

# Before the Board of Supervisors County of Placer, State of California

**In the matter of:**

AN ORDINANCE AMENDING PLACER  
COUNTY CODE CHAPTER 8, HEALTH AND  
SANITATION, BY DELETING ARTICLE 8.10  
MEDICAL MARIJUANA REGULATIONS AND  
ADDING ARTICLE 8.10 CANNABIS  
REGULATIONS.

Ordinance No.: 5851-B  
First Reading: 11/22/16

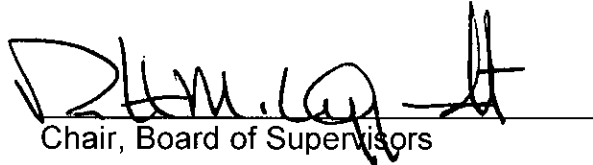
The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held December 06, 2016, by the following vote on roll call:

Ayes: DURAN, HOLMES, UHLER, WEYGANDT

Noes: MONTGOMERY

Absent: NONE

Signed and approved by me after its passage.



Chair, Board of Supervisors

Attest:  
Clerk of said Board



Clerk of the Board Signature

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THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA HEREBY FINDS AND DECLARES THE FOLLOWING:

1. It is the purpose and intent of this ordinance to regulate the cultivation of medical cannabis in a manner that is consistent with State and Federal law and which promotes the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Placer and prevents adverse impacts which such activities may have on nearby properties and residents, without interfering with any rights qualified patients and their primary caregivers may have pursuant to the State

## Compassionate Use Act, Medical Marijuana Program and Medical Cannabis Regulation and Safety Act.

2. The Board of Supervisors finds that the cultivation of medical cannabis in the unincorporated area of Placer County can adversely affect the health, safety and well-being of the County and its residents. Medical cannabis cultivation increases the risk of criminal activity, degradation of the natural environment, excessive use of electricity which may overload standard electrical systems, and damage to buildings in which cultivation occurs, including improper and dangerous electrical alterations and use, increased risk of fire and fire-related hazards, inadequate ventilation, increased occurrences of home-invasion robberies and similar crimes. Medical cannabis cultivation also creates increased nuisance impacts to neighboring properties because of the strong, malodorous, and potentially noxious odors which come from the plants. Further, outdoor cultivation of medical cannabis in or near residential zones increases the risk of such activity and intrudes upon residential uses.

3. 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 (CUA)." The CUA is limited in scope, in that it only provides a limited immunity and defense from criminal prosecution for certain crimes related to the possession and cultivation of marijuana by qualified patients and their primary caregivers. The CUA does not address the land use or other impacts that are caused by the cultivation of medical cannabis and it does not create a constitutional right to obtain cannabis.

4. In 2003, the Legislature enacted Senate Bill 420 also known as the Medical Marijuana Program (MMP) which was codified in the California Health and Safety Code commencing with Section 11362.7. That legislation was enacted to clarify the scope of Proposition 215 and to provide qualified patients and primary caregivers who cultivate cannabis for medical purposes with a limited defense to certain specified State criminal statutes.

5. On October 9, 2015, Governor Brown signed into law the Medical Marijuana Regulation and Safety Act (MMRSA). The MMRSA was a package of three separate bills (AB 243, AB 266 and SB 643), enacted by the legislature on September 11, 2015 that established a comprehensive regulatory framework for the commercial cultivation, production, transportation, testing, sale and taxation of medical cannabis in California. On June 27, 2016, Governor Brown signed SB 837 which changed the name of the MMRSA to the Medical Cannabis Regulation and Safety Act (MCRSA).

6. On November 8, 2016, statewide voters passed Proposition 64, also known as the Control, Regulate and Tax Adult Use of Marijuana Act, by a vote of 56.1% in favor and 43.9 % against. At the County level, Placer County Voters rejected Proposition 64 by a vote 47.3% in favor and 52.7% against. A "yes" vote supported legalizing recreational marijuana for persons aged 21 years or older under state law and established certain sales and cultivation taxes. A "no" vote opposed the proposal to legalize recreational marijuana under state law and to establish certain sales and cultivation taxes.

7. Proposition 64 made it legal for individuals to use and grow not more than six living cannabis plants for personal use, subject to reasonable regulations adopted by a city, county, or city and county. Local Proposition 64 authorized commercial cultivation subject to the authority of local jurisdictions to adopt and enforce local ordinances to regulate businesses licensed under the Act, including but not limited to, the adoption and enforcement of local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses allowed under the Act.

8. The CUA, MMP, MCRSA and Proposition 64 do not confer on individuals, qualified patients and their caregivers the unfettered right to cultivate or dispense cannabis anywhere they choose. Further, the CUA, MMP, MCRSA, and Proposition 64 do not require or impose an affirmative duty or mandate upon local governments, such as the County of Placer, to allow, authorize or sanction cannabis cultivation or the operation and establishment of facilities dispensing medical cannabis within its jurisdiction. Health and Safety Code Section 11362.5(b)(2) provides that the CUA does not supersede any legislation intended to prohibit conduct that endangers others. Health and Safety Code Section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420. Health and Safety Code Section 11362.777(g) provides that the exemption from the permitting requirements does not limit or prevent a county from exercising its police authority under Section 7 of Article XI of the California Constitution.

9. Health and Safety Code Section 11362.81(d) authorizes the Attorney General to “develop and adopt appropriate guidelines to ensure the security and non-diversion of cannabis grown for medical use by patients qualified under” the CUA. On August 25, 2008, California Attorney General Edmund G. Brown issued “Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use” (“the Attorney General Guidelines”), which established regulations intended to ensure the security and non-diversion of cannabis grown for medical use by qualified patients. Nothing in the Guidelines imposes an affirmative mandate or duty upon local governments, such as the County of Placer, to allow, sanction or permit the establishment or the operation of facilities cultivating or dispensing medical cannabis within their jurisdictional limits.

