



County Counsel
COUNTY OF TULARE
AGENDA ITEM

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
EDDIE VALERO
District Four
DENNIS TOWNSEND
District Five

AGENDA DATE: April 30, 2019 REVISED

Table with 4 columns: Item description, Yes/No checkboxes, N/A checkboxes, and a final checkbox. Items include Public Hearing Required, Scheduled Public Hearing w/Clerk, Published Notice Required, etc. CONTACT PERSON: Jeff Kuhn PHONE: 636-4950

SUBJECT: Ordinance Pertaining to Administrative Appeal Procedures, Establishing County Hearing Officers, and a Local Appeals Board, and Revising Ordinance Code Provisions Concerning Administrative Appeals

REQUEST(S):

That the Board of Supervisors:
On April 30, 2019

- 1. Introduce and waive the first reading of an ordinance adding Article 31 to Chapter 3 of Part I of the Ordinance Code of Tulare County...
2. Set the second reading for May 21, 2019.
3. Direct the Clerk to publish a summary of the ordinance before the second reading as required by law.

On May 21, 2019:

- 4. Waive the second reading and adopt an ordinance adding Article 31 to Chapter 3 of Part I of the Ordinance Code of Tulare County...
5. Direct the Clerk to publish a summary of the ordinance and post a full copy of the ordinance after adoption as required by law.

SUBJECT: Ordinance Pertaining to Administrative Appeal Procedures and
DATE: Establishing County Hearing Officers
April 30, 2019

6. Direct the Clerk to recruit applicants for the Hearing Officer panel and the Local Appeals Board and return to the Board with potential appointments.

SUMMARY:

At the December 4, 2018 Board meeting, your Board received a presentation from County Counsel on the County's administrative hearing and appeal processes and directed County Counsel to return with an agenda item to amend the County Ordinance Code to streamline those processes and establish the position of County Hearing Officer to hear and decide certain administrative appeals in lieu of the Board. Today's agenda item begins to implement that Board direction.

Under the proposed ordinance, the Board would appoint at least five licensed and qualified attorneys to a panel of County Hearing Officers for four-year terms. The County Administrative Officer would be authorized to contract for their services on an hourly or flat fee basis, as he deems appropriate. On a rotation basis, the Chief Clerk of the Board would select one of the panel members to serve as the Hearing Officer for each appeal matter and provide administrative and clerical support. The ordinance sets out detailed instructions for conducting appeal hearings, provides for the Hearing Officer to issue a detailed written decision within thirty days after hearings, and provides that the decision is final and can only be appealed to Superior Court.

The types of appeals that would go to one of the Hearing Officers, rather than the Board, include appeals from actions regarding (1) transient occupancy taxes; (2) code violation fines; (3) solid waste ordinance violations; (4) animal control ordinance violations; (5) business licenses; (6) general nuisance and code violation cases; and (7) substandard housing nuisance violations. This would not change the Board's role in considering appeals from Planning Commission decisions, appeals involving other land-use related issues, fees, or certain personnel matters.

Consistent with moving to the Hearing Officer model, the proposed ordinance also establishes a Local Appeals Board, in place of the Board, to hear and decide any technical appeals from actions of the RMA Director or Fire Chief concerning application of Building or Fire Code standards. As proposed, the Board of Supervisors would appoint five members to the Local Appeals Board, for four-year terms, who are knowledgeable about building and fire code interpretations, with the expressed intent, but not requirement, that the members include at least one registered civil engineer, one licensed architect, and one general contractor with a class B license.

The proposed ordinance makes conforming changes to existing ordinance code sections by structuring internal departmental appeals as informal administrative reviews, with any requested formal appeals from those reviews to be heard by a County Hearing Officer. The proposed ordinance also updates and corrects references in certain sections, without substantive change to the underlying provisions, as shown in the attached redlined version of the ordinance.

Finally, the proposed ordinance corrects miscellaneous clerical errors discovered in

SUBJECT: Ordinance Pertaining to Administrative Appeal Procedures and
DATE: Establishing County Hearing Officers
April 30, 2019

the process of reviewing the ordinance code for this ordinance.

FISCAL IMPACT/FINANCING:

Each department would be responsible for covering the expense of the Hearing Officer for its hearings. The ultimate financial result is difficult to predict, but simplified, uniform procedures should result in no net County cost.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Streamlined, consistent administrative hearing and appeal procedures will enhance the organizational performance of County Departments.

