

**BOARD OF SUPERVISORS, COUNTY OF CALAVERAS  
STATE OF CALIFORNIA**

Ordinance  
No. \_\_\_\_\_

**ORDINANCE ADOPTING CHAPTER 8.06 PROPERTY  
MAINTENANCE AND CODE ENFORCEMENT PROCEDURES**

**AN ORDINANCE OF THE COUNTY OF CALAVERAS REPEALING AND REPLACING CHAPTER 8.06 OF THE  
CALAVERAS COUNTY CODE RELATING TO PROPERTY MAINTAINENCE, CODE ENFORCEMENT  
PROCEDURES AND ABATEMENT OF PUBLIC NUISANCES.**

**WHEREAS**, the property maintenance and administrative enforcement procedures provisions of the County Code is in need of repeal and replacement for the purpose clarity, uniformity, efficiency, and to establish cost recovery measures;

**WHEREAS**, prior to the termination of the commercial medical cannabis regulatory program, the code compliance unit was segregated into cannabis enforcement and conventional code enforcement functions. Repeal and replacement of Chapter 8.06 is necessary to integrate enforcement practices and appeal procedures in order to establish a comprehensive and unified approach to all code violations that will be more practical and efficient;

**WHEREAS**, the segregated appeals process created two distinct time-lines and appeal procedures for enforcement that required all code cases involving cannabis to be dealt with separately from building, zoning, or grading violations. This is burdensome to staff and confusing to the public. The repeal and revision of Chapter 8.06 will streamline and simplify Code Compliance procedures and administrative appeals; and

**WHEREAS**, five full time equivalent positions were funded through the cannabis fee fund and the termination of the regulatory program has required the Code Compliance unit to establish alternative funding sources to continue to carry out its mission at the same level of effectiveness. This Ordinance is intended to reduce and eventually eliminate the need for general fund subsidies by introducing a fee schedule, providing additional prejudgment collection tools for recovery of fines, and to implement more effective and efficient code enforcement practices.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF CALAVERAS DOES  
ORDAIN AS FOLLOWS:**

**SECTION 1.**

Adoption of this ordinance is exempt from the California Environmental Quality Act (Pub. Res. Code § 21000, *et seq.*) under Title 14, C.C.R. § 15061(b)(3) because there is no possibility that the repeal and replacement of the Property Maintenance and Code Enforcement Procedures ordinance will have a significant effect on the environment based on the following findings:

- A. The intended purpose of this ordinance is to streamline administrative practices of the code compliance unit, to implement cost recovery mechanisms, and provide staff with additional methods and procedures for encouraging compliance with the County Code and applicable state law. These proposed internal changes to the practices of the code compliance unit are bureaucratic and administrative in nature and will not have a significant effect on the environment. Therefore, Adoption of an ordinance to amend the property maintenance code will not result in any direct or

reasonably foreseeable indirect physical impact to the environment.

SECTION 2. The Board of Supervisors finds:

- A. The proposed Ordinance would not be detrimental to the public interest, health, safety, convenience, or general welfare of the County.
- B. Adoption of the ordinance will facilitate appropriate property maintenance and abatement of public nuisances.

SECTION 3.

County Code Chapter 8.06 shall be repealed in its entirety and replaced in full as follows:

**Chapter 8.06 - PROPERTY MAINTENANCE AND CODE ENFORCEMENT PROCEDURES**

8.06.010 - Findings and Purpose.

- A. The Board of Supervisors finds that there is a need to establish procedures for the administrative enforcement of the Calaveras County Code and of relevant state statutes.
- B. Prompt and effective enforcement of County Code is an important governmental function and public service. The principal purpose of code enforcement is to achieve compliance with the laws of the County, not to unnecessarily penalize individuals who are unaware of the requirements of the Code or who are without the means or resources to cure code violations on their property. However, punitive measures and cost recovery mechanisms authorized by Government Code are necessary tools used to encourage compliance with County Code. This Chapter provides ample opportunities for reasonable, good faith cooperation between the County and property owners in achieving compliance without unduly and unfairly penalizing the people and businesses of Calaveras County.
- C. The Board of Supervisors finds that code enforcement should be dealt with in a comprehensive and uniform manner and that the administrative and judicial remedies provided for in this Chapter in combination with the provisions of the County Code and applicable State law will result in greater compliance with the laws of the County in a manner that is fair and just as well as efficient and cost effective.
- D. This Chapter sets forth the administrative procedures that will govern the imposition of fines, issuance of orders, administrative appeal of orders, assessments, and decisions of County officials, and for the collection of penalties imposed for violations of the provisions of County Code.
- E. The ordinances codified in this chapter are adopted for the following specific purposes:
  - 1. To protect the health and safety of the residents of Calaveras County through the prevention and eradication of public nuisances in the county;
  - 2. To ensure that all premises are maintained in a manner that protects public health and safety;
  - 3. To ensure that all premises are maintained in a manner that does not constitute a public nuisance;
  - 4. To ensure that all premises are maintained in compliance with all applicable laws; and
  - 5. To afford due process of law to any person directly affected by an administrative decision or enforcement action. Due process of law includes adequate notice, an opportunity to participate in an administrative hearing, and an adequate explanation of the justification for

the administrative action. The administrative hearing procedures provided for in this Chapter are intended to establish a forum to efficiently, expeditiously, and fairly resolve issues raised in any enforcement action.

#### 8.06.020 - Severability.

If a section, subsection, sentence, clause, or phrase of this Chapter is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Chapter.

#### 8.06.030 - Non-exclusivity.

This Chapter is not intended to be exclusive. The administrative enforcement and adjudication procedures set forth in this Chapter are intended to supplement other available means of enforcing County Code provided for elsewhere in the County's ordinances and under State law. Therefore, the County shall have the discretion to select the appropriate enforcement strategy, which may include imposition of administrative fines, penalties, fees, and administrative orders, as well as any other remedies available under the law. The procedures established in this Chapter shall be in addition to any criminal, civil, or other legal remedy established by law that may be available to the County to address violations of this Code and applicable state statutes.

#### 8.06.040 - Responsibility.

- A. Unless otherwise specified herein, the owner(s) and the owner's designated agent(s), assign(s), occupant(s), tenant(s), person(s) in charge of premises, or operator(s) on a premises, shall be responsible for the maintenance of the premises and shall maintain the premises in compliance with this chapter.
- B. A person shall not occupy as owner-occupant or permit another person to occupy premises that are not in a sanitary and safe condition and which do not comply with the requirements of County Code or incorporated provisions of state law and regulations.
- C. Occupants of a shared dwelling unit are responsible for keeping in a sanitary and safe condition those parts of the dwelling unit or premises that they respectively occupy and/or control.
- D. No property owner or occupant shall conduct or allow illegal commercial or unlicensed business activities to be conducted on any premises subject to their control.
- E. Owners and designated agents, assigns, occupants, tenants, persons in charge of premises, or operators on premises shall be jointly and severally liable to perform any and all actions, and to pay all applicable costs, fees, or fines, in compliance with this chapter.

#### 8.06.050 - Definitions.

- A. For the purpose of this chapter, the following definitions shall apply:

"Abatement" means any action the Building Official and his/her designees may take or order taken to remove or alleviate a public nuisance, or to put a stop to an ongoing violation, including, but not limited to, demolition, eradication, removal, repair, cleaning, boarding up, securing, or replacement of property, as well as issuance of stop work orders, issuance of orders to vacate, or any other such action as may be required to terminate a condition or activity that constitutes a nuisance or other violation of County Code or incorporated state statute or regulation.

"Administrative citation and order" means an official citation and order, in a form that complies with Section 8.06.400 et seq. of this Chapter, resulting from a violation of any provision of the County code or relevant applicable state statutes or regulations.

"Assessment lien" means a special assessment lien placed on the property tax rolls and recorded with the Calaveras County Recorder's Office for the purposes of collecting outstanding costs of code enforcement actions undertaken to cause the abatement of a public nuisance or correction of a violation pursuant to the authority granted under Government Code §25845. It shall also mean the same as a code enforcement lien.

"Building" means any structure having a roof supported by columns and/or walls used or intended to be used for commercial or residential purposes for the shelter or enclosure of persons, animals, or property.

"Building inspector" means an employee or agent of the County responsible to determine compliance with all adopted building codes.

"Building Official" means the appointed official of the County of Calaveras who occupies the position as the head of the building department and his/her designee(s) within the code compliance or building departments.

"Business days" means all days except Saturdays, Sundays, and holidays observed by the County of Calaveras. Under this Chapter, "days" shall mean calendar days unless otherwise stated.

"Cannabis" shall have the same meaning as it does in California Business and Professions Code §26001 and shall include "cannabis products" and "edible cannabis products" as defined in that code section.

"Commercial Cannabis Activities" shall include cultivation as defined below, as well as manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transporting, delivering, or selling cannabis.

"Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, or trimming of cannabis for medical or recreational use. It also encompasses any definition of "cultivation" in Business and Professions Code §26001.

"Citation" means written notice served upon the owner and/or occupant of a premises that is issued after the expiration of a deadline specified in a Notice of Violation; a citation informs an owner/occupant of the assessment of an administrative fine or the initiation of daily fines in the case of a continuing violation. Notwithstanding the foregoing, a citation may be served concurrently with a Notice of Violation where appropriate under the provisions of this chapter.

