



ORDINANCE No. 2491

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

AN ORDINANCE AMENDING CHAPTER II OF TITLE 3 OF THE NEVADA COUNTY LAND USE AND DEVELOPMENT CODE REGARDING ADMINISTRATIVE ENFORCEMENT AND CANNABIS CULTIVATION

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION I:

Subsection F of Section 5.21 of Chapter II of Title 3 of the Nevada County Land Use and Development Code is hereby repealed in its entirety.

SECTION II:

Subsection G.3 of Section 5.21 of Chapter II of Title 3 of the Nevada County Land Use and Development Code is hereby repealed in its entirety.

SECTION III:

Subsection G.4 of Section 5.21 of Chapter II of Title 3 of the Nevada County Land Use and Development Code is hereby amended to read as follows:

“Penalty Assessment by Administrative Citation. If the matter involves a hearing under Section 5.23 of this Article, the matter may be referred for an administrative hearing pursuant to L-II 5.23.N.”

SECTION IV:

Section 5.22 of Chapter II of Title 3 of the Nevada County Land Use and Development Code is hereby repealed in its entirety.

SECTION V:

Section 5.23 of Chapter II of Title 3 of the Nevada County Land Use and Development Code is hereby repealed and replaced in its entirety to read as shown in Exhibit A attached hereto and incorporated herein by this reference.

SECTION VI:

Section 3.30 of Chapter II of Title 3 of the Nevada County Land Use and Development Code is hereby amended to read as shown in Exhibit B attached hereto and incorporated herein by this reference.

SECTION VII:

If any provision of the amended Article or the application thereof to any person or circumstance is held invalid, the remainder of this Article, including the application of such part or provision to other circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable. To the extent that there is any conflict between the provisions of this ordinance and the provisions of any other County code, ordinance, resolution or policy, the terms and conditions of this ordinance shall prevail.

SECTION VIII:

This Ordinance shall take effect and be in full force and operation on the 27th day of May, 2021, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the Supervisors voting for and against same in the Union, a newspaper of general circulation printed and published in the County of Nevada.

PASSED AND ADOPTED by a majority vote of the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 27th day of April, 2021, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Hardy Bullock.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 



Dan Miller, Chair

4/27/2021 cc: GIS*
Union*
Sierra Sun*
COB*
CoCo*
QC*
Building*

EXHIBIT A

Sec. L-II 5.23 Administrative Enforcement

A. PURPOSE AND INTENT

The County of Nevada Board of Supervisors determines that the enforcement of this Code and any other ordinance of the County is an important public service and is vital to protecting the public. The Board of Supervisors further determines there is a need for alternative methods of code enforcement in addition to other enforcement options available. This Section is intended to promote the general health, safety and welfare of the public and provide uniform, fair, and efficient code enforcement and administration. The Board of Supervisors intends this Section to apply to the enforcement of all Code Violations, except as otherwise provided for by this Code or by any other law, regulation, or ordinance.

B. DEFINITIONS

Unless specifically defined below, words or phrases used in this Section shall be interpreted to give them the meaning they have in common usage and to give this Section the most reasonable application.

1. ABATE or ABATEMENT shall mean an act used to remove, destroy, eliminate, seize, impound, or any action taken to mitigate a PUBLIC NUISANCE. ABATEMENT includes any and all steps taken by the County to correct a PUBLIC NUISANCE or CODE VIOLATION, including, but not limited to, investigation, hearings, imposition of fines and penalties, acquisition of warrants, entry and physical correction of violations, and collection of any and all fines, penalties and/or costs of whatever kind or nature.
2. ADMINISTRATIVE COST(S) shall mean all costs incurred by or on behalf of the County regarding enforcement of this Code, from the first discovery of the violation of this Code through the appeal process and any court proceeding, and until compliance is achieved, including, but not limited to, staff time investigating the Code Violation, inspecting the property where the Code Violation occurred, acquisition of warrants, preparing investigative reports, sending notices of violations, administrative citations, and/or Abatement Orders, preparing for and attending any appeal or administrative hearing, collection of any and all fines, penalties, costs of abatement, and/or costs of whatever kind and nature, and attorneys' fees.
3. APPELLANT shall mean a Responsible Party who seeks an administrative hearing on a Notice of Violation, Abatement Order, administrative citation, and/or the imposition of administrative costs in the manner required by this Section.
4. CODE shall mean this Code or any other ordinance of the County, including any codes adopted by reference and any condition imposed upon issuing any permit, license, or other approval (e.g., subdivision map, use permit, variance, or zoning clearance) under this Code or any other ordinance of the County.
5. CODE VIOLATION(S) shall mean any violation of this CODE. CODE VIOLATION(S) shall also include any PUBLIC NUISANCE as determined by this Code.
6. ENFORCEMENT 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.
7. HEARING BODY means a hearing body designated by the Board of Supervisors to conduct administrative hearings.
8. NOTICE OF VIOLATION. Any notice, including, but not limited to, an Abatement Order issued by an ENFORCEMENT OFFICER, that informs a Responsible Party that a Code Violation has occurred as defined in this Section.
9. PUBLIC NUISANCE shall mean:
 - a. Any public nuisance heretofore or hereafter defined as a public nuisance by any ordinance of the County of Nevada, Section of any Nevada County Code, Section of any adopted uniform code, resolution of the Board of Supervisors, or by other law.
 - b. Any condition of property which would materially hamper and interfere with the prevention or

suppression of fire upon the premises or which may be detrimental to the health, safety and welfare of persons in the vicinity.

