To The Honorable Board of Supervisors of Lake County:

We, the signers of this petition, registered and qualified voters and residents of Lake County, hereby propose an ordinance as set forth herein below and request that the proposed ordinance be immediately passed by the Board of Supervisors or otherwise be submitted to the vote of the people at the earliest regular or special election for which this petition qualifies pursuant to the California Elections Code and other applicable laws. The text of the ordinance is set forth below and on the subsequent pages.

THE PEOPLE OF LAKE COUNTY DO ORDAIN AS FOLLOWS:

Section 1. Title

This initiative shall be known and may be cited as the Medical Marijuana Control Act.

Section 2. Findings, Purpose, and Intent

The findings, purpose, and intent of this initiative are the same as those found in Section 3 immediately below, as expressed in the creation of, or amendments to, sections 21-72.1 and 21-72.2 of Lake County Zoning Ordinance.

Section 3. Medical Marijuana Cultivation Prohibition and Limited Exceptions

Article 72 of the Lake County Zoning Ordinance, if currently in effect in any form, is hereby repealed in its entirety, and then, or otherwise if not existing or in effect, is created, enacted, ordained and effectuated by the Voters to read with this exact content only and no other:

ARTICLE 72

SEC. 21-72 REGULATIONS FOR THE CULTIVATION OF MEDICAL MARIJUANA

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72.1 Findings and Purpose

(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 regulated cultivation of medical marijuana by individuals and collectives allows healing and relieves unnecessary suffering caused both by disease and side effects of the treatments of disease.

(c) According to numerous university studies, medical publications, and independent researchers, marijuana has been found to offer relief from a wide range of ailments and side effects of treatments for disease.

(d) Federal policy denying that marijuana has medicinal uses is wrong and immoral, causing unnecessary suffering to, and destruction of, personal, family, and community life.

(e) The State of California and the County of Lake derive their sovereignty from the same eternal source: the people, the citizens, and the voters of the State and the County and have the right and solemn duty to chart their own destinies, including and especially as to
matters of the public health and welfare.

(f) All citizen patients have a right to cultivate enough medicine to meet their own personal needs on their own property and in their own homes provided they are respectful of their neighbors’ right to peaceful enjoyment of their own property.

(g) Many patients are not capable of cultivating their own marijuana. Cultivation involves strenuous physical activity, constant attention, and a sizeable infrastructural investment. Creating regulations for collective cultivation creates access for patients who otherwise would not be able to cultivate their own medicine.

(h) By combining multiple smaller gardens into one medium-sized collective garden, economies of scale can be reached without growing so large as to impact the surrounding community, particularly if such collective gardens follow appropriate locational and security requirements. Moreover, collective gardens are less likely than individual gardens to be left unattended, which reduces the risk of garden-related crime, and are easier for the County to keep track of and regulate.

(i) The federal government is allowing Colorado and Washington to move forward with marijuana legalization, and has stated that they are taking a hands-off approach to locally-regulated marijuana. In his August 29, 2013 memorandum to United States Attorneys, Subject: Guidance Regarding Marijuana Enforcement, Deputy Attorney General James M. Cole wrote, “In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal enforcement priorities.” (Emphasis added.) Thus, it is imperative that Lake County implement “strong and effective regulatory and enforcement systems to control the cultivation” of medical marijuana to stay in compliance with prevailing federal tolerance parameters.

(j) Land use and nuisance issues arise in the absence of reasonable regulations and effective enforcement. To prevent such issues from arising, and to address them when and if they do, the County should promulgate reasonable regulations and implement effective enforcement of those regulations.
(k) In 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 et seq.) 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.

(l) Health and Safety Code section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420. The California Supreme Court reaffirmed the authority of local jurisdictions to regulate land uses in City of Riverside vs. Inland Empire Patients Health and Wellness Center Inc. (56 Cal.4th 729, 156 Cal. Rptr. 3d 409, 300 P. 3d 494 (2013)).

(m) The County's geographic and climatic conditions, along with the sparse population in many areas of the County provide conditions that are favorable to outdoor marijuana cultivation, and the County has experienced a significant increase in the number of people moving to the area seasonally to cultivate large amounts of marijuana, sometimes from other states. Some of these people are causing significant damage to area watersheds. Soils, fertilizers and rodenticides are sometimes left behind as sites are abandoned for the winter.

(n) 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, provides comprehensive civil regulation of premises used for marijuana cultivation. The unregulated cultivation of marijuana in the unincorporated area of Lake County can adversely affect the health, safety, and well-being of the County, its residents and environment. Comprehensive civil regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of violent criminal activity and degradation of the natural environment, that may result from unregulated marijuana cultivation, and that are especially significant if the amount of marijuana cultivated on a single legal parcel is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in one place.

(o) Various environmental issues can arise from any kind of agricultural or gardening
activity, including the cultivation of marijuana for medical purposes. To address such issues, the County should identify, encourage, and publicize Medical Marijuana Cultivation Best Management Practices, including but not limited to: Water; Soil Conservation, Erosion and Sedimentation; Potting Soil; Amendments, Nutrients, and Fertilizers; Disease and Pest Control; Rats, Mice, and Other Wildlife Harmful to Cultivation; etc.

(p) It is the purpose and intent of this Article 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 areas of the County of Lake. This Article 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 Article 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, welfare and environment in Lake County, and that is in conformance with the provisions of California Health and Safety Code Section 11362.5 through 11362.83.

(q) The limited right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Article, the County will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of marijuana in the unincorporated areas of Lake County.

