Title 19 MARIJUANA CULTIVATION – Lassen County Code

19.010 Authority and title.

Pursuant to the authority granted by Article XI, Section 7 of the California Constitution, Health and Safety Code Section 11362.83, and Government Code Sections 25845 and 53069.4, the board of supervisors hereby enacts this title, which shall be known and may be cited as the "Lassen County Marijuana Cultivation Ordinance." (Ord. 2015-001 § 1).

19.020 Findings and purpose.

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

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

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

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

(d) Health and Safety Code Section 11362.83, both as originally enacted, and as amended by Assembly Bill 1300, further recognize that counties and cities may also adopt and enforce any other ordinances that are consistent with the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

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

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

(g) Cultivation of any amount of marijuana at locations or premises within one thousand feet of existing schools, public parks, and licensed day care facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana plants.

(h) As recognized by the Attorney General's August 2008 Guidelines for the Security and NonDiversion of Marijuana Grown for Medical Use, the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.

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

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

(k) Nothing in this title shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal under state or federal law. No provision of this title is to be deemed a defense or immunity to any action brought against any person by the Lassen County district attorney, the Attorney General of the state of California, or the United States of America through the United States Attorney.

(l) The Lassen County board of supervisors received substantial testimony over the course of several months related to the impacts upon the peace, health, and safety of the residents of Lassen County as a result of the indoor and outdoor cultivation of marijuana. Specifically, the board finds and declares that Lassen County does not currently have in place an ordinance which attempts to mitigate these impacts. As a result of not having such an ordinance, Lassen County is an attractive place for marijuana growers to come and grow in large quantities unregulated. It has already been established to the Lassen County board of supervisors by substantial evidence that large marijuana grows are occurring in some of Lassen County's densely populated communities. Even in some of the less populated areas of Lassen County, the board of supervisors received substantial testimony that marijuana grows are impacting the communities in which they occur. These impacts include, but are not limited to, malodorous smell, damage to water supply, invitation to criminal activity, attractive nuisance to children, and exposure to dangerous pesticides, at a minimum. Because of the impacts associated with these grows, and the other impacts supported by substantial testimony, the proposition that the marijuana growing season is about to start, the board finds and declares that urgent action is necessary, within the meaning of Government Code Section 25123(d) to immediately preserve the peace, health and safety of its residents. (Ord. 2015-001 § 1).

19.030 Definitions.

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

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

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

"Established marijuana grow" means a plot of land which has actually been utilized for the outdoor cultivation of marijuana within the last full growing season. Full growing season means April 15th through and including November 15th of any calendar year.

"Indoor" or "indoors" means within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the county of Lassen, that has a complete roof enclosure supported by connecting walls

extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as two by four-inch or thicker studs overlain with three-eighths-inch or thicker plywood or equivalent materials.

"Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code).

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

"Marijuana plant" means any mature or immature marijuana plant, or portion thereof, including without limitation, any marijuana seedling.

"Outdoor" or "outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

"Premises" shall mean a single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single "premises" for purposes of this title.

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

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

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

"School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a home school, vocational or professional institution of higher education, including a community or junior college, college, or university. (Ord. 2015-001 § 1).

19.040 Conditions for cultivation.

(a) The cultivation of marijuana in the unincorporated territory of Lassen County, indoors or outdoors, by any person, regardless of their status as a qualified patient or designated primary caregiver, is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this title unless such cultivation is allowable pursuant to the conditions for cultivation set forth in this section.

(b) It is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this title for marijuana to be grown on any premises except for the personal consumption of a qualified patient residing on the premises or for use by a qualified patient for whom the person residing on the premises is a primary caregiver.

(c) The cultivation of marijuana plants, either indoors or outdoors, on any premises in excess of the following limits on the number of plants and conditions set forth here, is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this title:

(1) For Premises Less Than One Acre in Size. Each person who resides on premises of less than one acre in size may grow no more than twelve marijuana plants, no more than six of which may be grown outdoors. There shall be no case in which the total number of marijuana plants being grown on premises of less than one acre exceeds twelve in number. All marijuana being cultivated outdoors on premises of less than one acre in size shall be set back from all property lines at least twenty feet, and shall also be set back from all existing dwellings at least fifty feet, excepting therefrom dwellings located upon the premises where the marijuana is being cultivated. Such setback distance shall be measured in a straight line from the property line or dwelling to any fence required to be constructed to enclose an outdoor marijuana grow pursuant to this title.