Exception: No agricultural activity, agricultural processing activity, operation, or facility or appurtenances thereof, as defined in California Civil Code Section 3482.5, as may be amended, is subject to this Section.

10. RESPONSIBLE PARTY means any person or entity who causes, permits, maintains, conducts or otherwise suffers or allows a Public Nuisance and/or a Code Violation, including but not limited to the property owner(s) or the occupant(s) if other than the owner(s), including any person or entity who causes a Public Nuisance and/or a Code Violation on property owned by another.

C. NOTICE OF VIOLATION AND/OR ABATEMENT ORDER

1. Whenever an Enforcement Officer reasonably determines that a Code Violation exists, the Enforcement Officer may issue a Notice of Violation and/or an Abatement Order to any Responsible Party. The Notice of Violation and/or Abatement Order shall include:
 - a. A description of the condition creating or constituting the Code Violation(s) and the Code section(s) or other ordinance(s) violated;
 - b. The address and APN where the Code Violation occurs;
 - c. The name(s) of the Responsible Part(ies), if known to the Enforcement Officer;
 - d. The date, and if applicable, time at which the Code Violation was observed;
 - e. If applicable, a list of any corrections to bring the property into compliance including, but not limited to, an Abatement Order;
 - f. A description of the procedure for requesting an administrative hearing to contest the Notice of Violation and/or Abatement Order;
 - g. A deadline by which to correct or Abate the Code Violation;
 - h. The signature of the Enforcement Officer issuing the Notice of Violation and/or Abatement Order;
 - i. Contain a statement that, unless the Responsible Part(ies) abate the Code Violation(s) or seeks an appeal within the time prescribed in the Notice, the Code Violation may be abated at the Responsible Parties' expense. It shall also state that the abatement costs, including Administrative Costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll;
 - j. Contain a statement that all Responsible Parties shall be jointly and severally liable for all Abatement costs incurred by the County; and
 - k. The date the Notice of Violation and/or Abatement Order is served.

D. SERVICE OF NOTICE OF VIOLATION AND/OR ABATEMENT ORDER

1. A Notice of Violation and/or an Abatement Order may be served in one or more of the following ways:
 - a. An Enforcement Officer may personally serve the Notice of Violation and/or Abatement Order on the Responsible Party;
 - b. An Enforcement Officer may post a copy of the Notice of Violation and/or Abatement Order on the subject property in a conspicuous place for a property-related Code Violation and, in which case, the Enforcement Officer shall also mail a copy of the Notice of Violation and/or Abatement Order to the Responsible Party by first-class mail to the last known address of the Responsible Party and/or to any address which the Responsible Party has used in dealings with the County; or
 - c. Any other method reasonably calculated to provide actual notice to the Responsible Party.
2. Service of a Notice of Violation and/or an Abatement Order will be deemed complete upon either: the date of personal service or three days after the date of mailing by an Enforcement Officer.

E. AUTHORITY TO INSPECT

Enforcement Officers may enter upon any property or premises within the County as allowed by law to ascertain whether the provisions of this Code are being obeyed, and to make any examination and surveys as may be necessary in the performance of their enforcement duties. These inspections may include the taking of photographs. If an owner or occupant of property or his or her agent refuses to consent to entry and inspection, an Enforcement Officer may seek an administrative inspection warrant to enter the property or premises for any lawful purpose.

F. ABATEMENT BY COUNTY

1. If, at the end of the time allowed for compliance in an Abatement Order or Notice of Violation, or, in cases of appeal, as specified by the Hearing Body, compliance has not been accomplished, the Enforcement Officer issuing the notice, or the agency of which he or she is an officer, may pursue a lawful abatement. The Enforcement Officer may proceed with the abatement of the Code Violation(s) and provide that Abatement be carried out by public officers or by employees of the County of Nevada or by a private contractor selected by the County of Nevada in accordance with applicable statutes. The cost of such removal and enforcement accompanied by a reasonable administrative charge may be imposed as an assessment in the County tax roll.
2. The costs so assessed shall be limited to the actual costs incurred by the Enforcement Officer and the County in enforcing the violation and abatement upon the subject parcel. Such costs may include, but are not limited to, the costs of all prior inspections, appeal hearings and other enforcement actions leading up to the abatement, payments to the contractor, costs of site inspection, costs of notice, boundary determination and measurement, costs for material disposal and all clerical, personnel, consultant, and other Administrative Costs.