(r) Based on the Full Time Employee cost to the County of a Code Enforcement Officer being approximately $33.52 per hour according to staff, and based on the cost of equipping and facilitating a Code Enforcement Officer, and based on the anticipated participation in the medical marijuana cultivation registration system being proportionally equivalent to that historically demonstrated in other counties, a limit of $50.00 (fifty dollars) as a registration and regulation cost recovery fee per plant registered is found to be reasonable.
72.2 Intent

(a) It is the intent of the Voters of Lake County to prohibit the large scale cultivation of marijuana used for non-medical purposes, while regulating the cultivation of limited amounts of marijuana for medical purposes to accommodate the needs of qualified patients and/or their caregivers, in order to protect Lake County's unique and sensitive environment, and to preserve the public peace, health, safety and general welfare of the citizens of, and visitors to, the County, by comprehensively and completely regulating all medical marijuana cultivation with the specific prohibitions and exceptions provided in this initiative ordinance. It is also the intent of the Voters that nothing in this Article shall be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow the use or diversion of marijuana for non-medical purposes.

(b) It is also the intent of the Voters that the enforcement of regulations regarding medical marijuana cultivation be primarily administrative in nature and handled by a new Medical Marijuana Enforcement Division under the Community Development Department which shall have at least one full time Medical Marijuana Enforcement Officer who shall use informal, educational, administrative, and civil abatement, measures and penalties only.

(c) It is also the intent of the Voters that no department, agency, commission, officer, or employee of the County of Lake shall use any County funds or resources to assist in the enforcement of Federal controlled substance laws to the extent that they are inconsistent with California medical marijuana laws, including but not limited to the CUA and MMP, unless such assistance is required by Federal or State statute, regulation, or court decision.

(d) It is also the intent of the Voters that the County of Lake shall not accept any Federal funding that would be used to investigate, cite, arrest, prosecute, or seize property based on offenses otherwise legal under California medical marijuana laws, nor participate in any task force that accepts any Federal funding or revenue sharing and that investigates, cites, arrests, prosecutes, or seizes property based on offenses otherwise legal under California medical marijuana laws. Specifically, these prohibitions on accepting funding and task force participation shall not apply to the following activities where not legal under California medical marijuana laws:
(1) Distribution or sale of marijuana to minors;
(2) Cultivation or sale of marijuana on public property;
(3) Driving under the influence; and
(4) Interstate or international gang activity.

72.3 Applicability

The provisions of this Article shall be applicable to all persons and businesses described herein whether the activities described herein were established before or after the effective date of this Article.

72.4 Definitions

(a) **Cultivation**: The planting, growing, harvesting, drying, processing or storage of one or more marijuana plants or any part thereof.

(b) **Collective cultivation**: Cultivation by more than one Qualified Patient or Primary Caregiver, or in excess of 6 plants on one legal parcel.

(c) **Enforcement Official**: As used in this Article, shall mean the Community Development Director, or the Medical Marijuana Enforcement Officer of the newly created Medical Marijuana Enforcement Division in the Community Development Department.

(d) **Fence**: means a wall or a barrier connected by boards, masonry, rails, panels, wire or any other materials approved by the Community Development Department for the purpose of enclosing space or separating parcels of land. The term "fence" does not include retaining walls, plastic, tarp, bamboo coverings, corrugated metal, or other materials not designed or manufactured for use as a fence.

(e) **Legal parcel, Assessor’s parcel and Contiguous parcel**: 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). Assessor’s parcel means a specific plot of land designated by the Lake County Assessor with an Assessor’s Parcel Number, or APN. Contiguous Parcel (either legal or
assessor’s), or contiguous, means a parcel that shares or touches an edge or boundary of a legal parcel with a Permitted residential use. For the purposes of this Article only, provided there is a Permitted residential use on a legal parcel, additional contiguous legal or assessor’s parcels without a Permitted residential use and under the same possession and control shall be construed, at the discretion of the person with possession and control, as part of the same legal parcel only for purposes of determining total size in acreage, the number of plants allowed or prohibited, and where the plants can be cultivated.

(f) **Marijuana**: shall have the same meaning as that set forth in California Health and Safety Code Section 11018.

(g) **Marijuana plant, or Plant**: means a marijuana plant whose sex can be determined by visual inspection.

(h) **Medical Marijuana**: means marijuana grown for qualified patients, and the designated primary caregivers of qualified patients, for medical purposes, as provided in California Health and Safety Code Section 11362.5.

(i) **Medical Marijuana Collective**: means Qualified Patients and/or designated Primary Caregivers of Qualified Patients, who associate as a collective, or who form a cooperative, to collectively or cooperatively cultivate Marijuana for medical purposes, as provided in California Health and Safety Code Section 11362.775, as may be amended. The term collective shall include "cooperative" unless the context clearly indicates otherwise.

(j) **Medical Marijuana Enforcement Division (MMED)**: a newly created division of the Community Development Department created by the Voters of Lake County by this initiative ordinance to oversee and enforce compliance with this Article.

(k) **Medical Marijuana Enforcement Officer (MMEO)**: a new position created by the Voters of Lake County by this initiative ordinance, within the newly created Medical Marijuana Enforcement Division in the Community Development Department, to oversee and enforce compliance with this Article. An MMEO is parallel to, equivalent in pay and position to, and has the same powers as, a Zoning Code Compliance Officer.

(l) **Outdoor Cultivation**: Shall mean cultivation activities that are not conducted within a
fully enclosed, permitted building, constructed of solid materials, accessible only through one or more locking doors. For purposes of this ordinance, cultivation within a greenhouse, row cover, or "hoophouse" shall be considered outdoor cultivation.

