

BOARD OF SUPERVISORS, COUNTY OF CALAVERAS
STATE OF CALIFORNIA
May 10, 2016

**Ordinance
No. 20160510o3069**

AN URGENCY ORDINANCE

ADDING CHAPTER 17.95 TO THE CALAVERAS COUNTY CODE

**REGULATING MEDICAL CANNABIS CULTIVATION AND
COMMERCIAL USES INVOLVING MEDICAL CANNABIS
PENDING ENVIRONMENTAL REVIEW AND ADOPTION OF A
PERMANENT ORDINANCE**

The Board of Supervisors of the County of Calaveras, by a four-fifths vote, hereby finds, declares, and ordains as follows:

SECTION 1 The following chapter is added to the Calaveras County Code to read:

CHAPTER 17.95 - Medical Cannabis Cultivation and Commerce

ARTICLE 1. GENERAL TERMS

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ARTICLE 1. GENERAL TERMS

17.95.100 Authority

The Calaveras County Board of Supervisors enacts this Chapter pursuant to authority granted by Article XI Section 7 of the California Constitution, Sections 25123(d), 25845 and 53069.4 of the California Government Code and Section 11362.83(c) of the California Health and Safety Code.

17.95.110 Purpose and Intent

A. The purpose and intent of this Chapter is to quickly establish land use regulations

concerning the cultivation, manufacture, testing, distribution, transportation, and storage of medical marijuana within the County of Calaveras in order to limit and control such activities in a manner that is:

1. Consistent with the policy preferences the Board of Supervisor's described at the February 16, 2016 meeting;
 2. Consistent with MMRSA;
 3. Necessary to protect the public health, safety, and welfare of the residents of the County of Calaveras;
 4. Designed to require medical cannabis cultivators to comply quickly with local land use regulations, and
 5. Designed to eliminate the potential for significant additional impacts on the environment and unmitigated growth pending the adoption of an environmental impact report.
- B. The purpose and intent of this Chapter is also to reduce conditions that create public nuisances by enacting regulations including, without limitation, restrictions as to location, type, and size of marijuana cultivation sites, the location, type, and size of commercial activities involving medical marijuana and the use of adequate screening, security, and other protective measures to more effectively control the adverse impacts associated with medical marijuana cultivation and commercial activities related to medical marijuana.
- C. Nothing in this Chapter shall be construed to authorize any use, possession, cultivation, manufacture, transportation, or distribution of marijuana or marijuana products for non-medical purposes or that is in violation of law.

17.95.120 Findings

- A. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision.
- B. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes.
- C. In 1996, the voters of the State of California approved Proposition 215, "The Compassionate Use Act", (codified as Health and Safety Code Section 11362.5), which was intended to decriminalize cultivation and possession of medical marijuana by a seriously ill patient, or the patient's primary caregiver, for the patient's personal use, and to create a limited defense to the crimes of possessing or cultivating marijuana. The Act further provided that nothing in it shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.
- D. The State enacted SB 420 in 2004 (known as the "Medical Marijuana Program Act", codified as Health and Safety Code Section 11362.7 et seq.) to expand and clarify the scope of The Compassionate Use Act of 1996 by creating the Medical Marijuana Identification Card program, creating reasonable regulations for cultivating, processing, transporting and administering marijuana, as well as limiting the amount of marijuana a qualified individual may possess.
- E. The Medical Marijuana Program Act defines a "primary caregiver" as an individual who is designated by a qualified patient or by a person with an identification card, and who has consistently assumed responsibility for the housing, health, or safety of that patient or person and is further defined in the California Supreme Court decision *People v. Mentch* (2008) 45 Cal.4th 274.

- F. The State enacted the Medical Marijuana Regulation and Safety Act (MMRSA) on September 11, 2015 (SB 643, AB 266, and AB 243), instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical marijuana through numerous changes and additions to the Business & Professions Code and the Health and Safety Code. MMRSA legalizes and regulates for-profit commercial activity related to medical marijuana in California.
- G. While Calaveras County has never adopted a local ordinance allowing or regulating medical cannabis cultivation within the County (or other medical cannabis activities besides dispensaries), there have been for many years several hundred unregulated cannabis cultivation sites within the County which were unlawful under principles of permissive zoning and County Code 17.04.010. The County has long had insufficient resources to bring code enforcement or nuisance actions against the vast majority of these cultivation sites.
- H. MMRSA contains provisions allowing counties and cities to adopt local regulations to further regulate or to ban medical cannabis activities within their jurisdictional boundaries.
- I. When MMRSA was originally enacted on January 1, 2016, it contained a provision requiring local governments to either adopt a local regulatory scheme for medical cannabis activities by March 1, 2016 or the State would become “the sole licensing authority” for these activities.
- J. Throughout the State of California, many cities and counties, including cities and counties surrounding Calaveras County, quickly adopted local urgency ordinances banning or severely restricting medical cannabis activities within their boundaries.
- K. On February 3, 2016, the Governor of California signed Assembly Bill 21, removing the March 1st deadline for counties and cities to develop their own regulatory schemes.
- L. On February 16, 2016, the Board of Supervisors, at an open public meeting, directed the County Counsel’s Office to bring forward an ordinance allowing but regulating medical cannabis cultivation and commercial uses involving medical cannabis within the jurisdictional boundaries of Calaveras County. This ordinance will require the preparation of a programmatic environmental impact report before it can be adopted and implemented, and this process has the potential to take twelve months to complete.
- M. Meanwhile, in the wake of the Board of Supervisor’s February 16, 2016 directive to prepare an ordinance allowing medical cannabis cultivation, Calaveras County is experiencing a marked influx of people who are escaping the new regulatory bans of medical cannabis cultivation in neighboring jurisdictions, purchasing and leasing real estate within the County, and seeking to use these properties to cultivate medical cannabis in anticipation of the County’s new ordinance. There has also been a steep rise in land speculation by existing local growers who are buying inexpensive properties affected by the Butte Fire and seeking to move or expand their cultivation sites beyond the ones they have already created. These trends may be contributing to an unstudied, unregulated, and potentially significant impact on the environment.
- N. The County’s geographic and climatic conditions, which include dense forested areas with adequate precipitation and mild winters, provide conditions that are favorable to outdoor marijuana cultivation, allowing growers to achieve a high per-plant yield. The Federal Drug Enforcement Administration reports that various types of marijuana plants under various planting conditions may yield averages of 236 grams, or about one-half (1/2) pound, to 846 grams, or nearly two (2) pounds.
- O. MMRSA’s adoption of a comprehensive statewide licensing and enforcement scheme for medical cannabis operations will make it easier for local jurisdictions to regulate medical cannabis at the local level, and permit fees will help pay for additional enforcement staff. The local cannabis growing season typically begins in early spring, and local cultivators will be more incentivized to comply with a local regulatory scheme if they have not yet planted a crop in a manner that is inconsistent with these regulations.
- P. Children (minor under the age of 18) are particularly vulnerable to the effects of marijuana use and the presence of marijuana plants or products is an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children