G. NOTICE OF PENDING ADMINISTRATIVE ENFORCEMENT

An Enforcement Officer may record with the Nevada County Clerk-Recorder a notice against a property which is the subject of an administrative enforcement action to give notice to potential transferees of the property of Code Violations thereon. A notice of pending administration action shall be on a form approved by an Enforcement Officer and shall describe the nature of the administrative action and refer to the Code provision governing the pending administrative action.

H. ADMINISTRATIVE CITATIONS

3. If a Responsible Party violates this Code or fails to correct a Code Violation described in a Notice of Violation and/or an Abatement Order, an Enforcement Officer may issue an administrative citation, which may impose administrative fines and/or penalties, to each and every Responsible Party who knew or reasonably should have known of that Code Violation.
4. Except as otherwise provided by law or any other ordinance of this County, an Enforcement Officer may issue an administrative citation without first issuing a Notice of Violation or an Abatement Order.

I. CONTENTS OF ADMINISTRATIVE CITATION

1. An administrative citation shall include the following:
 - a. A description of the condition creating the Code Violation(s) and the Code section(s) or other ordinance(s) violated;
 - b. The address and APN where the Code Violation occurs;
 - c. The name(s) of the Responsible Part(ies), if known, and any other involved persons;
 - d. The date and, if relevant, time at which the violation was observed;
 - e. The amount and due date of the fine and/or penalty;
 - f. A description of the procedure to pay the fine and/or penalty;
 - g. A description of the procedure for requesting an administrative hearing to contest the administrative citation;
 - h. If applicable, a list of any corrections to bring the property into compliance including, but not limited to,

an Abatement Order;

- i. A deadline by which to correct or Abate the Code Violation(s);
 - j. A statement that any unpaid fines and/or penalties may be placed as a special assessment or lien against the property where a Code Violation occurs or occurred;
 - k. The signature of the Enforcement Officer issuing the administrative citation;
 - l. The date the administrative citation was served;
 - m. Any other information deemed necessary for enforcement or collection of the administrative fines and/or penalties.
2. An Enforcement Officer may issue an administrative citation in conjunction with a Notice of Violation and/or an Abatement Order.

J. SERVICE OF ADMINISTRATIVE CITATIONS

An administrative citation may be served in one or more of the following ways:

1. An Enforcement Officer may personally serve the administrative citation on the Responsible Party. The Responsible Party is required to sign a copy of the administrative citation showing his or her receipt, but his or her failure to do so shall have no effect on the enforcement of the administrative citation;
2. An Enforcement Officer may post a copy of the administrative citation on the subject property in a conspicuous place for a property-related Code Violation and, in which case, the Enforcement Officer shall also mail a copy of the administrative citation to the Responsible Party by first-class mail to the last known address of the Responsible Party and/or to any address which the Responsible Party has used in dealings with the County; or
3. Any other method reasonably calculated to provide actual notice to the Responsible Party.

Service of an administrative citation will be deemed complete upon either: the date of personal service or three days after the date of mailing by an Enforcement Officer.

K. ADMINISTRATIVE FINES AND PENALTIES

Any violation of a provision of this Code, any code it adopts by reference, or other applicable law, may be subject to an administrative fine or penalty pursuant to this Section. This also includes any violation of any condition imposed upon the issuance of any permit, license, or other approval (e.g., subdivision map, use permit, variance, zoning clearance, etc.) pursuant to this Code.

1. Each and every Responsible Party regarding a Code Violation(s) is jointly and severally liable for all fines and/or penalties imposed for the Code Violation(s).
2. A Code Violation that exists for more than one day shall be considered a separate and distinct Code Violation for each and every day it exists. Each daily Code Violation may be subject to the maximum fine or penalty permitted under this Section.
3. An administrative citation may charge a Code Violation for one or more days on which a Code Violation exists or existed and for violation of one or more Code sections.
4. The administrative fines and penalties prescribed in this Section are in addition to, and do not preclude imposition of, any other remedies, whether criminal, civil, or administrative, available to the County. Imposition of administrative fines or penalties shall be at the sole discretion of the Enforcement Officer.

L. AMOUNT OF ADMINISTRATIVE FINES AND PENALTIES

1. For Code Violations that would otherwise be an infraction, administrative fines shall not exceed those listed in Government Code section 25132(b), as that section may be amended from time to time.
2. For Code Violations of local building and safety codes, administrative fines shall not exceed those listed in Government Code section 25132(c), as that section may be amended from time to time.
3. If the Code Violation pertains to building, plumbing, electrical, mechanical or other similar structural or

zoning issues and does not pose an imminent or immediate threat of harm to persons or property, or to public health, welfare or safety, the Responsible Party shall be provided a Notice of Violation which shall provide not less than 15 days from the date of service of the Notice of Violation to Abate or otherwise correct the Code Violation(s) prior to the imposition of an administrative fine or penalty. The determination of timely compliance, Abatement, mitigation or elimination of the Code Violation shall be made by the Enforcement Officer or other authorized County official.