10. As recognized by the Attorney General Guidelines, the cultivation 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.

11. Cannabis remains an illegal substance under the Federal Controlled Substances Act (21 USC Section 801 et seq.) and it is classified as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under Federal law, for any person to cultivate, manufacture, distribute or dispense, transport, or possess with intent to manufacture, distribute or dispense, cannabis. The Federal Controlled Substances Act does not

exempt the cultivation, manufacture, distribution, dispensation, transportation, or possession of cannabis for medical purposes.

12. Cannabis plants grown outdoors, as they begin to flower and for a period of two months or more during the growing season, produce an extremely strong odor that is offensive to many people and detectable far beyond property boundaries. The strong smell may create an attractive nuisance, alerting persons to the location of the cannabis plants, thereby creating a risk of burglary, robbery, armed robbery, assault, attempted murder, and murder.

13. Fertilizers and pesticides, both legal and illegal, used when cannabis is grown outdoors may unreasonably increase the concentration of such chemicals in storm water runoff thereby impacting local creeks, streams and rivers. Such pollution may negatively affect water quality for downstream users, harm ecosystems, and impact threatened or endangered species.

14. Water for cannabis grown outdoors may be illegally diverted from local creeks, streams, and rivers, thereby unreasonably depriving downstream users of beneficial water sources. Such diversions may also impact water supply, harm ecosystems, and negatively affect threatened or endangered species.

15. Pursuant to the County of Placer's police powers authorized in Article XI, Section 7 of the California Constitution, as well as under the County Code, the County has the power to regulate permissible land uses throughout the County and to enact regulations for the preservation of public health, safety and welfare of its residents and community. Further, pursuant to Government Code Section 25845, counties have the power through the Board of Supervisors to declare actions and activities that constitute a public nuisance.

16. The Board of Supervisors finds that the CUA, MMP, MCRSA, Proposition 64 do not preempt the County's exercise of its traditional police powers in enacting land use regulations, such as this ordinance, for preservation of public health, safety and welfare, by prohibiting the outdoor cultivation of cannabis, prohibiting the operation of medical marijuana dispensaries, prohibiting the delivery of medical cannabis and limiting indoor cultivation of cannabis within the County.

17. The Board of Supervisors finds pursuant to Title 14 of the California Code of Regulations, Sections 15060(c)(2) and 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment. Further, in addition to the foregoing general exemptions, the categorical exemptions found in Sections 15308 and 15321 also apply.

**NOW THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER ORDAINS AS FOLLOWS:**

**Section 1.** Chapter 8, Health and Sanitation, current Article 8.10 Medical Marijuana Regulations, of the Placer County Code is hereby repealed in its entirety.

**Section 2** Chapter 8, Health and Sanitation, new Article 8.10 Cannabis Regulations, is hereby added as set forth below.

**Section 3.** This ordinance shall take effect and be in full force thirty (30) days after the date of its passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with government code section 25124.

## **Article 8.10 CANNABIS REGULATIONS**

### **8.10.010 Application.**

The provisions of this article shall apply generally to all property throughout the unincorporated territory of the County of Placer wherein any of the conditions herein specified are found to exist. However, nothing in this article is intended, nor shall it be construed, to burden any defense to criminal prosecution under the CUA, MMP, MCRSA or Proposition 64.

### **8.10.020 Administration.**

The Director of Community Development Resource Agency, the Placer County Chief Building Official, the Placer County Fire Warden, the Placer County Health Officer, the Placer County Agricultural Commissioner, the Placer County Environmental Health Officer and the Placer County Sheriff and any employee designated by any of those persons, are authorized to administer and enforce this article to ensure compliance.

### **8.10.030 Definitions.**

As used herein, the following definitions shall govern the construction of this article:

A. "Abatement Costs" mean any costs or expenses reasonably related to the abatement of conditions which violate this Article, and shall include, but not be limited to, enforcement (including the cost associated with helicopter use), investigation, attorneys' fees, collection and administrative costs, and the costs associated with removal or correction of the violation.

B. "Accessory Structure" means a structure that is accessory to any principal structure and customarily a part thereof, which is clearly incidental and secondary to the principal structure and is significantly smaller in the area than the principle structure and does not change the character of the principal structure or principal use of the premises.

C. "Administrative Costs" mean the cost of County staff time reasonably related to enforcement, for items including, but not limited to, site inspections, helicopter time, travel time, investigations, telephone contacts and time spent preparing summaries, reports, notices, correspondence, warrants and hearing packets, and the time expended by the Code Enforcement Officer, or his or her designee and Auditor-Controller staff, to calculate the above costs and prepare itemized invoices, may also be recovered.

D. "Authorized grower" means any person, including a person with an identification card, primary caregiver, or qualified patient, who is authorized by State law to grow cannabis for personal medical or non-medical use in compliance with local and State laws that authorize such cannabis cultivation.

E. "Cannabis," "marijuana" "medical cannabis," "medical marijuana," and/or "marijuana products" shall be used interchangeably and means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, including marijuana as defined by California Health and Safety Code Section 11018, as may be amended, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. The section does not mean "industrial hemp" as defined by California Food and Agricultural Code Section 81000, as may be amended, or California Health and Safety Code Section 11018.5, as may be amended.

F. "Cannabis plant" means any mature or immature cannabis plant (and/or cannabis plant clone), or any cannabis seedling, unless otherwise specifically provided herein.

G. "Child Care Center" means any licensed child care center, daycare center, or childcare home, or any preschool."

H. "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

I. "Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in Business & Professions Code § 19319, related to qualifying patients and primary caregivers."

J. "Cultivation" means the planting, growing, trimming, harvesting, drying, processing or storage of one or more cannabis plants or any part thereof in any location, indoor or outdoor, including a fully enclosed and secure structure or accessory structure.