(m) **Pesticides**: Shall have the same meaning as set forth in Article 1, Division 6, Section 6000 of the California Code of Regulations, and Article 1, Division 7, Section 12753 of the California Food and Agriculture Code.

(n) **Plant**: see, Marijuana plant, above.

(o) **Primary Caregiver**: Shall mean the individual designated by the patient who has consistently assumed responsibility for the housing, health, or safety of that person, as defined in Proposition 215 and Senate Bill 420, and in the binding opinions of the California Supreme Court and appellate courts interpreting them, and shall not merely provide qualified patient(s) with medical marijuana. For purposes of this Article, the primary caregiver’s primary place of residence shall be within Lake County.

(p) **Premises**: Includes the actual building, as well as accessory structures, parking areas and other on-site improvements.

(q) **Qualified Patient**: A person who either has a State of California Medical Marijuana Identification Card, or a recommendation to use marijuana for medical purposes from a physician licensed by the State of California, and who is entitled to the protections of the Compassionate Use Act of 1996 and/or the Medical Marijuana Program Act of 2003.

(r) **Resident/Residential/Permitted Residential Use/Residency**: The primary place of residence for persons engaging in the individual cultivation of medical marijuana shall be the legal parcel on which the medical marijuana is cultivated. For collective cultivation, as provided in Section 72.5(j)(1), below, the legal parcel on which the medical marijuana is cultivated shall be the principal primary residence of at least one of the primary caregivers or qualified patients for whom the medical marijuana is being cultivated. For the purposes of this Article, “Permitted Residential Use” shall include, without limit, prior legal nonconforming uses and Temporary Dwelling Permits.
72.5 Outdoor Cultivation Limits and Environmental Standards:

(a) Cultivation on vacant parcels is prohibited except for contiguous parcels as set forth in Section 72.4(e). Cultivation is an accessory use to an existing, Permitted Residential Use of a legal parcel, and the qualified patient or primary caregiver engaged in individual cultivation must reside at the site of the legal parcel.

(b) Outdoor cultivation by qualified patients and primary caregivers, whether conducted outside or within a greenhouse, row cover, or "hoophouse" shall be completely prohibited on all legal parcels within every Zoning District, with only the following strictly limited exceptions:

1. Those legal parcels with Permitted Residential Use, less than one acre in size: In excess of 4 plants per parcel prohibited, provided that the restrictions of section 21-41.18 of this Code continue to apply, and all collective cultivation prohibited;

2. Those legal parcels with Permitted Residential Use, at least 1 acre but less than 5 acres in size: In excess of 12 plants prohibited;

3. Those legal parcels with Permitted Residential Use, at least 5 acres in size: In excess of 48 plants prohibited.

The foregoing limitations shall be imposed regardless of the number of qualified patients or primary caregivers residing at the legal parcel or participating directly or indirectly in the cultivation. Cultivation of plant numbers below the number prohibited by zone or legal parcel size shall be allowed if and only if all other provisions of this Article are met, provided that the restrictions of section 21-41.18 of this Code continue to apply.

(d) Outdoor cultivation shall not be conducted within 600 feet of any public or private elementary, middle or high school.

(e) Outdoor cultivation, including any topsoil, pesticides as defined by Section 72.4(m) of this Article, or fertilizers used for the cultivation of medical marijuana shall not be located or
applied, within 100 feet of any spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool. For purposes of determining the edge of Clear Lake, the setback shall be measured from the full lake level of 7.79 feet on the Rumsey Gauge.

(f) All persons engaging in the cultivation of medical marijuana shall:

1. Have a legal water source on the premises.

2. Not engage in unlawful or unpermitted surface drawing of water for such cultivation.

3. Not allow effluent discharges of irrigation or storm water from the premises, as defined in Title 40 of the Code of Federal Regulations, Section 122.26, which could result in degradation of water quality of any water body.

4. Not allow the off-site drift or discharge of fertilizer or pesticides.

5. Comply with the California Health and Safety Code, such that the use of hazardous materials shall be prohibited in the cultivation of marijuana except for limited quantities of hazardous materials that are below State threshold levels of 55 gallons of liquid, 500 pounds of solid, or 200 cubic feet of compressed gas. Any hazardous materials stored shall maintain a minimum setback distance of 100 feet from any private drinking water well, spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool, and 200 feet from any public water supply well. The production of any Hazardous Waste as part of the Cultivation process shall be prohibited.

(g) Fencing, screening and security requirements shall include all of the following:

1. On legal parcels with Permitted Residential Use, within Zoning Districts R1, R2, R3, and PDR, regardless of legal parcel size, outdoor cultivation shall be completely screened from public view with a fully enclosed solid fence of a minimum of six (6) but not more than eight
(8) feet in height, securely surrounding the entire perimeter of the property, curtilage, or garden, with locked gates, or doors if access is through a building incorporated into the secure fence line, to prevent unauthorized entry. The marijuana shall be shielded from public view at all stages of growth. The fence must be adequately secure to prevent unauthorized entry and include a locking gate or door that shall remain locked at all times when a Qualified Patient or Primary Caregiver is not present within the Cultivation area. All fences shall comply with the location and height limitations of the Zoning Ordinance and fences seven (7) feet or taller shall require approval of a building permit from the Lake County Building and Safety Division prior to construction.