4. Administrative fines and/or penalties not paid prior to their due date shall result in the imposition of a penalty and interest for every day of delinquency, as set forth in a resolution of the Board of Supervisors.
5. Each Responsible Party may be charged with a separate offense for each and every day during any portion of which any Code Violation is committed, continued or permitted by such Responsible Party.

M. PAYMENT OF FINES AND PENALTIES

1. Unless otherwise specified in an administrative citation, all fines and penalties are due within 21 calendar days of service of an administrative citation.
2. Fines and penalties shall be payable to the County at the Eric Rood Administrative Center, Code Compliance Division (Community Development Agency Counter) 950 Maidu Avenue, Nevada City, CA 95959, or to a collection agency if the fine and/or penalty has been assigned to a collection agency. Payment may be made by credit card, or by mailing the fine and/or penalty amount paid by personal check or cashier's check to the same address. Cash payments may only be made in person at the same address.

Payment of a fine or penalty pursuant to this Section shall not excuse or discharge any continued or repeated Code Violation.

N. CONSIDERATION IN OTHER PROCEEDINGS AND APPLICATIONS

1. The Board of Supervisors, the Planning Commission, and any other board or commission of the County, and County staff may consider the fact that a Responsible Party has been issued a Notice of Violation, Abatement Order, and/or administrative citation when determining whether to grant, suspend, revoke, or deny any permit, license, or other approval, regarding a matter related to the condition causing the Code Violation, and may consider such Notice of Violation, Abatement Order, and/or administrative citation to be evidence that the Responsible Party has committed acts that threaten the health, safety, and welfare of the general public.
2. The Board of Supervisors, the Planning Commission, and any other board or commission of the County, and County staff may impose a moratorium on issuing new, renewed, or revised permits, licenses, or other approvals on a parcel pending satisfactory resolution of a Notice of Violation, Abatement Order, and/or payment of an administrative citation regarding a Code Violation on the same subject parcel.

O. REQUEST FOR ADMINISTRATIVE HEARING

1. A Responsible Party to whom a Notice of Violation, Abatement Order, and/or an administrative citation is issued may request an administrative hearing within five calendar days of service of the Notice of Violation, Abatement Order, and/or administrative citation. Failure to timely request an administrative hearing in the manner required by this Section constitutes a waiver of the administrative hearing and a failure to exhaust administrative remedies.
2. A request for an administrative hearing shall be made in writing and filed with the Nevada County Clerk of the Board of Supervisors and shall state all grounds for appeal which the Appellant wishes the County to consider.
3. The hearing on the appeal shall occur not more than 30 days after receipt of a timely appeal and shall provide written notice of the hearing date and time to the appellant at least 10 days prior to the date of the hearing, unless such time limits are waived in writing by the Enforcement Officer and the appellant.
4. At the time of submitting the request for an administrative hearing, the Appellant requesting the administrative hearing shall pay a deposit the full amount of any fine and/or penalty imposed by a Notice of Violation, Abatement Order, and/or an administrative citation, in the event the fine and/or penalty has not yet been paid. No request for an administrative hearing shall be accepted without payment of the deposit

of the fine and/or penalty amount at the time the administrative hearing request is filed. The County may waive or defer the fine and/or penalty upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with a Notice of Violation and/or Abatement Order, and other factors indicating good faith attempts to comply.

5. Unless otherwise required by the California Building Code, an adopted uniform code, or other provision of law, administrative hearings shall be conducted and heard by a Hearing Body.

P. ADMINISTRATIVE HEARING

1. The administrative hearing shall be conducted by the Hearing Body on the date, time, and location specified in the notice of hearing transmitted to the Appellant. Notice(s) of violation, Abatement Order(s), administrative citation(s), and other reports prepared by an Enforcement Officer concerning a Code Violation(s) shall be accepted by the Hearing Body as prima facie evidence of the facts stated in such documents. The Hearing Body shall allow the Appellant an opportunity to testify at an administrative hearing and to present evidence about any Code Violation specified in the Notice of Violation, Abatement Order, and/or administrative citation. The Enforcement Officer or other representatives of the County may, but are not required to, attend the administrative hearing.
2. The Hearing Body may continue an administrative hearing from time to time and allow an Appellant additional time to remedy a Code Violation. In addition, the Hearing Body may request additional information or evidence from the Appellant.
3. An administrative hearing need not be conducted in accordance with the technical rules of evidence. Any relevant evidence may be admitted if it is evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might consider such admission improper in a civil or criminal proceeding. Irrelevant or unduly repetitious evidence may be excluded at the discretion of the hearing body.
4. After considering all testimony and evidence submitted at the administrative hearing, the Hearing Body shall issue a written decision, or take the matter under submission and issue a written decision within 10 days of the hearing, and may affirm, modify or dismiss the notice(s) of violation, Abatement Order(s), and/or administrative citation(s). The decision shall include the Hearing Body's findings, as well as information regarding the Appellant's right to seek judicial review of the decision and the time in which to do so. The Clerk of the Board of Supervisors shall serve the Appellant and Enforcement Officer with a copy of the Hearing Body's written decision (the "notice of decision"). The decision of the Hearing Body shall be final. If the Hearing Body determines that the notice(s) of violation, Abatement Order(s), and/or administrative citation(s) should be affirmed, the fine and/or penalty amount on deposit with the County, if any, shall be retained by the County; otherwise, the County will refund the Appellant's deposit in full.