K. "Dispensary" means any facility, location, establishment or similar entity that distributes, delivers, or supplies cannabis for medical purposes relating to a qualified patient or primary caregiver, pursuant to the CUA, MMP and MCRSA in accordance with Health and Safety Code Section 11362.5 et seq. and Business and Professions Code § 19300 et seq. A dispensary shall include a dispensing collective or cooperative.

L. "Code Enforcement officer" means any person employed by the County of Placer and authorized to administer this article or his or her authorized deputies or designees, each of whom is independently authorized to enforce this Article.

M. "Fence (Solid)" means a barrier constructed of wood or other materials which form an opaque screen.

N. "Fence (Other Than Solid)" means a barrier constructed of posts made of wood, metal or any other rigid material connected with wire, fabric, boards or other materials which is intended to demarcate a boundary, separate land uses, secure animals, enclose property, exclude people and animals from a designated area, etc. and which does not form a visually opaque screen.

O. "Fully enclosed and secure structure" means a space within a building that has been approved by the County and complies with the California Building Code, as adopted by the County of Placer, or if exempt from the permit requirements of the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof; a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secured against unauthorized entry; and is accessible through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily penetrated or breached, such as two-inch by four-inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products, do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California Building, Electrical, and Fire Codes as adopted by the County of Placer. Any detached, fully-enclosed and secure structure used for the cultivation of marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure. Such structure shall be located in the rear yard area of a legal parcel or premises, maintain the setbacks set forth in this Article and the area surrounding the structure or back yard must be enclosed by a solid fence at least six (6) feet in height. When this Article allows that cultivation of marijuana occur indoors, the harvest of such marijuana shall also be accomplished indoors.

P. "Harvest" means the drying, processing, or storage of marijuana which may only occur within a fully enclosed and secure structure or accessory structure.

Q. "Immature cannabis plant" means a cannabis plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination."

R. "Indoors" means within a fully enclosed and secure structure or accessory structure as defined in subsection O.

S. "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).

T. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

U. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container.

V. "Manufacturing" means the producing, preparing, propagating, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container.

W. "Mature cannabis plant" means a cannabis plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

X. "Medical marijuana collective" means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by agreement, or form a cooperative in accordance with Section 12300 of the Corporations Code within the unincorporated area of the County in order to collectively or cooperatively cultivate marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775. The term collective shall include "cooperative" unless the context clearly indicates otherwise.

Y. "Outdoor" or "Outdoors" means any location within the County of Placer that is not within a fully enclosed and secure structure or accessory structure as defined herein.

Z. "Parcel" means a "legal parcel" as defined herein and a property assigned a separate parcel number by the Placer County assessor.

AA. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.

BB. "Person with an identification card" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., as may be amended, California Business and Professions Code Section 19300 et seq., as may be amended, and as may be amended by California Department of Public Health's "Medical Marijuana Program."

CC. "Premises" means a single, legal parcel of property that includes an occupied legal residence, such as a house, an apartment a condominium, a mobile home or other similar dwelling, which is a dwelling in compliance with the Placer County Code and has also met the requirements of this Article. Where contiguous legal parcels are under common control or ownership, such contiguous legal parcels shall be counted as a single "premises" for purposes of this Article.

DD. "Primary caregiver" shall have the meaning set forth in Health and Safety Code Section 11362.7(d), as may be amended and California Business and Professions Code Section 19300 et seq., as may be amended.

EE. "Private residence" means a house, a duplex, an apartment unit, a condominium, a mobile home or other similar dwelling.

FF. "Qualified patient" shall have the meaning set forth in Health and Safety Code Section 11362.7(f), as may be amended.

GG. "Recommendation" means a written current recommendation signed by a licensed California physician pursuant to Health and Safety Code sections 11362.5 and 11352.7.

HH. "Residential treatment facility" means a facility provided for treatment of drug and alcohol dependency, including any "sober living facility" run by treatment providers for the benefit of transitional living.

II. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school,



middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

JJ. "Youth-oriented facility" means elementary school, middle school, junior high school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a day care or preschool facility.

#### **8.10.040 Outdoor Cannabis Cultivation**

A. When authorized by State law, an authorized grower shall be allowed to cultivate cannabis outdoors for personal use, subject to the regulations in Chapter 17 of this Code and the following restrictions:

1. The cultivation of cannabis shall be for medicinal purposes unless Health and Safety Code §11362.1 is amended to allow the cultivation of cannabis for non-medicinal purposes. If Health and Safety Code §11362.1 is amended to allow the cultivation of cannabis for non-medicinal purposes, then the requirements of this Article shall also apply to the cultivation of cannabis for non-medicinal purposes; and

2. A maximum of 6 plants on no more than 50 square feet in total is allowed for outdoor cultivation of non-medical cannabis per parcel with a private residence. Medical cannabis plants may be cultivated on no more than 50 square feet in total per parcel with a private residence, regardless of the number of authorized growers, qualified patients or primary caregivers residing in a private residence on the parcel. The total combined outdoor cultivation of medical and non-medical cannabis per parcel with a private residence shall not exceed 50 square feet at any time. For the purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises; and

3. All outdoor cultivation of cannabis may only occur on a parcel with the private residence of the authorized grower, and the authorized grower may only cultivate cannabis on one parcel and may not cultivate outdoors if there is any indoor cannabis cultivation occurring on the parcel; and

4. All outdoor cultivation shall be setback by a minimum of 100 feet from all parcel property lines; and

5. All outdoor cultivation shall not be closer to an existing private residence on an adjoining property than to the private residence of the authorized grower on the parcel whereon the outdoor cultivation site is located; and

6. All outdoor cultivation shall be screened with a solid fence from all public rights-of-way, private access easements, and exterior property lines of the parcel where the outdoor cultivation takes place to prevent being easily visible to individuals on adjoining parcels or to individuals either passing through or by the subject parcel; and