2. On legal parcels with Permitted Residential Use, covered by sections 72.5(b)(2)-(4) above, outdoor cultivation shall be completely screened or not visible from public view and reasonably secure from unauthorized intrusion. “Reasonably secure” may include but shall not be limited to, securely surrounding the entire perimeter of the property, curtilage, or garden, with a fully enclosed solid fence of a minimum of six (6) but not more than eight (8) feet in height, with locked gates or doors, as per section 72.5(g)(1), immediately above. The marijuana shall be shielded from public view at all stages of growth. The cultivation area must be secured from unauthorized entry at all times when a qualified patient or caregiver is not present within the cultivation area. All fences shall comply with the location and height limitations of the Zoning Ordinance and fences seven (7) feet or taller shall require approval of a building permit from the Lake County Building and Safety Division prior to construction.

(h) 1. On legal parcels with Permitted Residential Use, within Zoning Districts R1, R2, R3, and PDR, and on all legal parcels of less than one acre in size, outdoor medical marijuana shall not be cultivated or otherwise placed within 20 feet of any property line or within 25 feet
of any off-site residence, as measured from the edge of the cultivation area.

2. On legal parcels with Permitted Residential Use, at least one acre but less than five acres in size, outdoor medical marijuana shall not be cultivated or otherwise placed within 50 feet of any property line or within 75 feet of any off-site residence, as measured from the edge of the cultivation area.

3. On legal parcels with Permitted Residential Use, at least five acres but less than twenty acres in size, outdoor medical marijuana shall not be cultivated or otherwise placed within 50 feet of any property line or within 75 feet of any off-site residence, as measured from the edge of the cultivation area.

4. An exception to the limits set forth in sub-sections 72.5 (h) (2) and (3) above can be approved by the MMEO if good cause is shown. The approval shall be in writing and shall be returned with the application documents to the applicant who shall maintain them with the rest of the compliance documents to be maintained per section 72.11.

Application for exceptions must be submitted in writing and include:

   a. Map drawn or photographed, showing actual distance from property line or off site residence.

   b. Illustration of good cause why limitations cannot be met.

   c. Letter from any affected contiguous neighbor supporting the application for exception, including with required conditions such as but not limited to greenhouses or specific strain cultivation.

(i) Medical Marijuana cultivation shall not adversely affect the health or safety of nearby residents by creating excessive dust, glare, heat, noise, traffic, odor or other impacts, or be hazardous due to use or storage of fertilizers, pesticides or wastes.
The following additional standards shall apply to outdoor collective cultivation:

1. The legal parcel on which the medical marijuana is cultivated shall be the principal primary residence of at least one of the primary caregivers or qualified patients for whom the medical marijuana is being cultivated.

2. The cultivation shall be completely screened from public view and secure from unauthorized intrusion, as set forth above in 72.5(g)(2). The cultivation area must be secure from unauthorized entry at all times when the qualified patient or caregiver is not in the immediate area. Fences and gates shall comply with the height limits specified by Section 42.11 of the Zoning Ordinance, and the definition of "fence" provided in this Article.

3. Nothing herein shall limit the ability of Enforcement Officials from entering the property to conduct compliance inspections necessary to ensure compliance with this Article. The Medical Marijuana Enforcement Division is authorized to determine the number and timing of inspections that may be required.

4. The enforcement of regulations regarding medical marijuana cultivation shall be primarily administrative in nature and shall be administered by the Medical Marijuana Enforcement Division, under the Community Development Department, which shall have at least one full time Medical Marijuana Enforcement Officer who shall use informal, educational, administrative, and civil abatement measures and penalties only.

72.6 Creation of Medical Marijuana Enforcement Division: There is hereby created a Medical Marijuana Enforcement Division (MMED) in the Community Development Department (also known as the Lake County Planning Department) parallel to the other divisions therein.
72.7 **Duties and Functions of Medical Marijuana Enforcement Division:** The duties and functions of the Medical Marijuana Enforcement Division (MMED) are to oversee and enforce compliance with this Article, and include but are not limited to:

1) **Community Education** (via in-person classes, printed guides to best management practices, including the Northern California Farmers Guide, and website) on:
   
   A) Medical Marijuana Regulations Found in this Article (including, registration application process, compliance, and enforcement), and
   
   B) Medical Marijuana Cultivation Best Management Practices (including issues regarding: Water; Soil Conservation, Erosion and Sedimentation; Potting Soil; Amendments, Nutrients, and Fertilizers; Disease and Pest Control; Rats, Mice, and Other Wildlife Harmful to Cultivation; etc.);

2) Accepting and processing registration applications;

3) Receiving and transmitting fees and taxes as appropriate; and

4) Responding to community complaints: sending notice letters, follow-up compliance inspections, discretionary determination of regulatory violation (nuisance per se) and of actual nuisance in fact, administrative enforcement per code (including summary abatement where warranted) or referral to County Counsel for civil enforcement in Superior Court.

72.8 **Creation of Medical Marijuana Enforcement Officer:** There is hereby created a position of Medical Marijuana Enforcement Officer (MMEO) in the Medical Marijuana Enforcement Division (MMED). The duties and functions of the Medical Marijuana Enforcement Officer are the same as those of the Division. A Medical Marijuana Enforcement Officer shall be parallel to, equivalent in pay and position to, given at least the same equipment, tools, transportation, communication, and offices as, and have the same powers as, a Code Enforcement and Zoning Code Compliance Officer at the Advanced Level. There shall be at least one full-time county employee Medical Marijuana Enforcement Officer at all times.
72.9 Minimum Mandatory Qualifications of Medical Marijuana Enforcement Officer: No Medical Marijuana Enforcement Officer (MMEO) shall be hired by the community development director, unless ratified by a majority vote of the Board of Supervisors following a public hearing on the qualifications of the applicant. Applicant should be subject to the same pre-employment screening as other employees of the Community Development Department, and shall not have any drug-related criminal convictions. In addition to these requirements, the MMEO shall meet the following requirements, provided that these requirements are waived if no one with these qualifications applies, in which case they should be followed closely as guidelines:

1) Knowledge of, or experience with, legal cannabis cultivation.

