Prior to or instead of pursuing revocation of an ACP, the Permitting Authority may suspend an ACP for thirty (30) days if the Permitting Authority makes any of the findings listed in Subsection 5 below. The Permitting Authority shall issue a Notice of Suspension to the holder of the ACP by any of the methods listed in Section B.1. Such Notice of Suspension shall state the reason for suspension and identify what needs to be cured and corrected during the suspension period. Suspension is effective upon service as described in Section B.2. All Cannabis Activities must cease upon suspension. The Permitting Authority's decision to suspend an ACP may not be appealed. Nothing in this provision should be construed to limit the Permitting Authority's ability to revoke an ACP without suspension.
4. Revocation – ACP  
An ACP may be revoked if the Permitting Authority makes any of the findings listed in Subsection E, below. The Permitting Authority shall issue a Notice of Revocation to the holder of the ACP by any of the methods listed in Section B.1. Such Notice of Revocation shall state the reason for revocation, and that the holder of the ACP may appeal the revocation to the Hearing Body within five (5) days of service. The Hearing Body's decision on the ACP revocation is final. Any hearing requested pursuant to this Subsection I.4 may be combined with any other hearing pertaining to the same Cannabis Activities, Premises, or Parcel that is held by the Hearing Body pursuant to this Article, including an abatement hearing.
5. Revocation – CCP or ADP.  
Any CCP or ADP may be revoked following a noticed hearing if the Hearing Body makes any of the findings listed below. The Permitting Authority shall issue a Notice of Revocation at least ten (10) days before the hearing, and shall issue notice of the hearing as set forth in Section L-II 5.13. Notwithstanding the foregoing, a Notice to Abate issued pursuant to Section

J may simultaneously serve as a Notice of Revocation if such revocation is described in the Notice to Abate. Any hearing held pursuant to this Subsection 1.5 may be combined with any other hearing pertaining to the same Cannabis Activities, Premises, or Parcel that is held by the Hearing Body pursuant to this Article, including an abatement hearing. A CCP or ADP may be revoked if the Hearing Body finds that any of the following have occurred:

- a. Discovery of untrue statements submitted on a permit application.
- b. Revocation or suspension of any State license required to engage in Commercial Cannabis Activities.
- c. Previous violation by the applicant, or violation by the permittee, of any provision of the Nevada County Code or State law, including any land use permit conditions associated with the permittee's business operations.
- d. Failure to meet any of the general eligibility requirements to obtain a permit as set forth in this Article.
- e. 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 permit or any associated land use permit or other permit.
- f. 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, fire, and agricultural permits as may be required for the activity and the operations site.
- g. Violation of, or failure to comply with, any State or local law in conducting business operations, including any laws associated with the MAUCRSA.
- h. 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, or allowing any person younger than 18 years of age to enter a Cultivation site without a parent or legal guardian.
- i. Failure to contain all irrigation run-off, fertilizer, pesticides, and contaminants on-Premises.
- j. Failure to allow inspections of the Premises and business operations by the Permitting Authority, Building Official, Fire Authority, law enforcement, or Enforcing Officer at any time, with or without notice.
- k. 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 established or amended.
- l. Creation or maintenance of a public nuisance.
- m. Conviction of a criminal offense by any permit holder that would justify denial of a state license.
- n. Failure to post and maintain at the Cultivation site, in a prominent location a copy of the local permit(s) issued pursuant to this section and a copy of any State license(s) required for the activity.
- o. Failure to fully cooperate with a financial audit by the County of Nevada of any and all aspects of the permittee'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.

- p. Intentional or negligent diversion of Cannabis to minors, failure to secure and safeguard Cannabis from minors, or Transport of Cannabis not authorized by this Article or State law.
6. If an initial application or renewal permit is denied, or if a permit is revoked, all Cultivation on the parcel shall cease immediately, subject to the Permitting Authority or Hearing Body's discretion to allow operations to continue for a brief period of time to complete miscellaneous wind-down operations.
7. Under no circumstances shall a cause of action for monetary damages be allowed against the County of Nevada, the Permitting Authority, Hearing Body, or any County official or employee as a result of a denial or a revocation of a permit. By applying for a permit, the applicant and owners associated with a Commercial Cannabis Cultivation business waive any and all claims for monetary damages against the County and all other aforementioned officials and employees of the County of Nevada that may be associated with the denial or revocation of a permit.