(2) For Premises One Acre in Size up to, But Not Including, Eleven Acres in Size. Each person who resides on premises of one acre in size up to, but not including, eleven acres in size may grow no more than a total of twenty-four marijuana plants indoors and outdoors. However, there shall be no case in which the total number of marijuana plants

being grown outdoors on premises of one acre in size up to, but not including, eleven acres in size exceeds twelve in number. There shall be no case in which the total number of marijuana plants being grown indoors on premises of one acre in size up to, but not including, eleven acres in size exceeds twelve in number. There shall be no case in which the total number of marijuana plants being grown on premises of one acre in size up to, but not including, eleven acres in size, indoors and outdoors, exceeds twenty-four in number. All marijuana being cultivated outdoors on premises of one acre in size up to, but not including, eleven acres in size shall be set back from all property lines at least twenty feet, and shall also be set back from all existing dwellings at least fifty feet, excepting therefrom dwellings located upon the premises where the marijuana is being cultivated. Such setback distance shall be measured in a straight line from the property line or dwelling to any fence required to be constructed to enclose an outdoor marijuana grow pursuant to this title.

(3) For Premises Eleven Acres in Size up to, But Not Including, Forty-One Acres in Size. Each person who resides on premises of eleven acres in size up to, but not including, forty-one acres in size may grow no more than twenty-four marijuana plants, indoors or outdoors. There shall be no case in which the total number of marijuana plants being grown on premises of eleven acres in size up to, but not including, forty-one acres in size exceeds twenty-four in number. All marijuana being cultivated outdoors on premises of eleven acres in size up to, but not including, forty-one acres in size shall be set back from all property lines at least one hundred fifty feet. Such setback distance shall be measured in a straight line from the property line to any fence required to be constructed to enclose an outdoor marijuana grow pursuant to this title.

(4) For Premises Forty-One Acres in Size or Larger. Each person who resides on premises forty-one acres in size or larger may grow no more than seventy-two marijuana plants, indoors or outdoors. There shall be no case in which the total number of marijuana plants being grown on premises of forty-one acres in size or larger exceeds seventy-two in number. All marijuana being cultivated outdoors on premises forty-one acres in size or larger shall be set back from all property lines at least one hundred fifty feet, and shall also be set back from all existing dwellings at least five hundred feet, excepting therefrom dwellings located upon the premises where the marijuana is being cultivated. Such setback distance shall be measured in a straight line from the property line or dwelling to any fence required to be constructed to enclose an outdoor marijuana grow pursuant to this title.

(5) Outdoor Cultivation of Marijuana on Premises of Any Size. All marijuana being cultivated outdoors on premises of any size within the county of Lassen shall be fully enclosed by a seven-foot fence of substantial construction. Substantial construction for this purpose means a fence constructed of four by four-inch wood posts, spaced no further than ten feet apart, with two by four-inch wood rails, no fewer than three each between posts, with one by six-inch wood pickets that have no gap between them. Substantial construction of a fence for this purpose also means the erection of a seven-foot chain link fence which includes sight obscuring slats.

(6) Maximum Number of Plants Per Patient. Notwithstanding the allowances made above for the total number of marijuana plants to be grown on a particular premises depending on the size thereof, there shall be no case in which the total number of marijuana plants being grown for an individual qualified patient exceeds twelve in number, regardless of whether the marijuana plants are being grown by the patient him or herself or by a properly designated caregiver for said patient.

(d) It is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this title for marijuana to be grown on any premises by anyone other than the owner of the premises or the legal resident thereof. If the person cultivating the marijuana is not the legal owner of the premises, such person shall possess a notarized letter from the legal owner consenting to the cultivation. This notarized consent shall be kept at all times on the premises where the marijuana is being cultivated and a copy of which shall be made available, upon demand, to any enforcing officer. The Lassen County planning and building services department will make forms for such purpose available.

(e) The outdoor cultivation of marijuana, in any amount or quantity, upon any premises located within one thousand feet of any existing school, licensed day care provider, or public park, is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this title. Such distance shall be measured in a straight line from the boundary line of the premises upon which marijuana is cultivated to the boundary line of the premises upon which the school, licensed day care provider, or public park is located. This provision does not apply and no abatement shall occur when such school, public park or licensed day care is created within the one thousand-foot exclusion zone subsequent to an established marijuana grow as defined in this title. A school and licensed day care provider is created on the date it is

licensed by the state of California for operation at that address. A public park is created on the date any local governmental entity empowered to create a public park dedicates public land for a public park at that location. The burden of proving the pre-existence of an established marijuana growing location, in proximity to a licensed day care provider, school or public park, is upon the owner or legal resident of the premises upon which the marijuana is being cultivated.