2) Knowledge of, or experience with, organic farming and best farming practices.

2) Knowledge of, or experience with, zoning regulations or code compliance.

72.10 Collective Cultivation Registration and Fees

(a) All collective cultivation activity of more than 12 plants per legal parcel must be registered annually with the Medical Marijuana Enforcement Division (MMED) before plants are planted. Cultivation activity of 12 plants or less can also be voluntarily registered. Registration document requirements shall consist of and be strictly limited to these nine items, of which only the first three shall be maintained in the MMED’s files, the latter six shall be reviewed for completeness at the MMED registration processing appointment and returned to the registrant with a “filed-received time and date” stamp.

1. Registrant Documentation

Copies of California State Medical Marijuana Identification Cards (MMIDs) are mandatory for Lake County collective cultivation registration; at least one such card must be produced by the registrant, who shall be a patient or caregiver member responsible for garden management and compliance with this Article, to be used to identify the registration file. If the registrant has applied for an MMID and applies for registration before the MMID has been received, the registrant can register by producing evidence of having applied in which case the MMED shall issue a temporary number to be used in place of
the MMID number, which the registrant must maintain a record of. Within ten days of receiving the MMID, the registrant shall provide the MMED a copy of the MMID and the temporary number so that the registration file can be re-identified by MMID number.

See, e.g.,

http://health.co.lake.ca.us/Medical_Marijuana_Identification_Card__MMID__htm

2. Collective Documentation
Including, if existing, Collective Agreement, Articles of Incorporation, or Articles of Association; or Membership Forms, indicating agreement to associate to cultivate collectively, signed and redacted of all identifying information, including documentation of members’ eligibility as qualified patients or primary caregivers, such as copies of MMID cards or current physician recommendations; or documentation indicating that the registrant is cultivating on behalf of a storefront collective that maintains records of primary caregiver and qualified patient members, available on reasonable request.

3. Completed MMED Registration Form
This form will be prepared by the MMED, and will request the MMID number of the registrant, the number of plants to be cultivated, and acknowledgment that the registrant has received: a copy of this Article and agrees to fully comply therewith, including by maintaining for at least one year, all the documents required by this Section 72.10(a)(1)-(9), including all registration application documents, including Annual Certificate of Medical Marijuana Collective Cultivation Registration and Fee Payment, Site Plan, Neighborhood Context Map, Fencing Plan, Water documentation that indicates legal source requirement is met, Soil Conservation Plan/Effluent Discharge Reduction Plan, and Disease and Pest Management Plan; and a copy of Northern California Farmers Guide and other best management practices guides and information to be produced and provided by MMED.
4. Site Plan  
States and shows where and how much land will be planted, any required fencing, and number of plants.

5. Neighborhood Context Map  
Shows that the site meets all zoning and locational restrictions.

6. Fencing Plan  
Describes compliant fencing as needed (can be part of Site Plan)

The above plans need not be architectural drawings, a modified Google earth photo, or carefully drawn to scale plan on at least 8.5” x 11” format, or equivalent, will suffice.

The following documents together shall be known as the Farm Plan (including some maintained as ongoing logs of operations):

7. Water documentation  
Indicates legal source requirement is met.

8. Soil Conservation Plan/Effluent Discharge Reduction Plan  
States whether plants are or will be planted in the ground, beds, or pots; how the cultivated area has been and or will be amended, and the anticipated nutrient application schedule details and historical log maintained in real time. Includes a medium disposal plan. If the medium is going to be reused for multiple seasons, describes what efforts will be made to eliminate nutrient runoff from occurring during the winter rain season.

9. Disease and Pest Management Plan  
Outlines the farming operations plan for deterring disease, pest and rodent issues. Include anticipated preventative treatments as well as ongoing treatments. All treatments shall be logged for each application. Log information shall include type of pesticide/fungicide used, ratio of mixture, date of application, and reason for application.
(b) Collective cultivation annual registration requires payment of a fee per plant, to be set by the Lake County Board of Supervisors in accordance with all applicable laws and regulations, and to be incorporated as part of the Planning Department Fee Schedule, and not to exceed $50 (fifty dollars) per plant.

(c) Upon receipt of a complete and facially valid set of registration documents and payment of the required fee, the MMED shall, immediately, issue an Annual Certificate of Medical Marijuana Collective Cultivation Registration and Fee Payment, indicating the date of registration, the MMID Number of the registrant, the number of plants registered and the total fee paid. The MMED is authorized to accept such documents either over the counter on demand or by appointment made by phone or email, provided that such appointment inquiries shall be responded to within three business days and offer an appointment within five business days of the response to submit registration documents and pay the registration fee. The MMED will also provide registrant with a copy of all registration documents with a “filed-received time and date” stamp.

(d) Registration files maintained by the MMED shall be identified by the MMID number of the individual registrant only—no other identifying information shall be requested or required. This system of enforcement is complaint-driven only. On receipt of a community complaint by a neighbor working or residing within 600 feet of the alleged noncompliant collective cultivation site, the MMED shall send a notice to the owner and occupant of the property complained of, as described in detail below at 72.12 – 72.15. If the alleged noncompliance is not corrected within the time prescribed and a second complaint is received, the MMED will inspect and take summary or regular abatement measures as warranted.