Q. JUDICIAL REVIEW

An Appellant may seek judicial review of a Hearing Body's decision by filing a petition for review with the Superior Court, pursuant to Government Code section 53069.4, within 20 days after service of the notice of decision on Appellant. For purposes of this section P, SERVICE means personal service or deposit in the mail, first-class, postage prepaid, and return receipt requested to the last known address of the Appellant and/or to any address which the Appellant has used in dealings with the County. Pursuant to Code of Civil Procedure section 1013, if the County serves a Hearing Body decision by mail, the time to file a petition for review in Superior Court shall be extended by five calendar days. Service shall be deemed completed on the date the notice of decision is postmarked.

R. COST ACCOUNTING, RECEIPTS AND NOTICE OF ASSESSMENT

The Enforcement Officer shall keep an itemized account of the costs of enforcing the provisions of this Section, and of the proceeds of the sale of any materials connected therewith. Upon completion of the abatement, the Enforcement Officer shall prepare a notice to be served on any Responsible Party as provided in Subsection K, herein and specifying:

1. Any abatement action taken (supported by before and after pictures);
2. An itemized account of the costs and receipts of performing the work;

3. An address, legal description, or other description sufficient to identify the property that was subject to abatement and/or lien;
4. The amount of the assessment proposed to be levied against the property, or the amount to be refunded, if any, due to excess proceeds over the expenses;
5. The time and place where the Enforcement Officer will submit the account to the Hearing Body for confirmation. The time and place specified shall be no less than fifteen (15) days after service of the notice;
6. A statement that the Hearing Body will hear and consider the account and any objections and protests to the account, and the proposed assessment or refund.

S. HEARING ON ACCOUNT AND PROPOSED LIEN

At the time and place fixed in the notice, the Hearing Body will hear and consider the account and proposed assessment, together with objections and protests thereto. At the conclusion of the hearing, the Hearing Body may make such modifications and revisions of the proposed account and assessment as deemed just and may order the account and proposed assessment confirmed or denied, in whole or in part, or as modified and revised, and shall issue a written recommendation regarding the proposed lien to the Board of Supervisors. The Board of Supervisors may summarily adopt the recommendation of the Hearing Body without further notice of hearing or may set the matter for a de novo hearing in accordance with Government Code section 25845(h). The determination of the Board of Supervisors as to all matters contained therein shall be final and conclusive.

T. NOTICE OF LIEN; RECORDATION OF LIEN; COLLECTION OF LIEN

1. Upon confirmation of an assessment by the Board of Supervisors, Code Compliance shall notify the affected Parcel owners by certified mail, return receipt requested, of the amount of the pending lien confirmed by the Board of Supervisors, and advise them that they may pay the account in full within thirty (30) days in order to avoid the lien being recorded against the parcel(s). If the lien amount is not paid by the date stated in the letter, Code Compliance shall prepare and have recorded a Notice of Lien with the Nevada County Clerk-Recorder's office.
2. The Notice of Lien shall contain:
 - a. A legal description, address and/or other description sufficient to identify the Parcel(s) to be liened.
 - b. A description of the proceeding under which the special assessment was made, including the order of the Board of Supervisors under this code confirming the assessment.
 - c. The amount of the assessment.
 - d. A claim of lien upon the described Parcel(s).
3. Upon the recordation of a Notice of Lien, the amount claimed shall constitute a lien upon the described Parcel(s), pursuant to Government Code section 25845. Such lien shall be at parity with the liens of state and county taxes, to the extent allowed by applicable law.
4. The Board of Supervisors may authorize the Auditor-Controller to place the amount of the assessment on the next annual tax roll.
5. The amount set forth shall be subject to the same penalties and interest as ordinary County taxes. All laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such assessment to the extent allowed by applicable law.
6. The County may pursue any and all legal and equitable remedies for the collection of fines, interest, Administrative Costs and attorney's fees incurred. Resort to any one remedy shall not foreclose subsequent or simultaneous resort to any other.