ADMINISTRATIVE SIGN-OFF:



Jeffrey L. Kuhn
Chief Deputy County Counsel

Cc: County Administrative Office

Attachment(s) Proposed Ordinance (redline format).
Proposed Ordinance (clean format)

JLK/2019343/4/23/2019/1311996.docx

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF Ordinance Pertaining)
to Administrative Appeal Procedures,) Resolution No. _____
Establishing County Hearing Officers, and)
a Local Appeals Board, and Revising)
Ordinance Code Provisions Concerning)
Administrative Appeals)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD APRIL 30, 2019, BY
THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Introduced and waived the first reading of an ordinance adding Article 31 to Chapter 3 of Part I of the Ordinance Code of Tulare County pertaining to administrative appeal procedures and establishing the office of County Hearing Officer; establishing a Local Appeals Board; amending various provisions of the Ordinance Code pertaining to administrative appeals; and correcting miscellaneous clerical errors.
2. Set the second reading for May 21, 2019.
3. Directed the Clerk to publish a summary of the ordinance before the second reading as required by law.

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF Ordinance Pertaining)
to Administrative Appeal Procedures,) Resolution No. _____
Establishing County Hearing Officers, and)
a Local Appeals Board, and Revising)
Ordinance Code Provisions Concerning)
Administrative Appeals)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD MAY 21, 2019, BY THE
FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Waived the second reading and adopted an ordinance adding Article 31 to Chapter 3 of Part I of the Ordinance Code of Tulare County pertaining to administrative appeal procedures and establishing the office of County Hearing Officer; establishing a Local Appeals Board; amending various provisions of the Ordinance Code pertaining to administrative appeals; and correcting miscellaneous clerical errors.
2. Directed the Clerk to publish a summary of the ordinance and post a full copy of the ordinance after adoption as required by law.
3. Directed the Clerk to recruit applicants for the Hearing Officer panel and the Local Appeals Board and return to the Board with potential appointments.

ORDINANCE NO. _____

AN ORDINANCE ADDING ARTICLE 31 TO CHAPTER 3 OF PART I, AND AMENDING VARIOUS SECTIONS OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO ADMINISTRATIVE HEARING PROCEDURES, ESTABLISHING THE OFFICE OF COUNTY HEARING OFFICER, AND ESTABLISHING A LOCAL APPEALS BOARD, AND CORRECTING MISCELLANEOUS CLERICAL ERRORS.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:
(added provisions are underlined and deleted provisions are in ~~striketrough~~ typeface)

Section 1. ARTICLE 31 (“ADMINISTRATIVE HEARING PROCEDURES AND OFFICE OF COUNTY HEARING OFFICER”) IS ADDED TO CHAPTER 3 (“COUNTY OFFICES AND DEPARTMENTS”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Ordinance Code of Tulare County, to read as follows:

**ARTICLE 31. ADMINISTRATIVE HEARING PROCEDURES AND
OFFICE OF COUNTY HEARING OFFICER**

1-31-1000 ADMINISTRATIVE HEARING PROCEDURES:

As to any matter that the Board of Supervisors by ordinance or resolution makes subject to the provisions of this Article, the administrative appeal shall be controlled by the procedures set forth in this Article. The provisions of this Article shall be applicable only where there is a specific reference to this Article by resolution, or ordinance, directing that the provisions of this Article shall control.

1-31-1010 DEFINITIONS:

For the purposes of this Article, the following words and phrases shall have the following meanings:

(a) “Clerk” or “Clerk to the Board of Supervisors” means the Chief Clerk of the Board of Supervisors, or his or her designee;

(b) "County Department" means the Department responsible for the enforcement of the cited violation(s) of this Code or other County policy or rule subject to appeal before a Hearing Officer.

(c) "County Officer" means the County Officer or employee charged with the enforcement of the cited violation(s) of this Code or other County policy and/or rule subject to appeal before a Hearing Officer.

(d) "Hearing" means an administrative adjudicative proceeding presided over by a Hearing Officer who receives evidence and legal arguments prior to issuing a decision resolving contested issues of law and/or fact.

(e) "Hearing Officer" means a qualified person appointed to be a County Hearing Officer pursuant to this Article.

(f) "Party" or "parties" means the County Department or County Officer, on behalf of the County, and the appellant(s) and/or the individual(s) against whom the County is proceeding.

1-31-1020 FORM AND CONTENTS OF APPEAL FORM:

All appeals subject to this Article must be filed using forms furnished by the Clerk to the Board of Supervisors and available in person from the Clerk's office and on the Clerk's webpage. A separate appeal form must be filed for each matter being appealed. Any required attachments must be included with the appeal form. At the time of filing the appeal, the appellant must pay a fee in an amount adequate to cover the cost of processing and hearing the appeal, as that amount is established from time to time by resolution of the Board of Supervisors.