7. The parcel where the outdoor cannabis is cultivated shall not be located within 600 feet of any school, church, park, library, fair grounds, child care center, youth-oriented

facility or the boundary of any incorporated city. Such distance shall be measured in a straight line from the fence or other enclosure to the nearest boundary line of the premises upon which the school, church, park, child care center, or youth-oriented facility is located. For the purposes of this article, a youth-oriented facility is any facility used for and predominantly occupied by individuals under 18 years of age, including (but not limited to) a boys or girls club, an indoor or outdoor soccer field, a little league baseball field, an amusement park, and a community swimming facility; and

8. The area for the outdoor cultivation of cannabis shall not adversely affect the health or safety of the occupants of the parcel or any other property by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, mold, or other impacts, and shall not be maintained so as to constitute a hazard due to use or storage of materials, processes, products or wastes; and

9. All outdoor cultivation is in accordance with applicable regulations set forth in Chapter 17 of this Code; and

10. All outdoor cultivation which exists prior to the enactment of this ordinance must be in compliance with the regulations in Chapter 17 of this Code and the regulations in this Article.

B. It is hereby declared to be unlawful, a public nuisance and a violation of this article for any person owning, leasing, occupying, or having charge or possession of any parcel within the County of Placer to cause or allow such parcel to be used for the outdoor cultivation of cannabis, unless the person is authorized by State law to grow cannabis, and such authorized grower is complying with all requirements of this Article and Chapter 17 of this Code.

C. A public nuisance may also be deemed to exist, if such activity produces: (1) Odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; (2) Repeated responses to the parcel or residence from Enforcement Officers; (3) A repeated disruption to the free passage of persons or vehicles in the immediate neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public; and (4) Any other impacts on the neighborhood which are disruptive of normal activity in the area.

#### **8.10.050 Indoor Cannabis Cultivation.**

A. When authorized by State law, an authorized grower shall be allowed to cultivate cannabis indoors for personal use, subject to the following restrictions:

1. The cultivation of cannabis shall be for medicinal purposes unless Health and Safety Code §11362.1 is amended to allow the cultivation of cannabis for non-medicinal purposes. If Health and Safety Code §11362.1 is amended to allow the cultivation of cannabis for non-medicinal purposes, then the requirements of this Article shall also apply to the cultivation of cannabis for non-medicinal purposes; and

2. The cultivation of cannabis is on a parcel upon which the private residence of the authorized grower is located. Each authorized grower may use only one private residence for the cultivation of cannabis. If the parcel and private residence are not owned by the authorized grower, the authorized grower must have a legal right to occupy and use the parcel and private residence to cultivate cannabis. The authorized grower shall obtain a written statement from the

owner or owners of the parcel and private residence as proof to demonstrate that the owner or owners have acknowledged, consented to and granted permission to the authorized grower for the cultivation of cannabis in an amount in accordance with this Article. Nothing provided in this article requires the owner or owners of the parcel and private residence to consent to and allow the cultivation of cannabis by an authorized grower. Nothing provided in this article authorizes the cultivation of cannabis in violation of the rules of a home owner's association, deed restrictions, or other property conditions and covenants. If there is more than one owner of the parcel and private residence, all owners must have acknowledged, consented to and granted permission to the authorized grower for the cultivation of cannabis in an amount in accordance with this Article. The written statement shall be dated and signed by the owner or owners of the parcel and private residence. The written statement shall be valid for 12 months from the signing of the written statement. If ownership of the parcel or private residence changes during the 12 month period after the previous owner or owners had granted permission for the cultivation of cannabis, the authorized grower must obtain, within 30 days of the change of ownership, a new permission statement from the new owner or owners of the parcel and private residence. Upon request by a Code Enforcement Officer, the authorized grower shall provide the written statement from the owner or owners of the parcel and private residence as proof that the owner or owners have acknowledged, consented to and granted permission to the authorized grower for the cultivation of cannabis; and

3. All indoor cultivation of cannabis may only occur inside a private residence that is a fully enclosed and secure structure located on the parcel or inside an accessory structure to a private residence that is a fully enclosed and secure structure on the parcel. There shall be no indoor cannabis cultivation if there is any outdoor cannabis cultivation occurring on the parcel at the same time; and

4. A maximum of 6 plants on no more than 50 square feet is allowed for cultivation of non-medical cannabis in total per parcel inside a private residence that is a fully enclosed and secure structure or inside an accessory structure to a private residence that is a fully enclosed and secure structure on a parcel. Medical cannabis plants may be cultivated on no more than 50 square feet in total per parcel inside a private residence that is a fully enclosed and secure structure or inside an accessory structure to a private residence that is a fully enclosed and secure structure on a parcel, regardless of the number of authorized growers, qualified patients or primary caregivers residing in a private residence on the parcel. The total combined indoor cultivation of medical and non-medical cannabis per parcel with a private residence shall not exceed 50 square feet at any time. For the purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises; and

5. The area used for cultivation complies with California Building, Plumbing, Mechanical, Electrical and Fire Codes as adopted by the County of Placer, and the parcel has (1) a permitted permanent water well or connection to a public water source drawing water, (2) does not engage in unlawful or unpermitted surface drawing of water for such cultivation, (3) does not permit illegal discharges of water from the parcel, (4) the parcel where the cultivation of cannabis takes place shall either be connected to a public sewer system or have a Placer County inspected and permitted sewage disposal system; and

6. The use of gas products (CO<sub>2</sub>, butane, propane, etc.) for cultivation of cannabis or manufacturing of cannabis products is prohibited; and

7. The cultivation of cannabis is concealed so that it is not visible from the exterior of the private residence or accessory structure, the parcel, the public right-of-way, and/or neighboring properties; and

8. The area for the cultivation of cannabis shall not adversely affect the health or safety of the occupants of the private residence or the parcel or any other property by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, mold, or other impacts, and shall not be maintained so as to constitute a hazard due to use or storage of materials, processes, products or wastes; and

9. All indoor cultivation is in accordance with applicable regulations set forth in Chapter 17 of this Code; and

10. All indoor cultivation which exists prior to the enactment of this ordinance must be in compliance with the regulations in Chapter 17 of this Code and the regulations in this Article.