- (including schools, parks, and other similar locations).
- Q. The unregulated cultivation of marijuana in the unincorporated area of Calaveras County can adversely affect the health, safety, and well-being of the County, its residents and environment. Comprehensive civil regulation of premises used for marijuana cultivation, including zoning regulation, is proper and necessary to reduce the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation, and that are especially significant if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in densely populated areas.
- R. Comprehensive regulation of premises used for marijuana cultivation or commercial activities related to marijuana is proper and necessary to address the risks and adverse impacts as stated herein, that are especially significant if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in one place.
- S. Outdoor marijuana cultivation, especially within the foothills, is creating devastating impacts to California's surface and groundwater resources. The State Water Resources Control Board, the North Coast Regional Water Quality Control Board, the Central Valley Regional Water Quality Control Board and the Department of Fish and Wildlife have seen a dramatic increase in the number of marijuana gardens, and corresponding increases in impacts to water supply and water quality, including the discharge of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash and human waste. The sources of these impacts result from unpermitted and unregulated timber clearing, road development, stream diversion for irrigation, land grading, erosion of disturbed surfaces and stream banks, and temporary human occupancy without proper sanitary facilities.
- T. The immunities from certain prosecution provided to qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Chapter in coordination with MMRSA, the County is hoping to minimize the risks of and complaints regarding fire, odor, crime and pollution caused or threatened by the unregulated cultivation of marijuana in the unincorporated area of Calaveras County.
- U. Nothing in this Chapter shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to the cultivation or consumption of marijuana that is otherwise illegal under State law. No provision of this Chapter shall be deemed a defense or immunity to any action brought against any person by the County of Calaveras, Calaveras County District Attorney, the Attorney General of State of California, or the United States of America.
- V. In *Browne v. County of Tehama*, 213 Cal. App. 4th 704 (2013), the California Court of Appeal stated that "Neither the Compassionate Use Act nor the Medical Marijuana Program grants . . . anyone . . . an unfettered right to cultivate marijuana for medical purposes. Accordingly, the regulation of cultivation of medical marijuana does not conflict with either statute." Similarly, in *City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.*, 56 Cal. 4th 729 (2013), the California Supreme Court concurred that "Nothing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land . . ." Additionally, in *Maral v. City of Live Oak* (2013), 221 Cal.App. 4th 975, 983, review denied 2014 Cal. LEXIS 2402 (March 26, 2014), the same Court of Appeal held that "there is no right-and certainly no constitutional right-to cultivate medical marijuana . . ." The Court in *Live Oak* affirmed the ability of a local governmental entity to prohibit the cultivation of marijuana under its land use authority.
- W. California Business and Professions Code §19315 expressly states that the chapter added to the Business and Professions Code pursuant to the MMRSA shall not be

interpreted “to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements”.

- X. California Business and Professions Code §19316(a) expressly states, “Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, security, and worker protections established by the state shall be the minimum standards for all licensees statewide.”
- Y. California Business and Professions Code §19316(c) expressly states, “Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.
- Z. California Business and Professions Code §19320(d) expressly states that “local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licenses”.

17.95.130 Applicability, Interpretation, and General Terms

- A. The regulations in this Chapter shall apply to the location of medical cannabis cultivation and commercial activities related to medical cannabis in zoning districts described in the County Code until such time as a permanent ordinance regulating these activities is enacted. For the purposes of this Chapter, medical marijuana dispensaries are excluded from the definition of “commercial activities related to marijuana”, as medical marijuana dispensaries are separately regulated under Chapter 17.91 of the Calaveras County Code.
- B. All provisions of this Chapter shall apply regardless of whether the activities existed or occurred prior to the adoption of this Chapter.
- C. Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of marijuana from compliance with all other applicable Calaveras County zoning, and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.
- D. Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of marijuana from any and all applicable local, state, or federal construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.
- E. Nothing in this Chapter is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting cultivation of marijuana.
- F. Unless expressly stated otherwise, the definitions in this Chapter are intended to apply solely to the regulations in this Chapter.
- G. Notwithstanding the fact that Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section and the MMRSA, (Business and Professions Code Section 19300, et. seq.), the cultivation of cannabis for medical use shall not be permitted in any zone within the County of Calaveras unless it complies with all requirements of this Chapter.
- H. Cannabis cultivation cannot form the basis for a cultivator to apply with the County to enter into a Williamson Act contract pursuant to California Government Code Section 51200 et. seq.; however, a landowner who otherwise qualifies for a Williamson Act contract due to another qualifying agricultural operation on the property at issue shall not be denied a Williamson Act contract solely because cannabis is also cultivated on the property.
- I. Should the State begin issuing medical cannabis cultivation licenses under MMRSA before a permanent medical cannabis cultivation ordinance has been enacted in

Calaveras County, a cultivator of medical cannabis who is registered pursuant to this Chapter and who can otherwise demonstrate consistent compliance with this Chapter, the County Code and all other relevant laws and regulations, may request from the Planning Department a validation stamp on his/her registration certificate so that such document may be used as evidence of local compliance for the purposes of Business and Professions Code §19322(a)(2). The County does not intend any medical cannabis registration document or certificate without a validation stamp to suffice as adequate documentation of local compliance for the purpose of applying for a State license under Business and Professions Code §19322(a)(2).