"Clerk", unless otherwise specified, means the Clerk of the Calaveras County Office of Administrative Hearings.

"Code" means the Calaveras County Code, unless otherwise specified, including but not limited to Titles 5, 8, 9, 13, 14, 15, and 17, together with any regulations, or building, safety, or design standards that are incorporated within those provisions of the County Code.

"Code enforcement officer" or "enforcing officer" means the Building Official and his/her designees employed or contracted by the County of Calaveras responsible for enforcement of this code, investigation of violations, implementing abatements, and overseeing enforcement procedures.

"Commercial Cannabis Activity" means, for the purposes of this Chapter, cultivation of more than six (6) plants at residential premises, the cultivation of any amount of cannabis on any Premises without a residence, or any cannabis activity that would otherwise require a license from the Bureau of Cannabis Control or the California Department of Agriculture.

"County" means the unincorporated area within the territorial county limits of Calaveras County.

Where appropriate, "county" may also mean the Board of Supervisors, County Administrative Officer, Building Official, and their designees authorized to act on behalf of the county.

"Courtesy Notice" means preliminary notice to land owners and/or tenants or occupants of a premises that informs them of the existence of a code violation. This notice include a reference to the County ordinance or state law being violated and information about how to correct the violation or nuisance in order to avoid incurring a case management fee, inspection fees, administrative penalties, or other enforcement action.

"Days" means calendar days unless otherwise specified in this chapter.

"Distressed property" means any building, structure, or real property that is subject to a current notice of default and/or notice of trustee's sale, pending tax assessors lien sale, foreclosure action, and/or any real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or any real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or any real property conveyed via a deed in lieu of foreclosure/sale, regardless of vacancy or occupancy by a person with no legal right of occupancy.

"Discharge" shall mean the release, threatened release, or placement of any material into the county storm drain system, natural surface waters, rivers or streams, including, but not limited to, stormwater, wastewater, pollutants, solid materials, liquids, hazardous waste, raw materials, debris, soils or earth, litter or any other substance.

"District" means one of the five supervisory districts of the county.

"Enforcing Officer" means a building department employee authorized by the Building Official to enforce the provisions of this Chapter.

"Foreclosure" means the process by which real property subject to a deed of trust is sold to satisfy the debt of a defaulting trustor, i.e. borrower.

"Imminent and substantial endangerment" means any condition or activity that creates a present and immediate danger to life, property, health, the environment, or public safety.

"Interested Party" means an owner or occupant as those terms are defined in this chapter, but also any person or entity pecuniarily impacted by a notice, citation, or order issued by an enforcing officer.

"Lien" means recorded notice other than an assessment lien recorded pursuant to Government Code §25845, and includes a lien recorded for the recovery of unpaid fees for property related or non-property related fees, or lien recorded after a court judgment for the recovery of civil debts or obligations under this chapter such as administrative fines and fees.

"Notice of Violation" means a written notice that informs an owner or occupant of code violation(s) present on the subject property, lists the required compliance action(s) and provides a reasonable amount of time within which to take said action(s), and contains specific information as required by this Chapter. The issuance of a Notice of Violation triggers the assessment of a case management fee and may result in recordation of a Notice of Violation with the County Recorder's Office.

"Oath" means sworn affirmation.

"Occupant," as applied to a building or land, means and includes any tenant or other person who occupies or is otherwise in possession of the whole or part of such building or land, whether alone or with others. An owner who occupies or possesses the building or land can also be an occupant.

"Office" means the use of the title of any officer, employee, office, or ordinance, and shall mean

such officer, employee, office, or ordinance of the county of Calaveras.

"Operate" or "engage in" means and includes to carry on, keep, conduct, maintain, cause, or allow to be kept, conducted, or maintained.

"Owner" or "property owner" means and includes any person or entity that is the sole owner, part owner, joint owner, tenant in common, joint tenant, or who has an ownership or possessory interest in the whole or a part of premises.

"Person," unless it otherwise appears from the context as used, means and includes any person, firm, association, organization, partnership, business trust, company, corporation, public agency, school district or other special district(s), the state of California, its political subdivisions and/or instrumentalities thereof, or any other entity having rights or duties recognized under applicable law.

"Premises" means any building, lot, parcel, real estate (in fee or otherwise), or land or portion of land whether improved or unimproved, including adjacent street areas. Where contiguous legal parcels are under common ownership or control, such contiguous parcels shall constitute a single "premises" for the purposes of this Chapter.

"Public nuisance" or "nuisance" means:

1. Any condition caused, maintained, or permitted to exist which constitutes a threat to the public health, safety, or welfare or which is injurious to the senses or which significantly obstructs, injures, or interferes with the reasonable or free use of property in a neighborhood, community, or to any considerable number of persons. A public nuisance also has the same meaning as set forth under the California Civil Code;
2. Any violation of the provisions of the Calaveras County Code as set forth in Titles 13, 15, and 17 or of this Chapter;
3. Any condition or practice that violates County ordinances or state law regarding grading, storm water run-off or waste water discharges regardless of how the condition was created or whether a permit was initially required, including any activity that moves soils or substantially alters preexisting vegetation or cover, such as grading, digging, cutting, scraping, stockpiling or excavating soil, placement of fill materials, streambed alterations, unless such activity was undertaken pursuant to a grading permit issued by the Public Works Department, is authorized pursuant to state and local law, or where such work is necessary to remediate conditions identified by the county engineer, the State Water Resources Control Board, or other state, federal, or local official charged with preventing unmitigated erosion, or discharge of soil laden or contaminated storm water into rivers, creeks, lakes, or storm drains or storm water conveyance systems;
4. Surface water diversions or obstructions in violation of State Water Code §5100 et seq, or obstruction or contamination of waterways as described in Fish and Game Code §1602(a), or in violation of the provisions of Fish and Game Code §§ 5650 and 5652.
5. Any improvement or condition within or adjacent to or appurtenant to a state highway or county road or right of way which undermines or jeopardizes the safe use or access to such roadways or right of ways. Nuisances of this nature include signage or foliage that affects or limits line of sight for drivers traveling on or entering a roadway, unpermitted encroachments onto roadways, hazardous trees, or other conditions that are deemed by the Building Official, enforcing officers, or Public Works officials to be a threat to public safety that are caused by or subject to the control of private property owners;

6. Any accumulation of junk, debris, or junk cars, as defined in Title 17, on any parcel of land within sight of any other parcel of land or public or private roads, and which is not enclosed within four walls and a roof.
7. Violations of Title 17 of the County Code which cause light pollution, glare, or light trespass resulting from exterior lighting, artificial lighting within green houses, or any other source of illumination which shines beyond the boundaries of the property on which the light fixture is located;
8. Any attractive nuisance that may prove detrimental to children, whether in a building, on the premises of a building, or upon an unoccupied lot. This includes any abandoned excavation, wells, shafts, or inadequately secured cannabis cultivation sites;
9. Any personal cannabis cultivation activity that is not affirmatively authorized by the County Code and State law; and
10. Any Commercial Cannabis Activity undertaken without express local authorization and a state permit or license issued in accordance with Business and Professions Code §2600 *et seq.*

"REO" means real estate owned property that goes back to beneficiary, trustee, mortgage company, or lender after foreclosure.

"Residence" for the purposes of this chapter, means a building intended for human habitation that has been legally established, permitted, and certified as a single-family or multi-family dwelling.

"Staff" means county employees and/or counsel representing staff.

"State" means the state of California.

"Street" means and includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, parkways, or other public ways in the county which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

"Summary Abatement" means immediate abatement where the Building Official has found that a condition or activity constitutes an immediate threat to public health or safety.

"Violation" means injury, infringement or breach of any right or duty under the law, contravention of any provision of the Calaveras County code of ordinances, or the creation, undertaking, or perpetuation of any condition or activity that constitutes a nuisance as defined in this chapter.

- B. Where terms are not defined in this chapter but are defined in the Calaveras County Code, or other applicable, identified, and incorporated regulation or statute, such terms shall have the meanings ascribed to them in those codes or regulations.
- C. Where terms are not defined, either in this chapter or in any of the codes referenced in subsection B, such terms shall have ordinarily accepted meanings such as the context implies.
- D. Whenever the words "dwelling unit," "premises," "building," or "structure" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

#### 8.06.060 - Public nuisances prohibited.

It shall be unlawful for any owner, occupant, tenant, operator, or other person to cause or maintain a public nuisance on any premises.

#### 8.06.070 - Administrative enforcement authority.

- A. The Building Official has the authority and powers necessary to determine whether a nuisance or violation of the Code exists and the authority to take appropriate action to gain compliance with applicable law.
- B. The above authority includes the powers to:
  - 1. Issue courtesy notices, notices of violation, administrative citations and orders, summary abatement notices, and notices of violation, administrative citations and orders to abate, notices of hearing, and orders to show cause;
  - 2. Inspect public and private property; and
  - 3. Use the administrative remedies available under the Calaveras County Code or other applicable law to obtain complete compliance, including but not limited to imposing fines, performing abatement actions, seeking a code enforcement lien for costs of abatement, and undertaking civil action for recovery of fines, fees, and for injunctive relief.