B. It is hereby declared to be unlawful, a public nuisance and a violation of this article for any person owning, leasing, occupying, or having charge or possession of any parcel within the County of Placer to cause or allow such parcel to be used for the indoor cultivation of cannabis, unless the person is authorized by State law to grow cannabis, and such authorized grower is complying with all requirements of this Article.

C. A public nuisance may also be deemed to exist, if such activity produces: (1) Odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; (2) Repeated responses to the parcel or residence from Enforcement Officers; (3) A repeated disruption to the free passage of persons or vehicles in the immediate neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public; and (4) Any other impacts on the neighborhood which are disruptive of normal activity in the area.

#### **8.10.060 Commercial Cannabis activity Prohibited.**

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any parcel, premises or location within the unincorporated area of the County of Placer, commercial cannabis activity, except for the transportation of medical cannabis, medical cannabis products, marijuana and marijuana products on public roads by a state licensee transporting medical cannabis, medical cannabis products, marijuana or marijuana products in compliance with state law.

#### **8.10.070 Manufacturing Cannabis activity Prohibited.**

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises or location within the unincorporated area of the County of Placer, manufacturing cannabis activity.

#### **8.10.080 Medical Cannabis Dispensaries Prohibited.**

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises or location within the unincorporated area of the County of Placer, the operation of a medical cannabis dispensary, and/or processing facility, and/or testing laboratory.

### **8.10.090 Delivery of Medical Cannabis Prohibited.**

Delivery of medical cannabis or products made from cannabis to or from any person, business, or location in the unincorporated area of County of Placer is prohibited. Notwithstanding the foregoing, a primary caregiver may personally deliver medical cannabis or products made from medical cannabis to a qualified patient or person with an identification card, for whom he or she is the primary caregiver.

### **8.10.100 Enforcement.**

**A. Public Nuisance.** Violation of this article is hereby declared to be a public nuisance and subject to the enforcement process as set forth herein.

**B. Abatement Authority.**

1. The County may, in its discretion, abate the violation of this Article by prosecution of a civil action, including an action for injunctive relief without first going through the administrative procedures set forth herein. 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 Article or requiring compliance with other terms.

2. The County may also abate the violation of this Article through the abatement process established by Government Code Section 25845.

**C. Abatement Procedures.**

1. Whenever a Code Enforcement Officer determines that a public nuisance (as defined in this Article) exists, he or she shall post a 72-Hour Notice to Abate on the property where the public nuisance exists, and mail a copy of the same to those persons shown on the latest County tax roll (or equivalent registry) to be the owners of the property. The 72-Hour Notice to Abate shall inform the owner and/or tenants of the basis for the violation, and that an Administrative Penalty of \$500 per non-medical cannabis plant in excess of 6 plants or \$500 per every twenty-five square of medical cannabis outside the allowed 50 square feet; explain that if the violation is not corrected, the matter will be set for a Nuisance Abatement Hearing, at which time the Administrative Penalty will increase to \$1,000 per non-medical cannabis plant in excess of 6 plants or \$1,000 per every twenty-five square feet of medical cannabis outside the allowed 50 square feet and explain that to prevent the accrual of additional penalties and costs, the owner or tenant must contact the Code Enforcement Officer and arrange a time for a Code Enforcement Officer to inspect the property, and confirm that the violation(s) have been corrected.

2. If the nuisance continues to exist after the expiration of the seventy-two (72) hour period, a Code Enforcement Officer may set the matter for hearing by issuing a Notice of Nuisance Abatement Hearing. If the matter is set for hearing, the Code Enforcement Officer shall post the property upon which the public nuisance exists and shall mail, with a proof of service, notices to those persons known to be in possession of the property, if any, and to persons shown on the latest County tax roll (or equivalent registry) to be the owners of the property at least five (5) days prior to the hearing. The Administrative Penalty shall increase to \$1,000 per non-medical cannabis plant in excess of 6 plants or \$1,000 per every twenty-five square feet of medical cannabis outside the allowed 50 square feet from the date the Notice of Nuisance Abatement Hearing is posted on the property. Both the mailed and posted notice shall be in substantially the following form:

### NOTICE OF NUISANCE ABATEMENT HEARING

The owner(s) and occupant(s) of real property described on the latest equalized Placer County tax roll as A.P. No. \_\_\_\_\_ and having a street address of \_\_\_\_\_ is (are) hereby notified to appear before a Hearing Officer of the County of Placer at \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_m., to show cause, if any there be, why the use of said real property should not be found to be a public nuisance and abated pursuant to the Placer County Code, Chapter 8, Article 8.10. The County of Placer Code Enforcement Officer has determined that conditions exist on the above property which constitute a public nuisance and violate Placer County Code section(s) \_\_\_\_\_, as follows: \_\_\_\_\_.

After hearing, if a violation is found to have existed at the time the Notice of Nuisance Abatement Hearing was posted on the property, the Administrative Costs incurred in prosecuting the violation, including, but not limited to, the cost of the Hearing Officer, the cost of prior time and expenses associated with bringing the matter to hearing (including the cost associated with helicopter use), attorneys' fees, the cost associated with any appeals from the decision of the Hearing Officer, the cost of judicially abating the violation, the cost of labor and material necessary to physically abate the violation, the cost of securing expert and other witnesses, and the accrual of any Administrative Penalties, may become a lien against the subject property and may also be assessed against the property in the same manner as taxes. If a lien is recorded, it will have the same force and effect as an abstract of judgment which is recorded as a money judgment obtained in a court of law. If you fail to appear at the hearing or if you fail to raise any defense or assert any relevant point at the time of hearing, the County will assert, in later judicial proceedings to enforce an order of abatement, that you have waived all rights to assert such defenses or such points.