- J. Notwithstanding any other provision of this Chapter, should the State begin issuing medical cannabis cultivation licenses under MMRSA before a permanent medical cannabis ordinance has been enacted in Calaveras County, the cultivator must file a complete application for the appropriate state license with the appropriate State licensing authority on or before January 1, 2018.
- K. Notwithstanding any other provision of this Chapter, a cultivator of medical cannabis who is registered pursuant to this Chapter, but who applies for and is denied a State license before a permanent medical cannabis cultivation ordinance has been enacted in the County, must immediately cease all medical cannabis cultivation within the County until he/she successfully obtains the proper State cultivation license(s) under MMRSA.

17.95.140 Scope

The provisions of this Chapter shall apply generally to all property throughout the unincorporated area of the County of Calaveras.

17.95.150 Definitions

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

- A. "Applicant" or "Registrant" means an individual applying on behalf of him/herself or as the authorized agent of a business entity for a medical cannabis cultivation site registration in conformance with this Chapter.
- B. "Cannabis" or "Marijuana" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" or "Marijuana" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purposes of this Chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- C. "Caregiver" or "primary caregiver" has the same meaning as in Health and Safety Code §19300.5(h).
- D. "Code" means the Calaveras County Code.
- E. "Code Enforcement Officer" means any person employed by the County of Calaveras and appointed to the position of code enforcement officer.
- F. "Commercial marijuana activity" or "Commercial activities involving medical marijuana" means either:
 - 1. Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with MMRSA for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code; or
 - 2. Any cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical

cannabis product in accordance with MMRSA.

- G. "Commercial cannabis cultivation" shall have the same meaning as Subsection 17.95.150(F)(1) of this Chapter.
- H. "Costs of Enforcement" or "Enforcement Costs" means all costs, direct or indirect, actual or incurred related to the performance of various administrative acts required pursuant to the enforcement of this Chapter, which include but are not limited to: administrative overhead, salaries and expenses incurred by County Officers, site inspections, investigations, evidence storage, notices, telephone contacts and correspondence, conducting hearings, as well as time expended by County staff in calculating the above expenses. The costs also include the cost of time and expenses associated with bringing the matter to hearing, the costs associated with any appeals from any decision rendered by any hearing body, the costs of judicially abating a violation, and all costs associated with removing, correcting or otherwise abating any violation, including administrative penalties of this Chapter.
- I. "County" means the County of Calaveras.
- J. "Cultivation" shall have the same meaning as Section 19300.5(l) of the California Business and Professions Code.
- K. "Cultivation area" shall mean that portion of the cultivation site containing live medical cannabis plants.
- L. "Cultivation site" means the location or a facility where medical cannabis has been planted, grown, and harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities in conformance with MMRSA or, to the extent that the activity is exempt from MMRSA, in conformance with local laws and regulations.
- M. "Dwelling", for 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.
- N. "Enforcement Official" means a County Code Enforcement Officer, the County Agricultural Commissioner, or the County Sheriff, or the authorized deputies or designees of any of these officials, each of whom is independently authorized to enforce this Chapter.
- O. "Entity" has the same definition as "Person" except that it does not mean an individual.
- P. "Identification card" shall have the same meaning as "Identification card" as defined in the California Health and Safety Code, commencing with Section 11362.7(g).
- Q. "License Type" means the type of state-issued license that will ultimately be required for the size and type of cultivation activity proposed for the cultivation site, such license types being described in Business and Professions Code §19300.7 and §19332(g).
- R. "Licensee" has the same meaning as in Business and Professions Code §19300.5(ab).
- S. "Marijuana plant" or "cannabis plant" means any mature or immature marijuana plant including the stalks of the plant, or any marijuana seedling, that is capable of producing marijuana. A "mature" marijuana or cannabis plant is one whose sex can be determined by visual inspection.
- T. "Medical cannabis", "medical cannabis product", or "cannabis product" has the same meaning as in Business and Professions Code §19300.5(ag).
- U. "Medical cannabis activity" means any use of marijuana regulated by this Chapter, including but not limited to "Commercial marijuana activity" or non-commercial cultivation of marijuana.
- V. "Parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (commencing with Section 66410 of the Government Code) and also means any parcel that is described, recorded and kept in official County records specifically including documents and maps used by the County Assessor's Office, the County Tax Collector's Office and the County Recorder's Office.
- W. "Person" has the same meaning as "Person" in Business and Professions Code §19300.5(aj).

- X. "Person with an identification card" shall have the same meaning as "Person with an identification card" as defined in the California Health and Safety Code, commencing with Section 11362.7(c).
- Y. "Personal cultivation" means cannabis cultivation up to one hundred (100) square feet of total canopy area by a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates and possesses cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person or entity.
- Z. "Primary Caregiver" or "Caregiver" shall have the same meaning as "primary caregiver" as defined in the California Health and Safety Code, commencing with Section 11362.7(d), and as further defined in the California Supreme Court decision *People v. Mentch* (2008) 45 Ca1.4th 274.
- AA. "Primary caregiver cultivation" or "Caregiver cultivation" means cannabis cultivation of up to one hundred (100) square feet of total canopy per qualified patient or person with an identification card by a person who cultivates, possesses, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than two individuals for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code.
- BB. "Public View" shall mean as viewed at ground level, without the use of a ladder or similar device, from any public road adjacent to the parcel on which the medical cannabis activity shall take place.
- CC. "Qualified Patient" shall have the same meaning as "qualified patient" as defined in the California Health and Safety Code, commencing with Section 11362.7(f).
- DD. "Residence", unless otherwise specified, shall have the same meaning as "Dwelling" for purposes of this Chapter.
- EE. "Sheriff" or "Sheriff's Office" means the Calaveras County Sheriff's Office or the authorized representatives thereof.
- FF. "Total canopy area" means the gross area of cannabis planting covered by the canopy of all marijuana to be cultivated on the parcel when the marijuana plants reach their maximum canopy size, including the space between the plants within a single fenced or enclosed area.