8.06.080 - Additional enforcement authority.

- A. The Building Official may enter into written voluntary agreements with an owner or occupant, to gain compliance with applicable law.
- B. Voluntary agreements shall include:
  - 1. Provisions which address the nature and extent of abatement activities;
  - 2. A time schedule for completion of abatement procedures;
  - 3. Assessment of administrative fines;
  - 4. The consequences of failing to comply with the terms and conditions thereof; and
  - 5. Any other provisions that expeditiously and reasonably resolves the violation and/or any dispute between the County and interested parties.
  - 6. Fees and Costs shall never be waived or reduced pursuant to a voluntary agreement, but can be subject to a payment plan.
- C. During the term of the voluntary agreement, administrative fines shall continue to accrue pursuant to Section 8.06.430. Upon satisfaction of the terms and conditions of the voluntary agreement by the owner or occupant, the Building Official shall waive only those administrative fines accrued during the term of the voluntary agreement. Failure of the owner or occupant to satisfy the terms and conditions of the voluntary agreement shall make the accrued fines immediately due and payable to the county.
- D. Voluntary code compliance agreements shall be executed, acknowledged, and recorded in the official records of the county recorder's office. Recorded agreements shall run with the land and be binding on the heirs, successors and assigns of the affected persons who entered into said agreements with the county.

8.06.090 - Authority to inspect and Inspection Warrants.

- A. The Building Official, or his/her designee, is authorized to enter upon any property or premises to ascertain whether the provisions of the Calaveras County Code or applicable state codes are being obeyed, and to make any examinations and surveys as may be necessary in the performance of their enforcement duties. This may include the taking of photographs, samples, or other physical evidence such as the use of a sound level measurement device to measure noise disturbances. All

inspections, entries, examinations, and surveys shall be done in a reasonable manner. Entry shall be made with consent of the owner, occupant, agent, or other party with authority, or by authority of an inspection warrant or as otherwise provided by law.

- B. Enforcing officers shall seek consent of occupants prior to entry upon premises.
- C. Where consent is refused and cause for inspection exists then the enforcing officer shall seek an inspection warrant pursuant to the provisions of California Code of Civil Procedure §1822.50 *et seq.*

#### 8.06.100 - Interference with enforcement procedures prohibited.

- A. It shall constitute a misdemeanor for any person to:
  - 1. Either orally or in writing, give information to an enforcement official which the person knows to be false; or
  - 2. Remove or violate a notice or order posted as required by any provision of this Code; or
  - 3. Obstruct, impede, or interfere with the lawful activities of any county enforcement official, including inspections, examinations, or surveys.
- B. Except in cases where a different punishment is prescribed by this Code, any person convicted of a misdemeanor for violation of this chapter is punishable by a fine of not more than one thousand dollars (\$1,000), by imprisonment not to exceed six months, or by both such fine and imprisonment.

#### 8.06.110 - REO/foreclosure properties.

- A. Duty to record transfer of loan and/or deed of trust and/or assignment of rents:
  - 1. Each individual or entity acquiring a trustee's deed through foreclosure shall record, with the Calaveras County Recorder's Office, the transfer documents, trustee's deed, deed of trust and/or assignment of rents or similar instrument.
  - 2. The instrument of property transfer shall list the name of the responsible party/parties, the mailing address, email address, and telephone number of the trustee and beneficiary responsible for receiving payments associated with the loan or deed of trust.
  - 3. In the event of a successful foreclosure sale to a third party, the trustee's deed shall list the name of the responsible party/parties, the mailing address, email address, and telephone number of the third party or parties who acquired the property via foreclosure.
  - 4. All personal or institutional owners of REO property or property acquired via trustee's deed after foreclosure shall deliver a copy of the trustee's deed to the Building Official no later than fifteen (15) days after recording the trustee's deed. This duty/obligation to draft, record, and provide a copy of the trustee's deed to the Building Official in conformance with this section shall be joint and several among and between all trustees and beneficiaries and their respective agents.
  - 5. Failure to comply with subsections 8.06.110(A)(1)-(4) is a violation of this code and shall result in the issuance of an administrative citation and order pursuant to §§8.06.310 and 8.06.400.
- B. Foreclosure/Vacant Property Registration:
  - 1. Upon recordation of a notice of default, the trustee, beneficiary and/or lender to whom the benefit of notice of default inures, shall within fifteen (15) days of recording the notice of default, register the property with the Calaveras County Code Compliance Unit. The

registration forms may be obtained from the code compliance unit of the building department. The registration shall confirm the address of trustee, beneficiary and/or lender who shall be jointly and severally liable for property maintenance under this chapter at the time the property becomes REO property. If the beneficiary or trustee has recorded a notice of default prior to the effective date of this section, they shall register such property with the code enforcement department within fifteen (15) days of the effective date of this section.

2. The Building Official shall issue notices of violation to all REO property owners whose property remains vacant and in violation of this chapter for thirty (30) consecutive days after recordation of trustee's deed or date of legal acquisition, whichever is first in time. Failure to correct all violations on the property within thirty (30) days after a Notice of Violation will result in an administrative citation being issued.
3. The Building Official shall issue notices of violation to all property owners who acquire property via trustee's deed after foreclosure if the property remains vacant and in violation of this chapter for thirty (30) consecutive days after recordation of trustee's deed or date of legal acquisition, whichever is first in time. Failure to correct all violations on the property within thirty (30) days after issuance of a Notice of Violation will result in an administrative citation being issued.
4. The fee for registration of properties shall be set forth in 8.06.415.G and shall cover the costs of the initial registration and a total of two (2) inspections/site visits. Additional site visits or inspections made at the property owner's request will incur additional Inspection Fees. Should a registered property remain vacant in excess of one calendar year, a renewal fee of one hundred fifty dollars (\$150) shall become due to cover the costs of a renewal registration and additional inspection fees may apply.
5. In addition to any other fines, penalties or other remedies that may be available under this chapter, a penalty for violation of California Civil Code <http://qcode.us/codes/othercode.php?state=ca&code=civ> section 2929.3 shall be up to one thousand dollars (\$1,000) per day, commencing on the day following expiration of the correction period.

#### 8.06.120 - Unsafe structures.

- A. Unsafe Structures. An unsafe structure is a structure that is unfit for human occupancy or is found to be dangerous to the public health and safety. A structure is unsafe if one or more of the following conditions is found to exist by an enforcing officer:
  1. Inadequate safeguards to protect occupants in the event of fire;
  2. The structure contains unsafe equipment, improperly stored hazardous or combustible chemicals or materials;
  3. The structure is so damaged, decayed, dilapidated, structurally unsound, or of such faulty construction that partial or complete collapse seems possible or likely in the judgment of the enforcing officer;
  4. Other characteristics of the structure, or conditions within the structure that, in the judgment of the enforcing officer, are likely to cause serious injury or death to anyone who may enter into the structure or any portion of it.

- B. **Structure Unfit for Human Occupancy.** A structure is unfit for human occupancy whenever a structure meets any of the criteria in subdivision A above or is a residential unit with characteristics identified in Health and Safety code §§ 17920.3 or 17920.10, or lacks any of the following affirmative features:
1. Effective waterproofing and weather protection of roof and exterior walls, including unbroken windows and doors;
  2. Plumbing, electrical, or gas facilities or fixtures that are essential to occupancy of the building or structure that conformed to applicable law at the time of installation and are in good working order;
  3. Floors, stairways, railings, and essential structural and safety features are maintained in good repair.
- C. **Closure of Unsafe Structures.**
1. If a structure is unsafe, the Building Official may issue a Notice of Violation and order pursuant to §§ 8.06.310 and 8.06.400 requiring the owner of the unsafe structure to close the structure so as to prevent access to the unsafe structure.
  2. If the owner of the unsafe structure fails to close the structure within the time period specified in the Notice of Violation and order or if the Building Official believes that summary abatement pursuant to §8.06.560 is warranted, an enforcing officer shall cause the structure to be closed by any available means. The cost of closure shall be charged against the real property upon which the unsafe structure is located and/or shall be a lien upon such real property as authorized in Government Code Section 25845.
  3. The owner or occupant may appeal a Notice of Violation and order requiring closure in accordance with §8.06.420 or may appeal of closure through summary abatement in accordance with § 8.06.560.C and D of this chapter.
- D. **Notice.** Whenever the Building Official has ordered a structure closed under the provisions of this chapter, notice of the order of closure shall be given to the owner and occupants of the structure in accordance with Section 8.06.210.
- E. **Placarding.** If the owner fails to comply with the notice of order of closure within the time given in the notice, the code enforcement officer shall post on the premises a placard bearing the following words or words substantially similar: "Substandard Structure-Do Not Occupy. Building may only be entered to remove contents upon written permission of the code enforcement officer. It is a misdemeanor to occupy this structure, or to remove or deface this notice."
- F. **Prohibited Occupancy or Use.** No person, including owners, shall occupy or use a placarded structure and no owner of a structure shall let anyone occupy the structure if the structure is placarded pursuant to this section. Upon transfer of any property with a violation on file indicating the property is unsafe, dangerous, or otherwise not habitable, the new owner shall not occupy or use the property, or allow others to occupy or use it, until the Building Official gives advance written consent.

