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## BOARD OF SUPERVISORS' MEETING (November 13, 2018)

FILE NUMBER: CDEF2017-224  
PROPERTY OWNER: Ira Lee Boylescope  
TYPE OF APPLICATION: Recovery of Administrative Abatement  
Costs

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*County of Lassen*  
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

November 2, 2018

**Maurice L. Anderson, Director**  
707 Nevada Street, Suite 5  
Susanville, CA 96130-3912  
Phone: 530 251-8269  
Fax: 530 251-8373  
email: landuse@co.lassen.ca.us  
website: www.co.lassen.ca.us

TO: Board of Supervisors  
Agenda Date: November 13, 2018

FROM: Maurice L. Anderson, Director

Zoning & Building  
Inspection Requests  
Phone: 530 257-5263

SUBJECT: Hearing on Accounting pursuant to Lassen County Code Sections 19.140; and consideration of report of administrative civil penalties (as ordered to Ira Lee Boylescope, by the Decision of Administrative Hearing Officer, CDEF2017-224 on October 23, 2017), charged pursuant to Lassen County Code Section 19.170.

Recommendation

1. Receive the Enforcing Officer's Report; and
2. Conduct a public hearing; and
3. Adopt a resolution to do the following:
  - a. Order recordation of a lien against real property identified herein, on which marijuana cultivation occurred in violation of Lassen County Code Title 19, in order to recover both the administrative and abatement costs and the administrative civil penalties associated with said violation, as accounted for by the Enforcing Officer; and
  - b. Order that the administrative and abatement costs associated with the violation, as defined by Title 19 of Lassen County Code, be placed on the county tax roll, in an effort to recover said costs.

Summary

The purpose of this public hearing is to allow the Board of Supervisors to determine what costs (if any) will be recovered for the enforcement of the Lassen County Marijuana Cultivation Ordinance. The property described herein (Exhibit A of Draft Resolution), owned by Ira Lee Boylescope, was found to be in violation of Lassen County Code Title 19 as outlined in the Decision of Hearing Officer dated October 23, 2017. This decision ordered the abatement of unlawful marijuana cultivation by the owner within five days or by the Enforcing Officer if the owner did not self-abate, and established administrative penalties to be imposed upon the owner on each day the violation did occur.

Though the unlawful marijuana cultivation was abated by the property owner, the Enforcing Officer, with assistance from additional county personnel, executed an inspection to verify the eradication of the unlawful marijuana cultivation on October 20, 2017. The Decision of the Administrative Hearing Officer has been provided with this Board letter. Administrative costs, as ordered by the Hearing Officer, have been accounted for in accordance with Lassen County code §19.140.

The purpose of this hearing is to receive the Enforcing Officer's report on accounting (Exhibit B of Draft Resolution) and to consider cost recovery. As stipulated under Section §19.080(e) of County Code, the decision of the Hearing Officer, with regard to the existence of unlawful marijuana cultivation and abatement of a nuisance, is final.

### Report on Accounting

The physical and clerical costs of the completed abatement, as well as the total of the administrative penalties have been accounted for as follows: physical and clerical costs \$1,022.37 and administrative penalty cost \$12,236.71 for a total of \$13,259.08. These costs incurred are reported in detail on the included spreadsheets. Administrative penalties were applied, as established by the Hearing Officer, from October 8, 2017 through October 20, 2017, and interest did accrue on the Administrative penalties between October 20, 2017 and December 31, 2017.

The Following Agencies (aside from the Department of Planning and Building Services) were involved in the physical and clerical aspects of the abatement.

#### Other Agency Involvement to Date

Lassen County Sheriff's Office  
County Counsel

#### Other Agencies to be Involved Subsequent to Hearing

County Auditor's Office  
Tax Collector's Office  
Recorder's Office

gsc  
MM





**LASSEN COUNTY**  
**NOTICE TO ABATE – NOTICE OF PROPOSED PENALTY**  
**NOTICE OF ADMINISTRATIVE ORDER TO SHOW CAUSE**

Property Owner Name and Last Known Address:

Ira Lee Baylescope  
P.O. Box 387  
Doyle, CA. 96109-0387

Site Address:

441-955 Debbie Do Ln.  
Doyle, CA 96109

Enforcing Officer:

R. Steen & J. Childress

Occupant:

Assessor's Parcel Number:

139-220-16-11

Inspection Date:

8-25-17

TO OWNER AND RESIDENT: YOU ARE HEREBY NOTIFIED that unlawful marijuana cultivation exists on the above premises, constituting a PUBLIC NUISANCE under Title 19 of the Lassen County Code. Such condition(s) violate(s) the following specific provision(s) of the Lassen County Code:

- ☐ No notarized consent from owner to cultivate (19.040[b]): \_\_\_\_\_
- ☐ Parcel one acre or less (19.040[b]): \_\_\_\_\_
- ☒ Cultivation occupies more than 250 sq. ft. (19.040[b]): \_\_\_\_\_
- ☐ Cultivation not being performed by someone "residing on the premises" (within the meaning of Section 19.030 and 19.040[b]1) \_\_\_\_\_
- ☒ Insufficient fence/setbacks (19.040[b]): \_\_\_\_\_
- ☐ Within 1000 feet of prohibited site (19.040[b]): \_\_\_\_\_
- ☐ Other: \_\_\_\_\_

You are required to abate the unlawful marijuana cultivation within TEN (10) CALENDAR DAYS of this notice by:

10-8-17. To abate the nuisance, you must take the following action: Remove All Marijuana From Parcel or Limit to a 250 SQ. FT. Area Fenced in Accordance With Title 19.

You may present yourself before a hearing officer to show good cause why this nuisance should not be abated by the enforcing officer. The date, time, and location of this hearing are listed below. You will be given an opportunity at this hearing to present testimony or other evidence why the conditions on the listed property do not constitute a nuisance and should not be abated. There is no fee for this hearing.

If you do not abate the nuisance yourself, or show good cause to the hearing officer why it should not be abated, the enforcing officer may come on your property and abate the nuisance him or herself. All abatement costs, including administrative costs, may be made a special assessment added to the tax roll and become a lien on this real property, or be placed on the unsecured tax roll (see back side for more information).

Also, if you do not abate this nuisance by the date set forth above, you will be charged an administrative penalty of \$ 1,000 PER DAY beginning on 10-8-17 and continuing until the nuisance is abated and the abatement is confirmed by an enforcement officer (see back side for more information).

YOU are responsible for reporting to the County that you have abated this nuisance. To do so, YOU must contact the Enforcement Officer at 530-251-8269 to report having corrected the problem.