1-31-1030 WHERE FILED:

The appeal form must be filed with the Clerk in person, by delivery, or by mail. The appeal may not be filed by facsimile transmission or other electronic means.

1-31-1040 INCOMPLETE OR INCORRECT STATUS:

The Clerk shall promptly notify the appellant if required information is missing from the appeal form or is incorrect. The Clerk's notice shall contain an explanation of the deficiency, a request for the missing or correct information, and a warning that unless the missing or correct information is provided within fifteen (15) days after the date of the notice, or the last date the appeal may be filed, whichever is later, the appeal will be considered untimely, will be deemed denied, and as a result the decision or action appealed from will be deemed to have been confirmed.

1-31-1050 TIME FOR FILING:

(a) To be considered valid, an appeal must be filed with the Clerk during the appropriate filing period. When an appeal is filed after the applicable deadline, the Clerk shall promptly notify the appellant and applicable County Officer or Department of the untimely filing. The notice shall contain an explanation of the untimely filing and notice pursuant to subsection (b) that failure to timely file the appeal is jurisdictional, cannot be waived, is deemed a waiver of the right of appeal, the untimely-filed appeal is deemed denied, and as a result the decision or action appealed from is deemed confirmed.

(b) Failure to timely file an appeal is jurisdictional, cannot be waived, is deemed a waiver of the right of appeal, an untimely-filed appeal is deemed to have been denied, and as a result the decision or action appealed from is deemed to have been confirmed.

1-31-1060 REQUEST TO WAIVE APPEAL FEE:

An appellant who is indigent may request that the fee imposed by the Board of Supervisors for processing an appeal be waived. The Clerk shall provide a form on which the appellant may request the waiver, showing his or her financial condition under penalty of perjury. If the appellant properly completes and signs the waiver form, then the Clerk shall accept the status of the appellant as indigent, and shall accept the appeal for filing without payment of the fee.

1-31-1070 AUTHORIZATION AND DIRECTION TO CLERK:

The Clerk is authorized and directed to take all actions and to do all things necessary to comply with and carry into effect all provisions of this Article as well as all other provisions of this Code related to administrative appeals.

1-31-1080 OFFICE OF COUNTY HEARING OFFICER CREATED:

Pursuant to Government Code section 27720 et seq., the office of County Hearing Officer is hereby established.

1-31-1090 DUTIES OF OFFICE:

The duties of the office of the County Hearing Officer are to conduct those hearings that are delegated to it by the Board of Supervisors by ordinance or resolution in accordance with the requirements of Government Code section 27720 et seq.

1-31-1100 APPOINTMENT OF COUNTY HEARING OFFICERS:

(a) The Board of Supervisors shall appoint a panel of not less than five attorneys-at-law as County Hearing Officers (hereafter, individually referred to as "Hearing Officer"), who shall each satisfy the requirements of section 1-31-1040, herein. Additionally, the County may contract with the Office of Administrative Hearings of the State of California, pursuant to Government Code section 27727, for the services for an administrative law judge to conduct proceedings pursuant to this Article.

(b) A vacancy in any one of the Hearing Officer panel positions shall be filled in the same manner in which the position that has become vacant was filled, and the person appointed to such vacancy shall serve the remainder of the unexpired term of the person who left office or was removed from office.

(c) A Hearing Officer appointed to the panel of Hearing Officers shall be an independent contractor. To avoid conflicts of interest, including the appearance of conflicts, a Hearing Officer shall provide no services to the County other than those of a Hearing Officer.

(d) The County Administrative Officer is authorized to execute service agreements with individuals appointed to the panel of Hearing Officers, subject to approval of the form of the contract by County Counsel. Such Hearing Officers shall be compensated for their services on an hourly or flat rate basis, and reimbursed for their actual and necessary expenses, as the County and the Hearing Officer may agree.

1-31-1110 QUALIFICATIONS OF COUNTY HEARING OFFICERS:

(a) A Hearing Officer shall have the qualifications stated in Government Code section 27724.

(b) A Hearing Officer shall maintain an active license to practice law in the State of California continuously during his or her term of office.

(c) Failure by a Hearing Officer to satisfy the requirements of subsection (b) of this section following his or her appointment shall automatically revoke a Hearing Officer's appointment to serve. A Hearing Officer shall immediately notify the Clerk of his or her failure to satisfy the requirements of subsection (b) of this section.

1-31-1120 TERM OF OFFICE:

The term of office of each Hearing Officer appointed to the panel of Hearing Officer shall be four years and shall commence on the day of his or her appointment, provided that each Hearing Officer shall continue to serve until his or her successor has been duly appointed and qualified. A Hearing Officer who is in the process of hearing a matter when the Hearing Officer's term expires, however, shall continue to discharge his or her duties as a Hearing Officer for the matter until the matter is completed. A Hearing Officer may be appointed to successive terms.