17.95.160 Nuisance Declared

- A. Other than medical cannabis cultivation on a registered medical cannabis cultivation site in accordance with this Chapter, all cultivation of medical cannabis, in any amount or quantity, and including any medical cannabis nursery, is hereby declared to be unlawful in all zones and a public nuisance that may be abated and subject to enforcement pursuant to Article 2 of this Chapter. This provision shall not apply to medical cannabis cultivation by a lawful, permitted medical cannabis dispensary in accordance with Chapter 17.91 of this Code.
- B. Other than medical cannabis cultivation in accordance with this Chapter, all commercial cannabis uses to be licensed and regulated under MMRSA, including but not limited to medical cannabis manufacturing, testing, distributing, or transporting, is hereby declared to be unlawful in all zones and a public nuisance that may be abated and subject to enforcement pursuant to Article 2 of this Chapter. This provision shall not apply to lawful, permitted medical cannabis dispensaries operating in accordance with Chapter 17.91 of this Code.

17.95.165 Mandatory Registration of Medical Cannabis Cultivation Sites

- A. All medical cannabis cultivation within the jurisdictional boundaries of Calaveras County shall be prohibited unless and until the cultivation site is registered with the Planning

Department in accordance with this Chapter. Registration of a medical cannabis cultivation site must be completed by June 30, 2016 and shall require all of the following conditions to be satisfied regardless of the type of cultivation or the size of the cultivation area:

1. As of May 10, 2016, the site was located in a zone where medical cannabis cultivation is allowed pursuant to this Chapter.
2. All registrants shall provide, at minimum, the following information on a medical cannabis cultivation site registration form provided by the Planning Department and signed under penalty of perjury:
 - a. The registrant's legal name, physical address, mailing address (if different), and phone. Should the registrant's name, physical address, mailing address, or phone number change during the registration period, he/she must notify the Planning Department in writing and provide the new information within seventy-two (72) hours of the change.
 - b. If different, the landowner's legal name, physical address, mailing address (if different), and phone. Should the landowner's name, physical address, mailing address, or phone number change during the registration period, he/she must notify the Planning Department in writing and provide the new information within seventy-two (72) hours of the change.
 - c. If the registrant is a business, the registrant shall also provide the business's name, physical address, mailing address (if different), phone, and evidence satisfactory to the Planning Director that he/she is duly authorized to apply for registration on behalf of the entity and to bind the entity into the indemnification agreement required by this Chapter.
 - d. If the applicant is corporation, company, or limited partnership, a date-marked printout from the California Secretary of State's "Business Search" website indicating that the entity is currently listed as "Active" with the Board of Equalization.
 - e. Signed written consent to reasonable compliance inspections by County staff.
 - f. For caregiver and commercial growers, signed written consent to submit to fingerprinting and a background check conducted by the Calaveras County Sheriff's Office.
 - g. For caregiver grows, the number of patients the registrant will be cultivating for (up to two patients) and their names, physical addresses, mailing addresses, and contact phone numbers.
 - h. For personal or caregiver grows, documentation demonstrating the existence of a lawful permanent dwelling on the parcel as required by Section 17.95.165(M)(4).
 - i. For personal or caregiver grows, production of an original and submission of a copy of each patient's current medical cannabis recommendation.
 - j. A description of the type of registration sought (personal use, caregiver, or commercial) and the intended light source (outdoor, indoor, or mixed light.)
 - k. A description of how the cultivation area will be secured against access by trespassers, including description of all fencing, screening, gating, locks, lighting, cameras, and alarms.
 - l. A plot plan depicting property boundaries, cultivation area, structures, access drives and other pertinent information.
 - m. A description of the legal water source that will be used for irrigation of the medical cannabis.
 - n. The maximum total canopy area that is or will be on the cultivation site.

- o. The current zoning of the proposed cultivation site.
 - p. All registrants shall produce for inspection and provide a copy of a current, valid, verifiable government-issued photographic identification such as a driver's license or state-issued identification card.
 - q. If not the owners of the parcel to be registered, all registrants shall provide a letter, signed, dated and notarized by the owner(s) of the parcel, verifying that the owner(s) was aware that the parcel was prepared for medical cannabis cultivation prior to May 10, 2016 and that the registrant continues to have permission to cultivate medical cannabis on the parcel. The letter shall include the name, address, and phone number of the owner.
 - r. A copy of a fully executed lease or a recorded deed demonstrating that the registrant had lawful possession of the parcel to be registered as a cultivation site prior to May 10, 2016.
 - s. For commercial cultivation registrants, copies of the additional documentation required under Section 17.95.165(N).
 - t. The Assessor's Parcel Number (APN) of the parcel to be registered.
 - u. All registrants and, if different, the owner(s) of the parcel to be registered, shall execute an indemnification agreement provided by the Planning Department pursuant to Section 17.95.260.
- B. A medical cannabis cultivation site registration pursuant to this Chapter shall confer no permit or entitlement and no permanent or irrevocable approval to cultivate medical cannabis on the site. The registration shall be non-assignable and shall not run with the land. Once the registrant no longer has legal ownership or legal possession of the cultivation site, the registration shall be deemed automatically terminated without further notice and no further cultivation shall be allowed at the site.
 - C. After submitting a complete application for a medical cannabis cultivation site registration and paying the applicable Medical Cannabis Cultivation Program Fee, the Planning Department shall issue an "Application Pending" document pending verification of the application materials, completion of the background check (if applicable), and submission of all applicable documents required by Section 17.95.165(N)(5). Once all criteria of this Chapter have been met, the Planning Department shall issue a "Certificate of Registration", which shall be valid for one year from its date of issuance.
 - D. If a permanent ordinance has not yet been adopted by the County prior to the expiration of a medical cannabis site registration, the registration can be renewed for an additional year so long as the registrant submits a complete application for renewal to the Planning Department between no less than thirty and no more than sixty calendar days in advance of its expiration date. The fee for a renewal registration shall be the same as the applicable Medical Cannabis Cultivation Program Fee.
 - E. Medical cannabis on a registered cultivation site shall at all times be conducted in such a way as to ensure the health and safety of employees, independent contractors, visitors to the area, neighboring property owners, and end users of medical marijuana; to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the medical marijuana; and to safeguard against the diversion of medical marijuana for non-medical purposes.
 - F. Registrants shall comply with all federal, state, and local laws, statutes, and regulations laws, including but not limited to the provisions of this Chapter and all ordinances that apply within the County's jurisdictional boundaries. Applicants seeking authorization to cultivate marijuana on parcels where active Code Enforcement violations of any provision of the Calaveras County Code exist shall first correct Code violations prior to receiving a County registration pursuant to this chapter.
 - G. Registrants shall comply with any and all state and local laws or regulations related to the use, storage, and disposal of hazardous materials or wastes, including but not

limited to pesticides, and shall refrain from the improper storage of or use of any fertilizer, pesticide, fungicide, rodenticide, or herbicide.