DATE: OCTOBER 23, 2017

TIME: 08:30 AM

ADDRESS: 221 South Roop St., Susanville, CA, 96130 (Conference Room)

R Steen / J Childress

Attestation of Enforcing Officer

9-26-17

Date of Notice

(S/PLA/Building/CODE/000MASTER DOCS/NoticeToAbate-ProposedPenalty-AdminOrderPg1/Rev. 9/15/2017)





Decision of Administrative Hearing Officer  
UNLAWFUL MARIJUANA CULTIVATION ORDINANCE  
(Lassen County Code Title 19)

ADMINISTRATIVE HEARING: MCOH-17-224

CDEF 2017-224 Ira Lee Boylescope

DATE OF DECISION: October 23, 2017

Property Owner Name and Last Known Address:

Ira Lee Boylescope

PO Box 387.

Doyle, CA. 96109

Site Address:

441-955 Debbie Do Lane

Doyle CA. 96109

Occupant:

Nathan Canabar

Assessor's Parcel Number:

139-220-16

Hearing Officer:

Jacob Zamora

Date of Administrative Hearing:

October 23, 2017

**WHEREAS**, on August 25, 2017 ("Initial Inspection") the Lassen County enforcing officer observed unlawful marijuana cultivation on the Premises described above by Assessor's Parcel Number; and

**WHEREAS**, Lassen County Code Title 19, section 19.040, and its subsections (a)-(c), inclusive, provides that the cultivation of marijuana plants on any premises within the County of Lassen is declared to be unlawful and a public nuisance that may be abated in accordance with the procedures set forth in Title 19 of the Lassen County Code, unless conducted pursuant to the "conditions of cultivation" set forth in the above referenced subsections; and

**WHEREAS**, on September 26, 2017 the enforcing officer issued and served a "Notice to Abate/Notice of Proposed Penalty/Notice of Administrative Order to Show Cause", attached hereto and incorporated herein as Exhibit "D", to the owner(s) and/or occupant(s) of the Premises, in accordance with Lassen County Code Title 19, sections 19.070; and

**WHEREAS**, the "Notice to Abate/Notice of Proposed Penalty/Notice of Administrative Order to Show Cause" stated the specific section(s) of the Lassen County Code Title 19 that was/were violated, the condition(s) constituting the violation are a public nuisance, described the action(s) required to abate the nuisance, and further specified a time period not less than ten (10) calendar days from service of the "Notice to Abate/Notice of Proposed Penalty/Notice of Administrative Order to Show Cause" to abate the nuisance; and

**WHEREAS**, on October 20, 2017 the enforcing officer re-inspected the Premises and observed that the unlawful marijuana cultivation existing on the Premises as of the date of Initial Inspection:

- ☐ Continues to exist on the Premises; and
- ☐ Was voluntarily abated; and
- ☐ Other: \_\_\_\_\_; and

**WHEREAS**, the enforcing officer scheduled an Administrative Hearing on October 23, 2017, giving the owner(s) and/or occupant(s) of the Premises an opportunity to present evidence and elicit testimony regarding (i) whether the conditions existing on the Premises constitute a nuisance and/or whether there is any good cause why those conditions should not be abated, and (ii) whether the proposed amount of administrative penalty set forth in the Notice shall be imposed, modified, or disapproved, in whole or in part. The owner(s) and/or occupant(s):

- ☒ Failed to appear at the Administrative Hearing and failed to exhaust their administrative remedies; and
- ☐ The following person(s) appeared on his/her/their own behalf before this Hearing Officer:

\_\_\_\_\_; and  
☒ Other: TENANT NATHAN CANEPA \_\_\_\_\_; and

**NOW, THEREFORE**, as the Hearing Officer for the County of Lassen and based upon the record before me, issue the following findings and declarations:

☒ The foregoing recitals are true and correct; and

☒ **I HEREBY FIND** that the alleged violation(s) ☒ **DID** ☐ **DID NOT** occur on the Premises on the date of Initial Inspection based upon the following evidence presented at this Hearing:

☒ The Staff Report, attached hereto and incorporated herein, which lists the date(s) of inspection, date(s) the photograph(s) of the violation(s) was/were taken; and the date(s) that the notice was mailed to the owner(s) and/or occupant(s) of the Premises; and

☒ Statements from the enforcing officer attesting that:

☐ The information contained in the Staff Report is true and accurate; and

☐ Other: \_\_\_\_\_; and

☒ Photograph(s) of the violation(s) taken and submitted as evidence at this Hearing by:

☐ Enforcing Officer: and

☐ Other: \_\_\_\_\_; and

☒ Other evidence submitted at this Hearing by:

☐ Enforcing Officer: and

☒ Other: TESTIMONY OF NATHAN CANEPA \_\_\_\_\_; and

☒ **I HEREBY FIND**, based on the foregoing evidence presented at this Hearing, the alleged violation(s):

☐ Do continue to exist on the Premises; and

☒ Was voluntarily abated on 10-20-17 and no longer exists on the Premises; and

☐ Other: \_\_\_\_\_; and

☒ **I HEREBY FIND** that the proposed administrative penalty set forth in the Notice is:

☒ Imposed in the amount stated in the Notice.

☐ Modified to be: \_\_\_\_\_.

☐ Disapproved.

☐ Other: \_\_\_\_\_.

☒ Based on the above findings, I hereby find the violation(s) alleged in the Notice are factually true and constitute a public nuisance under Lassen County Code Title 19, as set forth in the Notice; and

☐ The unlawful marijuana cultivated on the Premises is subject to abatement in accordance with Lassen County Code Title 19, and the means of abatement set forth in the Notice are proper.

**NOW, THEREFORE**, as the Hearing Officer for the County of Lassen and based upon the record before me, issue the following orders:

☒ The Notice issued by the enforcing officer on 9-26-17 is hereby affirmed in full; and



- ☐ All unlawful marijuana cultivated on the Premises shall be abated by the owner(s) and/or occupant(s) of the Premises, in the manner set forth in the Notice, within **FIVE (5) CALENDAR DAYS** of service of this Decision; and
- ☐ In the event that the marijuana is not abated by the owner(s) and/or occupant(s) of the Premises as set forth above, or the nuisance is recommenced, the Enforcing Officer shall abate, or cause to be abated, the marijuana and shall keep an itemized account of the costs incurred by the County to abate the nuisance, to be charged against the premises and against each person who causes, permits, suffers, or maintains the unlawful marijuana cultivation to exist, in accordance with the provisions of Lassen County Code Title 19.
- ☒ The amount of administrative penalty, as set forth above, shall be final and conclusive. Payment of the administrative penalty specified in this Decision shall be made in the manner set forth in Lassen County Code Title 19.
- ☐ Other: \_\_\_\_\_

**NOTICE IS HEREBY GIVEN.** You may challenge this Decision by timely filing a writ of mandate, pursuant to Code of Civil Procedure §§ 1094.5 and 1094.6, in the Lassen County Superior Court. A writ of mandate must be filed within **NINETY (90) DAYS** of this Decision. You may challenge the Decision imposing/modifying the administrative penalty by filing an appeal, pursuant to Government Code § 53069.4, subdivision (b), in the Lassen County Superior Court. An appeal must be filed within **TWENTY (20) DAYS** after service of this Decision.