1-31-1130 REMOVAL/REVOCATION OF HEARING OFFICER APPOINTMENT:

A Hearing Officer may be removed from the panel of Hearing Officers appointed hereunder as follows:

(a) A Hearing Officer may be removed from the position of Hearing Officer by the County at any time for cause.

(b) If a Hearing Officer is disbarred, suspended, or put on involuntary inactive status by the California State Bar, or resigns membership to the California State Bar, then the Hearing Officer's appointment is automatically revoked.

(c) If a Hearing Officer is removed, or his or her appointment automatically revoked while presiding over a matter, then the Clerk shall randomly select a replacement Hearing Officer for the matter from the panel of Hearing Officers, or arrange to contract with the Office of Administrative Hearings of the State of California to provide an administrative law judge to serve as the Hearing Officer for the matter, and the vacancy on the panel shall be filled as provided in section 1-31-1100.

1-31-1140 INDEPENDENT AUTHORITY:

The appointment, selection, employment, performance evaluation, compensation, and benefits of a Hearing Officer shall not be directly or indirectly conditioned upon the outcome of hearings conducted hereunder, including, but not limited to, the findings of violations and/or the amount of any penalties or costs imposed or assessed.

1-31-1150 DESIGNATION OF HEARING OFFICER:

(a) Upon receipt of a notice of an appeal that is subject to this Article, on a rotating basis the Clerk shall, designate a member of the Hearing Officer panel appointed hereunder to serve as the County Hearing Officer for the matter. If the panel member designated is unable to serve as the Hearing Officer for the matter, then the Clerk shall designate another panel member to serve as the Hearing Officer for the matter, or arrange to contract with the Office of Administrative Hearings of the State of California to provide an administrative law judge to serve as the Hearing Officer for the matter.

(b) The Clerk shall promptly notify the parties in writing of the designation of the Hearing Officer for the matter. Within ten (10) days thereafter, each party shall be entitled to make a written request to the Clerk for reassignment of the hearing to another Hearing Officer. Each party shall be entitled to make only one (1) such request in a given matter. Upon the filing of a request for reassignment in accordance with the provisions of this section, without any further act or proof, the Clerk shall reassign the matter to the next available Hearing Officer in the rotation, or arrange to contract with the Office of Administrative Hearings of the State of California to provide an administrative law judge to serve as the Hearing Officer for the matter. Upon reassignment, a new notice of assignment of Hearing Officer shall be served on the parties. A party that did not request reassignment the first time may file its own request for reassignment as described above after the notice of assignment of the second Hearing Officer is served.

1-31-1160 INITIAL TELECONFERENCE; NOTICE OF HEARING; PLACE OF HEARINGS; CLERICAL AND TECHNICAL SUPPORT:

(a) Within fifteen (15) days after the final notice of assignment of a Hearing Officer, the Hearing Officer, the Clerk, and the parties shall hold a teleconference to discuss procedures, scheduling, and any other matters of interest. The Hearing Officer may require the parties to hold additional teleconferences as needed.

(b) When the Hearing Officer, in consultation with the Clerk and the parties, has established a hearing date, then the Clerk shall send written notice of the time, date, and place of the hearing to the parties not less than thirty (30) days prior to the hearing date. Unless otherwise agreed by the parties and the Hearing Officer, all hearings hereunder shall be held in the chambers of the Board of Supervisors.

(c) The Clerk shall provide such clerical and technical support to the Hearing Officer as the Hearing Officer may reasonably require, including clerical support at hearings and providing for audio and/or video recording of the proceedings.

1-31-1170 DISQUALIFICATION OF HEARING OFFICER:

(a) A Hearing Officer shall be perform his or her duties hereunder impartially, competently, and diligently. A Hearing Officer is subject to disqualification for bias, prejudice, or interest in a proceeding. Any party may raise objections to the Hearing Officer for the record and ask that the Hearing Officer disqualify him- or herself. A Hearing Officer shall voluntarily disqualify him- or herself and withdraw from any case in which there are valid grounds for disqualification. The Hearing Officer shall make the decision to grant or deny the request for disqualification. A denial of such a request may be appealed by any party to the County Administrative Officer, or his or her designee, who shall make a final determination on the request. If a Hearing Officer is disqualified for any reason, then the Clerk shall randomly select a replacement Hearing Officer for the matter from the panel of Hearing Officers or arrange to contract with the Office of Administrative Hearings of the State of California to provide an administrative law judge to serve as the Hearing Officer for the matter.