#### **J. Enforcement; Notice to Abate Unlawful Cannabis Activities**

1. Issuance of Notice to Abate Unlawful Cannabis Activities ("Notice to Abate")

Whenever the Permitting Authority, as may be assisted by the Enforcing Officer, determines that a public nuisance as described in this Article exists on any Parcel or Premises within the unincorporated area of Nevada County, he or she is authorized to notify the Violator(s) 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 to address 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 herein would not result in abatement of that nuisance within a short enough time period to avoid that threat. (Ord. 2416, 7/26/16)

2. Costs and Administrative Civil Penalties; Cure Period

Whenever a Notice to Abate is issued, the Violator shall be provided with five (5) calendar days from date of service, as defined in Section B.1, to correct the violation before imposition of costs and/or civil penalties as set forth in Section N, below.

#### **K. Contents of Notice**

The Notice of Abatement shall be in writing and shall:

1. Identify the Violator(s), including owner(s) of the Parcel or Premises upon which the nuisance exists, as named in the records of the County Assessor; the occupant(s), if other than the owner(s), and if known or reasonably identifiable; and the holder(s) of any permit obtained pursuant to this Article, if applicable and different than the foregoing.
2. Describe the location of such Parcel or Premises 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.
3. Identify such Parcel or Premises by reference to the Assessor's Parcel Number(s).
4. Contain a statement that unlawful Cannabis Cultivation exists on the Parcel or Premises and that it has been determined by the Permitting Authority or Enforcing Officer to be a public nuisance as described in this Article.
5. Describe the unlawful Cannabis Cultivation that exists and/or any permit violations and/or any Land Use and Development Code violations, and the actions required to abate the nuisance.

6. Contain a statement that the Violator is required to abate the unlawful Cannabis Cultivation and pay any applicable administrative civil penalties within five (5) calendar days after the date that said Notice was served pursuant to Section L of this Article.
7. Contain a statement that, if the condition is not abated within five (5) calendar days from the service of this Notice, costs and administrative civil penalties in the amounts set forth in Section N will begin to accrue on the sixth (6<sup>th</sup>) calendar day following service of this Notice.
8. Contain a statement that the Violator may, within five (5) calendar days after the date that said Notice was served, make a request in writing to the Clerk of the Board of Supervisors pursuant to Section N of this Article for a hearing to appeal the determination of the Permitting Authority or Enforcing Officer or to show other cause why the conditions described in the Notice should not be abated in accordance with the Notice and the provisions of this Article.
9. Contain a statement that, unless the Violator 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 Permitting Authority or Enforcing Officer will take any or all of the following actions, as applicable: (i) revoke any permit issued pursuant to this Article, (ii) abate the nuisance at the Violator's expense, and (iii) impose costs and administrative civil penalties pursuant to this Article. If any of these actions are currently proposed, the Notice shall so state and shall state the amounts of any penalties. The Notice shall also state that any costs and/or administrative civil penalties may be imposed as 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)

**L. Service of Notice to Abate**

1. A Notice to Abate may be served by any of the following methods:
  - a. By personal service to any Violator, the owner of the Parcel or Premises, occupant of the Parcel or Premises, Designated Responsible Party, or any person appearing to be in charge or control of the affected Parcel.
  - b. By first class or certified U.S. Mail to any Violator, the owner of the Parcel or Premises, occupant of the Parcel or Premises, or Designated Responsible Party at the address shown on the last available equalized secured property tax assessment roll, or otherwise known by the Enforcing Officer.
  - c. By posting the notice in a prominent and conspicuous place on the affected Parcel or Premises or abutting public right-of-way; however, if access is denied because a common entrance to the property is restricted by a locked gate or similar impediment, the Notice may be posted at that locked gate or similar impediment.
  - d. By email to any CCP, ADP, or ACP holder; however, if service is by email, the Notice shall also be deposited in the U.S. Mail. The date of the email is the effective service date.
2. The date of service is deemed to be either the date of personal delivery, posting, email, or three calendar days following deposit in the U.S. mail. (Ord. 2416, 7/26/16)