**ATTENTION!**

If the amount of administrative penalty is imposed or modified, you are required to pay that amount within **TWENTY (20) CALENDAR DAYS** after service of this Decision.

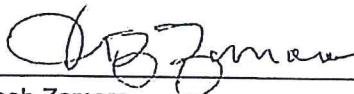
If the administrative penalty is not satisfied **IN FULL** within **NINETY (90) DAYS** and/or has not been challenged by a timely writ of mandate or appeal, the Board of Supervisors may authorize recordation of a Notice of Administrative Penalty Lien against the Premises. (Government Code section 53069.4)

**ATTENTION!**

If the Enforcing Officer is required to abate the nuisance, you are required to pay the cost of abatement, including cost of administration, within **NINETY (90) CALENDAR DAYS** after service of this Decision.

If the cost of abatement, including cost of administration, is not satisfied in full within **NINETY (90) DAYS** and/or has not been challenged by a timely writ of mandate, the Board of Supervisors may specially assess the costs on the County tax roll and authorize recordation of a Notice of Abatement Lien against the Premises. (Government Code section 25845).

10-23-17  
Date of Decision

  
\_\_\_\_\_  
Jacob Zamora  
Lassen County Administrative Hearing Officer



**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION CONFIRMING ASSESSMENT OF COST**

**WHEREAS**, Assessor's Parcel Number 139-220-16, described in Exhibit A, is owned by Ira Lee Boylescope; and

**WHEREAS**, on October 23, 2017, the Administrative Hearing Officer rendered a Decision ordering the abatement of unlawful marijuana cultivation in violation of Lassen County Code Title 19 and/or ordered a civil penalty against the property; and

**WHEREAS**, on October 20, 2017, the county completed an inspection to verify eradication of marijuana plants located upon said property pursuant to Lassen County Code Title 19; and

**WHEREAS**, on November 13, 2018, the Board of Supervisors conducted a noticed public hearing whereat evidence was presented regarding the costs of abatement and consideration was made regarding administrative civil penalties, attached as Exhibit B.

**NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. That the foregoing recitals are true and correct.
2. That notice of the hearing has been given as required by the Lassen County Code.
3. That it is found and ordered that the sum of \$1,022.37 as physical and administrative costs of abatement shall be assessed against Assessor's Parcel Number 139-220-16 as described in Exhibit A. The Lassen County Board of Supervisors hereby orders that this amount be placed upon the county tax roll against the respective parcel of land and an abatement lien be recorded in accordance with Lassen County Code Section 19.160.
4. That it is found and ordered that the administrative civil penalty sum of \$12,236.71 shall be assessed against Assessor's Parcel Number 139-220-16 as described in Exhibit A. The Lassen County Board of Supervisors hereby orders that this amount be placed as a lien against the respective parcel of land in accordance with Lassen County Code subsection 19.170(i). Pursuant to subsection 19.170(j) of the Lassen County Code, administrative penalties imposed in accordance with Title 19 of the Lassen County Code also constitute a personal obligation of each person who causes, permits, maintains, conducts, or otherwise suffers or allows the nuisance to exist. As provided in said subsection, said lien will be recorded if the administrative penalties are not satisfied within 90 days of first being notified.

RESOLUTION NO. \_\_\_\_\_  
Boylescope, Ira Lee

5. Notice of this resolution shall be given to Ira Lee Boylescope as follows:
  - a. First class mail.
  - b. Certified mail.

The foregoing resolution was adopted at a regular meeting of the Board of Supervisors of the County of Lassen, State of California, held on the 13<sup>th</sup> day of November 2018, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN of the Board of Supervisors,  
County of Lassen, State of California

ATTEST:  
JULIE BUSTAMANTE  
Clerk of the Board

BY \_\_\_\_\_  
MICHELE J. YDERRAGA, Deputy Clerk of the Board

MICHELE J. YDERRAGA, Deputy Clerk of the Board of Supervisors, County of Lassen, do hereby certify that the foregoing resolution was adopted by the said Board of Supervisors at a regular meeting thereof held on the 13<sup>th</sup> day of November 2018.

\_\_\_\_\_  
Deputy Clerk of the County of Lassen Board of Supervisors

# **Exhibit A**

## **Legal Description**

For APN/Parcel ID(s): 139-220-16

All that certain real property being located in the unincorporated area of Lassen County, California, more particularly described as follows:

Parcel 1:

In Township 26 North, Range 17 East, Mount Diablo Meridian, according to the official plat thereof.

Section 19: The SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$ .



## Exhibit B

### Administrative and Physical Costs of Abatement

**Owner:** BOYLES COPE, IRA LEE

**Property Address:** 441-955 Debbie Do Lane

**Print Date:**

01/26/2018

**APN:** 139-220-16-11

**Case Number:** CDEF2017-224

Labor Date	Employee Name	Work Performed	Time/mileage	Rate	Total
08/25/2017	Maurice Anderson	FIELD INSPECTION #1	0.50	65.16	32.58
08/25/2017	Jeanette Childress	FIELD INSPECTION #1	0.50	27.70	13.85
09/26/2017	Maurice Anderson	FIELD INSPECTION #2	2.50	65.16	162.90
09/26/2017	Mileage rate	FIELD INSPECTION #2	86.00	0.54	46.01
09/26/2017	Robert Steen	FIELD INSPECTION #2	2.50	29.35	73.38
09/26/2017	Jeanette Childress	FIELD INSPECTION #2	2.50	27.70	69.25
09/27/2017	Brooke Suarez	NOTICE TO ABATE-PENALTY-ADMIN ORDER	0.25	31.00	7.75
09/27/2017	USPS	NOTICE TO ABATE-PENALTY-ADMIN ORDER POSTAGE	1.00	0.46	0.46
10/17/2017	Mileage rate	FIELD INSPECTION #4	86.00	0.54	46.01
10/17/2017	Robert Steen	FIELD INSPECTION #4	2.50	29.35	73.38
10/17/2017	Mileage rate	FIELD INSPECTION #4	86.00	0.54	46.01
10/17/2017	Deputy Canham	FIELD INSPECTION #4	2.50	27.58	68.95
10/17/2017	Jeanette Childress	FIELD INSPECTION #4	2.50	27.70	69.25
10/20/2017	Robert Steen	FIELD INSPECTION #5	2.50	29.35	73.38
10/20/2017	Mileage rate	FIELD INSPECTION #5	86.00	0.54	46.01
10/20/2017	Jeanette Childress	FIELD INSPECTION #5	2.50	27.70	69.25
10/23/2017	Robert Steen	ADMINISTRATIVE HEARING	1.00	29.35	29.35
10/23/2017	Jeanette Childress	ADMINISTRATIVE HEARING	2.00	27.70	55.40
10/25/2017	Brooke Suarez	DECISION OF HEARING OFFICER	0.25	31.00	7.75
10/25/2017	USPS	DECISION OF HEARING OFFICER POSTAGE	1.00	0.46	0.46
10/25/2017	Brooke Suarez	COST RECOVERY PROCESS	1.00	31.00	31.00
12/31/2017	Administrative Hearing Date 10/23/2017	Administrative penalty set forth in Notice to Abate \$1,000/day beginning on 10/8/2017 plus interest	84.00		12,236.71