(b) It is not alone or in itself grounds for disqualification, without further evidence of bias, prejudice, or interest, that the Hearing Officer:

(1) Is or is not a member of a "class" or group of persons who share the same racial, ethnic, religious, gender, sexual orientation, or similar class or group identity, and the proceeding involves the rights of a specific person who belongs to that class or group.

(2) Has experience, technical competence, or specialized knowledge of, or has, in any capacity, expressed a view on, a legal, factual, or policy issue presented in the proceeding.

(3) Has, as a lawyer or public official, participated in the drafting of laws or regulations, or in the effort to pass or defeat laws or regulations, the meaning, effect, or application of which is in issue in the proceeding.

1-31-1180 GENERAL AUTHORITY OF COUNTY HEARING OFFICER:

When any provision of this Code, any resolution of the Board of Supervisors, or any policy of a County Department provides that an appeal from an administrative action by a County Officer or Department shall be assigned to a Hearing Officer appointed under this Article, the Hearing Officer shall have the authority to conduct a hearing, receive evidence, administer oaths, rule on the admissibility of evidence and upon questions of law, and any other powers or duties authorized by law. The Hearing Officer may, upon the stipulation of all parties, waive or modify any provision of the rules in this Article for that type of hearing, in completely or in part.

The Hearing Officer's authority on a particular matter, however, may be limited by the applicable Ordinance Code provision.

1-31-1190 CONDUCT OF HEARINGS:

A Hearing Officer shall conduct and preside over hearings pursuant to the following procedures, unless agreed in writing by the parties to the proceeding or otherwise specified in this Code:

(a) During the hearing, each party may be represented by counsel or another representative of the party's choice.

(b) Both before and during the hearing, at the request of any party the Hearing Officer may issue subpoenas and subpoenas duces tecum for the attendance of witnesses and the production of documents at the hearing. Compliance with Code of Civil Procedure section 1985 et seq. shall be a condition precedent to the issuance of a subpoena duces tecum. Any amount required to be paid to witnesses appearing pursuant to a subpoena under section 1985 et seq. shall be paid by the party at whose request the witness was subpoenaed.

(c) The scope of the hearing shall be limited to the order, citation, decision, or determination being appealed, the grounds for relief raised in the notice of appeal, and any specific requirements of this Code.

(d) Oral evidence shall be taken by the Hearing Officer only upon oath or affirmation during the hearing. If the appellant does not testify on his/her own behalf, the appellant may be called and examined as if under cross-examination.

(e) Each party shall have the following rights during a hearing:

(1) To call and examine witnesses;

(2) To introduce exhibits;

(3) To cross-examine opposing witnesses on any matter relevant to the issues whether or not the matter was elicited or discussed during direct examination;

(4) To impeach witnesses, regardless of which party first called them to testify, and

(5) To rebut unfavorable or negative evidence.

(f) The Hearing Officer is authorized to control the scope of evidence and the parties' means to obtain evidence in a particular hearing. The Hearing Officer may direct any party to produce documentary or other evidence in that party's control if reasonably necessary to the determination of the matter pending before the Hearing Officer, and may consider any unexplained refusal or failure to produce such evidence in rendering a decision.

(g) No discovery requests to other parties are allowed, including depositions, requests for production of documents, requests for admission, and all other discovery permitted in civil cases, except as expressly permitted in this Article.

(h) The hearing need not be conducted according to technical rules relating to evidence or witnesses, except as provided in this Article. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient by itself to support a finding unless it would be admissible over objections in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

(i) At the request of any party, or on his or her own accord, the Hearing Officer may take official notice of any fact that may be judicially noticed by the courts of California. The Hearing Officer shall inform the parties of the matters to be noticed and those matters shall be noted in the record. Each party shall be given a reasonable opportunity to refute any request by a party or action by the Hearing Officer on his or her own accord to take official notice.

(j) Except where otherwise provided in this Code, the burden of proof and production of evidence at the hearing shall be with the County. Except where otherwise provided in this Code, the burden of proof (persuasion) shall be by a preponderance of the evidence.

(k) All hearings conducted by a Hearing Officer shall be open to the public. Any interested person shall have the right to speak at the hearing subject to the Hearing Officer's right to exclude irrelevant and unduly repetitious evidence. Notwithstanding the above, the parties have the right to petition the Hearing Officer to allow, and the Hearing Officer may in his or her discretion allow, submission of evidence outside the presence of the public, if such evidence would not be disclosable under the Public Records Act, Government Code section 6250 et seq.