(f) No person owning, leasing, occupying, or having charge or possession of any premises within the county shall cause, allow, suffer, or permit such premises to be used for the outdoor or indoor cultivation of marijuana plants in violation of this title. (Ord. 2015-001 § 1).

19.050 Notice of administrative order to show cause.

Whenever the enforcing officer determines that a public nuisance as described in this title exists on any premises within the unincorporated area of Lassen County, he or she is authorized to notify the owner(s) and/or occupant(s) of the property, through issuance of a "Notice of Administrative Order to Show Cause." (Ord. 2015-001 § 1).

19.060 Contents of notice.

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

(a) Identify the owner(s) of the property upon which the nuisance exists, as named in the records of the county assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.

(b) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.

(c) Identify such property by reference to the assessor's parcel number.

(d) Contain a statement that unlawful marijuana cultivation exists on the premises and that it has been determined by the enforcing officer to be a public nuisance described in this title.

(e) Describe the unlawful marijuana cultivation that exists and the actions required to abate it.

(f) Contain a statement that the owner or occupant is required to abate the unlawful marijuana cultivation within five calendar days after the date that said notice was served.

(g) Notify the recipient(s) that, unless the owner or occupant abates the conditions, a hearing will be held before a hearing officer appointed in accordance with this section to determine whether there is any good cause why these conditions should not be abated. The notice shall specify the date, time, and location of this hearing, and shall state that the owner or occupant will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this title, or whether there is any other good cause why those conditions should not be abated.

(h) Contain a statement that, unless the owner or occupant abates the conditions, or shows good cause before the hearing officer why the conditions should not be abated, the enforcing officer will abate the nuisance. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the county assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

(i) State the applicable hearing fee, if such a fee has been established. (Ord. 2015-001 § 1).

19.070 Service of notice.

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

(1) Service by mail shall be made by certified overnight mail (USPS) or overnight courier service. If notice is served by certified overnight mail or overnight courier service, the time period for a hearing on said notice, as provided for in Section 19.060, shall be extended by one additional day;

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

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

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

(c) The failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings. (Ord. 2015-001 § 1).

19.075 Establishment of the position of administrative hearing officer.

(a) In order to hear cases brought by the enforcing officer under this section, the board of supervisors hereby establishes for such purpose the office of county hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, to which office the board of supervisors shall appoint one or more hearing officers. Each such hearing officer shall be an attorney at law having been admitted to practice before the courts of this state for at least five years. Hearing officers shall be appointed for a period of not less than one year. In the event that the board appoints more than one hearing officer, each day of hearings required under this section shall be assigned to a hearing officer based upon an alphabetical rotation. Hearing officers shall have those powers set forth in Sections 27721 and 27722 of the Government Code, including the power to conduct the hearing, the power to decide the matter under this section upon which a hearing has been held, the power to make findings of fact and conclusions of law required for the decision, the power to issue subpoenas at the request of a party of interest, the power to receive evidence, the power to administer oaths, the power to rule on questions of law and the admissibility of evidence, the power to continue the hearing from time to time, and the power to prepare a record of the proceedings. (Ord. 2015-001 § 1).

19.080 Hearing on administrative order to show cause.

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

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

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

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

(e) The hearing officer shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the notice and order. The hearing officer shall issue a written decision, which shall include findings relating to the existence or nonexistence of the alleged unlawful marijuana cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the notice. Such decision shall be mailed to, or personally served

upon the parties upon whom the notice was served, and the enforcing officer. The decision shall be final when signed by the hearing officer and served as herein provided. (Ord. 2015-001 § 1).

19.090 Liability for costs.

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

(b) In any action by the enforcing officer to abate unlawful marijuana cultivation under this title, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the county elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the county in the action or proceeding. (Ord. 2015-001 § 1).

19.100 Abatement by owner or occupant.

Any owner or occupant may abate the unlawful marijuana cultivation or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer. (Ord. 2015-001 § 1).

19.110 Enforcement.

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

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

(b) Request that the county counsel commence a civil action to redress, enjoin, and abate the public nuisance. (Ord. 2015-001 § 1).

19.120 Accounting.

The enforcing officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the board of supervisors showing the cost of abatement and the administrative costs for each parcel. (Ord. 2015-001 § 1).

19.130 Notice of hearing on accounting—Waiver by payment.

Upon receipt of the account of the enforcing officer, the clerk of the board of supervisors shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice

informing the owner that, at a date and time not less than ten business days after the date of mailing of the notice, the board of supervisors will meet to review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the enforcing officer prior to the time set for the hearing by the board of supervisors. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable. (Ord. 2015-001 § 1).