**TOTAL      \$13,259.08**

## Interest Charge on Administrative Fee

**Owner:** BOYLESCOPE, IRA LEE

**Property Address:** 441-955 Debbie Do Lane

Print Date: 01/26/2018

**APN:** 139-220-16-11

**Case Number:** CDEF2017-224

[illegible]



County of Lassen  
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

**NOTICE OF PUBLIC HEARING/NOTICE OF HEARING ON  
ACCOUNTING**

CERTIFIED MAIL/RETURN RECEIPT  
7017 0660 0000 6271 1031

October 26, 2018

**Maurice L. Anderson, Director**  
707 Nevada Street, Suite 5  
Susanville, CA 96130-3912  
Phone: 530 251-8269  
Fax: 530 251-8373  
email: landuse@co.lassen.ca.us  
website: www.co.lassen.ca.us

Zoning & Building  
Inspection Requests  
Phone: 530 257-5263

Ira Lee Boylescope  
P.O. Box 387  
Doyle, CA 96109-0387

RE: CDEF2017-224  
441-955 Debbie Do Lane  
Doyle, CA 96109

**NOTICE OF PUBLIC HEARING**  
**LASSEN COUNTY BOARD OF SUPERVISORS**

The Lassen County Board of Supervisors solicits the aid of public agencies and the general public in consideration of the following item:

**Property Owner:** Ira Lee Boylescope

**File Number:** CDEF2017-224

**Project:** Public Hearing on Accounting pursuant to Lassen County Code Section 19.140; and  
Consideration of Report of Administrative civil penalties (as ordered to owner, by the  
Decision of Administrative hearing Officer, CDEF2017-224 on October 23, 2017), charged  
pursuant to Lassen County code Section 19.170.

**Location:** 441-955 Debbie Do Lane, Doyle, CA 96109

**A.P.N.:** 139-220-16

The Board of Supervisors will hold a public hearing on this item at 10:00 AM, on Tuesday, November 13, 2018, in the Board Chambers, 707 Nevada Street, Susanville, California. All interested persons and agencies are invited to attend the meeting and be heard, or to submit comments to the Department of Planning and Building Services, 707 Nevada Street, Suite 5, Susanville, CA 96130.

Sincerely,

  
For: Maurice L. Anderson, Director  
Acting Building Official

Enclosures

MLA:jsc

**NOTE:** Anyone wishing to challenge in court an action on the project described above may be limited to raising only those issues raised at the public hearing described in this notice or in written correspondence delivered at, or prior to, said public hearing.



## DECLARATION OF SERVICE BY CERTIFIED/RETURN RECEIPT AND FIRST CLASS MAIL

### I, THE UNDERSIGNED, DECLARE THAT:

1. I am an employee of Lassen County, California, over the age of eighteen years and not a party to the within entitle cause or matter;
2. My business address is 707 Nevada Street, Susanville, California 96130 and;
3. I served the foregoing **NOTICE OF PUBLIC HEARING** on the interested parties in said cause by depositing true copies thereof enclosed in sealed envelopes and placing the envelopes for collection and mailing on the date and at the place shown below following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in sealed envelopes with postage fully paid for both Certified/Return receipt and 1<sup>st</sup> Class, in Susanville, California on Monday, October 22, 2018, addressed as follows:

IRA LEE BOYLESCOPE  
P O BOX 387  
DOYLE, CA 96109-0387

I declare under penalty of perjury that the foregoing is true and correct. Executed on Monday, October 22, 2018, at Susanville, California, 96130.

  
\_\_\_\_\_  
Brooke Suarez

7017 0660 0000 6271 1031

<b>U.S. Postal Service™</b> <b>CERTIFIED MAIL® RECEIPT</b> <i>Domestic Mail Only</i>	
For delivery information, visit our website at <a href="http://www.usps.com">www.usps.com</a> ®.	
<b>OFFICIAL USE</b>	
Certified Mail Fee	\$ 3.15
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input checked="" type="checkbox"/> Adult Signature Required	\$ 2.75
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$ .47
Total Postage and Fees	\$ 6.67
Sent To	
Street and Apt. No., or PO Box No	
Ira Lee Boylescope	
P.O. Box 387	
Doyle, CA 96109-0387	
City, State, ZIP+4®	
Form 3800, April 2015 PSN7	

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## Lassen County Code

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## Title 19 MARIJUANA CULTIVATION

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### 19.010 Authority and title.

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Pursuant to the authority granted by Article XI, Section 7 of the California Constitution, Health and Safety Code Section 11362.83, and Government Code Sections 25845 and 53069.4, the board of supervisors hereby enacts this title, which shall be known and may be cited as the "Lassen County Cannabis Regulation Ordinance." (Ord. 2017-004 § 1; Ord. 2016-002 § 2).

### 19.020 Findings and purpose.

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The board of supervisors of the county of Lassen hereby finds and declares the following:

(a) In 1996, the voters of the state of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and entitled "The Compassionate Use Act of 1996").

(b) The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes." The ballot arguments supporting Proposition 215 expressly acknowledged that "Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere."

(c) In 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code Section 11362.7 et seq., and referred to as the "Medical Marijuana Program") to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified state criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to "[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" and to civilly and criminally enforce such ordinances.

(d) Health and Safety Code Section 11362.83, both as originally enacted, and as amended by Assembly Bill 1300, further recognize that counties and cities may also adopt and enforce any other ordinances that are consistent with the Medical Marijuana Program.

(e) The courts in California have held that neither the Compassionate Use Act nor the Medical Marijuana Program grants anyone an unfettered right to cultivate marijuana for medical purposes or limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land. Accordingly, the regulation of cultivation of medical marijuana does not conflict with either statute. (See *Browne v. County of Tehama* (2013) 213 Cal. App. 4th 704 and *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729.)

(f) Proposition 215 and Senate Bill 420 primarily address the criminal law, providing qualifying patients and primary caregivers with limited immunity from state criminal prosecution under certain identified statutes. Neither Proposition 215 nor Senate Bill 420, nor the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use adopted pursuant to Senate Bill 420, provide comprehensive regulation of premises used for marijuana cultivation. The unregulated cultivation of marijuana in the unincorporated area of Lassen County can adversely affect the health, safety, and well-being of the county and its residents. Comprehensive regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation, and that are especially significant if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in one place.