EXHIBIT B

Sec. L-II 3.30 Cannabis Cultivation

- 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 Section.
- 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 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) of the Nevada County General Code 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 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 throughout the unincorporated areas of the County in violation of the provisions of that Article. 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 nuisances arising from cannabis cultivation. The revised provisions contained in this Section 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 daycare 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 Section 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 legally 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 Section to implement State law by regulating the cultivation of cannabis in a manner consistent with State law. It is also the intent of this Section 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 Section is intended to be consistent with State law. The intent and purpose of this Section 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 Section, 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 Section 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 Section 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. With the legalization of cannabis in California and implementation of a State permitting system, cannabis cultivation, processing, manufacturing and related activities have become emerging and rapidly growing industries. Small craft cannabis cultivators contribute to the local economy and culture of the County of Nevada. Providing small craft cannabis cultivators with a path to legalization and the ability to obtain State permits will support this industry and provide new opportunities for economic growth in the County.
19. Nevada County will benefit from fully addressing and regulating the potential impacts of cannabis cultivation through a local regulatory system that works in conjunction with State requirements.
20. In Nevada County, the typical growing season for cannabis is approximately April through October of each year. There is an immediate need to provide certainty and guidance to those who might choose to cultivate cannabis in Nevada County and allow cultivators access to the State cannabis permitting system. There is also an immediate need to preserve the public peace, health and safety of Nevada County residents by regulating and addressing the potential nuisances associated with cannabis cultivation, while also providing access to local residents to commercial cannabis cultivation and the potential benefits it brings to the community.
21. On May 14, 2019, the Nevada County Board of Supervisors reviewed and approved Resolution (19-199) 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** - 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)** - 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 Section 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** - The designated area(s) at a licensed and permitted Premises, including Nurseries but excluding Immature Plant Areas, that may contain mature Cannabis plants at any point in time:
 - a. 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.
 - b. 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.

- c. 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 issued pursuant to this Section.
5. **Childcare Center** - Any licensed childcare center, daycare center (including small family), childcare home, or any preschool.
 6. **Church** - A structure or lease portion of a structure, which is used primarily for religious worship and related religious activities.
 7. **Commercial Cannabis Activity** - 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.
 8. **Commercial Cannabis Cultivation** - Cultivation of Medical Cannabis only, excluding Cultivation of no more than six (6) plants for Personal Use consistent with state law, including operation of a Nursery.
 9. **Cultivation or Cultivate** - The grading, planting, growing, harvesting, drying, curing, trimming, or storage, or any combination of these activities, of one or more Cannabis plants or any part thereof in any location, Indoor or Outdoor, including from within a fully enclosed and secure building.
 10. **Daycare Center** - 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, as may be amended.
 11. **Daycare, Small Family** - 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), as may be amended.
 12. **Designated Responsible Party(ies)** - The individual or 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** - 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** - 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 Section.
 15. **Habitable Space** - Space intended for or which is used for habitation by humans or which is occupied by humans.
 16. **Hazardous Materials** - Any Hazardous Material as defined in California Health and Safety Code section 25501, as may be amended.
 17. **Hearing Body** - A hearing officer or hearing 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** - A Cannabis plant which is not flowering.

20. **Immature Plant Area** - An area designated for the production of only clones, Immature Plants, seeds, and other agricultural products used specifically for the propagation and cultivation of Cannabis on and solely for the use of a licensed Cannabis Cultivation Premises.
21. **Indoor or Indoors** - 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.
22. **Local Authorization** - As required by California Code of Regulations, section 8100(b)(6), California Code of Regulations, section 8110, California Business and Professions Code section 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** - 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** - 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** - 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. **Nursery** - The production of only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of Cannabis for wholesale distribution or sales to another State licensee in accordance with California law.
27. **Outdoor or Outdoors** - 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.
28. **Parcel** - 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).
29. **Parks** - Private and public parks, playgrounds, play lots, athletic fields, tennis courts, public outdoor gathering area, recreational area, restrooms and similar facilities.
30. **Permitting Authority** - The Community Development Agency Director, Building Director, Planning Director, Environmental Health Director, Code Compliance Program Manager, and/or Fire Authority and/or their designee(s).
31. **Personal Use** - Cannabis cultivated for 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.

32. **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.
33. **Primary Caregiver** shall have the definition set forth in Health and Safety Code section 11362.7(d), as may be amended.
34. **Primary Place of Residence** - The Residence at which an individual resides, uses or otherwise occupies on a full-time, regular basis.
- 34.1 **Processing** - Any method used to prepare cannabis for commercial sale, including, but not limited to: drying, cleaning, curing, grading, trimming, and packaging of cannabis and nonmanufactured cannabis products.
35. **Qualified Patient** shall have the definition as set forth in Health and Safety Code sections 11362.7(c) and (f), as may be amended.
36. **Residence** - A fully enclosed permanent structure used, designed or intended for human occupancy that has been legally established, permitted, and certified as a 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 Section, whether or not such vehicle or structure is otherwise permitted or allowed under the Nevada County Land Use and Development Code.
37. **School** - 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.
38. **Sensitive Site** - A School, Church, Park, Child or Daycare Center, or Youth-Oriented Facility.
39. **Sheriff** or **Sheriff's Office** - The Nevada County Sheriff's Office or the authorized representatives thereof.
40. **Support Area** - An area associated with drying, curing, grading, trimming, rolling, storing, packaging, and labeling of non-manufactured Cannabis products and/or supplies necessary for Cannabis Cultivation, and Immature Plant Areas.
41. **Transport** - 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.
42. **Violator** - Any person or entity who causes, permits, maintains, conducts or otherwise suffers or allows a violation of this Section 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 Section, any Designated Responsible Party, and/or any person or entity who causes a public nuisance as described in this Section L-II 3.30, including any person or entity who causes such nuisance on property owned by another.
43. **Youth-oriented Facility** - Any facility that caters to or provides services primarily intended for minors, or where 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 Section L-II 3.30, any permit issued pursuant to this Section, 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 Section.