#### 8.06.200 - Notices.

- A. The courtesy notices, Notice of Violation, citations, and all other notices given under this chapter shall be served on: (1) the property owner(s) and (2) the occupant(s), if known or reasonably identifiable, in accordance with the provisions of Section 8.06.210, unless otherwise specified.

- B. The failure of any person to receive any notice that is specified in or required under this chapter and served in accordance with its terms shall not affect the validity of any proceedings under this chapter.
- C. Any notices given under this chapter may be combined with any other notices required under this chapter or any other applicable law.

#### 8.06.210 - Method of service-General.

- A. Whenever any notice is required to be given under this code, the notice shall be served by: delivering it personally to the occupant of the premises, or by posting a copy of the notice in a conspicuous location on the real property upon which the violation or nuisance exists, and by mailing it to the occupant by certified mail, unless a different procedure is specifically authorized or required.
- B. In the event the occupant is someone other than the property owner, a copy of the notice shall also be personally delivered or sent by certified mail to the property owner, to the address listed in the last equalized assessment roll of the county assessor.
- C. Service by mail in the manner described above shall be effective on the date of mailing. The failure of any person with an interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this code.
- D. If the violation is the result of a condition existing on the property in the county and the county records a Notice of Violation, an abatement lien, or enrolls a special assessment on the property, any notice from the Building Official or his/her designee shall also be served on each of the following, if known to the county or disclosed from official public records:
  - 1. The holder(s) of any mortgage, deed of trust, lien, of encumbrance of record; and
  - 2. The owner(s) or holder(s) of any lease of record.
- E. Electronic Service. Where an owner, occupant, or interested party has provided written consent to receive notifications via email, then notice requirements of this chapter shall be satisfied by sending emails to the email address(es) provided to enforcing officers. Such written consent to receive notices electronically may be provided on a form approved by the Building Official.

#### 8.06.300 - Violations.

Any violation of a provision of this chapter shall be subject to remedies available under this chapter and/or state law, including the incurrence of reasonable case management fees, inspection fees, abatement costs, the imposition of administrative fines, and recovery of attorney fees where allowed by law.

#### 8.06.305 - Courtesy Notice

- A. Whenever it is determined by the Building Official that a nuisance or violation of the code exists, the code enforcement officer may issue a Courtesy Notice.
- B. A Courtesy Notice shall contain the following:
  - 1. A statement that it is being provided as a public service for the purposes of advising the recipient of the requirements of the code;
  - 2. The date and location of the violation, the name of the property owner, and, if known, the

occupant of the property or any other responsible party;

3. A concise description of the condition(s) that constitute a violation of the code and the action(s) required to correct it;

4. A statement that the condition must be corrected within 20 days unless a shorter deadline for compliance is required in the judgment of the Building Official;

5. A statement that the deadline for correction may be extended to another date deemed reasonable by the Building Official if he or she determines that reasonable progress is being made to correct the violation or for other good cause;

6. A statement that failure to comply with the instructions will result in the issuance of a Notice of Violation and the assessment of a case management fee pursuant to § 8.06.415

7. A statement that inspection fees may be assessed if more than one additional visit to the site will be required to verify abatement of the nuisance.

C. A Courtesy Notice shall be served in the manner provided in § 8.06.210.

D. Where the Building Official finds that preservation of the public health, safety, and welfare is served by expedited enforcement action, he or she has the discretion to forgo the issuance of a Courtesy Notice and issue a Notice of Violation.

#### 8.06.310 - Notice of Violation

A. If the identified code violation or nuisance has not been corrected within the time frame specified in the Courtesy Notice or where a condition constituting a public nuisance or violation of the code, in the discretion of the Building Official, warrants more immediate enforcement action, the Building Official may issue a Notice of Violation.

B. The Notice of Violation shall include the following information:

1. The name of the occupant(s), if other than the owners and if known or reasonably identifiable;

2. The name of the property owner(s), if different from the occupant;

3. The street address of the subject property;

4. The code section(s) violated;

5. A description of the conditions which violate the applicable code(s);

6. A list of necessary corrections or abatement actions necessary to bring the premises into compliance;

7. A deadline or specific date, determined by the Building Official, by which to correct the violation(s) listed in the Notice of Violation; and

8. A statement that a code violation case file has been opened and that a case management fee is due and owing pursuant to §8.06.415;

9. A list of the potential consequences for failure to comply with the Notice of Violation, including, but not limited to: Criminal prosecution, civil injunction, administrative abatement, administrative citation and orders, administrative fines as authorized in Government Code Section 53069.4, imposition of a code enforcement lien as authorized in Government Code Section 25845 to recover costs, revocation of permits, and/or withholding of future permits

pending compliance as well as recovery of attorneys' fees and costs that may be incurred.

10. A statement explaining the prohibition described in subdivision C below, together with a statement that the Notice of Violation will be recorded pursuant to § 8.06.413.C.
- C. It shall be unlawful for any person who has been served with a Notice of Violation to sell, transfer, mortgage, lease, rent, give, or otherwise dispose of a property or such premises without: (1) furnishing the grantee(s), transferee(s), recipient(s), mortgagee(s), or lessee(s) with a copy of the Notice of Violation, and (2) furnishing the Building Official with a signed statement from the grantee(s), transferee(s), recipient(s), mortgagee(s), or lessee(s) acknowledging receipt of such notice.

#### 8.06.400 - Administrative Citation and Order-Procedure.

- A. Upon expiration of the time period specified in the Notice of Violation and a finding by the Building Official that reasonable and adequate efforts to correct the violation have not been made, an Administrative Citation and Order may be issued by the Building Official. An Administrative Citation and Order shall be served in accordance with the provisions of § 8.06.210.
- B. Any person violating any provisions of this code or applicable state and/or federal code may be issued an Administrative Citation and Order by a code enforcement officer as provided for in this chapter. The administrative citation and order shall be issued in a form approved by the Building Official, and may be issued subsequent to, or concurrently, or jointly with a Notice of Violation where an enforcing officer determines that immediate corrective action is required.
- C. Upon issuance of a Notice of Violation and the expiration of a reasonable period of time as determined by the Building Official within which to correct or remedy the violation(s), an administrative fine may be assessed by means of an administrative citation and order issued by a code enforcement officer, such fine being payable directly to the County of Calaveras.
- D. Fines assessed by means of an administrative citation and order shall be collected in accordance with the procedures specified in this chapter.
- E. If the party responsible for the violation is a commercial business, the code enforcement officer shall reasonably attempt to locate the business owner(s) and issue the business owner(s) an administrative citation and order. If the code enforcement officer can only locate the manager of the commercial business, the administrative citation and order shall be delivered to the manager and posted conspicuously on the premises, with a copy also mailed to the business owner(s) in the manner prescribed by Section 8.06.210.
- F. The administrative citation and order shall be signed by the issuing code enforcement officer.

#### 8.06.410 - Administrative Citation and Order-Requirements.

- A. Any administrative citation and order that is issued shall contain all of the following information:
  1. The location of the violation(s) and the approximate date and/or time the violation(s) was identified;
  2. The code section(s) violated and a brief description of how the section(s) is violated, and if appropriate, the action(s) noted as necessary to correct the violation(s), which may include but are not limited to: corrections, repairs, demolition, removal, eradication, obtaining the necessary permits, vacating of tenants or occupants, or other appropriate action, and shall be accompanied by deadlines by which these respective actions must occur;
  3. The consequences of failure to comply, including but not limited to abatement by the county

and the imposition of a special assessment and/or lien as authorized in Government Code §25845 to recover the county's costs of abatement;

4. The amount of any fine(s) imposed for the violation(s);
5. An explanation as to how the fine(s) shall be paid and the deadline by which it shall be paid, and the consequences of failure to timely pay the fine(s); and
6. Identify the rights and procedures for appeal and specify the amount of the appeal fee.

#### 8.06.412 Recurring violations.

- A. If a violation is corrected pursuant to a notice and the same condition comes to exist or the same activity is undertaken within forty-five (45) days of correction, the violation will be deemed continuing and fines will be immediately assessed from the date that fines would have started to accrue as specified in the original Notice of Violation.
- B. If the same violation occurs three times within a two (2)-year period on the same property which has continuously been under the same ownership, occupation, or management and control, then an enforcing officer may issue a citation providing for immediate imposition of fines and immediate order to abate.

#### 8.06.413 Recording Notice of Violation.

- A. If a violation on real property is not corrected following the issuance of a Citation and Order to Abate and the Citation and Order to Abate has not been appealed or has been appealed and upheld, then an Enforcing Officer may record a Notice of Violation with the Office of County Recorder.
- B. The Responsible Person or the property owner(s), if different from the responsible person, shall be notified of the Recordation. Notice to the owner(s) shall be sent to the address listed on the Assessor's roll.
- C. The Building Official shall record a Release of the Notice of Violation with the County Recorder only when all violations have been corrected or abated and all fines, fees, and costs of abatement, if any, have been paid.