(g) Cultivation of any amount of marijuana at locations or premises within one thousand feet of existing schools, school bus stops, public parks, and licensed day care facilities creates unique risks that the marijuana 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 marijuana cultivation in such locations poses heightened risks that



juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana 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 marijuana plants.

(h) As recognized by the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, the cultivation or other concentration of marijuana 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.

(i) It is the purpose and intent of this title to implement state law by providing a means for regulating the cultivation of medical marijuana in a manner that is consistent with state law and which balances the needs of medical patients and their caregivers and promotes the health, safety, and welfare of the residents and businesses within the unincorporated territory of the county of Lassen. This title is intended to be consistent with Proposition 215 and Senate Bill 420, and towards that end, is not intended to prohibit persons from individually, collectively, or cooperatively exercising any right otherwise granted by state law. Rather, the intent and purpose of this title is to establish reasonable regulations upon the manner in which marijuana may be cultivated, including restrictions on the amount of marijuana that may be individually, collectively, or cooperatively cultivated in any location or premises, in order to protect the public health, safety, and welfare of the residents of Lassen County.

(j) The limited immunity from specified state marijuana laws provided by the Compassionate Use Act and Medical Marijuana Program does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this title, the county will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of marijuana in the unincorporated area of Lassen County.

(k) In the fall of 2014 and the spring of 2015, the Lassen County board of supervisors received substantial testimony over the course of several meetings related to the impacts upon the peace, health, and safety of the residents of Lassen County as a result of the unregulated indoor and outdoor cultivation of marijuana. As a result of this public testimony, the Lassen County board of supervisors directed be prepared, and subsequently adopted April 21st of 2015, Title 19 to the Lassen County Code. Title 19 sought to limit, for the first time in Lassen County, the impacts which resulted from unregulated marijuana cultivation, both indoor and outdoor.

In late 2015 and early 2016, the Lassen County board of supervisors received more testimony regarding the cultivation of marijuana in Lassen County since the initial adoption of Title 19 just months before. The board of supervisors heard testimony that many of the outdoor cultivation locations that had been creating a nuisance were eliminated as a result of the adoption of Title 19 and its enforcement. The board of supervisors also heard testimony that the number of cultivation sites in Lassen County was expanding, predominantly on vacant land in the most rural parts of the county.

On or about April 12, 2016, the Lassen County board of supervisors amended Title 19 for the purpose of limiting cultivation to only those parcels of land within Lassen County where there was already a lawfully established residential structure.

During the 2016 growing season, there were many cultivators within Lassen County that chose to simply ignore the requirement that cultivation could only occur on land which had a lawfully established residential structure.

On or about October 11, 2016, the Lassen County board of supervisors amended Title 19 imposing a ban on all cultivation of marijuana in Lassen County.

(l) In the fall of 2015, the California Legislature passed and the Governor signed three significant pieces of legislation regarding medical marijuana. AB 266, AB 243, and SB 643 created a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis. Importantly, all licenses which could be issued by the state for such activities must first be approved by local government. These laws went into effect January 1, 2016. However, the state indicated it needed until January 1, 2018 to create the new agencies that would be administering such a new licensing system, and to draft and adopt new regulations regarding the licensing that will occur. To date, no such regulations have been proposed or adopted.

(m) On November 8, 2016, the voters of California adopted Proposition 64. Proposition 64 allows the recreational possession and use of cannabis and cannabis products. As part of that initiative, commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of cannabis was authorized. Like the legislative enactments the year before on medicinal marijuana, Proposition 64 created a new comprehensive state licensing system which would go into effect on January 1, 2018. To date, no such draft regulations have been proposed or adopted. Unlike the legislative enactment the year before related to medical marijuana, legislative silence on the issue of commercial recreational<sub>5</sub>



cannabis activities by local government could nevertheless result in the issuance of state licenses to conduct such activities.

(n) The Lassen County board of supervisors finds and declares two intentions with regards to this amendment to Title 19. First, commercial cannabis activities, recreational or medical, in California are here to stay. The Lassen County board of supervisors has no particular objection to commercial activity based on cannabis. However, the Lassen County board of supervisors does have objection to commercial activity, of any kind, being approved without sufficient consideration being afforded to its impact on the environment and community. Due to the lack of even “draft” regulations being adopted from the state of California related to these very impactful activities, the Lassen County board of supervisors finds it imprudent to, at this time, allow a licensing scheme for an activity whose regulatory framework is now mostly unknown.

Secondly, the Lassen County board of supervisors is mindful of the need of individuals who continue to want to cultivate marijuana not for commercial purposes but for personal medical reasons. Likewise, the Lassen County board of supervisors is also aware that Proposition 64, the Adult Use of Marijuana Act, allows an individual to cultivate a certain amount of marijuana for recreational purposes and that local government may not limit such cultivation below a certain threshold amount as expressed in California Health and Safety Code Section 11362.2. (Ord. 2017-004 § 2; Ord. 2016-002 § 2).

### **19.030 Definitions.**

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Except where the context otherwise requires, the following definitions shall govern the construction of this title:

“Accessory structure” means a fully enclosed and secure structure that complies with the California Building Standards Code, that has 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 two-inch by four-inch or thicker studs overlain with three-eighths-inch or thicker plywood or equivalent materials. An accessory structure is a structure that is secondary or incidental to a private residence. A structure cannot be an accessory structure if there is not a private residence on the premises. A greenhouse or hoop house is not an accessory structure for purposes of this title and all cultivation within a greenhouse or hoop house is to be deemed “outdoors.”

“Cultivation” means the planting, growing, harvesting, drying, processing, or storing of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.

“Enforcing officer” means the Lassen County sheriff, and his or her deputies, the Lassen County director of planning and building services, and designee, and the Lassen County director of health and social services, and designee, each of whom is independently authorized to enforce this title.

“Fence of substantial construction” means a seven-foot fence constructed of no less than four by four-inch wood posts, or two and five-sixteenths-inch steel posts, secured in the ground no less than thirty inches below grade, constructed in a workman-like manner, spaced no further than eight feet apart, with no less than two by four-inch wood rails, no fewer than three each between posts, with one by six-inch wood pickets that have no gap between them. Substantial construction of a fence for this purpose also means the erection of a seven-foot chain link fence which includes sight obscuring slats.

“Indoor” or “indoors” means that the structure within which marijuana is being cultivated, must be a private residence or an accessory structure within the meaning of those definitions found elsewhere in this section of Title 19. All cultivation which does not specifically meet the definition of “indoor” or “indoors” is considered “outdoor” or “outdoors.” The cultivation of marijuana which occurs in a greenhouse or hoop house is considered “outdoor” or “outdoors” cultivation for purposes of this title.

“Legal parcel” means any 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 Government Code). Legal parcel is not the same as Assessor’s Parcel Number (APN). One legal parcel may have multiple APNs. The allowable cannabis activities defined in Section 19.040 relate to premises, as defined below, and not individual APNs.