- H. Registrants shall comply with all applicable local, state and federal laws, statutes, and regulations relating to housing, sanitation, and health and safety of agricultural workers employed at the site.
- I. The current registration document issued by the Planning Department (either an “application pending” certificate or a “registration” certificate) must be weatherproofed and visibly and clearly posted within ten feet of the ingress of the cultivation area. It shall be posted between four and six feet above the ground on a durable, rigid, and rectangular signboard of no less than eighteen inches per side containing reflective material sufficient to allow an enforcement official to readily locate it with a flashlight after dark. The parcel’s street address shall also be posted in conformance with Section 1274.09 of Title 14 of the California Code of Regulations.
- J. If the maximum amount of cannabis cultivated exceeds the maximum total canopy area permitted in the cultivation site’s zone or the provisions of this Chapter, the total canopy size shall be reduced to conform with the requirements of the zone and this Chapter within twenty-four hours of receiving the registration or of notification by an enforcement official. All excess cannabis shall be immediately destroyed, with none retained for use of the registrant, landowner, or for transfer to any other person or entity.
- K. There shall be no more than one medical cannabis cultivation registration per parcel, except that there may be two personal cultivation registrations on a parcel.
- L. Whether or not there is a dwelling on the parcel to be registered, there shall be no camping or sheltering by the registrant, landowner, or any other person in a vehicle (except as specified below) or in a tent, yurt, teepee, or similar portable structure beyond the period of time specified in County Code Section 17.04.180.
- M. The following additional requirements apply to the registration of sites for personal or caregiver cultivation of medical cannabis:
 - 1. All personal or caregiver medical cannabis cultivation sites shall submit a complete application for medical cannabis cultivation site registration pursuant to this Chapter by June 30, 2016. Notwithstanding any other provision of this Chapter, new personal use or caregiver cultivation sites may be established after this date; however they must apply for registration with the planning department within seventy-two (72) hours of commencing cultivation.
 - 2. The maximum area of cultivation on the parcel shall be:
 - a. For a personal cultivation registration, one hundred (100) square feet of total canopy size.
 - b. For a caregiver cultivation registration, one hundred (100) square feet of total canopy size per patient, for a maximum of two patients.
 - c. Under no circumstances shall any non-commercial medical cannabis cultivation site contain more than two hundred (200) square feet of total canopy size.
 - 3. Personal use or caregiver cultivation may only occur on property owned or leased by the caregiver or authorized patient for whom the medical cannabis is cultivated.
 - 4. Registrants shall demonstrate that there is a lawful permanent dwelling, or temporary dwelling as provided in Chapter 17.93 for Butte Fire victims, on the cultivation site, or on an adjacent parcel under common ownership, and that this dwelling is inhabited on a permanent basis by the caregiver or patient.
 - 5. The cultivation area must be set back at least thirty (30) feet from the property line.
 - 6. Access to the cultivation area shall be controlled to reasonably prevent against access by trespassers.

7. All personal cultivation and primary caregiver cultivation shall comply with this Chapter and with all laws, regulations, and ordinances that apply within the County's jurisdictional boundaries, including but not limited to the Compassionate Use Act and the Medical Marijuana Program Act. The names, physical and mailing addresses, and phone numbers of each patient shall be provided.
 8. All applicants for a caregiver medical cannabis cultivation site shall submit fingerprints and be subject to criminal background checks conducted by the Calaveras County Sheriff.
 - a. The registration may be denied or invalidated if:
 - i. The Sheriff finds that the applicant for the cultivation site has been convicted of any felony or misdemeanor he deems to be reasonably related to the qualifications, functions, responsibilities, or duties expected of an applicant for the type of registration he/she is applying for. ;
 - ii. The Planning Director finds that the applicant has a history of local sanctions, fines, or penalties for violations of local ordinances or for any revocation of a local license or permit within the prior three years.
- N. The following additional requirements apply to the registration of sites of commercial cultivation of medical cannabis:
1. All commercial medical cannabis cultivation site registrants shall submit a complete application for medical cannabis cultivation site registration pursuant to this Chapter by June 30, 2016. Commercial cannabis cultivators who fail to register prior to June 30, 2016 shall be precluded from applying for a registration, permit, license or other form of approval authorizing commercial cultivation in Calaveras County prior to a period of one year from the effective date of a permanent ordinance regulating cannabis cultivation in the County or as may be otherwise provided in said permanent ordinance, whichever is longer.
 2. The registrant must provide either:
 - a. A recorded deed proving the registrant's ownership of the parcel prior to May 10, 2016 plus evidence of the registrant's current ownership.
 - b. A signed and dated lease demonstrating the registrant's lawful possession of the parcel to be registered prior to May 10, 2016 and his/her current lawful possession of this parcel.
 3. The registrant must provide evidence satisfactory to the Planning Director that, no later than May 10, 2016, he/she has taken demonstrable steps toward the development of a commercial medical cannabis cultivation site on the parcel as demonstrated by the criteria described in either (a) or (b) below and by at least one of the criteria described in (c) through (k):
 - a. Date-stamped photographic evidence of grading and/or earthmoving commensurate with the area proposed to be cultivated.
 - b. Date-stamped photographic evidence of cultivation commensurate with the area proposed to be cultivated.
 - c. Date-stamped receipts for equipment and supplies in types and quantities commensurate with commercial cannabis cultivation in the area proposed to be cultivated.
 - d. A signed contract with a medical cannabis dispensary, distributor, or other medical cannabis business located in California which contains evidence that it was fully executed no later than May 10, 2016 and which contains notification information or other evidence linking the registrant to the address of the parcel for which registration is sought. The contract must include the name, address, and phone number of each individual or entity