#### 8.06.415 Fees

- A. Intent. It is the intent of the Board of Supervisors that the Department of Code Compliance, to the extent allowable under applicable law, maximize cost recovery associated with enforcement of the County Code and State statutes incorporated herein, and that the expense of administering a code compliance program be borne by those who are responsible for code violations and associated nuisances.
- B. Investigation and Case Management Fee. Upon issuance of a Notice of Violation, parties responsible for a violation of the County Code, and the owner of a property upon which a nuisance exists, shall be jointly and severally liable for the payment of a Case Management Fee, to cover the costs to the County for inspections and overseeing the remediation or correction of conditions constituting public nuisances or code violations. The fee shall be set by resolution of the Board of Supervisors and shall not exceed the reasonable cost of providing code enforcement services.
- C. Inspection Fee. An inspection fee may be assessed for each inspection or re-inspection when any of the following conditions exist:
  1. An enforcing officer returns for a compliance verification inspection to find that conditions constituting the violation have not been adequately remedied;

2. The enforcing officer is unable to access the premises, or portion of the property to verify that conditions constituting the violation have been remedied and is therefore obliged to make a return visit.

In order to obtain inspection for the purposes of verifying compliance, the property owner or occupant shall pay the inspection fee in accordance with the provisions of this Chapter.

- D. Civil Standby and Security Fee. Where, in the opinion of an enforcing officer, there is a need for a deputy sheriff to accompany an enforcing officer for inspections or abatements, then the property owner, occupant, and or person responsible for the violation or nuisance shall be required to pay for the full costs of law enforcement participation in the case.
- E. Appeal Fee. An individual who wishes to appeal the findings made by an enforcing officer which are the basis for the Notice of Violation, citation, order to abate, or assessment of administrative fines, shall be required to pay an appeal fee before being heard by an administrative hearing officer.
- F. Attorneys' Fees. The prevailing party in any action or proceeding commenced by the County to abate a public nuisance shall be authorized to recover attorneys' fees. Recovery of attorneys' fees shall be limited to those actions or proceedings in which the County elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action or 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.
- G. Fee Schedule. A fee schedule shall be posted on the Code Compliance Unit web page and will be available at the Building Department. The amount of the fees shall be set by resolution of the Board of Supervisors and may be subject to change from time to time based upon the actual cost of services provided by the Code Compliance Unit, the Sheriff's Office, County Counsel, and the Office of Administrative Hearings.
- H. Failure to Pay Fees and Fines. The amount of any fee, charge, or fine of any nature imposed by any provision of the County Code shall be deemed a civil debt owing to the County.
  - 1. Any unpaid fee shall be considered an administrative cost of abatement and shall be included in an assessment lien recorded against the property.
  - 2. No recorded Notice of Violation shall be released until all fees and fines have been paid and all code violations remedied to the satisfaction of the Building Official.
  - 3. An action may be commenced in the name of the County in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid fee, service charge, administrative penalty or fine, together with any penalties applicable thereto as prescribed by this Code and by State law. The remedy prescribed by this section shall be cumulative, and an action to collect such an amount as a liability created by statute as a civil complaint shall not bar the use of any other remedy provided by this Code or by law for the purpose of collecting the debts which are assessed and which accrue under the provisions of this Chapter.

#### 8.06.420 - Appeal of administrative citation and order.

- A. Except as provided in Section 8.06.560 and 8.06.700, a request for an appeal of the issuance of an administrative citation and order shall be filed with the Clerk of the County Office of Administrative Hearings and processed in compliance with the procedures set forth in Section 8.06.600. Failure to appeal any administrative citation and order and/or accompanying fine within fifteen (15) days of issuance shall constitute a waiver of the right to appeal the citation and fines under Section

8.06.600. Requests for an administrative hearing by a person upon whom an administrative citation and order was served shall be submitted in writing in a form approved by the Building Official. A request for an administrative hearing shall not be deemed complete or timely submitted unless it is accompanied by an appeal fee set by resolution of the County Board of Supervisors.

- B. If no request for an administrative hearing has been submitted to the Clerk of the County Office of Administrative Hearings by four p.m. on the fifteenth day after the day on which an administrative citation and order was served, the right to appeal has been waived and the enforcing officer may seek immediate authority from the Board of Supervisors, without further notice or hearing, to abate the violation and impose a lien on the property to recover abatement costs. Any individual who fails to appear and present evidence to the administrative hearing officer shall be deemed to have failed to exhaust his or her administrative remedies.

8.06.430 Administrative citation and order-Fines.

- A. In addition to any other remedy prescribed in this Chapter, any condition or activity that has been deemed a nuisance in this Chapter or incorporated provisions of the County Code or State law may be subject to an administrative penalty. Administrative penalties may be imposed through the processes outlined in this Chapter and pursuant to Government Code §53069.4.
- B. The owner and/or occupant of a premises shall be liable for a separate violation for each and every day during which any violation of any provision of this chapter is committed, continued, or permitted. Any violation which persists for more than one twenty-four (24) hour period is deemed a continuing violation for the purpose of this chapter.
- C. If an owner or occupant fails to correct the violation(s), subsequent administrative citation and orders shall be deemed to have issued daily for the ongoing violation(s) without further notice until the violation has been fully abated and verified as such by the enforcing officer as described in Section 8.06.520.
- D. Except as otherwise specified in this Chapter, the fines assessed for each citation issued under this chapter for the same violation shall be as follows:
  - 1. One hundred dollars (\$100) per day for a first violation.
  - 2. Two hundred dollars (\$200) per day for a second violation of the same ordinance within one year.
  - 3. Five hundred dollars (\$500) per day for each additional violation of the same ordinance within one year.
- E. Payment of the fine shall not excuse the failure to correct the violation(s) nor shall it bar further enforcement action by the county.
- F. All fines assessed shall be payable to the County of Calaveras.

8.06.440 - Failure to pay Fees or Administrative Fines.

- A. Failure to pay the penalties assessed pursuant to an administrative citation and order within the time specified on the citation may result in the referral of the matter to any designated agent for collection. Alternatively, the County may pursue any legal remedies available to it by law to collect administrative fines not paid within the time specified on the administrative citation and order, including but not limited to filing a claim in court.
- B. Recovery of Administrative Penalties and Costs. A person who fails to pay any fine or other charges owed to the County under this section is liable in any action brought by the County for all costs

incurred in securing payment of the delinquent amount including, but not limited to, administrative costs and attorneys' fees. Such collection costs are in addition to any fines, interest, and late charges.

- C. No recorded Notice of Violation shall be released until such time as all fees, fines, and any applicable penalties and interest are paid.
- D. Pursuant to Section 8.06.455, no permits shall issue to a person or for a property from any County department until all fees, fines, and any applicable penalties and interest for which that person is responsible and/or which are attached to that property are paid.
- E. Adjustment of Fine, Settlement, and Payment Agreements. Where an administrative penalty has been assessed and has not been appealed, the Building Official may reduce the total sum due and enter into payment agreements based upon the following considerations:
  - 1. The nature, circumstances, extent, and gravity of the violation(s), any prior history of violations, the degree of culpability, economic savings or profitability, if any, resulting from the violation(s), and any other matters justice may require;
  - 2. The efficiency and convenience of avoiding litigation; and
  - 3. Whether a promise to make installment payments can be supported by a security interest in the form of a voluntary lien or deed of trust in real property.
- D. Fees and Costs of Abatement shall not be reduced through informal agreement or settlement or by order of an Administrative Hearing Officer. The entire amount of Abatement Costs and Fees shall be recovered through the lien processes outlined in this chapter or by any other means authorized by law, if not timely paid upon request.

#### 8.06.450 - Allocation of administrative fines.

Administrative fines collected pursuant to this chapter shall be deposited into a fund created to retain funds for code enforcement and shall be used to defray the unrecoverable costs of ensuring compliance with the County Code.

#### 8.06.455 Refusal to Issue Permits

- A. Unless issuance of a permit is necessary to correct or remediate a condition constituting a public nuisance or code violation, no department, officer, or employee of the county vested with the duty or authority to issue, approve, or renew permits, licenses or other entitlements shall do so when there is a Notice of Violation recorded against a subject parcel. The authority to deny shall apply whether the applicant was the occupant or owner of record at the time of such violation or whether the applicant is either the current occupant or owner of record or a vendor of the current owner of record pursuant to a contract of sale of the real property, with or without actual knowledge of the violation at the time he or she acquired his or her interest in such real property. Upon notification that a violation exists, all departments and employees shall refuse to issue permits or licenses or entitlements involving the premises except those necessary to abate or correct such violation.
- B. Rescission of Refusal to Issue. The refusal to issue shall be rescinded when the department has been notified that any and all conditions constituting a violation have been remediated or corrected and all fines and fees associated with the Violation have been paid.
- C. Waiver. The Building Official may waive the provisions of this section regarding refusal to issue when he or she determines that a waiver is required to allow necessary or desirable remedial, protective work, preventative work or other exceptional circumstances. Such a waiver shall only

extend to permit applications that are deemed necessary to take corrective measures and shall not excuse the payment of fines, costs of abatement, nor payment of fees that have accrued during the course of the code enforcement case.