**M. Administrative Review; Abatement Hearing**

1. The Board of Supervisors delegates the responsibility to conduct a hearing in conformance with this Article to a Hearing Body.
2. Any Violator upon whom a Notice to Abate has been served may appeal the determination of the Permitting Authority or Enforcing Officer in order to show cause before the Hearing Body why the conditions described in the Notice should not be abated in accordance with the provisions of this Article or to prove that they have been abated. Any such appeal shall be

commenced by filing a written request for a hearing with the Clerk of the Board of Supervisors within five (5) calendar days of service of the Notice to Abate as described in Section L of this Article. The written request shall be accompanied by the County's appeal fee (as may be approved by the Board of Supervisors from time to time) and payment of any administrative civil penalties identified in the Notice to Abate. The appeal shall also include a statement of all facts supporting the appeal, including why the Cannabis Cultivation that is the subject of the Notice to Abate is not in violation or is no longer in violation of this Article. 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 calendar day following service of the Notice to Abate.

3. 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 Violator, to any other parties upon whom the Notice to Abate was served, and to the Enforcing Officer and/or Permitting Authority. Continuances of the hearing will only be granted on a showing of good cause. Unavailability of an attorney does not constitute "good cause."
4. 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 in civil actions. The Hearing Body has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
5. The Hearing Body 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."
6. The Hearing Body shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the Notice to Abate. The Hearing Body 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 Notice to Abate was served, findings concerning the property and means of abatement of the conditions set forth in the Notice, whether any abatement efforts were made at all after the Notice was served, and whether imposition of any administrative civil penalties is proper. The Hearing Body may announce its decision at the hearing or take the matter under submission. In either case, a written copy of the decision shall be mailed to the Violator, any other parties upon whom the Notice was served, and the Enforcing Officer and/or Permitting Authority within ten (10) calendar days. Service of the Hearing Body's decision shall be deemed complete three (3) calendar days after mailing.
7. The decision of the Hearing Body shall be final and conclusive. Following the Hearing Body's decision, Violators may only seek judicial remedies. If the Hearing Body removes any administrative penalties already paid by the Violator prior to the hearing, Violator is entitled to reimbursement of those penalties. Failure to appear at a properly noticed hearing constitutes failure to exhaust administrative remedies.

#### **N. Liability for Costs; Administrative Civil Penalties**

1. In any enforcement action initiated by a Notice to Abate, any Violator shall be liable for all costs incurred by the County, including, but not limited to all costs and attorneys' fees as described in this Section. Any such Violator shall also be liable for any and all administrative civil penalties described in this Section.

2. For purposes of this Section, “costs” include any and all costs incurred to undertake, or to cause or compel any Violator 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. “Costs” also include direct and indirect costs related to the performance of various administrative acts required to enforce this Chapter, which include but are not limited to costs associated with: administrative overhead, County staff time and expenses incurred by County Officers, site inspections, investigations, notices, telephone contacts and correspondence, conducting hearings, time expended by County staff in calculating the above expenses, time and expenses associated with bringing the matter to hearing, costs of judicially abating a violation, and all costs associated with removing, correcting or otherwise abating any violation including calculating and imposing civil penalties pursuant to this Article.
3. For purposes of this Section, “attorneys’ fees” include any attorneys’ fees incurred by the County before and during preparation of the Notice to Abate and as a result of administrative hearing proceedings or the abatement process. In no action, administrative proceeding, or special proceeding shall an award of attorneys’ fees exceed the amount of reasonable attorneys’ fees incurred by the County in the action or proceeding.
4. Administrative Civil Penalties.
  - a. In addition to any other remedy prescribed in this Article, including liability for costs described in this Section N, the County may impose administrative civil penalties for any violation of this Article. Administrative civil penalties may be imposed via the administrative process set forth in this Article, as provided by Government Code section 53069.4, or may be imposed by the court if the violation requires court enforcement.
  - b. Acts, omissions, or conditions in violation of this Article that continue to exist, or occur on more than one day constitute separate violations on each day.
  - c. Violators are subject to the imposition of administrative civil penalties as follows:
    - i. An amount equal to three times the total of the permit fees per violation; or
    - ii. An amount equal to \$1,000 per violation per day, whichever is greater.
    - iii. In any event, the maximum annual penalty per violation per year is \$25,000.
    - iv. These administrative civil penalties will begin to accrue on the date 6<sup>th</sup> day after the Notice to Abate 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 Body presiding over any hearing regarding abatement of the nuisance.
    - v. These amounts are separate and distinct from any administrative civil penalties that may be imposed by the County for building or safety code violations as described in Subsection N.4.d, below.
    - vi. In determining the amount of the administrative civil penalty to be imposed, the Enforcing Officer, Hearing Body, or the court if the violation requires court enforcement, shall take into consideration the nature, circumstances, extent and gravity of the violation or violations, any prior history of violations, the degree of culpability, and economic savings, if any, resulting from the violation and any other matters justice may require.
    - vii. Nothing in this Article precludes an Enforcing Officer from conducting inspections day to day as permitted by law and this Article to determine if a violation has been abated or otherwise corrected.
  - d. Separate, apart from and in addition to the administrative civil penalties described in this Section, the following administrative civil penalties may be imposed for violations of any building and safety code provisions of the County’s Land Use and Development Code. Notice of any such violations may be included in a Notice to Abate issued pursuant to this