In preparing for such hearing, you should be aware that if an initial showing is made by the County, sufficient to persuade the Hearing Officer that a public nuisance existed on your property at the time the Notice of Nuisance Abatement Hearing was posted, you will then have the burden of proving that no public nuisance existed on your property at the time the Notice of Nuisance Abatement Hearing was posted. Therefore, you should be prepared to introduce oral and documentary evidence proving why, in your opinion, your use of the property is not a public nuisance as defined in this Article. A copy of the Placer County Code Chapter 8, Article 8.10 relating to Medical Cannabis Cultivation nuisance abatement hearings is enclosed to assist you in the preparation of your presentation.

If an initial showing sufficient to persuade the Hearing Officer that a public nuisance existed on your property is made by the Code Enforcement Officer, your failure to sustain the burden of showing that no public nuisance existed on the property may result in a decision by the Hearing Officer that a public

nuisance did exist, and that the County is entitled to recover its Administrative Costs, and all Administrative Penalties that accrued up to the time that the nuisance was abated. Further, if the Hearing Officer finds that a public nuisance continues to exist on your property, and you fail to abate the nuisance promptly, the County may abate the nuisance. If the County abates the nuisance, in addition to being able to recover its Administrative Costs and Penalties, you may be responsible for the actual costs of the abatement. In either circumstance, all Administrative Costs, Abatement Costs, and Administrative Penalties may be specially assessed against your parcel by the Auditor-Controller's Office and added to your tax bill as a special assessment. Such special assessments have the same priority, for collection purposes, as other county taxes and, if not paid, may result in a forced sale of your property. You are also hereby notified that the County will seek recovery of attorneys' fees incurred in any hearing and that attorneys' fees may be recovered by the prevailing party.

Finally, if the Hearing Officer finds that a public nuisance exists on your property that is a violation of the Placer County Code, Chapter 8, Article 8.10, the County will contend that you are bound by such finding at any subsequent judicial action to enforce the Hearing Officer's order.

**IMPORTANT: READ THIS NOTICE CAREFULLY.**

IN ADDITION TO ANY ADMINISTRATIVE CIVIL PENALTIES THAT HAVE ALREADY ACCRUED, AN ADMINISTRATIVE CIVIL PENALTY OF \$1,000 PER DAY PER PLANT IS HEREBY IMPOSED FROM THE DATE THIS NOTICE WAS POSTED ON YOUR PROPERTY, AND WILL CONTINUE TO ACCRUE AT THAT RATE UNTIL THE NUISANCE IS ABATED. IN ORDER TO PREVENT THE ACCRUAL OF ONGOING PENALTIES AND COSTS, YOU MUST CONTACT THE CODE ENFORCEMENT OFFICE, AND ARRANGE A TIME FOR A CODE ENFORCEMENT OFFICER TO INSPECT YOUR PROPERTY, AND CONFIRM THAT THE VIOLATION(S) HAVE BEEN CORRECTED.

FAILURE TO APPEAR AND RESPOND AT THE TIME SET FORTH IN THIS NOTICE WILL RESULT IN ADMINISTRATIVE AND/OR JUDICIAL ABATEMENT AND TERMINATION OF USES OF OR CONDITIONS ON YOUR PROPERTY WHICH THE ENFORCEMENT OFFICER CONTENDS ARE IN VIOLATION OF THE PLACER COUNTY CODE.

Dated: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

PLACER COUNTY ENFORCEMENT OFFICER

By: \_\_\_\_\_

Enclosure: Placer County Code Article 8.10 of Chapter 8.

3. All hearings conducted under this Article shall be held before a Hearing Officer designated by the County.

4. At the time and place set for the hearing, the Hearing Officer shall hear testimony and receive written and/or documentary evidence relating to the alleged violation. Additional procedural rules may be adopted by resolution of the Board of Supervisors. The County shall record the hearing, and provide a copy of the recording to the Hearing Officer following the conclusion of the hearing. The County shall preserve the record of the hearing, and all photographs and demonstrative and documentary evidence at the time of the hearing, for a period of three (3) years.

5. Within three (3) days after the hearing is closed, the Hearing Officer shall render his or her written decision relating to the existence or nonexistence of the alleged public nuisance. If a violation is found to have existed at the time the Notice of Nuisance Abatement Hearing was posted, the decision shall include a statement that the County is entitled to recover its Administrative Costs and Administrative Penalties. If the Hearing Officer determines that the violation continues to exist, the decision shall also order that the owner of the property, or persons known to be in possession of the property, abate the violation within a reasonable time, not to exceed five (5) days from the date the decision is placed in the mail. The decision shall contain findings of fact and conclusions of law. A copy of the decision shall be mailed by certified mail, return receipt requested, to the person or persons shown on the last County tax roll (or equivalent registry) to be the owners of the property which is the subject of the hearing and the occupant of such parcel, if any. All other persons noticed pursuant to this section shall be mailed a copy of the decision by first class mail, postage prepaid.

6. The decision of the Hearing Officer shall be final and conclusive on the date the certified mail set forth in subsection (5) above, is deposited in the mail.

7. (a) Notwithstanding any other provisions of this Code, if a final decision of the Hearing Officer finds that a violation exists and the public nuisance is not voluntarily abated within five (5) days of said decision being placed in the mail by the Hearing Officer, the County may abate the public nuisance by cutting and/or removing all cannabis plants from the property, pursuant to a warrant issued by a court of competent jurisdiction. The owner or owners of the property shall be responsible for paying all of the County's Abatement Costs and Administrative Costs, and Administrative Penalties. The Code Enforcement Officer, or his or her designee, shall keep an accounting of the Abatement and Administrative Costs for each case. Upon completion of the abatement of the nuisance, whether by the County or the owner or tenant, the Code Enforcement Officer, or his or her designee, shall post the property and send a bill to the owner, and any persons known to be in possession of the property, requesting payment of the County's Abatement and Administrative Costs, as well as all Administrative Penalties. The bill shall also state that failure to pay the Costs and Penalties within fifteen (15) days from service of the bill may result in the recording of a lien and the placement of a special assessment against the property.