#### 8.06.500 Abatement-Declaration of purpose.

The Board of Supervisors finds that it is necessary to establish appropriate procedures for the administrative and summary abatement of public nuisances and code violations. The procedures established in these sections are in addition to any other legal remedy, criminal or civil, permitted by law which may be pursued to address these violations of code or other applicable laws. Unless expressly stated otherwise, the abatement provisions of this chapter shall govern all other nuisance abatement procedures established in any chapter of the county code.

#### 8.06.510 Abatement-Authority.

Any condition caused, maintained, or permitted to exist in violation of any provisions of this code or applicable law constitutes a public nuisance and may be abated by code enforcement pursuant to the procedures set forth herein.

#### 8.06.520 Abatement of a public nuisance.

- A. Once a Notice of Violation and administrative citation and order have issued, the specified time for compliance has lapsed, and one or more violations remain, any remaining nuisance conditions may be abated upon authorization by the county Board of Supervisors or Administrative Hearing Officer. The abatement may be performed by county personnel or by private contractor(s) on behalf of the county.
- B. The enforcing officer, can enter upon private property in a reasonable manner as provided by law to abate the nuisance conditions specified in the administrative citation and order.
- C. If the owner or occupant abates the nuisance before the county performs the actual abatement pursuant to the procedures set forth herein, it is the duty of the owner or occupant to request an inspection by the Building Official to confirm abatement of the violations or to otherwise provide proof of abatement to the satisfaction of the enforcing officer. It is the responsibility of the owner or occupant to retain documentation of his/her efforts to request inspection and/or to provide proof of abatement in the event that there is a later disagreement about whether and/or when the request or proof was submitted. Fines and costs shall accrue up to and including the date the enforcing officer confirms abatement.
- D. After abatement is completed by the County, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the enforcing officer. The report shall contain the names and addresses of the occupant or other authorized user of the parcel, the name and address of the property owner if different from the occupant, the tax assessor's parcel number, and a legal description of the property.
- E. All administrative and actual costs incurred by the county in abating the violations up to and including the date the enforcing officer confirms abatement may be assessed and recovered through assessment lien pursuant to the provisions set forth in this chapter and state law.

#### 8.06.530- Costs of Abatement

- A. The Building Official or his or her designee shall keep an accounting of the costs and expenses of abating a nuisance, dangerous structure, cannabis cultivation site, or other code violation and shall render a statement of such costs to the person or persons receiving the notice and order.

- B. Such person or persons receiving the notice and order shall be liable to the County for any and all costs and expenses to the County involved in abating the nuisance, dangerous structure, cannabis cultivation site, or other code violation including, but not limited to, the following:
1. Any and all direct costs related to personnel salaries and benefits, operational overhead, costs of security provided by peace officers, expenses incurred through investigation and in preparation for staff reports, the costs of appeal hearings, or contractors, which are in addition to, or exceed, the fees already assessed and paid throughout the case management and appeal process.
  2. Contractors, Materials, Transportation, and Hauling. All expenses incurred directly by the County either directly through use of its own personnel and equipment or through the use of contractors shall be evaluated, itemized, and added to the total amount of the special assessment lien.
  3. Unpaid fees. If the property owner, occupant, or other responsible parties have failed to pay the case management fees, appeal fees, rescheduling fees, inspection fees or any other fees assessed during the pendency of the code enforcement case, then such fees shall be included in any special assessment against the subject parcel.
  4. Attorneys' Fees and costs. The County shall recover all attorneys' fees incurred during all stages of case management, appearance at hearings, preparation of abatement warrants, and defending against any temporary restraining orders or injunctions sought by interested parties to prevent enforcement activity.

8.06.540 - Assessment of Costs - Lien Procedures.

- A. The total cost of abating a nuisance, dangerous structure, illegal cannabis related activity, or building or zoning code violation shall be subject to a special assessment against the premises to which it relates. When abatement has been completed by the County, the enforcing officer shall serve on the occupant(s) or other authorized user(s) and the property owner(s) a demand for payment of abatement costs which includes an itemized statement of the costs. If payment of costs is not made within fifteen (15) days from the date of service of the demand, this obligation shall be specially assessed against the property as a code enforcement lien and recorded in the office of the County Recorder upon authorization by the Board of Supervisors or Administrative Hearing Officer, as authorized by Government Code Sections 25845(d) and 27720 et seq. The Building Official may request cancellation of a code enforcement lien from the county recorder only upon verified payment to the County by the owner or occupant of the specified administrative and abatement costs.
- B. After such recordation, a copy of the lien may be turned over to the County Auditor, who shall then enter the amount of the lien on the assessment rolls as a special assessment. Thereafter, said amount shall be collected at the same time and in the same manner that property taxes are collected, and shall be subject to the same penalties and the same procedures as provided for in the collection of ordinary property taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment.
- C. Alternative enforcement. Nothing in this chapter shall be deemed to prevent the County Counsel or District Attorney from commencing with any other available civil or criminal proceedings to abate a dangerous structure or declared public nuisance under applicable provision of state law as an

alternative to the proceedings set forth in this chapter.

#### 8.06.560 Summary abatement-Authority.

- A. Whenever the Building Official determines that a substantial violation exists which constitutes an immediate threat to the public health and safety and requires immediate correction or elimination, the Building Official may exercise the following powers without issuance of a Notice of Violation or administrative citation and order to the owner(s) or occupant(s):
1. Order tenants, employees, or any other occupants to immediately vacate the premises and prohibit occupancy until all immediately necessary repairs are completed;
  2. Post a notice on site that the premises are unsafe, substandard, or dangerous;
  3. Board, fence, or secure the building or site;
  4. Raze and grade the immediately hazardous portion of the building or site to prevent further collapse and remove the hazard to the general public;
  5. Make the minimum emergency repairs necessary to eliminate any imminent health and safety hazard; and/or
  6. Remove junk, debris, chemical containers, objects or items constituting attractive nuisances, or other physical hazards
  7. Take any other action appropriate under the circumstances.

#### 8.06.570 Summary abatement-Procedures.

- A. The Building Official shall pursue only the minimum level of correction or abatement necessary to correct or eliminate the immediate threat or hazard. Costs incurred by the county during the summary abatement process shall be assessed, collected, and recovered against the owner or occupant through the procedures outlined in this chapter. As soon as is practicable, the Building Official shall notify the Supervisor for the District in which the hazardous property or conditions requiring immediate correction(s) or elimination is located.
- B. Summary Abatement Notice. If the Building Official decides that a summary abatement is necessary, he or she shall provide the owner(s) and occupant(s) written notice of the nuisance requiring correction or elimination by posting written notice in a conspicuous location on the property at, or prior to, the time of summary abatement. Such posting shall constitute sufficient notice. If an owner or occupant is present and refuses to allow the Building Official or his/her designee to post notice, or if the owner or occupant does not or is unable to immediately correct or eliminate the immediate threat(s) or hazard(s) after notice of summary abatement is posted on the property, the county may abate the nuisance to the extent necessary to correct or eliminate the immediate threat(s) or hazard(s).
- C. Post-Abatement Notice. After the summary correction or abatement is completed, the Building Official shall within five (5) business days serve the owner and occupant in the manner described in Section 8.06.210 with a post-abatement notice that states:
1. The action(s) taken by the county and the reasons for the action(s);
  2. The right to contest the necessity for summary abatement and/or costs by filing a written appeal with the County Office of Administrative Hearings within fifteen (15) days of the date of the post-abatement notice;

3. The procedures available to appeal the summary abatement and/or costs to the administrative hearing board or administrative hearing officer.
  4. A statement describing the costs of the summary abatement plus notice of the county's intent to collect those costs.
- D. Appeals concerning summary abatement and/or costs shall be heard by the administrative hearing officer pursuant to Section 8.06.600.
- E. The Building Official may also pursue any other administrative or judicial remedy to abate any remaining violation(s) or public nuisance(s).

#### 8.06.580 County Office of Administrative Hearings

- A. The Board of Supervisors hereby establishes The County Office of Administrative Hearings pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the California Government Code, to which office the Board of Supervisors shall by resolution appoint one or more administrative hearing officers. The Clerk of the County Office of Administrative Hearings shall be responsible for recruiting, selecting, and invoicing all qualified neutral hearing officers. The mailing and physical address of the Office of the County Hearing Officer shall be: County Office of Administrative Hearings, c/o Calaveras County Administration Office, 891 Mountain Ranch Road, San Andreas, California, 95249.
- B. Qualifications of Administrative Hearing Officer(s). Each hearing officer shall be an attorney at law in good standing who has been admitted to practice before the courts of the state of California for at least five (5) years.
- C. Appointment, Term, and Compensation of Administrative Hearing Officer(s). Hearing officers shall be independent contractors appointed for a period of not less than one year. In the event that the Board of Supervisors appoints more than one hearing officer, each hearing required under this section shall be assigned to a hearing officer set by the Clerk using an alphabetical rotation or computer-generated random draw. The Board of Supervisors shall approve by resolution policies and procedures relating to the contracting with and compensation of administrative hearing officers. The compensation and/or future appointments of an administrative hearing officer shall not be directly or indirectly conditioned upon substance of his/her rulings, including, but not limited to, the amount of administrative fines levied.
- D. Powers of the Administrative Hearing Officer(s). In addition to all powers enumerated in Government Code Sections 27721 and 27722, the County Hearing Officers shall have the power to:
1. Prepare a record of the proceedings, and the power to uphold fines and abatement orders and order that the cost of the abatement be specially assessed against the parcel;
  2. Issue subpoenas pursuant to Government Code §§ 27721 and 53060.4 and report noncompliance there to the judge of the Superior Court of the County in order to enforce the provisions of this Chapter.
  3. The Administrative Hearing Officer has no power to:
    - a. Declare a statute or ordinance unenforceable, or refuse to enforce a statute on the basis of it being unconstitutional, unless an appellate Court has made a determination that such statute is unconstitutional;
    - b. To declare a statute or ordinance unconstitutional;
    - c. To declare a statute or ordinance unenforceable or to refuse to enforce a statute or ordinance

on the basis that federal or state laws or regulations prohibit the enforcement of the applicable ordinance, unless an appellate court has made such a determination.

d. Notwithstanding the foregoing, Hearing Officers shall comply with any order or direction from the Superior Court where a matter is remanded from Superior Court to the County Office of Administrative Hearings or where the Court issues an order affecting proceedings of the Office of Administrative Hearings.