(l) Other than at the hearing and except for scheduling, administrative purposes, or emergencies that do not deal with substantive matters, there shall be no direct oral communication between the parties and the Hearing Officer on any matter related to the hearing without each party being present in person or by telephone or other means. Any written communication to the Hearing Officer by a party shall be copied to and served on the other party. Parties, as used in this section, shall also be deemed to refer to representatives for the parties. The Hearing Officer shall promptly forward and/or inform the other party or parties if he or she receives a communication which violates this provision.

(m) The failure of the appellant or any interested party to raise an objection either before or during the hearing regarding any defect in notice or procedure provided under this Code, or at law or in equity, shall be deemed a waiver of the defect. For purposes of a waiver of objection in this subsection, defect in procedure shall include a claim that the Hearing Officer should be disqualified under section 1-31-1170.

(n) Unless otherwise provided in this Code, if the appellant fails to appear for the hearing at the time and place noticed, then the Hearing Officer shall dismiss the appeal for failure to appear. If the appeal is dismissed, the order, citation, decision, or determination appealed from shall become final and effective on the date of the dismissal. Upon an appellant's request for reconsideration of the dismissal for failure to appear, which must be filed within thirty (30) days of the dismissal, and a showing of good cause, the Hearing Officer may set aside the dismissal upon the appellant's failure to appear, and may reschedule the matter for hearing.

(o) The Hearing Officer may inspect any subject premises, provided that the Hearing Officer (1) must give reasonable notice to the parties of the date and time of the inspection, (2) must give the parties an opportunity to be present during the inspection, (3) must state on the record any material facts observed and his or her conclusions drawn therefrom, and (4) must allow each party the right to rebut or explain any of the Hearing Officer's observations and conclusions.

(p) The Hearing Officer may request that the parties to the matter submit written briefs or statements of their position prior to or after the conclusion of the hearing. Any such briefs or statements shall be provided to the Hearing Officer and all parties on a schedule determined by the Hearing Officer, with all briefs filed and served simultaneously

(q) The Hearing Officer may grant postponements or continuances from time to time upon request and for good cause, or upon his or her own motion.

(r) Any motions by the parties shall be in writing or made orally on the record during the hearing and shall clearly state the action requested and the grounds relied upon.

(s) Nothing in this Article is to be construed as preventing the parties from stipulating to lesser intervals than those prescribed herein. For good cause shown and after giving each party an opportunity to be heard, the Hearing Officer may also shorten the times specified in this Article.

(t) Unless otherwise provided in this Code, the Hearing Officer shall follow the order of proceeding described below in each hearing. The Hearing Officer may vary this order only if the Hearing Officer determines, and states on the record, that special circumstances exist that justify the variance:

(1) Ensure the Clerk begins the audio or video recording of the hearing and announce the beginning of the proceedings;

(2) Identify the hearing;

(3) Request that all attendants at the hearing state their names, and their titles or relation to this matter;

(4) Explain to attendants how the hearing will proceed and address any necessary notifications required by these procedures;

(5) Have the Clerk swear in all prospective witnesses;

(6) Hear any preliminary motions or objections;

(7) Allow parties to make opening statements;

(8) Allow the party with the burden of proof and production of evidence to present its evidence and witnesses;

(9) Allow the adverse party to present its evidence and witnesses;

(10) Allow the parties to present rebuttal evidence and witnesses;

(11) Allow the parties to make closing statements;

(12) Explain the process for the issuance of the final written decision and appeals procedures;

(13) Direct the parties to file closing briefs on specific issues, if the Hearing Officer deems this necessary; and

(14) Close the hearing and request the Clerk to terminate the recording of the hearing.

1-31-1200 CONDUCT OF WITNESSES:

If during a proceeding conducted under this Article any person disobeys or resists any lawful order, refuses to respond to a subpoena, refuses to take the oath or affirmation as a witness, thereafter refuses to be examined, engages in misconduct, or obstructs the proceeding, a Hearing Officer shall certify the facts to the Superior Court of the County to initiate proceedings pursuant to Government Code sections 25173 through 25175.

1-31-1210 DECISION:

(a) After the Hearing Officer has considered all evidence presented, including any closing briefs required of the parties, and the relevant standard of review, the Hearing Officer shall issue his or her decision on the matter in writing, within thirty (30) days of the date the matter was deemed submitted for decision. The decision shall include (i) a statement of the issues, (ii) findings of fact, (iii) a summary of the relevant evidence, (iv) a resolution of the credibility of witnesses where there is conflicting testimony, (v) a determination of the prevailing party and, if applicable to the matter, (vi) an award of reasonable attorney's fees and costs to the prevailing party, if the matter is brought in accordance with section 4-01-1370 or 7-15-3715 of this Code, and (vii) a final determination and order affirming, reversing, or modifying the finding, decision, or action that was the subject of the hearing, or referring the matter back to County Officer or County Department for further action. If the Hearing Officer finds that the County Officer or Department acted in an arbitrary or capricious manner in the underlying matter, the Hearing Officer may include an order that the appeal fee paid by the appellant be refunded.