- that executed the contract.
- e. Receipt of a valid, unexpired business license pursuant to Chapter 5.04 of the Calaveras County Code in conjunction with additional evidence linking the registrant's business to a medical cannabis cultivation site on the parcel for which cultivation is sought.
 - f. Documents of incorporation and/or registration with the California State Board of Equalization containing evidence that an established medical cannabis cultivation operation existed on the parcel to be registered no later than May 10, 2016.
 - g. Receipt of a State seller's permit pursuant to California Revenue and Taxation Code §6001 et.seq. no later than May 10, 2016 in conjunction with additional evidence such as printed business cards, checks, or stationery demonstrating that the business is related to medical cannabis.
 - h. Dated and fully executed documentation of current compliance or intent to comply with Water Quality Control Board regulations related to medical cannabis.
 - i. Insurance documents demonstrating that an established medical cannabis cultivation operation existed on the parcel to be registered prior to May 10, 2016.
 - j. Documentation of taxes paid to the State Board of Equalization no later than May 10, 2016 for the cultivation operation on the site at issue.
 - k. Any similarly reliable documentary evidence satisfactory to the Planning Director that establishes that medical cannabis was planted and grown on the parcel to be registered prior to May 10, 2016.
4. The registrant must demonstrate compliance with Central Valley Water Quality Control Board regulations by providing documentary evidence satisfactory to the Planning Director of either of the following:
 - a. A copy of the Notice of Applicability enrolling the cultivator for coverage under General Order No. R5-2015-0113, consistent with the area proposed for cultivation; or
 - b. A copy of the Notice of Intent to enroll the cultivator for coverage under General Order No. R5-2015-0113, consistent with the area proposed for cultivation. If the registrant has not filed the Notice of Intent with the Water Quality Control Board prior to submittal of the registration to the County, the registrant shall submit all necessary forms and documents to the Water Quality Control Board to constitute a complete application for that agency's purposes no later than September 7, 2016 and provide a copy of a document indicating receipt by the Water Quality Control Board to the Planning Department.
 5. By September 7, 2016, a registrant with a pending application for registration shall provide verifiable documentation to the Planning Department demonstrating that the registrant has completed all of the following tasks for the medical cannabis cultivation operation located on the parcel to be registered:
 - a. Receipt of a current, valid business license pursuant to Chapter 5.04 of the Calaveras County Code.
 - b. Receipt of a State seller's permit pursuant to California Revenue and Taxation Code §6001 et.seq.
 - c. Active registration as a business entity with the California Secretary of State and the Board of Equalization.
 6. The minimum parcel size for an outdoor or mixed light commercial medical cannabis cultivation site shall be two (2) acres. The maximum area of cultivation shall not exceed fifteen percent (15%) of the parcel area.
 7. As of May 10, 2016, all grading and earth movement in the portion of the parcel

to be used for cultivation shall have been completed other than that grading necessary for a proportional adjustment to the cultivation area to comply with the setback requirements of this Chapter. A registrant seeking to conduct grading for this purpose beyond May 10, 2016 must provide the Planning Department with a copy of a current grading permit for this proportional adjustment at the time of submitting his/her application for registration. No additional grading or earth moving for the purpose of establishing or expanding any commercial cannabis cultivation site shall be permitted after May 10, 2016.

8. The cultivation area of an outdoor or mixed light commercial cannabis cultivation site shall be set back at least seventy-five (75) feet from any property line, shall not exceed 22,000 square feet of total canopy area, and the parcel shall be at least one thousand (1000) feet from any parcel containing a "sensitive use" as that term is defined in Calaveras County Code 17.91.060(B), measured using the shortest distance between the property lines of the respective parcels. Access to the cultivation area shall be controlled to reasonably prevent against access by trespassers.
9. An indoor cultivation area shall be in a lawful, permitted structure that is securely locked and enclosed by four walls and a roof, and which has window coverings or screens that reasonably prevent the marijuana plants from being viewed by members of the public present on public roads, public lands or public properties, and parcels containing a "sensitive use" as that term is defined in Calaveras County Code 17.91.060(B).
10. An outdoor or mixed light cultivation area shall be fully enclosed by a six-foot tall fence of a material and strength that reasonably prevents against access by trespassers and children. Access to the cultivation area shall be secured by a lock of reasonable strength to prevent against access by trespassers and children.
11. Reasonable screening from public view and from the view of parcels containing a "sensitive use" as that term is defined in Calaveras County Code 17.91.060(B) shall be provided. "Public view", as used in this paragraph, shall mean view from a public or private road fronting the parcel on which medical cannabis is cultivated.
12. All outdoor lighting shall be shielded to prevent light trespass into the night sky and glare onto adjoining properties, road rights-of-way, and easements.
13. Any generator providing power to the cultivation area on a registered medical cannabis cultivation site shall be:
 - a. Housed in an insulated shed; and
 - b. Set back a minimum of seventy-five (75) feet from the property line; and
 - c. In compliance with the County's noise ordinance.
14. One recreational vehicle as defined in Section 17.06.1630 may be used as a temporary residence on the parcel to be registered as provided for in County Code Section 17.04.130 or Chapter 17.93. Registrants of parcels within one-quarter (1/4) mile of the perimeter of the Butte Fire Burn Area, as depicted on a map provided by the County may apply for a temporary use permit pursuant to County Code Chapter 17.84 for use of a recreational vehicle as temporary housing for employees of a commercial cultivation site provided that the recreational vehicle is connected to all of the following:
 1. An approved potable water source;
 2. An approved septic system or public sewer connection; and
 3. A permitted power source.
15. All applicants for a commercial medical cannabis cultivation site shall submit fingerprints and be subject to criminal background checks conducted by the

Calaveras County Sheriff.