Article, and administrative civil penalties may be imposed by the Enforcing Officer and/or Hearing Body. Such violations are considered violations of this Article and are also grounds for permit revocation or denial. The administrative civil penalties issued to a Violator for violation of any building or safety code are as follows:

- i. First violation in a 12-month period: \$130 per day/per violation that nuisance remains unabated.
- ii. Second violation in a 12-month period: \$700 per day/per violation that nuisance remains unabated.
- iii. Any additional violation thereafter in a 12-month period: \$1,300 per day/per violation that nuisance remains unabated.
- iv. Each additional violation within a 24-month period of the first violation: \$2,500 per day/per violation that nuisance remains unabated if the violation is due to failure to remove visible refuse or failure to prohibit unauthorized use of the property.
- v. Each violation of building and safety codes constitutes a separate violation. Each day or part of any day a violation exists constitutes a separate violation.
- vi. Nothing in this Article precludes an Enforcing Officer from conducting inspections day to day as permitted by law and this Article to determine if a violation has been abated or otherwise corrected.
- vii. 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. Imposition of Costs and Administrative Civil Penalties.

The Enforcing Officer may impose costs and administrative civil penalties by issuance and service of a Notice to Abate, which shall state the amount of the proposed administrative penalty pursuant to Sections K and L. Following service of a Notice to Abate, imposition of costs and administrative civil penalties shall occur as follows:

- a. Imposition of costs and administrative civil penalties may be appealed to the Hearing Body. Any such appeal shall be commenced by filing a written request for a hearing with the Clerk of the Board of Supervisors within five (5) calendar days of service of the date that the Notice to Abate was served as described in Section L of this Article. The written request shall be accompanied by the County's appeal fee (as may be approved by the Board of Supervisors from time to time) and payment of any costs and administrative civil penalties identified in the Notice to Abate. The appeal shall also include a statement of all facts supporting the appeal, including why the administrative civil penalties should not be imposed. 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 and administrative civil penalties of the Enforcing Officer contained in the Notice to Abate shall become final and conclusive on the sixth calendar day following service of the Notice to Abate.
- b. Any hearing conducted pursuant to this Section shall be conducted pursuant to the process set forth in Section M. The decision of the Hearing Body is final. Nothing in this Section N shall be construed to prohibit combination of any hearing for administrative civil penalties with any other hearing required or allowed by this Article, including an abatement hearing.
- c. Payment of an administrative penalty imposed by the Hearing Body shall be made to the County within twenty (20) calendar days of service the Hearing Body's decision, unless

timely appealed to the Superior Court in accordance with Government Code section 53069.4(b).

- d. Interest shall accrue on all amounts under this Section from the effective date of imposition of the administrative civil penalty to the date fully paid pursuant to the laws applicable to civil money judgments.
- e. Abatement of unlawful Cannabis Cultivation prior to any hearing or appeal of a Notice to Abate Unlawful Cannabis Cultivation does not absolve the Violator of the obligation to pay the administrative civil penalties.

6. Lien.

In addition to any other legal remedy, whenever the amount of any costs or administrative civil penalties imposed pursuant to this Article has not been satisfied in full within ninety (90) days of service of the Notice to Abate or service of the Hearing Body's decision, whichever is later, and whenever that amount has not been timely appealed to the Superior Court in accordance with Government Code section 53069.4 (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.

- a. 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.
- b. Interest shall accrue on the principal amount of the lien remaining unsatisfied pursuant to the law applicable to civil money judgments.
- c. 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.
- d. 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.
- e. 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.
- f. 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.
- g. At the conclusion of the hearing, the Board of Supervisors will adopt a resolution confirming, discharging, or modifying the lien amount.
- h. 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.
- i. 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.