(b) Alternatively, the decision may be issued orally at the conclusion of the hearing, so long as it is accompanied by a written decision within thirty (30) days of the date the matter was deemed submitted for decision. The parties may waive a written decision, provided the Hearing Officer has advised the parties that in the absence of a written decision the matter may not be appealed to court.

(c) The Hearing Officer may file with the County Administrative Officer a written request for one extension of up to thirty (30) days for submission of the written decision, which request shall be granted or denied by the County Administrative Officer in his or her discretion. The Hearing Officer shall promptly abide by the decision of the County Administrative Officer.

(d) The Hearing Officer shall submit the written decision to the Clerk, who shall promptly mail a copy to all parties along with a proof of service.

(e) The written decision shall include a notice that the parties have ninety (90) days to pursue a petition for a writ of administrative mandamus of the decision under Code of Civil Procedure section 1094.6.

(f) Unless otherwise provided in this Code or the Hearing Officer's decision, the decision shall be effective upon issuance, whether at the hearing or upon serving the written decision pursuant to subsection (c) of this section.

(g) Unless otherwise provided in this Code, the Hearing Officer's decision shall be final for all purposes, shall be a final agency action for purposes of writ review, shall not be subject to reconsideration or rehearing, and shall not be subject to further administrative appeal.

1-31-1220 RECORDING OF THE HEARING:

The Clerk shall cause an audio and/or video recording of the hearing to be made. Any party at his or her own expense may provide for the taking of testimony by a qualified stenographic reporter.

1-31-1230 ADMINISTRATIVE RECORD; COSTS OF PREPARATION:

(a) The official administrative record of an appeal proceeding heard by a Hearing Officer shall be comprised of the following: all written notices; all briefs, motions, responses, or objections filed with the Hearing Officer prior to or during the proceeding; all exhibits admitted as evidence during the proceeding; the recording of the proceeding; and the Hearing Officers' rulings, including all findings, decisions, and orders. The Clerk shall maintain the Official Record for the period of time required by the applicable records retention policy.

(b) The Clerk shall provide a copy of the official record, or requested portion thereof, to any party upon written request and payment by the requesting party of the actual costs of duplication. No written request for a record of proceedings shall be deemed filed with the Clerk unless and until such person has deposited with the Clerk the estimated costs of preparation thereof as determined by the Clerk, with the difference, if any, from actual costs to be refunded or paid at the time of delivery of the record. The cost of preparing the record may be waived for individuals who meet the qualifications of a fee waiver in the Superior Court of this state.

1-31-1240 JUDICIAL REVIEW:

An appeal from a final administrative decision rendered by a Hearing Officer shall be to the California Superior Court in accordance with all applicable laws and rules, including the provisions of Code of Civil Procedure section 1094.6.

1-31-1250 ADDITIONAL RULES OF PROCEDURE:

The Board of Supervisors by ordinance or resolution may adopt additional rules of procedure governing the conduct of hearings presided over by Hearing Officers.

1-31-1260 OTHER PUBLIC ENTITY'S EMPLOYMENT OF HEARING OFFICER; RE-IMBURSEMENT TO COUNTY:

Pursuant to Government Code section 27725, any other local public entity may contract with the County to employ the services of a County Hearing Officer. The duties and responsibilities of the Hearing Officer described in Government Code sections 27721 and 27722 shall be set forth in the contract between the County and the other local public entity. Reimbursement to the County for the services of a County Hearing Officer shall be made as provided in the contract between the County and the other local public entity. If no provision for reimbursement is contained in the contract, then reimbursement shall be made on a pro rata basis of actual cost to the County in providing the service, including salaries, benefits, overhead, and any travel expense.

1-31-1270 EFFECT ON EXISTING LAW:

The provisions of this Article constitute an alternative to, and do not supersede, any other provision of law, including this Code, specifying that any matter may be heard or determined by a Hearing Officer.