- a. The registration may be denied or invalidated if:
 - i. The Sheriff finds that the applicant for the cultivation site has been convicted of any felony or misdemeanor he deems to be reasonably related to the qualifications, functions, responsibilities, or duties expected of an applicant for the type of registration he/she is applying for.
 - ii. The Planning Director finds that the applicant has a history of local sanctions, fines, or penalties for violations of local ordinances or for any revocation of a local license or permit within the prior three years.
16. All persons or entities who intend to cultivate medical marijuana but who did not register prior to June 30, 2016 must file with the Planning Department a Notice of Intent to Cultivate Medical Cannabis. Such persons or entities shall be placed on a waiting list maintained by the Planning Department. No permit, license, or other authorization to cultivate medical cannabis shall be issued until completion of the period of time described in 17.95.165(N)(1).

17.95.170 Invalidation of Medical Cannabis Cultivation Site Registration

- A. Registration of a medical cannabis cultivation site pursuant to this Chapter may be invalidated by the Planning Director for any of the following reasons:
 1. Failure to comply with the requirements of this Chapter.
 2. Other violations of federal, state, or local law (other than cannabis-related activities recognized as legal by the State of California) are occurring on any parcel within the County in the ownership or possession of the registrant.
 3. Registration was in error or was accomplished under false pretenses.
 4. Application for registration contained false or misleading information.
 5. The registrant, after registering, fails or refuses to inform the County of alterations to the property that would compromise the original registration.
 6. Denial, suspension, or revocation of a State-issued medical cannabis cultivation license.
- B. If registration is invalidated pursuant to this Section after such time as the State begins accepting medical cannabis license applications, the Planning Director shall notify the State Bureau of Medical Marijuana Regulation pursuant to Business & Professions Code §19320(b) as well as the Calaveras County Sheriff.
- C. Invalidation of a medical cannabis cultivation site registration may be appealed pursuant to Calaveras County Code §17.98.020.

17.95.175 Automatic Termination of Registration Upon Adoption of Permanent Ordinance

- A. Any and all registrations of medical cannabis cultivation sites pursuant to this Chapter shall, without further notice, automatically terminate and be rendered invalid ninety (90) calendar days after a permanent medical cannabis cultivation ordinance takes effect in Calaveras County, by which time all medical cannabis cultivation sites shall comply with the terms of such permanent ordinance.
- B. Notwithstanding Subsection A above, a registration of a medical cannabis cultivation site pursuant to this Chapter may be extended under all of the following circumstances:
 1. An application for any certificate or permit required under the permanent ordinance has been submitted to the Planning Department and deemed complete within sixty (60) days after the permanent medical cannabis cultivation ordinance takes effect; and
 2. The processing of the application for any certificate or permit required under the permanent medical cannabis cultivation ordinance, including but not limited to

any hearings that may be required as a condition precedent to receiving a certificate or permit, have not been completed within ninety (90) calendar days after the permanent ordinance takes effect; and

3. The registrant is and remains in compliance with all terms of his/her medical cannabis site registration.

17.95.180 Cultivation Types and Locational Requirements

- A. For purposes of this Chapter, “Indoor” means a cultivation site operated pursuant to License Type 1A, 2A, or 3A.
- B. For purposes of this Chapter, “Outdoor” means a cultivation site operated pursuant to License Type 1, 2, or 3.
- C. For purposes of this Chapter, “Mixed Light” means a cultivation site operated pursuant to License Type 1B, 2B, or 3B.
- D. The types of cultivation that may be allowed on a registered cultivation site shall be determined by the zoning classification of the parcel on which the activity is to be conducted and the type of state license required for that operation pursuant to the MMRSA, in accordance with the following chart where “R” signifies that the type of cultivation may be allowed on a registered medical cannabis cultivation site in that zone and “-” means that the type of cultivation is not permitted in that zone:

Outdoor/Mixed Light Cultivation

Zone	Personal Use Caregiver	1 or 1B License	2 or 2B License	3 or 3B License
Unclassified, U	R	R	R	R
Highway Service, HS	R	-	-	-
Residential Agriculture, RA	R	R	R	R
Rural Residential, RR	R	R	R	R
General Forest, GF	R	R	R	R
General Agriculture, A1	R	R	R	R
Agriculture Preserve, AP	R	R	R	R

Indoor Cultivation

Zone	Personal Use Caregiver	1A License	2A License	3A License
Unclassified, U	R	R	-	-
Highway Service, HS	R	-	-	-
Residential Agriculture, RA	R	R	-	-
Rural Residential, RR	R	R	-	-
Single-Family Residential, R1	R	-	-	-
General Forest, GF	R	R	-	-
General Agriculture, A1	R	R	-	-
Agriculture Preserve, AP	R	R	-	-
Light Industrial, M1	-	R	R	-
General Industrial, M2	-	R	R	-
Business Park, M4	-	R	R	-

ARTICLE 2. ENFORCEMENT, PENALTIES, FEES & LEGAL PROVISIONS

17.95.200 Enforcement

- A. Any violation of this Chapter, including but not limited to failure to obtain and maintain in good standing any required registration specified in this Chapter, shall be subject to injunction, abatement or any other administrative, criminal or civil remedy available to the County under the applicable State and County laws, including but not limited to Government Code §25845, Chapter 8.06 of the Calaveras County Code, and Business and Professions Code §19318 and §19360. Nothing herein shall be read, interpreted or construed in any manner so as to limit any existing right or power of the County of Calaveras or any other governmental entity to enforce County ordinances, including but not limited to Chapter 17.100 of the Calaveras County Code, or to abate any and all nuisances, or employ any remedy available at law or equity.
- B. Any violation for Commercial cannabis cultivation without the requisite registration, as specified in this Chapter, is hereby declared to be a misdemeanor. Such violations may be criminally prosecuted at the discretion of the district attorney. Notwithstanding this declaration, consistent with the holding in Kirby v. County of Fresno (2015) 242 Cal.App.4 940, neither a qualified patient nor a primary caregiver who cultivates or delivers marijuana for the personal medical purposes of the patient upon the written recommendation or approval of a physician shall be subject to arrest or criminal prosecution solely as a result this conduct.
- C. Issuance of a warning shall not be a requirement prior to enforcement of any provision of this Chapter.
- D. Each person or entity violating this Chapter shall be guilty of a separate offense for each and every day, or portion thereof, on which any violation of any provision of this Chapter is committed, continued, or permitted by any such person or entity. Any violation which persists for more than one day is deemed a continuing violation.