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 Section, except that Cannabis Cultivation may be undertaken in accordance with this Section 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, including operation of a Nursery 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 Section 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 Cannabis, or any portion thereof and whether mature or Immature, is 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 Section.
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 is an annual requirement and shall be verified yearly when the ACP is renewed. If conformance is not shown, the permit shall be denied or held in abeyance until the project infraction is brought into conformance with this Section.

- 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 Section, 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 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 if a letter of exemption is issued by the Nevada County Chief Building Official or his/her designee certifying that the structure meets 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 Section are more restrictive than the Nevada County Land Use and Development Code, the provisions of this Section 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 Section, 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. Cannabis or any portion thereof and whether mature or Immature shall not be visible from a public right-of-way.
 11. Notwithstanding the above, Cannabis Cultivation of up to six (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.
 12. Offsite Processing: The processing of permitted and licensed cannabis product grown offsite may occur at a local and State licensed and permitted cultivation premises subject to all limitations and requirements contained within the provisions of this Section, including, but not limited to: noise standards, odor controls, sanitation requirements, accessory structure requirements, support area size limitations, setbacks, parcel sizes, etc.
 - a. Offsite processing facilities shall meet commercial occupancy requirements and be specifically described in commercial cannabis cultivation permit applications including the

number of employees and the areas for offsite processing shall be delineated on the site plan.

- b. Traffic associated with offsite processing activities shall be limited to 8 a.m. to 5 p.m. Monday through Saturday. No more than 6 vehicle trips (round trips) shall be allowed for offsite processing activities per day.

- E. **Personal Use Cannabis Cultivation.** All Cultivation of Cannabis for Personal Use must conform to the regulations and requirements set forth in subsection 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. RA (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 Section and state law may be Cultivated in addition to the amounts allowed for Commercial Cannabis Cultivation by this Section.
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 Section 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 the 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 eight (8) Commercial Cannabis businesses and/or enterprises in Nevada County

Cannabis Cooperatives as defined by Business and Professions Code, Division 10, Chapter 22 are exempt from the limitations contained in this Subsection F.7.

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 Section.
9. Cannabis Support Areas are limited to a maximum area equal to 90% of the allowed 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 Cannabis Cultivation Permit or an Administrative Development Permit) and an Annual Cannabis Permit. The Permitting Authority may issue permits to Applicants meeting the requirements of this Subsection G and this Section.

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 Section. In addition the site plan shall include:
 - a) All landmark trees, landmark groves and heritage trees and groves as defined in the Nevada County Land Use and Development Code. 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 all standards and requirements set forth in this Section.
 - 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 or Bond 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 Section 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:
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.
 - g. 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 Section 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 Section 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 Section.
 - 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 and requirements set forth in this Section.
 - 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 Section 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 to 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 Section.
 - 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 and requirements set forth in this Section.
 - 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 Section 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 Section, the applicant may propose use of an easement agreement with an adjacent property owner or obtain a setback variance in order to satisfy the setback requirements (a "Setback Easement" or "Setback Variance"). Setback Easements and/or Setback Variances 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 Variances shall follow the requirements of Sec. L-II 5.7 of the Nevada County Land Use and Development Code. Setback Variances shall be limited to a minimum setback of 60 feet to property lines; provided, however, existing structures permitted prior to May 1, 2019 shall be limited to a minimum setback of 30 feet to property lines. Except as set forth in Subsections below, no Setback Variance will be considered for any other provision of this Section including, but not limited to, Canopy Area, minimum parcel size, zoning designations or methods of cultivation. The findings required for approval of a Setback Variance shall be those listed in Sec. L-II 5.7 in addition to the following finding:
 - i. The Setback Variance will not result in any increased odor impacts to neighboring properties and all potential increases in odor impacts have been adequately mitigated.
 - b. 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 Section including, but not limited to, Canopy Area, minimum parcel size, zoning designations or methods of cultivation.

- c. 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 for the purpose of Cultivation 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.
- d. The Permitting Authority has the discretion to authorize a Cultivation Site or Support Area at 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 Cultivation Site or Support Area 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. Minor grading that does not present a fire, life and/or safety hazard as determined by the Enforcing Officer may be included in the two-year transition period. For this Subsection 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 comply 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 three years from the date this Section 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 all Nevada County 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.