19.140 Hearing on accounting.

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

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

(c) The board of supervisors shall also determine whether or not the owner(s) had actual knowledge of the unlawful marijuana cultivation, or could have acquired such knowledge through the exercise of reasonable diligence. If it is determined at the hearing that the owner(s) did not have actual knowledge of the unlawful marijuana cultivation, and could not have acquired such knowledge through the exercise of reasonable diligence, costs for the abatement shall not be assessed against such parcel or otherwise attempted to be collected from the owner(s) of such parcel. (Ord. 2015-001 § 1).

19.150 Modifications.

The board of supervisors shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution. (Ord. 2015-001 § 1).

19.160 Special assessment/charge and lien.

Pursuant to Section 25845 of the Government Code, the board of supervisors may order that the cost of abating nuisances pursuant to this title and the administrative costs as confirmed by the board be placed upon the county tax roll against the respective parcels of land, or placed on the unsecured roll; provided, however, that the cost of abatement and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll. The board of supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to Section 25845 of the Government Code. (Ord. 2015-001 § 1).

19.170 Administrative civil penalties.

(a) In addition to any other remedy prescribed in this title, any nuisance as described in this title may be subject to an administrative penalty of up to one thousand dollars per day. The administrative penalty may be imposed via the administrative process set forth in this section, as provided in Government Code Section 53069.4, or may be imposed by the court if the violation requires court enforcement.

(b) Acts, omissions, or conditions in violation of this title that continue, exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) Administrative penalties imposed pursuant to this section shall also constitute a personal obligation of each person who causes, permits, maintains, conducts or otherwise suffers or allows the nuisance to exist. In the event that administrative penalties are imposed pursuant to this section on two or more persons for the same violation, all such persons shall be jointly and severally liable for the full amount of the penalties imposed. In addition to any other remedy, the county may prosecute a civil action through the office of the county counsel to collect any administrative penalty imposed pursuant to this section.

(k) Payment of administrative penalties under this section does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the notice of violation and proposed administrative penalty. The payment of administrative penalties does not bar the county from taking any other enforcement action regarding a violation that is not corrected. (Ord. 2015-001 § 1).

19.180 Administrative hearing fees.

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

(b) If the hearing fee is paid and the hearing officer finds there is no nuisance as described in this title, the hearing fee shall be refunded to the person who paid the fee, without interest. (Ord. 2015-001 § 1).

19.190 Enforcement by civil action.

As an alternative to the procedures set forth in Sections 19.050 through 19.080, and 19.170, the county may abate the violation of this title by the prosecution of a civil action through the office of the county counsel, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this title or requiring compliance with other terms. (Ord. 2015-001 § 1).

19.200 Summary abatement.

Notwithstanding any other provision of this title, when any unlawful marijuana cultivation constitutes an immediate threat to public health or safety, and when the procedures set forth in Sections 19.050 through 19.080, and 19.170 would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the county to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified in Section 19.070, but the formal notice and hearing procedures set forth in this title shall not apply. The county may nevertheless recover its costs for abating that nuisance in the manner set forth in Sections 19.120 through 19.160. Any action to summarily abate under the provisions of this section shall require that the enforcing officer, prior to the commencement of the abatement, prepare written findings of the grounds for such action and the exigencies supporting same which shall be reviewed and approved by the Lassen County district attorney, as appropriate, prior to the abatement action. (Ord. 2015-001 § 1).

19.210 No duty to enforce.

Nothing in this title shall be construed as imposing on the enforcing officer or the county of Lassen any duty to issue a notice of administrative order to show cause, to propose any administrative penalties, nor to abate any unlawful marijuana cultivation, nor to take any other action with regard to any unlawful marijuana cultivation, and neither the enforcing officer nor the county of Lassen shall be held liable for failure to issue any such notices, nor for failure to abate any unlawful marijuana cultivation, nor for failure to take any other action with regard to any unlawful marijuana cultivation. (Ord. 2015-001 § 1).

19.220 Remedies cumulative.

All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law. Nothing in this title shall be deemed to authorize or permit any activity that violates any provision of state or federal law. (Ord. 2015-001 § 1).

19.230 Other nuisance.

Nothing in this title shall be construed as a limitation on the county's authority to abate any nuisance which may otherwise exist from the planting, growing, harvesting, drying, processing or storage of marijuana plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building. (Ord. 2015-001 § 1).

19.240 Severability.

If any section, subsection, sentence, clause, portion, or phrase of this title is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The board of supervisors hereby declares that it would have passed this title and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional. (Ord. 2015-001 § 1).