72.11 Collective Cultivation Compliance and Documentation

(a) Collective cultivation registrants are required to 1) familiarize themselves with all the relevant requirements of state and county law, including this Article and the contents of the Medical Marijuana Enforcement Division’s Community Education website, 2) to remain in
compliance with all state and local legal requirements, including those affecting environmental
integrity, 3) not create or allow nuisance, and 4) actively promote community harmony as a
good neighbor. Collective cultivation activity must not be visible from public view.

(b) If discovered due to community complaint or Medical Marijuana Enforcement
Division investigation following a complaint, the registrant must produce to the MMED
promptly on reasonable request all of the documents required by Section 72.10(a)(1)-(9), the
Annual Certificate of Medical Marijuana Collective Cultivation Registration and Fee Payment,
and any exception approval granted per 72.5(h)(4), which documents must be current and
maintained at the collective cultivation site at all times.

72.12 Medical Marijuana Enforcement Division Complaint and Nuisance Abatement Procedure

(a) Any person residing or working in Lake County within 600 feet of an allegedly
noncompliant medical marijuana cultivation site may complain of such to the
MMED. Complaints must be in writing and must specify the location complained of.
Upon request for anonymity, Complainants’ names shall be kept private, and shall not
under any circumstances be disclosed to anyone. On first complaint, MMED will
immediately within 2 business days of discovering property owner and occupant
addresses, send letters to the property owner and to property occupant advising of
their duty 1) to comply with all state and local medical marijuana cultivation
regulations, summarized on the MMED website and in letter enclosure and 2) to
prevent and abate any nuisance in fact, giving 10 days to fully comply, subject to
inspection and abatement, including summary.

(b) On a second complaint, meeting the requirements described in (a) above, within a 15-
day period, MMED shall inspect the site and determine if there is 1) regulation
violation, and/or 2) nuisance in fact, and if so, whether they rise to: A) the level of
summary abatement, as defined in Section 72.14 below, which includes immediate
destruction of the plants so offending, with hearing to follow abatement specifically
to address the issue of “immediate threat”, or B) only the level of regular abatement
including opportunity to comply promptly, or to appeal and be heard before abatement.

(c) A complaint that alleges an immediate threat to public health or safety will be promptly investigated by MMED, and if well founded, is subject to summary abatement as described in Section 72.14, below.

(d) Complaints by multiple neighbors that a cultivation site is a nuisance, including by odor, shall be prioritized by the MMED for prompt enforcement. The period for compliance in (a)(2) above shall be reduced from 10 days to 5 days in these cases. Odor and other issues may be remedied on a case-by-case basis by promptly installing or constructing a fully-enclosed greenhouse with odor filters.

72.13 **Nuisance Declared; Enforcement Authority**

(a) The cultivation of marijuana plants in excess of the amounts specified by this Article for individuals and collective or cooperative organizations, on any legal parcel is hereby declared to be unlawful. Any violation of this ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law. Any person who violates a provision of this Article is subject to civil actions and administrative penalties.

(b) Any person, firm, partnership, association, corporation or other entity whether a principal agent, employee or otherwise, who owns or is a tenant upon the property upon which medical marijuana is cultivated, except as provided for in Sections 72.5, or owns the medical marijuana that is cultivated at the legal parcel or otherwise violates any of the provisions of this ordinance can be charged with an infraction at the discretion of the district attorney.

(c) If charged as an infraction, the violation shall be punishable by a fine not exceeding Three Hundred Dollars ($300.00) for the first violation, Five Hundred Dollars ($500.00) for the second violation within one year, and One Thousand Dollars ($1,000.00) for each additional violation within one year.
Such person, firm, partnership, association, corporation or other entity may be charged with a separate offense for each and every day, or portion of a day, that a violation exists.

(d) All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the county from the pursuit of any other remedy for the purpose of abating or otherwise regulating or preventing public nuisances.

(e) Primary responsibility for enforcement of this ordinance shall vest with the Medical Marijuana Enforcement Division.

(f) Nothing herein shall confer on any person the right to maintain a public or private nuisance. Except for actions arising out of this chapter, no provision of this chapter shall be deemed a defense or immunity to any action brought against any person by the District Attorney, the State of California, the United States, or any other person.

72.14 Summary Abatement. Unlawful marijuana cultivation in violation of Sections 72.5(a) through (f) of this Article, that constitutes an immediate threat or danger to the health, safety and welfare of the public may, therefore, be summarily abated in accordance with Government Code Section 25845. The County may notwithstanding recover its costs for abating the nuisance in the manner set forth in Section 72.15(b)11, and any person(s) determined to be responsible may nevertheless be subject to civil actions and administrative penalties as specified in Section 72.13 & Section 72.16(b) of this Article.

72.15 Abatement procedures. Whenever an Enforcement Official determines that a violation of this Chapter exists that results in a public nuisance, he or she shall direct in writing that the public nuisance be abated within ten (10) business days. If the condition(s) continue beyond ten (10) business days and are not abated by the property owner or tenant, the Enforcement Official shall be authorized to abate the nuisance.

(a) Notice and Order to Abate Unlawful Marijuana Cultivation. Whenever
an enforcement official determines that a public nuisance as described in this Article exists on any property within the unincorporated area of Lake County he or she is authorized to notify both the owner and the occupant(s) of the premises through issuance of a "Notice and Order to Abate Unlawful Marijuana Cultivation."

(b) **Contents of Notice.** The Notice set forth in Section 72.15(a) shall be in writing and shall:

1. Contain a heading, "Notice and Order to Abate Unlawful Marijuana Cultivation," in letters of not less than three-fourths (¾) of an inch in height.