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 Section shall be denied following review of the application if the Permitting Authority determines that the applicant has not complied with the requirements of this Section or makes any of the findings listed in Subsection I.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 I.5 below. The Permitting Authority's decision to deny the renewal of an ACP may be appealed to the Hearing Body as described in Section L-II 5.23 of this Chapter.

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 I.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 L-II 5.23 of this Chapter. 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 of Notice as described in Section L-II 5.23 of this Chapter. All Cannabis Activities must cease upon suspension. Nothing in this provision shall be construed to limit the Permitting Authority's ability to revoke an ACP without first issuing a suspension. The Permitting Authority's decision to suspend an ACP may be appealed to the Hearing Body as described in Section L-II 5.23 of this Chapter.

4. Revocation – ACP

An ACP may be revoked if the Permitting Authority makes any of the findings listed in Subsection I.5, below. The Permitting Authority shall issue a Notice of Revocation to the holder of the ACP by any of the methods listed in Section L-II 5.23 of this Chapter. The Permitting Authority's decision to revoke an ACP may be appealed to the Hearing Body as described in Section L-II 5.23 of this Chapter.

5. Revocation – CCP or ADP.

Any CCP or ADP may be revoked in accordance with the procedure set forth in Section L-II 5.11. A CCP or ADP may be revoked based on a finding 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. Current or 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 Section.
- 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 Section, 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 Cannabis activity.
 - o. Failure to fully cooperate with a financial audit by the State or 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 Section or State law.
6. If an initial application or renewal permit is denied, or if a permit is revoked, all Cultivation on the Premises shall cease immediately; provided, however, that the operations may be allowed to continue for a brief period of time to complete miscellaneous wind-down operations at the discretion of the Permitting Authority or other final decision-maker.
 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 other 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.

1. Except as provided herein, this Section shall be enforced by the County's Administrative Enforcement Ordinance as provided in Section L-II 5.23 of this Chapter.
2. Nothing in this Chapter 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 or local law or when Cannabis Cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth

in this Chapter would not result in abatement of that nuisance within a short enough time period to avoid that threat.

3. Whenever a Notice of Violation is issued under Section L-II 5.23 of this Chapter, a Violator shall be provided with five (5) calendar days from date of service, as defined in Section L-II 5.23.D of this Chapter, to correct the violation before imposition of costs and/or civil penalties as set forth in Subsection K. below.
4. Requests for appeals of a Notice to Abate shall be conducted as provided in Section L-II 5.23 of this Chapter.
5. Administrative hearings will be conducted as provided in Section L-II 5.23 of this Chapter.

K. Administrative Civil Penalties.

1. Administrative Civil Penalties.
 - a. In addition to any other remedy prescribed in this Chapter, including liability for costs described in this Subsection K., the County may impose administrative civil penalties for any violation of this Section. Administrative civil penalties may be imposed via the administrative process set forth in this Section, in Section L-II 5.23 of this Chapter, 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 Section 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.
 - iv. These amounts are separate and distinct from any administrative civil penalties that may be imposed by the County for other Code Violations, including building or safety code violations as described in in Section L-II 5.23 of this Chapter. Such violations are considered violations of this Section and are also grounds for permit revocation or denial.
 - v. 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, may 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.
 - d. 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-II 5.23 of this Chapter . 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.
 - e. Any hearing conducted pursuant to this Section shall be conducted pursuant to the process set forth in Section L-II 5.23 of this Chapter. The decision of the Hearing Body is final.

Nothing in this Section shall be construed to prohibit combination of any hearing for administrative civil penalties with any other hearing required or allowed by this Chapter, including an abatement hearing.

- f. 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).
 - g. 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.
 - h. 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.
- 2. **Lien.** In addition to any other legal remedy, whenever the amount of any costs or administrative civil penalties imposed pursuant to this Section 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, as provided in Section L-II 5.23 of this Chapter.
 - 3. 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.
 - 4. The Board of Supervisors delegates the responsibility to conduct a hearing in conformance with this Subsection K. to a Hearing Body.
- L. **Summary Abatement.** Notwithstanding any other provision of this Section, when any unlawful Cannabis Cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in this Section 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 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 Section, if applicable and different than the foregoing; however, the formal notice and hearing procedures set forth in this Section shall not apply. The County may nevertheless recover its costs for abating that nuisance in the manner set forth in this Section or Section L-II 5.23 of this Chapter.
 - M. **No Duty to Enforce.** Nothing in this Section 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.
 - N. **Reporting of Violations.** In addition to the remedies set forth in this Section L-II 3.30 or Section L-II 5.23 of this Chapter, a violation of this Section, including operating any Commercial Cannabis Activity without a valid and appropriate license from the State of California or permit from the County of Nevada, shall be a misdemeanor and 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 Section, 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.