#### 4. Continuances.

a. Except as provided in subsection 4.d, below, a Hearing Officer shall have the power in his or her discretion to grant continuances upon a showing of good cause by an interested party.

b. Written Request for Continuance. A Request for a continuance should be made in writing and received by the Clerk of the Office of Administrative Hearings at least three (3) *business* days before the scheduled hearing. The Clerk shall forward the request to the Hearing Officer that has been assigned to the case, to staff and staff's assigned counsel, and other interested parties to the matter, if any, so that they may have an opportunity to agree to or object to the continuance and state grounds for any such objection. Objection shall be sent, in writing, and provided to the appellant, appellant's counsel and the Hearing Officer assigned to the case. All objections or communication with Hearing Officer shall be made through the Clerk and no objections to a continuance may be made *ex parte* to the Hearing Officer.

c. Rescheduling Fee. A fee, which shall be set by resolution of the Board of Supervisors, shall be assessed to recover the administrative and staff costs of rescheduling a hearing if a request for a continuance is not received by the Clerk of the Office of Administrative Hearings at least three (3) business days before the hearing.

d. Upon a showing of good cause, an administrative hearing for a cannabis related case may be continued for not more than ten (10) calendar days and may only be continued once. An additional continuance or a continuance for a period of more than ten (10) days may only be granted by mutual stipulation of the parties.

#### E. Presiding Hearing Officer.

1. The County Administrative Officer shall appoint a presiding hearing officer from among the rotating bench of hearing officers; the appointment shall be for a one year term and may be renewed on an annual basis or be subject to annual rotation, at the election of the County Administrative Officer.

2. The Presiding Hearing Officer shall be available to approve forms and procedures to be used in hearings, and who shall be available to issue subpoenas as provided in subsection 5.06.580.D.2 above, grant orders in cases where no appeal has been filed pursuant to the authority delegated by the Board of Supervisors for such purposes.

#### 8.06.600 Administrative Hearing Procedures

A. Those owner(s), occupant(s), or interested parties who file a timely request to appeal or who have received an Order to Show Cause pursuant to §8.06.700 *et seq* below shall be given an opportunity at an administrative hearing to present and elicit testimony to contest any portion or all of the findings and orders of the enforcing officer. An attorney authorized to practice law in the state of California may represent appellants so long as that attorney has been retained by and is attorney of record for that appellant for the purposes of the appeal hearing.

- B. Upon receipt of a timely written request of an interested party who wishes to appeal the issuance of an administrative citation and order and/or fines, an appeal hearing shall be scheduled. The scheduled hearing shall be held no less than fourteen (14) days after mailing of the notice of hearing, and no more than ninety (90) days after the County Office of Administrative Hearing's receipt of the written request for hearing. If an administrative citation and order is not appealed and the administrative process not exhausted, the violation(s) and any fines will be considered to be upheld, and the Building Official or his/her designee will seek authorization from the Board of Supervisors or Presiding Hearing Officer to abate any continuing violation(s) and impose a lien for recovery of costs.
- C. An interested party may also request an administrative hearing to challenge a summary abatement and/or the costs of the same pursuant to Section 8.06.570(D) or 8.06.710. Nothing in this section prohibits the summary abatement of a nuisance in the event of an immediate threat to public health or safety as determined by the Building Official or his or her designee.
- D. Administrative Hearings and Procedures. Pursuant to Government Code Sections 25845(i) and 27721, an administrative hearing to review the findings and orders of the Enforcing Officer.
1. General Rules.
    - a. Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply, but a hearing officer is not precluded from examining evidence before them in light of constitutional standards. The hearing officer is not required to accept into the record evidence that is irrelevant to the matter before it.
    - b. Witnesses shall be sworn. The hearing officer may question witnesses at any time and recall them as necessary for further testimony.
    - c. All participants, including parties, counsel, and witnesses, will be expected to maintain a civil demeanor and to present only relevant evidence.
    - d. If the appeal is denied and the findings and orders of the Building Official, his or her designee, or Enforcing Officer are upheld, the hearing officer may consider factors outlined in §8.06.440 in assessing fines, but in no event may the Hearing Officer reduce or waive fees or costs of abatement unless the appellant prevails in the appeal.
    - e. The appellant shall be given an opportunity at the hearing to present and elicit testimony or other evidence regarding whether the conditions existing on the property constitute a nuisance under this chapter, whether there is any other good cause why those conditions should not be abated, or whether any fines were levied inappropriately.
    - f. The hearing officer shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the Notice of Violation, administrative citation and order to abate, and notice of hearing.
  2. Appeal Fee. An appeal fee shall be set by resolution of the Board of Supervisors in an amount calculated to cover all direct and administrative costs associated with a hearing. If an appellant fails to pay the appeal fee prior to the hearing, the appellant will be served with an invoice for the fee. If he or she elects to proceed with the hearing the amount of the fee shall become a debt owed to the County unless the appellant prevails at the hearing. If the orders after hearing include an order for abatement, then the appeal fee will be included in the administrative costs of abatement that shall be included in the special assessment on the subject parcel, if not paid upon demand by the County. If an interested party requests an

appeal and fails to appear, the appeal fee shall still be due and owing, unless the hearing was cancelled at least three (3) business days prior to the hearing.

3. Staff Reports and Appellants' Briefs.

- a. The Building Official shall post the county's staff report, including relevant evidence to be considered by the hearing officer, on the Calaveras County website at least five (5) days before the scheduled hearing date.
- b. The appellant(s) may include arguments and legal basis for reversal of findings and orders of the Building Official in their initial appeal letter, or may submit such briefs, arguments, or points and authorities any time up to three (3) business days before the hearing.
- c. Notwithstanding subsections, a and b above, the hearing officer may, in his or her discretion, accept any written arguments or evidence he or she deems relevant on the day of the hearing.

E. Failure to Appear. If an interested party or authorized representative of the interested party fails to appear at the appeal hearing and no request for a continuance has been received, then no hearing shall be held, the finding and order of the enforcing officer shall be entered by default as a final administrative order, and the failure to appear shall constitute a failure to exhaust administrative remedies.

F. Post-Hearing Procedures.

1. The hearing officer shall issue a written decision, which shall include findings relating to the existence or nonexistence of the alleged violation(s), findings related to the appropriateness of the fines levied, and findings concerning the propriety and means of abating the conditions set forth in the Notice of Violation, administrative citation and order to abate, and notice of hearing. Such decision shall be mailed to, or personally served upon, the party requesting the hearing, any other parties upon whom the administrative citation and order was served, and the Building Official. If an owner or occupant was represented by counsel at the hearing, then a copy of the decision shall instead be mailed to or personally served upon his/her counsel in lieu of being delivered or mailed to the owner or occupant. The decision shall constitute the county's final administrative decision when signed by the hearing officer and served as herein provided.
2. The written decision must contain a statement of the violation(s) and/or nuisance(s) requiring abatement; findings of fact on material issues and the grounds in the record for those findings; any related conclusions of law or policy; any aggravating or mitigating circumstances that are pertinent to the decision; any costs, fines, and penalties and the reasons therefor; and, if requested by the Building Official or his/her designee, an order authorizing the county to abate the nuisance(s) and for the cost of the abatement to be specially assessed against the parcel.

G. Attorneys' Fees. Pursuant to Government Code §25845, attorneys' fees may be recovered by the prevailing party in an action, administrative proceeding, or special proceeding to abate a nuisance. However, in no action or 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.

H. Appeals of Administrative Hearing Decisions and Orders. All final administrative decisions or orders may be appealed to Superior Court pursuant to Government Code Section 53069.4 or Code of Civil Procedure Section 1094.5 or other applicable legal remedy.

8.06.700 - Alternative Notice of Violation, Citation, and procedure for violations related to unlawful Commercial Cannabis Cultivation.