“Licensed day care provider” means a child care center or a family child care home licensed by the California Department of Social Services.



“Marijuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

“Outdoor” or “outdoors” means any cultivation location that does not specifically meet the definition of “indoor” or “indoors” or is otherwise specifically defined as “outdoor” or “outdoors.”

“Premises” shall mean a single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single “premises” for purposes of this title. Parcels are considered contiguous for purposes of this title if they touch at any point along their respective boundaries.

“Primary caregiver” shall have the meaning set forth in Health and Safety Code Sections 11362.5 and 11362.7 et seq.

“Private residence” means a lawfully established structure, suitable for human occupancy as required by Sections 17922 and 17958 of the California Health and Safety Code. A recreational vehicle does not constitute a lawfully established structure for purposes of this title.

“Public park” means an area of land designated by any local governmental entity empowered to create a public park as an area to be held open to the public for recreational purposes.

“Qualified patient” shall have the meaning set forth in Health and Safety Code Sections 11362.5 and 11362.7 et seq.

“Residing on the premises” means that the person cultivating marijuana, whether for medicinal or recreational purposes, must be a legal occupant of a lawfully established structure, suitable for human occupancy as required by Sections 17922 and 17958 of the California Health and Safety Code, located on the premises upon which the cultivation is occurring. A recreational vehicle does not constitute a lawfully established structure for purposes of this title.

“School” means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a home school, vocational or professional institution of higher education, including a community or junior college, college, or university.

“School bus stop” means any location designated in accordance with California Code of Regulations, Title 13, Section 1238, to receive school buses, as defined in California Vehicle Code Section 233. (Ord. 2017-004 § 3; Ord. 2016-002 § 2).

#### **19.040 Allowable cannabis activities.**

(a) The establishment, maintenance, or operation of any commercial marijuana activity, including, but not limited to, cultivation, manufacture, testing, distribution, dispensing, and sale, which would require a state license to be issued pursuant to the Medical Cannabis Regulation and Safety Act (MCRSA) or the Adult Use of Marijuana Act (Proposition 64), is prohibited within the unincorporated territory of Lassen County and is hereby declared a public nuisance which may be abated or enjoined pursuant to this title.

(b) The non-commercial cultivation of marijuana in the unincorporated territory of Lassen County, whether for medical or recreational purposes, by any person, regardless of their status as a qualified patient or designated primary caregiver, in excess of the following limits is prohibited and is hereby declared a public nuisance that may be abated or enjoined pursuant to this title:

(1) All cultivation, recreational or medical, may only be performed by someone residing on the premises (within the meaning of that definition above) where the cultivation occurs.

(2) Allowable indoor cultivation: Marijuana, whether for medical or recreational use, may be cultivated indoors (within the meaning of that definition above) and then subject to the following limitations:

A. Not more than six living plants may be cultivated indoors at any one time for one premises.

B. The location where the cultivation is to occur shall not be accessible to minors at any time.

(3) Allowable outdoor cultivation: No recreational marijuana may be cultivated outdoors. Only medical marijuana may be cultivated outdoors (within the meaning of that definition above) and then subject to each of the following limitations:

A. Outdoor cultivation may only occur on a single contiguous two hundred fifty square-foot area located on the premises. The location at which measurements shall be taken in determining whether such cultivation is within two



hundred fifty square feet within the meaning of this limitation shall be the interior side of any fence required for “outdoor” cultivation in subsection (b)(3)(B) below.

B. Outdoor cultivation shall be fully enclosed by a fence of substantial construction.

C. Outdoor cultivation shall be set back from all exterior property lines by at least fifty feet. Such setback distance shall be measured in a straight line from the property line to any fence required to be constructed to enclose an outdoor marijuana grow pursuant to this title.

D. There shall be no outdoor cultivation of marijuana, in any amount or quantity, upon any premises located within one thousand feet of any existing school, school bus stop, licensed day care provider, or public park. Such distance shall be measured in a straight line from the boundary line of the premises upon which marijuana is cultivated to the boundary line of the premises upon which the school, school bus stop, licensed day care provider, or public park is located.

E. There shall be no outdoor cultivation on premises which are one acre in size or smaller.

(4) All cultivation, indoors or outdoors, medical or recreational, may only be performed by the legal owner of the premises or the legal resident thereof. If the person cultivating the marijuana is not the legal owner of the premises, such person shall possess a notarized consent form from the legal owner consenting to such cultivation. This consent form shall be at all times kept on the premises where the marijuana is being cultivated and a copy of which shall be made available, upon demand, to any enforcing officer. Lassen County planning and building services department will make forms available for such purpose.

(c) Any amendment enacted by the Lassen County board of supervisors reflecting a change in the allowable conditions of cultivation pursuant to this title shall not be applied retroactively. (Ord. 2017-004 § 4; Ord. 2016-007 § 1; Ord. 2016-002 § 2).

#### **19.050 Notice of administrative order to show cause.**

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Whenever the enforcing officer determines that a public nuisance as described in this title exists on any premises within the unincorporated area of Lassen County, he or she is authorized to notify the owner(s) and/or occupant(s) of the property, through issuance of a “Notice of Administrative Order to Show Cause.” (Ord. 2016-002 § 2).

#### **19.060 Contents of notice.**

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The notice set forth in Section 19.050 shall be in writing and shall:

- (a) Identify the owner(s) of the property upon which the nuisance exists, as named in the records of the county assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.
- (b) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.
- (c) Identify such property by reference to the assessor’s parcel number.
- (d) Contain a statement that unlawful marijuana cultivation exists on the premises and that it has been determined by the enforcing officer to be a public nuisance described in this title.
- (e) Describe the unlawful marijuana cultivation that exists and the actions required to abate it.
- (f) Contain a statement that the owner or occupant is required to abate the unlawful marijuana cultivation within ten calendar days after the date that said notice was served.
- (g) Notify the recipient(s) that, unless the owner or occupant abates the conditions, a hearing will be held before a hearing officer appointed in accordance with this section to determine whether there is any good cause why these conditions should not be abated. The notice shall specify the date, time, and location of this hearing, and shall state that the owner or occupant will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this title, or whether there is any other good cause why those conditions should not be abated.
- (h) Contain a statement that, unless the owner or occupant abates the conditions, or shows good cause before the hearing officer why the conditions should not be abated, the enforcing officer will abate the nuisance. 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.

(i) State the applicable hearing fee, if such a fee has been established. (Ord. 2016-002 § 2).