(b) If the County's Costs and Penalties are not paid within fifteen (15) days from service of the bill, the Code Enforcement, or his or her designee, shall render and itemized report to the Clerk of the Board of Supervisors for submittal to the Board of Supervisors for hearing and consideration regarding the proposed lien and special assessment. The report shall include the names and addresses of the owner of record and any persons known to be in possession of the property, and an itemized account of the County's Abatement Costs,



Administrative Costs, and Administrative Penalties. At least fifteen (15) days prior to said hearing, the Clerk of the Board of Supervisors shall give notice, with an affidavit of service, of said hearing to all persons named in the Code Enforcement Officer, or his or her designee's, report and shall post the property with a copy of the notice. The notice shall describe the property by assessor's parcel number and street number or other description sufficient to enable identification of the property and contain a statement of the amount of the proposed lien and special assessment. The notice shall also contain a statement that the Board will hear and consider objections and protests to the proposed lien and special assessment at the designated time and place.

8. At the time and place fixed in the notice, the Board of Supervisors shall hear and consider the proposed lien and special assessment together with objections and protests thereto. At the conclusion of the hearing, the Board of Supervisors may make such modifications and revisions to the proposed lien and special assessment as it deems just and may order that the proposed lien and special assessment be recorded and specially assessed against the property by the Auditor-Controller's Office. The lien shall have the same force, priority and effect as a judgment lien and the special assessment shall have the same priority as other County taxes.

9. The notice of lien shall, at a minimum, identify the record owner or possessor of the property, set forth the date upon which the decision of the Hearing Officer was issued, describe the real property subject to the lien, set forth the amount of the Costs and Penalties incurred to date and, if applicable, the date upon which the abatement was completed. If the abatement has not yet been completed, the notice shall so state and shall also indicate that the lien is a partial lien and that additional Abatement Costs will be incurred in the future.

10. A copy of any notice required by this article or decisions of either the Hearing Officer, Planning Commission or Board of Supervisors as required by this Article may be recorded in the office of the County Recorder of Placer County, except revocation of a bond or performance guarantee.

a. **Release of Notice.** Where a notice has been served as required by this Article and a hearing body has determined that sufficient grounds do not exist for nuisance abatement, or where the owner of an affected premises has corrected the condition that was the basis for initiation of enforcement action, the official shall record a satisfaction release and removal of notice of nuisance or notice of nuisance abatement.

b. **Payment of Costs Prior to Release.** In the event that enforcement costs have been incurred in the investigation/processing of a violation for which a notice is required, the release of such notice shall not be recorded until all such costs have been reimbursed to Placer County.

c. **Attorney fees.** In any action to foreclose on a lien issued pursuant to this Article, the County shall be entitled to an award of attorney's fees.

**D. Abatement costs; Administrative costs.** In any action, administrative proceeding, or special proceeding to abate a nuisance, attorneys' fees may be recovered by the prevailing party. 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.

**E. Summary Abatement.** Notwithstanding any other provision of this Article, when any unlawful cannabis cultivation constitutes an immediate threat to the public health or safety,

and where the procedures set forth in subsection C of this section would not result in abatement of that nuisance within a short enough time period to avoid that threat, the Director of Community Development Resource Agency, or his or her designee, may direct any officer or employee of the County to summarily abate the nuisance. The Code Enforcement Officer shall make reasonable efforts to notify the persons identified in subsection C(2) of this section but the formal notice and hearing procedures set forth in this Article shall not apply. The County may nevertheless recover its costs for abating that nuisance in the manner set forth in this Article.

#### **8.10.110 Non-exclusive remedy.**

This Article is cumulative to all other remedies now or hereafter available to abate or otherwise regulate or prevent public nuisances under this Article.

#### **8.10.120 Administrative Penalties.**

It is unlawful and a public nuisance to violate any of the provisions of this article and the County shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this Article. The violation of any provision of this Article shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the County, create a cause of action for injunctive relief. In addition to the penalties set forth herein, any person that violates the provisions of this Article may be subject to administrative remedies, as set forth by County ordinance. Unless otherwise expressly provided, the remedies, procedures and penalties provided by this section are cumulative to each other and to any others available under State law or other County ordinances.

1. For violation of Section 8.10.040 [outdoor cannabis cultivation], a civil penalty of five hundred dollars (\$500) per non-medical cannabis plant in excess of 6 plants or five hundred dollars (\$500) per every twenty-five square feet of medical cannabis cultivation outside the allowed 50 square feet; however, if a Notice of Nuisance Abatement Hearing is issued, the penalty shall increase to one thousand dollars (\$1,000.00) per non-medical cannabis plant in excess of 6 plants and one thousand dollars (\$1,000.00) per every twenty-five square feet of medical cannabis cultivation outside the allowed 50 square feet.

2. For violation of Section 8.10.050 [indoor cannabis cultivation], a civil penalty of five hundred dollars (\$500) per non-medical cannabis plant in excess of 6 plants or five hundred dollars (\$500) per every twenty-five square feet of medical cannabis cultivation outside the allowed 50 square feet; however, if a Notice of Nuisance Abatement Hearing is issued, the penalty shall increase to one thousand dollars (\$1,000.00) per non-medical cannabis plant in excess of 6 plants or one thousand dollars (\$1,000.00) per every twenty-five square feet of medical cannabis cultivation outside the allowed 50 square feet.

3. For violation of Section 8.10.060 [prohibition of commercial cannabis activity], a civil penalty of one thousand dollars (\$1,000.00) per plant for each violation of commercial cannabis cultivation and a civil penalty of five thousand dollars (\$5,000.00) per day for all other violations.

4. For violation of Section 8.10.070 [prohibition of manufacturing cannabis activity], a civil penalty of five thousand dollars (\$5,000) per day for each separate violation.