- A. Because Commercial Cannabis Activity in violation of County Code and state law is a public nuisance with unique impacts and a need for time-sensitive abatement in order for enforcement to be meaningful, the purpose and intent of this section is to allow code enforcement to more quickly and effectively control the adverse impacts associated with unlawful Commercial Cannabis Activity. Ordinary abatement provisions of this chapter provide lengthy timeframes for appeal and abatement and allow lengthy timeframes to allow for voluntary correction before an order for abatement may issue. A more streamlined appeal schedule and enforcement scheme is necessary and proper for cases involving unlawful Commercial Cannabis Activity because such activity poses unique risks to public health and safety and to the natural environment. Illegal cannabis cultivation is also potentially lucrative enough to incentivize unlawful activity at cultivation sites for as long as possible pending harvest. The intent of the Board of Supervisors is to therefore disincentivize such conduct by adopting higher fines and an expedited appeal process for citations related to cannabis cultivation.
- B. Therefore, in cases involving Commercial Cannabis Activity on a premises, the Building Official may issue a Notice of Violation, Administrative Citation and Order to Show Cause as to why the cannabis cultivation site should not be abated in accordance with this section. The Notice of Violation, Citation and Order to Show Cause, shall:
1. Identify the owner(s) of the property upon which the violation(s) exist, 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;
  2. 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;
  3. Identify the property by reference to the assessor's parcel number;
  4. Contain a statement that one or more violations of County Code or other applicable law exist relating to the Commercial Cannabis Activity on the property and describing the violation(s) that exist and the actions required to abate;
  5. Contain a statement that the owner(s) or occupant(s) is required to abate Commercial Cannabis Activity within ten (10) calendar days after the date that said Notice of Violation, administrative citation and order to abate, and notice of hearing was served or else fines of one thousand dollars (\$1,000) per violation per day will begin to accrue;
  6. Notify the recipient(s) that they are ordered to appear at a hearing to be held before an administrative hearing officer appointed in accordance with this chapter to show cause as to why an order for abatement and imposing fines should not issue. The Notice of Violation, Administrative Citation and Order to Show Cause shall specify the date, time, and location of this hearing, and state that the owner(s) or occupant(s) will be given an opportunity at the hearing to present and elicit testimony and/or other evidence regarding whether the conditions existing on the property constitute a nuisance under county code, or whether there is any other good cause as to why those conditions should not be abated;
  7. Contain a statement that, if the owner(s) or occupant(s) voluntarily abates the violation(s) and provides adequate evidence of abatement and an opportunity for the Enforcing Officer to verify abatement prior to the hearing, the matter may be taken off calendar.

8. Contain a statement that Case Management Fees, Appeal Fees, and costs of abatement, including administrative costs will be due and owing even in cases of voluntary abatement and may be made a special assessment added to the county assessment roll and become a lien on real property if not paid.
  9. Contain a recitation of 8.06.600.F regarding consequences of failure to appear.
- C. The Notice of Violation, administrative citation and order to show cause, shall be: (1) served by overnight mail or overnight courier service on the owner(s), and occupant(s) if different and known or reasonably identifiable, pursuant to the provisions of Sections 8.06.200 and 8.06.210, and (2) posted in two (2) conspicuous locations on the subject property. The failure of any owner(s) or occupant(s) to allow the posting of notice or to receive a Notice of Violation, Administrative Citation and Order to Show Cause served in accordance with this section shall not affect the validity of the proceedings under this section.
1. The hearing shall be held no less than fourteen (14) days after service of the Notice of Violation, Administrative Citation and Order to Show Cause. Upon written request by an owner or occupant, received by the Clerk of the Office of the County Hearing Officer no less than three (3) business days before the scheduled hearing date, the hearing may be continued one time upon a showing of good cause and at the discretion of the Hearing Officer, for not longer than ten (10) days.
  2. Failure to Receive Notice - Removal of Posted Notice. The failure of any interested party to receive any notice required under this Chapter shall not affect the validity of the proceedings before the hearing officer or the orders after hearing that are subsequently issued.
  3. The hearing on the order to show cause shall be held in accordance with the procedures set forth in Section 8.06.600.
- D. In code enforcement cases subject to expedited hearing procedure described in this section, non-cannabis code violations shall be heard concurrently with the cannabis related code violations at the hearing set in the Notice of Violation, Citation, Order to Abate, and Order to Show Cause.

#### 8.06.710. Summary Abatement of Commercial Cannabis Cultivation Site.

- A. While the cultivation of cannabis alone does not pose an immediate threat to public health and safety, there are circumstances in which illegal Commercial Cannabis Activity is inseparably integrated with other extremely harmful and dangerous activities and where the presence of illegal Commercial Cannabis Activity is the actual reason that conditions or activities constituting an immediate threat to public health and safety exist or are occurring on a given premises; in such situations, the County is justified in undertaking summary abatement action and eradicating all cannabis found on such a premises.

It has been the experience of Calaveras County Code Enforcement, law enforcement and Environmental Health officials that all of the following activities or conditions have occurred within the County:

1. Illegal commercial cannabis cultivation has been attended by violent crime including, armed robbery, burglary, battery, kidnapping, human trafficking, and murder;
2. Illegal commercial cannabis activity has been attended by the improper storage and disposal of both legal and illegal pesticides and herbicides, butane, volatile solvents, high concentrations of hydrogen peroxide, and other toxic, flammable, or explosive substances;

3. Illegal commercial cannabis cultivation is conducted without any oversight by the Department Of Food and Agriculture, the State Water Resources Control Board, or any other federal, state, or local regulatory agencies and is known to be attended by environmental pollution resulting from unmitigated grading, unregulated use of herbicides, pesticides, and chemical fertilizers as well as illegal camping, discharge of wastewater or sewage, open defecation, illegal poaching, illegal timber harvests, workplace safety and labor code violations and a litany of other violations of federal, state, and local laws implemented to protect the health and safety of the public, consumers, and workers and to prevent contamination of waterways and to protect wildlife;
  4. Illegal commercial cannabis activity has also been found to be an attractive nuisance which draws minors and trespassers. As a consequence, illegal cannabis cultivation creates a risk of access to cannabis by minors as well as the potential for confrontation between trespassers and occupants or employees on premises where cannabis is being illegally cultivated.
- B. Notwithstanding any other provision in this Chapter, when any unlawful cannabis cultivation constitutes an immediate threat to the public health or safety, the Building Official may direct county staff to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the owner of record and occupants of the property prior to conducting the abatement, but the formal notice and hearing procedures set forth in this chapter shall not apply. The County may recover its costs for abating that nuisance in the manner set forth in this chapter.
- C. Unlawful Commercial Cannabis Activity may be found to constitute an immediate threat to the public health or safety under this section and may be subject to summary abatement pursuant to Government Code §25845(b) and may be subject to immediate citation and assessment of fines pursuant to Government Code §53069.4 where one or more of the following conditions exist in conjunction with illegal commercial cannabis activity:
1. The commercial cannabis cultivation site is visible from any lawful vantage point and in the judgment of the Building Official, may attract minors, trespassers, or burglars;
  2. The commercial cannabis site has been illegally graded resulting in a high probability that waste water or storm water discharge and unmitigated erosion is currently contaminating waterways or where contamination appears to be imminent;
  3. Unhoused fertilizer and/or pesticide containers can be seen on the property, above ground storage containers- other than storage tanks for wells - appear to be involved in the cultivation activity;
  4. The cannabis cultivation site is near a stream, river, or other surface water and there has been diversion or obstruction of the waterway, or there is actual, or substantial likelihood of waterway contamination within the meaning of Fish and Game Code Sections 5650 or 5652;
  5. The commercial cannabis cultivation site appears to have unsafe working conditions, illegal camping or substandard employee housing, inadequate sanitation facilities, the possible discharge of sewage onto the premises or other health and safety or occupational safety standards are clearly not being observed;
  6. There is evidence that manufacturing of cannabis products using volatile solvents or petroleum products, which in the opinion of the Building Official may result in risk of fire, explosion, or improper disposal of toxic chemicals;

7. There have been reports of firearms or armed security personnel on the property which, in the judgment of the Building Official, creates the risk that serious injury or death could result from altercations with intruders, county employees, or members of the public.

8.06.720. Summary Assessment of Administrative Fines, Amount of Fine, and Appeal Hearings.

- A. Where an illegal commercial cannabis cultivation operation, in the judgment of the Building Official, poses an immediate danger to health and safety, then no reasonable period of time need be provided to abate a continuing violation or nuisance condition prior to the issuance of an abatement order or assessment of administrative fines.
- B. Each cannabis plant shall constitute a separate violation. A fine of two hundred and fifty dollars (\$250) shall be assessed for each cannabis plant found and eradicated at the illegal commercial cannabis cultivation site and the landowner(s) and occupant(s) of the property shall be jointly and severally liable for the debt. Fines shall be collected in accordance with 8.06.440.
- C. All actual costs of abatement, including administrative costs, costs of civil standbys and security, shall be specially assessed against the parcel upon which the illegal commercial cannabis activity was occurring pursuant to the summary abatement order issued by the Chief Building Official;
- D. The summary order to abate issued by the Building Official and the subsequent assessment of fines may be appealed within fifteen (15) days of the date of the citation and order issued pursuant to the provisions of Section 8.06.420. Failure to appeal the findings and order of the Building Official or his or her designees shall constitute failure to exhaust administrative remedies and an Enforcing Officer shall carry out the procedures outlined in §§8.06.413, 8.06.530, and 8.06.540.