#### **19.070 Service of notice.**

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(a) The notice set forth in Section 19.050 shall be served by delivering it personally to the owner and to the occupant, or by mailing it, to the occupant of the property at the address thereof, and to any non-occupying owner at his or her address as it appears on the last equalized assessment roll, except that:

(1) Service by mail shall be made by first class postage prepaid United States mail service (USPS). If notice is served by mail, the time period for a hearing on said notice, as provided for in Section 19.060, shall be extended by two additional days;

(2) If the records of the county assessor show that the ownership has changed since the last equalized assessment roll was completed, the notice shall also be mailed to the new owner at his or her address as it appears in said records; or

(3) In the event that, after reasonable effort, the enforcing officer is unable to serve the notice as set above, service shall be accomplished by posting a copy of the notice on the real property upon which the nuisance exists as follows: copies of the notice shall be posted along the frontage of the subject property and at such other locations on the property reasonably likely to provide notice to the owner. In no event shall fewer than two copies of the order be posted on a property pursuant to this section.

(b) The date of deposit in the mail, personal delivery, or posting, as applicable, shall determine what the date of service is deemed to be for purposes of this title.

(c) The failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings. (Ord. 2016-002 § 2).

#### **19.075 Establishment of the position of administrative hearing officer.**

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(a) In order to hear cases brought by the enforcing officer under this section, the board of supervisors hereby establishes for such purpose the office of county hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, to which office the board of supervisors shall appoint one or more hearing officers. Each such hearing officer shall be an attorney at law having been admitted to practice before the courts of this state for at least five years. Hearing officers shall be appointed for a period of not less than one year. In the event that the board appoints more than one hearing officer, each day of hearings required under this section shall be assigned to a hearing officer based upon an alphabetical rotation. Hearing officers shall have those powers set forth in Sections 27721 and 27722 of the Government Code, including the power to conduct the hearing, the power to decide the matter under this section upon which a hearing has been held, the power to make findings of fact and conclusions of law required for the decision, the power to issue subpoenas at the request of a party of interest, the power to receive evidence, the power to administer oaths, the power to rule on questions of law and the admissibility of evidence, the power to continue the hearing from time to time, and the power to prepare a record of the proceedings. (Ord. 2016-002 § 2).

#### **19.080 Hearing on administrative order to show cause.**

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(a) Pursuant to Government Code Sections 25845, subdivision (i) and 27721, subdivision (a), the hearing officer shall hold an administrative hearing to determine whether the conditions existing on the property subject to the notice constitute a nuisance under this title, or whether there is any other good cause why those conditions should not be abated. This hearing shall be held no less than ten calendar days after service of the notice.

(b) The owner or occupant of the property shall be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this title, or whether there is any other good cause why those conditions should not be abated.

(c) In the event that the owner or occupant does not appear and present evidence at the hearing, the hearing officer may base the decision solely upon the evidence submitted by the enforcing officer. Failure of the owner or occupant to appear and present evidence at the hearing shall constitute a failure to exhaust administrative remedies.



(d) Any hearing conducted pursuant to this title need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(e) The hearing officer shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the notice and order. The hearing officer shall issue a written decision, which shall include findings relating to the existence or nonexistence of the alleged unlawful marijuana cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the notice. Such decision shall be mailed to, or personally served upon the parties upon whom the notice was served, and the enforcing officer. The decision shall be final when signed by the hearing officer and served as herein provided. (Ord. 2016-002 § 2).

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#### **19.090 Liability for costs.**

(a) In any enforcement action brought pursuant to this title, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the unlawful marijuana cultivation to exist shall be liable for all costs incurred by the county, including, but not limited to, administrative costs, costs incurred in conducting an administrative hearing when an order for abatement is upheld but not in a case where the order for abatement is not sustained, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this title, whether those costs are incurred prior to, during, or following enactment of this title;

(b) In any action by the enforcing officer to abate unlawful marijuana cultivation under this title, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorneys' fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the county elects, at the initiation of that action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the county in the action or proceeding. (Ord. 2016-002 § 2).

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#### **19.100 Abatement by owner or occupant.**

Any owner or occupant may abate the unlawful marijuana cultivation or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer. (Ord. 2016-002 § 2).

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#### **19.110 Enforcement.**

Whenever an enforcing officer becomes aware that an owner or occupant has failed to abate any unlawful marijuana cultivation within five days of the date of service of the decision of the hearing officer, made pursuant to this title, the enforcing officer may take one or more of the following actions:

(a) Enter upon the property and abate the nuisance by county personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary. If any part of the work is to be accomplished by private contract, that contract shall be submitted to and approved by the board of supervisors prior to commencement of work. Nothing herein shall be construed to require that any private contract under this code be awarded through competitive bidding procedures where such procedures are not required by the general laws of the state of California; and/or

(b) Request that the county counsel commence a civil action to redress, enjoin, and abate the public nuisance. (Ord. 2016-002 § 2).

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#### **19.120 Accounting.**



The enforcing officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the board of supervisors showing the cost of abatement and the administrative costs for each parcel. (Ord. 2016-002 § 2).

#### **19.130 Notice of hearing on accounting—Waiver by payment.**

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Upon receipt of the account of the enforcing officer, the clerk of the board of supervisors shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than ten business days after the date of mailing of the notice, the board of supervisors will meet to review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the enforcing officer prior to the time set for the hearing by the board of supervisors. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable. (Ord. 2016-002 § 2).

#### **19.140 Hearing on accounting.**

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(a) At the time fixed, the board of supervisors shall meet to review the report of the enforcing officer. An owner may appear at said time and be heard on the questions whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed.

(b) The report of the enforcing officer shall be admitted into evidence. The owner shall bear the burden of proving that the costs shown and the accounting is not accurate and reasonable.

(c) The board of supervisors shall also determine whether or not the owner(s) had actual knowledge of the unlawful marijuana cultivation, or could have acquired such knowledge through the exercise of reasonable diligence. If it is determined at the hearing that the owner(s) did not have actual knowledge of the unlawful marijuana cultivation, and could not have acquired such knowledge through the exercise of reasonable diligence, costs for the abatement shall not be assessed against such parcel or otherwise attempted to be collected from the owner(s) of such parcel. (Ord. 2016-002 § 2).

#### **19.150 Modifications.**

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The board of supervisors shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution. (Ord. 2016-002 § 2).

#### **19.160 Special assessment/charge and lien.**

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Pursuant to Section 25845 of the Government Code, the board of supervisors may order that the cost of abating nuisances pursuant to this title and the administrative costs as confirmed by the board be placed upon the county tax roll against the respective parcels of land, or placed on the unsecured roll; provided, however, that the cost of abatement and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll. The board of supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to Section 25845 of the Government Code. (Ord. 2016-002 § 2).

#### **19.170 Administrative civil penalties.**

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(a) In addition to any other remedy prescribed in this title, any nuisance as described in this title may be subject to an administrative penalty of up to one thousand dollars per day. The administrative penalty may be imposed via the administrative process set forth in this section, as provided in 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 title that continue, exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations.



(c) In the case of a continuing violation, if the violation does not create an immediate danger to health or safety, the enforcing officer or the court shall provide for a reasonable period of time, not to exceed five days, for the person responsible for the violation to correct or otherwise remedy the violation prior to the imposition of administrative penalties.