17.95.210 Right of Entry/Inspection

To enforce the provision of this Code, an Enforcement Official may at a reasonable time request inspection of any parcel known to be or suspected of cultivating marijuana. If the person owning or occupying the parcel refuses the request for an inspection, the Enforcement Official shall have recourse to pursue every remedy provided by law to secure entry, including but not limited to obtaining an inspection warrant.

17.95.220 Summary Abatement

- A. Notwithstanding any other provision of this Chapter, when any unlawful medical marijuana cultivation constitutes an immediate threat to the public health or safety, and where there is insufficient time to 1) obtain an inspection warrant; and 2) comply with the abatement procedures set out in Chapter 8.06 of the Calaveras County Code, to mitigate that threat, the Enforcement Official may direct any officer or employee of the County to summarily abate the nuisance.
- B. The Enforcement Official shall make reasonable efforts to notify the owner and/or the alleged violator.
- C. The County may recover its costs for summarily abating that nuisance in the manner set forth Chapter 8.06.

17.95.230 Administrative Fine-Amount of Fine

- A. In addition to the actual abatement and/or administrative costs incurred by the County in enforcing this Chapter, any person who has been issued a notice of violation and fails to abate such violation within the timeframes specified in the notice, shall be assessed an administrative fine of one-thousand dollars (\$1,000.00) per day.
- B. The administrative fine, pursuant to this Section, shall be assessed immediately upon

the expiration of the deadline specified in the notice of violation and shall continue to accrue daily until the violation has been fully abated and verified by the Enforcing Officer.

17.95.240 Enforcement Costs

- A. The owner(s) of any parcel on which a nuisance has been found to exist shall be solely responsible to pay to the County all costs and penalties associated with the enforcement of this Chapter, and such costs shall be paid within 30 days of the date of demand thereof, unless a timely appeal of the administrative fine is filed pursuant to Chapter 8.06.
- B. Where costs and penalties go unpaid beyond 30 days, no appeal has been filed, and there is a valid registration for the parcel on which a nuisance has been found to exist, the Planning Director may take action to invalidate the registration.

17.95.250 Fees

- A. The County shall collect from the registrant a regulatory program fee (hereinafter referred to as a Medical Cannabis Cultivation Program Fee) when an applicant applies for a registration of a medical cannabis cultivation site with the Planning Department pursuant to this Chapter.
- B. Such fee shall fairly and proportionately generate sufficient revenue to cover the costs of administering, implementing, and enforcing this Chapter.
- C. The Medical Cannabis Cultivation Program Fee is set at:
 - 1. Personal Cultivation Site: \$100.00
 - 2. Primary Caregiver Cultivation site: \$200.00
 - 3. Commercial Cannabis Cultivation site: \$5,000.00
- D. The above fee amounts are not anticipated to fully cover the cost of administering this Chapter; however, within twelve months of adoption of this urgency ordinance, the County may conduct a fee study to determine the total cost of administering this Chapter.
 - 1. If, based on the results of the fee study, the Medical Cannabis Cultivation Program Fee needs to be increased, the County may increase the fee by way of resolution for any new or renewal registrations.
 - 2. If, based on the results of the fee study, the Medical Cannabis Cultivation Program Fee exceeds the cost of administering this Chapter; the County shall decrease the Medical Marijuana Cultivation Fee by way of resolution and shall also reimburse applicants their proportional share of any overpayment.

17.95.260 Release of Liability and Hold Harmless

As a condition of registering any a medical cannabis cultivation site pursuant to this Chapter, the registrant and, if different, the property owner shall execute an agreement to defend, indemnify and hold harmless the County of Calaveras and its agents, officers, and employees from any claim, action, or proceeding brought against the county, its agencies, boards, planning commission or board of supervisors arising from the County's registration of the site. The indemnification shall apply to any damages, costs of suit, attorney fees or other expenses incurred by the county, its agents, officers and employees in connection with such action.

SECTION 2. SEVERABILITY

If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed and adopted this Ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

SECTION 3. CEQA

The Board of Supervisors hereby finds that this Ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2)(the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3)(there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the Board of Supervisors further finds that the Ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment).

Evidence: This ordinance does not permit any medical cannabis land uses that were not demonstrably present prior to the Board of Supervisor’s directive on May 10, 2016 to bring forward an ordinance that allows but regulates certain medical cannabis cultivation activities and certain commercial activities involving medical cannabis. The ordinance prohibits all new cultivation sites; prohibits any expansion of these pre-existing cultivation sites; and prohibits all newly legalized commercial cannabis activities (manufacturing, distributing, testing, transporting) within the County’s jurisdiction. In short, this ordinance freezes allowable cannabis cultivation in the County to the status quo prior to May 10, 2016 and expressly prohibits all additional cannabis cultivation in the County. As such, this ordinance will serve to protect the environment against unchecked growth of cannabis-related land use speculation in the County until an EIR is completed on the proposed permanent ordinance and its impacts duly mitigated.

SECTION 4. URGENCY ORDINANCE; PUBLICATION

This Ordinance is an urgency ordinance necessary for the immediate preservation of the public peace, health, and safety. Pursuant to Government Code section 25123(d), this ordinance shall take effect immediately upon adoption by four-fifths of the Board of Supervisors, and prior to the expiration of fifteen (15) days from the adoption thereof shall be published at least one time by the Clerk of the Board in a newspaper of general circulation in Calaveras County.

ON A MOTION by Supervisor Wright seconded by Supervisor Ponte, the foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Calaveras, State of California this 10th day of May, 2016, by the following vote:

AYES:	Edson, Wright, Ponte, Kearney
NAYS:	Oliveira


 Cliff Edson, Chair 5/10/2016

ATTEST

D. Swered.

Diane Swered, Clerk of the Board of Supervisors 5/10/2016