- j. The lien may be foreclosed and the real property 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.
7. Administrative penalties imposed pursuant to this Section shall also constitute a personal obligation on each Violator – that is, on each person or entity 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.
8. The Board of Supervisors delegates the responsibility to conduct a hearing in conformance with this Section E to a Hearing Body.

#### **O. Abatement by Violator**

Any Violator 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 or Hearing Body. Abatement prior to a hearing will not absolve Violator from paying costs and administrative civil penalties which accrued up to the date of abatement. Proof of abatement should be provided to the Enforcing Officer upon completion or to the Hearing Body at the time of hearing. Both the Enforcing Officer and the Hearing Body have the authority to find that abatement has occurred and that no violations of this Article continue to exist. (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.

#### **P. Failure to Abate**

Whenever the Enforcing Officer becomes aware that a Violator has failed to abate any unlawful Cannabis Cultivation within five (5) calendar 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 Body requiring such abatement, the Enforcing Officer may take one or more of the following actions:

1. 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
2. Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance; and/or
3. Issue administrative penalties in accordance with Section, N of this Article and/or Section L-II 5.23, et seq., of the Nevada County Land Use and Development Code; and/or
4. 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)

## **Q. Accounting**

The Enforcing Officer shall keep an account of the cost of every abatement and all administrative civil penalties and shall render a report in writing, itemized by parcel, to the Violator and the Hearing Body. The accounting will show the cost of abatement, the administrative penalties, and the administrative costs and fees for each parcel. The Enforcing Officer may have a copy of the accounting prepared to date at the time of a hearing requested by the Violator following a Notice to Abate, but the Enforcing Officer is not required to render its report to the Violator until the County completes abatement, if necessary. (Ord. 2416, 7/26/16)

## **R. Notice of Hearing on Accounting; Waiver by Payment**

Upon completion of any abatement by the County and finalization of the accounting of all abatement costs and administrative civil penalties due at completion of abatement, Clerk of the Board of Supervisors shall serve a copy of the accounting to Violator(s) in accordance with Section L with a notice informing the Violator(s) that the Violator(s) may appeal the Enforcing Officer's determination of the accounting. Any such appeal shall be commenced by filing a written request for a hearing with the Clerk of the Board of Supervisors within five (5) calendar days of service of the date that the notice was served as described in Section L of this Article. The written request shall be accompanied by the County's appeal fee (as may be approved by the Board of Supervisors from time to time). The appeal shall also include a statement of all facts supporting the appeal, including why the accounting is incorrect. The Violator may waive the hearing on the accounting by paying the full amount due prior to the time set for the hearing by the Hearing Body. Unless otherwise expressly stated by the Violator, payment of the full amount due prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable.

## **S. Appeal Hearing on Accounting**

1. At the time fixed, the Hearing Body shall meet to review the accounting of the Enforcing Officer. Violator must 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 is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed.
2. The accounting of the Enforcing Officer shall be admitted into evidence. The Violator shall bear the burden of proving that the accounting is not accurate and reasonable. The Hearing Body shall make such modifications in the accounting, as it deems necessary and thereafter shall confirm the accounting.
3. Notwithstanding the above, any hearing conducted pursuant to this Section shall be conducted pursuant to the process set forth in Section M of this Article. The decision of the Hearing Body is final. Nothing in this Section S shall be construed to prohibit combination of any hearing on accounting with any other hearing required or allowed by this Article, including an abatement hearing.
4. Failure to attend a properly noticed hearing shall constitute a waiver and the Hearing Body shall issue an order for costs, administrative penalties and fees as requested by the Enforcing Officer at the hearing. Failure to attend a properly noticed hearing shall also constitute failure to exhaust administrative remedies. (Ord. 2416, 7/26/16)

## **T. Special Assessments and Lien**

The Board of Supervisors may order that the cost of abating nuisances pursuant to this Article and the administrative civil penalties 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 and administrative civil penalties 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.

#### **U. 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 this Article 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 K of this Article 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 in this Article.

#### **V. 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 a Notice 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.

#### **W. Reporting of Violations**

Violation of this Article, 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 Article, local permitting requirements, or without a valid and appropriate state license may 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.