(d) In determining the amount of the administrative penalty, the enforcing officer, or the court if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and any other matters justice may require.

(e) The enforcing officer may commence the administrative process by issuance of a notice of violation and proposed administrative penalty, which shall state the amount of the proposed administrative penalty and the reasons therefor. The notice of violation and proposed administrative penalty may be combined with a notice and administrative order to show cause pursuant to Section 19.050. The notice of violation and proposed administrative penalty shall be served upon the same persons described in Section 19.070. Service of the notice shall be deemed sufficient if it is done in the manner described in Section 19.070. The failure to serve any person described in this subsection shall not affect the validity of service or the validity of any penalties imposed.

(f) The hearing officer shall consider the matter de novo, and may affirm, reverse, or modify the proposed administrative penalties contained in the notice. The hearing officer shall issue a written decision, which shall include findings relating to the imposition of any proposed administrative penalties. Such decision shall be mailed to, or personally served upon the parties upon whom the notice was served, and the enforcing officer in the same manner as described in Section 19.070. The decision shall be final when signed by the hearing officer and served as herein provided.

(g) Payment of an administrative penalty specified in the hearing officer's order shall be made to the county within twenty days of service of the order, unless timely appealed to the Superior Court in accordance with Government Code Section 53069.4, subdivision (b).

(h) Interest shall accrue on all amounts due under this section, from the effective date of the administrative penalty order, as set forth in this section, to the date paid pursuant to the laws applicable to civil money judgments.

(i) In addition to any other legal remedy, whenever the amount of any administrative penalty imposed pursuant to this section has not been satisfied in full within ninety days and has not been timely appealed to the Superior Court in accordance with Government Code Section 53069.4, subdivision (b), or if appealed, such appeal has been dismissed or denied, this obligation may be enforced as a lien against the real property on which the violation occurred.

(1) The lien provided herein shall have no force and effect until recorded with the county recorder. Once recorded, the administrative order shall have the force and effect and priority of a judgment lien governed by the provisions of Code of Civil Procedure Section 697.340, and may be extended as provided in Code of Civil Procedure Sections 683.110 to 683.220, inclusive.

(2) Interest shall accrue on the principal amount of the lien remaining unsatisfied pursuant to the law applicable to civil money judgments.

(3) Prior to recording any such lien, the enforcing officer shall prepare and file with the clerk of the board of supervisors a report stating the amounts due and owing.

(4) The clerk of the board of supervisors will fix a time, date, and place for the board of supervisors to consider the report and any protests or objections to it.

(5) The clerk of the board of supervisors shall serve the owner of the property with a hearing notice not less than ten days before the hearing date. The notice must set forth the amount of the delinquent administrative penalty that is due. Notice must be delivered by first class mail, postage prepaid, addressed to the owner at the address shown on the last equalized assessment roll or as otherwise known. Service by mail is effective on the date of mailing and failure of owner to actually receive notice does not affect its validity.

(6) Any person whose real property is subject to a lien pursuant to this section may file a written protest with the clerk of the board of supervisors and/or may protest orally at the board of supervisors meeting. Each written protest or objection must contain a description of the property in which the protesting party is interested and the grounds of such protest or objection.

(7) At the conclusion of the hearing, the board of supervisors will adopt a resolution confirming, discharging, or modifying the lien amount.



(8) Within thirty days following the board of supervisors adoption of a resolution imposing a lien, the clerk of the board of supervisors will file same as a judgment lien in the Lassen County recorder's office.

(9) Once the county receives full payment for outstanding principal, penalties, and costs, the clerk of the board of supervisors will either record a notice of satisfaction or provide the owner with a notice of satisfaction for recordation at the Lassen County recorder's office. This notice of satisfaction will cancel the county's lien under this section.

(10) The lien may be foreclosed and the real property sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. The prevailing party shall be entitled to its attorney's fees and costs.

(j) Administrative penalties imposed pursuant to this section shall also constitute a personal obligation of each person who causes, permits, maintains, conducts or otherwise suffers or allows the nuisance to exist. In the event that 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.

(k) Payment of administrative penalties under this section does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the notice of violation and proposed administrative penalty. The payment of administrative penalties does not bar the county from taking any other enforcement action regarding a violation that is not corrected. (Ord. 2016-002 § 2).

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#### **19.180 Administrative hearing fees.**

(a) The board of supervisors may, by resolution, establish fees for hearings conducted under Sections 19.080 and 19.170.

(b) If the hearing fee is paid and the hearing officer finds there is no nuisance as described in this title, the hearing fee shall be refunded to the person who paid the fee, without interest. (Ord. 2016-002 § 2).

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#### **19.190 Enforcement by civil action.**

As an alternative to the procedures set forth in Sections 19.050 through 19.080, and 19.170, the county may abate the violation of this title by the prosecution of a civil action through the office of the county counsel, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this title or requiring compliance with other terms. (Ord. 2016-002 § 2).

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#### **19.200 Summary abatement.**

Notwithstanding any other provision of this title, when any unlawful marijuana cultivation constitutes an immediate threat to public health or safety, and when the procedures set forth in Sections 19.050 through 19.080, and 19.170 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. The enforcing officer shall make reasonable efforts to notify the persons identified in Section 19.070, but the formal notice and hearing procedures set forth in this title shall not apply. The county may nevertheless recover its costs for abating that nuisance in the manner set forth in Sections 19.120 through 19.160. Any action to summarily abate under the provisions of this section shall require that the enforcing officer, prior to the commencement of the abatement, prepare written findings of the grounds for such action and the exigencies supporting same which shall be reviewed and approved by the Lassen County district attorney, as appropriate, prior to the abatement action. (Ord. 2016-002 § 2).

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#### **19.210 No duty to enforce.**

Nothing in this title shall be construed as imposing on the enforcing officer or the county of Lassen any duty to issue a notice of administrative order to show cause, to propose any administrative penalties, nor to abate any unlawful marijuana cultivation, nor to take any other action with regard to any unlawful marijuana cultivation, and neither the enforcing

officer nor the county of Lassen shall be held liable for failure to issue any such notices, nor for failure to abate any unlawful marijuana cultivation, nor for failure to take any other action with regard to any unlawful marijuana cultivation. (Ord. 2016-002 § 2).

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**19.220 Remedies cumulative.**

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All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law. Nothing in this title shall be deemed to authorize or permit any activity that violates any provision of state or federal law. (Ord. 2016-002 § 2).

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**19.230 Other nuisance.**

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Nothing in this title shall be construed as a limitation on the county's authority to abate any nuisance which may otherwise exist from the planting, growing, harvesting, drying, processing or storage of marijuana plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building. (Ord. 2016-002 § 2).

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**19.240 Severability.**

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If any section, subsection, sentence, clause, portion, or phrase of this title is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The board of supervisors hereby declares that it would have passed this title and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional. (Ord. 2016-002 § 2).

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