2. Contain the street address, legal description, Assessors Parcel Number or other description sufficient to identify the premises affected.

3. Identify the owner(s) of record of the property upon which the nuisance exists, and if known identify the occupant(s) if other than the owner(s).

4. Contain a description of the condition causing the nuisance, including the code section(s) violated.

5. State the action(s) required to correct the violation(s). Where the Enforcement Official has determined that the condition causing the nuisance can be abated by the property owner or tenant, the notice shall state the action which will be required to comply with this Article.

6. Identify the County department and Enforcement Official responsible for the enforcement action with contact information including County office location and telephone number.

7. State that the owner or occupant is required to abate the unlawful marijuana cultivation within ten (10) business days after the date that said Notice is deemed served.
8. State the date of service, and contain the signature of the Enforcement Official issuing the Notice.

9. Set forth instructions to the property owner describing procedures for scheduling a hearing before the Board of Supervisors for the purpose of presenting information as to why marijuana being cultivated is not in violation of this Article and therefore should not be considered a public nuisance.

10. Contain a statement that if the property owner(s) or occupant(s) fails to request a hearing, all rights to appeal any action of the County to abate the nuisance are waived. The written request for hearing shall specify why marijuana being cultivated is not in violation of this Article and therefore should not be considered a public nuisance and shall be submitted on a form provided by the county included with the notice including a request for this information and the instruction that it is required.

11. Contain a statement that if the work is not completed within the time specified on the notice, or a hearing has not been requested in accordance with Section 72.15(d) of this Article, or a time extension has not been granted to complete the abatement, the county may abate the nuisance without further notification and the property owner will be responsible for all costs associated with the investigation and abatement of the nuisance(s). The costs of such abatement action may be made a special assessment against the premise; may be paid through a Code Enforcement Debt Reduction Agreement; or alternatively may be referred to debt collection agency.

(c) **Service of Notice.** Such notice shall be deemed properly served if a copy thereof is either:

1. Delivered to both the occupant(s) and owner(s) personally;

2. Delivered in any other manner as prescribed by local law to both the
occupant(s) and owner(s).

Service of such notice in the foregoing manner upon the property owner's agent shall constitute service of notice upon the owner.

(d) **Hearing Procedure.** A hearing before the Board of Supervisors regarding a Notice and Order to Abate Unlawful Marijuana Cultivation may be requested by filing a written request for a hearing with the Lake County Community Development Department within 10 business days of service of the Notice and Order to Abate Unlawful Marijuana Cultivation. The written request for hearing shall specify why marijuana being cultivated is not in violation of this Article and therefore should not be considered a public nuisance.

1. When a hearing is requested as provided for in the Notice and Order to Abate Unlawful Marijuana Cultivation, the Board shall proceed to hear the testimony of the Enforcement Official, his/her assistants or deputies, the testimony of the owner or his/her representatives, the occupant, and the testimony of other competent persons concerning the conditions constituting such nuisance, the estimated cost of abatement, and other matters which the Board may deem pertinent. Any person affected may be present at such hearing, may be represented by counsel, present testimony, and may cross-examine the Enforcement Official, and other witnesses. The hearing may be continued from time to time.

2. The hearing request shall not be deemed complete and shall not be forwarded to the Board of Supervisors unless it specifies why the marijuana cultivation that is subject to abatement in the Notice and Order to Abate Unlawful Marijuana Cultivation is not in violation of this Article. The review authority for determining the adequacy of the hearing request shall be the Community Development Director or his or her designee.

3. The filing of a request for hearing that has been deemed complete in accordance with Section 72.15(d) (2) shall stay the effectiveness of the Notice and Order to Abate Unlawful Marijuana Cultivation until such time
as the case has been decided by the Board of Supervisors.

4. Upon receipt of a complete request for hearing filed in accordance with this Section, the Enforcement Official shall schedule a hearing before the Board of Supervisors. Notice of the hearing shall be sent by first class mail postage prepaid to the property owner and occupant and any other persons filing the request for hearing. The notice shall state the date, time and place of the hearing (which in no event shall be sooner than ten (10) days from the date of mailing or posting such notice), the specific sections of this Article that are alleged to be in violation and constitute the public nuisance, and shall direct the owner(s) and any other persons who filed to appear and show cause why the specified condition or use should not be declared a public nuisance and abated.

5. Upon the conclusion of the hearing, the Board of Supervisors may terminate the abatement proceedings, or it may uphold the Notice and Order to Abate Unlawful Marijuana Cultivation, prescribing the requirements of such abatement and prescribing the time for the completion of such abatement.

6. If a request for a hearing is not filed within the time specified in Section 72.15(b) of this Article, the Enforcement Official may order or cause the abatement to be performed on or after the 11th business day following the service of the Notice and Order to Abate Unlawful Marijuana Cultivation.

72.16 Enforcement.

(a) Whenever the Enforcement Official becomes aware that an owner or occupant has failed to abate any unlawful marijuana cultivation within ten (10) business days of the date of service of the Notice to Abate Unlawful Marijuana Cultivation, unless timely appealed, or within ten (10) business days of the date of the decision of the Board of Supervisors requiring such
abatement, the Enforcement Official may take one or more of the following actions:

1. Enter upon the property and abate the nuisance with County or State personnel. The Enforcement Official may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary.

2. Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance.

(b) **Administrative Civil Penalties.**

1. Acts, omissions, or conditions in violation of this Article 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.

2. In determining the amount of the administrative penalty, the Enforcement Official, 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.