5. For violation of Section 8.10.080 [prohibition of medical cannabis dispensaries], a civil penalty of five thousand dollars (\$5,000) per day for each separate violation.

6. For violation of Section 8.10.090 [prohibition of delivery of medical cannabis activity], a civil penalty of five hundred dollars (\$500) for each separate violation.

7. At the Nuisance Abatement Hearing, the Hearing Officer shall determine the total amount of Administrative Penalties that have accrued at the time of the hearing, and that amount shall be reflected in the decision and awarded to the County. Administrative Penalties shall not be awarded if the property owner establishes all of the following: (i) that, at the time he or she acquired the property, a violation of this Article already existed on the property; (ii) the property owner did not have actual or constructive notice of the existence of that violation; and (iii) prior to the Nuisance Abatement Hearing, the property owner initiates and pursues, with due diligence, good faith efforts, to meet the requirements of this code. In his or her decision, the Hearing Officer may compromise the amount of any Administrative Penalties. When determining whether to compromise any penalty amount, the Hearing Officer shall take into consideration the nature, circumstances, and gravity of the violation(s), any prior history of violations, the degree of culpability, the financial burden to the person(s) upon whom the penalty has been imposed, the degree to which the proposed compromise will facilitate collection of the penalties without the need for further legal action, and any other matters justice may require. If at the time of the hearing the nuisance has yet to be abated, the decision shall state that the Administrative Penalties shall continue to accrue as specified in subparts (1) through (6) of this section until the nuisance is abated. The decision of the Hearing Officer shall be final and conclusive on the date the decision is deposited in the mail.

8. Any decision regarding the amount of Administrative Penalties imposed by a Hearing Officer pursuant to this Article may be appealed by any aggrieved person to the Placer County Planning Commission as follows:

a. Appeal Subject. Any appeal under this section shall be limited to the amount of Administrative Penalties imposed by the Hearing Officer.

b. Timing and Form of Appeal. An appeal must be filed within ten days from the date the decision was deposited in the mail as required by subsection (C)(5) of section 8.010.100. Appeals filed more than ten days after the decision shall not be accepted by the planning director. A notice of appeal shall be in writing, shall include a detailed statement of the factual and/or legal grounds upon which the appeal is being taken and shall include a copy of the decision of the Hearing Officer. The appeal shall be accompanied by the filing fee set by the most current planning department fee schedule.

c. Filing and Processing. An appeal shall be filed with the planning director, who shall process the appeal pursuant to this section, including scheduling the matter before the appropriate appeal body. The Placer County Planning Commission may designate a sub-committee of three members to hear and rule upon any appeal provided for in this section.

d. Effect of Filing. In the event of an appeal under this section, only the decision as to the amount of the Administrative Penalties shall be set aside and have no effect until final action by the appeal body pursuant to this section. The appeal shall have no effect on any other factual or legal determination of the Hearing Officer.

e. Report and Scheduling of Hearing. When an appeal has been filed under this section, the planning director, or his or her designee, shall prepare a report on the matter and

shall schedule the matter for consideration by the Planning Commission (or sub-committee so designated) after completion of the report.

f. Board Assumption of Appeal Hearing Authority. In any case where the a ruling of the Hearing Officer has been appealed to the planning commission under this section, the Board of Supervisors may determine that they shall hear and decide upon the appeal instead of the planning commission. A decision of the Board to assume appeal authority shall occur through the vote of three or more board members at a regular meeting of the Board of Supervisors, either before the distribution of public notice for the planning commission hearing, or within ten days after a continued hearing before the planning commission.

g. Action and Findings. After an appeal has been scheduled by the planning commission, the planning commission (or sub-committee so designated) shall conduct a public hearing, pursuant to the provisions of Section 17.60.140(Public hearing). At the hearing, the planning commission (or sub-committee so designated) shall initiate a discussion limited only to the amount of the Administrative Penalties imposed by the Hearing Officer and, in addition, the specific grounds for appeal.

i. The planning commission (or sub-committee so designated) may affirm, affirm in part, reverse or reverse in part the decision or determination of the Hearing Officer as to the amount of the Administrative Penalties imposed based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the provisions of this Article.

ii. A decision by the planning commission (or sub-committee so designated) under this section, with the exception of those appeals heard directly by the Board of Supervisors, shall be final. For those decisions heard by the Board of Supervisors, the decision by the Board of Supervisors shall be final.

h. Time Limits on Appeals. Upon receipt of an appeal in proper form, the planning director or clerk of the board of supervisors, as applicable, shall schedule the matter for consideration by the appropriate appeal body. The appeal body shall commence a public hearing on the appeal within ninety days of its proper filing, or within such other time period as may be mutually agreed upon by the appellant, in writing, and the appeal body, in writing. If the public hearing is not commenced within ninety days, or an alternative time period is not agreed upon by the appellant and the appeal body, the decision rendered by the Hearing Officer shall be deemed affirmed. (Note: Once commenced, a public hearing on an appeal may be continued from time to time for good cause.)

i. Withdrawal of Appeal – Hearing Decisions. After an appeal of a decision has been filed, an appeal shall not be withdrawn except with the consent of the appropriate hearing body.

9. All money and assets collected in payment for penalties for violations of this Article and all money and assets collected for recovery of costs of enforcement of this Article shall be used to offset the cost of enforcement of this Article.

#### **8.10.130 No Duty to Enforce.**

Nothing in this Article shall be construed as imposing on any Code Enforcement Officer or the County of Placer any duty to issue a Notice to Abate, nor to abate any violations of this Article and neither the Code Enforcement Officer, nor the County, shall be held liable for failure to issue an order to abate any violation of this Article.

**8.10.140 Severability.**

The provisions of this article are declared to be separate and severable. The invalidity of any clause, phrase, sentence, paragraph, subdivision, section or portion of this article, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this article, or the validity of its application to other persons or circumstances.