3. The Enforcement Official 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 therefore. The Notice of Violation and Proposed Administrative Penalty may be combined with a Notice to Abate Unlawful Marijuana Cultivation issued pursuant to Section 72.15(b) of this Article. The Notice of Violation and Proposed Administrative Penalty shall be
served by certified mail addressed to all of the following:

i. The owner of the property on which the violation exists, at the address shown on the last equalized assessment roll or as otherwise known to the Enforcement Official;

ii. Anyone known to the Enforcement Official to be in possession of the property subject to the Notice, at the street address of the property; and

iii. Any other person known to the Enforcement Official who has caused, permitted, maintained, conducted, or otherwise suffered or allowed the violation to exist.

The failure to serve any person described in this subsection shall not affect the validity of service or the validity of any penalties imposed upon any other person.

4. The contents of the Notice of Violation and Proposed Administrative Penalty shall be in the manner in Article VIII, Section 13-49.2 of Chapter 13 of the Lake County Code.

5. If any person to whom the Notice of Violation and Proposed Administrative Penalty is issued requests an Administrative Appeal hearing before the Board of Supervisors, the notice of hearing, conduct of hearing, and hearing procedure shall be in accordance with Article VIII, Section 13-53 of Chapter 13 of the Lake County Code.

6. 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.

7. 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 90 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.

i. 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.

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

iii. 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.

iv. 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.

v. The Clerk of the Board of Supervisors shall serve the owner of the property with a hearing notice not less than ten (10) 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.

vi. 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 objection must contain a description of the property in which the protesting party is interested and the grounds of such protest or objection.

vii. At the conclusion of the hearing, the Board of Supervisors will adopt a resolution confirming, discharging, or modifying the lien amount.

viii. Within 30 days following the Board of Supervisors' adoption of resolution imposing a lien, the Clerk of the Board of Supervisors will file same as a judgment lien in the Lake County Recorder's Office.

ix. 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 Lake County Recorder's Office. This notice of satisfaction will cancel the County's lien under this section.

x. 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. There shall be no right to trial by jury. The County shall be entitled to its attorney's fees and costs.

8. 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 an administrative penalty imposed pursuant to this section.

9. 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.

10. In addition to any other remedy prescribed in this Article, any nuisance as described in this Article may be subject to an administrative penalty of up to one thousand dollars ($1,000) per day. The administrative penalty may be imposed by 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 without an administrative process.

72.17 Liability: The provisions of this Article shall not be construed to protect the Medical Marijuana cultivation site owners, operators and employees, the members of collectives and/or cooperatives associated with Medical Marijuana cultivation site, and the property owner(s) of record for each site from prosecution pursuant to any laws that may prohibit the cultivation, sale, and/or possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of marijuana remain violations of federal law as of the date of adoption of the ordinance creating this Section, and this Section is not intended to, and does not protect any of the above described persons from arrest or prosecution under those federal laws. Medical Marijuana cultivation site owners, permittees, operators and employees, the members of collectives and/or cooperatives associated with cultivation sites, and the property owner(s) of record for each cultivation site assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from operation of a Medical Marijuana cultivation site.
Further, to the fullest extent permitted by law, any actions taken under the provisions of this Section by any public officer or employee of the County of Lake or by Lake County itself shall not become a personal liability of such person or a liability of the County.

72.18 **Conflicts with Other Codes:** If this Article is found to be in conflict with any other Chapter, Section, Subsection, or Title, or any regulation, rule, requirement, or practice promulgated thereunder, the provisions of this Article shall prevail.

**Section 4. Arrest and Citation Powers of MMEO**

Section 21-61.3 of Chapter 21 of the Lake County Code is hereby modified as follows, to insert the language underlined.

61.3 Arrest and Citation Powers:

(a) The following officers and employees of the Lake County Building Inspection Department and Planning Department are hereby designated enforcement officers and given arrest and citation powers pursuant to Section 836.5 of the Penal Code:

1. Planning Director
2. Environmental Officer (Ord. No. 2128, 1/14/1993)
3. Director of Building and Safety
4. Zoning Code Compliance Officer
5. Medical Marijuana Enforcement Officer

**Section 5. Conflicts**

All ordinances or resolutions in conflict herewith are hereby repealed to the extent of such conflict and no further.

**Section 6. Statewide Regulation**

This initiative, and the provisions herein, shall be read consistent with any statewide regulation of medical marijuana or legalization of marijuana for adult use that is promulgated by the legislature or by voter approval in the future.
Section 7.    Initiative Not to be Amended Other Than by Voters
This initiative and every part thereof can only be amended by the voters of the County of Lake and cannot be amended by the Lake County Board of Supervisors, including by enacting any other legislation related to outdoor medical marijuana cultivation whatsoever, except as specifically provided above, or until the Legislature or the Voters of the State of California pass statewide legislation controlling and regulating marijuana cultivation for medical or other use, at which time the Board of Supervisors shall have only the power to increase numerical plant limits found in this initiative ordinance, but not to decrease them, or until three years from the effective date of this initiative ordinance at which time the Board of Supervisors shall have all power to amend.

Section 8.    Special or Regular Election
The voters of the County of Lake hereby expressly request that this initiative be set for a special or regular election at the earliest time allowable by law.

Section 9.    Severability
Should any provision of this initiative ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, voidable, or invalid, that determination shall have no effect on any other provision, or the application of this initiative to any other person or circumstance and, to that end, the provisions hereof are severable. By approving this ordinance the voters intend that each section and sub-section be explicitly severable, part-by-part, phrase-by-phrase, and word-by-word, thus that the minimum language held invalid be severed.