Section 2. THE TITLE OF SECTION 165 (“ADMINISTRATIVE APPEALS”) OF THE GENERAL PROVISIONS of the Ordinance Code of Tulare County is amended to read as follows:

165 ADMINISTRATIVE APPEALS TO THE BOARD OF SUPERVISORS:

Section 3. SECTION 1-05-1195 (“EXCEPTIONS AND DISPUTES”) OF ARTICLE 5 (“CRIMINAL JUSTICE ADMINISTRATIVE FEES”) OF CHAPTER 5 (“FINANCE”) of the Ordinance Code of Tulare County is amended to read as follows:

1-05-1195 EXCEPTIONS AND DISPUTES:

[No changes to subsection (a)]

(b) Disputes as to whether a particular type of booking is subject to the established fees or falls within the exceptions shall be initially determined by the Sheriff. If the Sheriff’s decision does not satisfactorily resolve the dispute, the dispute may be decided by the County Administrative Officer. If the County Administrative Officer does not satisfactorily resolve the dispute, the matter may be appealed to the Board of Supervisors pursuant to section 165 of this Code. The decision of the Board of Supervisors shall be final.

Section 4. SECTION 1-05-1420 (“FAILURE TO COLLECT AND REPORT TAX”) OF ARTICLE 11 (“TRANSIENT OCCUPANCY TAX”) OF CHAPTER 5 (“FINANCE”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Ordinance Code of Tulare County is amended to read as follows:

1-05-1420 FAILURE TO COLLECT AND REPORT TAX:

[No changes to subsection (a)]

(b) Such operator may, within ten (10) days after the serving or mailing of such notice, make application in writing to the Tax Collector for ~~a hearing~~ administrative review on the amount assessed. If application by the operator for ~~a hearing~~ administrative review is not made within said ten (10) day period, the tax, interest and penalties determined by the Tax Collector shall become final and conclusive and immediately due and payable within five (5) days following the ten (10) day period. If such application is made, the Tax Collector shall give not less than five (5) days’ written notice to the operator, in the manner prescribed above, to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest, and penalties.

(c) At such ~~hearing~~ administrative review, the operator may appear and offer ~~evidence~~ an explanation of why such specified tax, interest, and penalties should not be so fixed.

(d) After such ~~hearing~~ administrative review the Tax Collector shall determine the proper tax to be remitted and shall thereafter give written notice to the operator in the manner prescribed above of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable fifteen (15) days after the serving or mailing of such notice unless an appeal is taken as provided in section 1-05-1435 of this Article.

Section 5. SECTION 1-05-1425 (“DEFICIENCY DETERMINATIONS”) OF ARTICLE 11 (“TRANSIENT OCCUPANCY TAX”) OF CHAPTER 5 (“FINANCE”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Ordinance Code of Tulare County is amended to read as follows:

1-05-1425 DEFICIENCY DETERMINATIONS:

[No changes to subsection (a)]

(b) The operator may, within ten (10) days after service or mailing of such notice, apply in writing to the Tax Collector for ~~a hearing~~ administrative review on the amount assessed. If an application by the operator for ~~a hearing~~ administrative review is not received within the time prescribed, the tax, interest and penalties, if any, determined by the Tax Collector shall become final and conclusive and immediately due and payable within five (5) days following the ten (10) day period after the service or mailing of notice. If such application is timely made, the Tax Collector

shall give not less than five (5) days of written notice in the manner prescribed herein to the operator to show cause, at a time and place fixed in such notice, why the assessed amount should not be fixed for such tax, interest, and penalties.

(c) At such ~~hearing~~ administrative review, the operator may appear and offer ~~evidence~~ an explanation of why the assessed amount, including interest and penalties, should not be so fixed.

(d) After such ~~hearing~~ administrative review the Tax Collector shall determine the proper tax to be remitted and shall thereafter give written notice to the operator in the manner prescribed herein of such determination and the amount of such tax, interest, and penalties. The Tax Collector's determination shall be presumed to be correct. In connection with all appeals, the operator has the burden of proving that the Tax Collector's determination is incorrect, and the burden of producing sufficient evidence to establish the correct tax liability. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 1-05-1435.

Section 6. SECTION 1-05-1435 ("APPEALS") OF ARTICLE 11 ("TRANSIENT OCCUPANCY TAX") OF CHAPTER 5 ("FINANCE") OF PART I ("GOVERNMENT AND ADMINISTRATION") of the Ordinance Code of Tulare County is amended to read as follows:

1-05-1435 APPEALS:

Any operator aggrieved by any decision of the Tax Collector may appeal to the ~~Board of Supervisors~~ County Hearing Officer by filing a notice of appeal, [comma deleted] with the Clerk to the Board of Supervisors in accordance with Article 31 of Chapter 3 of Part I of this Code within fifteen (15) days after the serving or mailing of the notice of the decision. ~~The Board of Supervisors shall fix a~~ The time and place for hearing such appeal shall be fixed and the ~~Clerk of the Board of Supervisors shall give notice in writing to such operator at his or her last known address of the time and place for hearing such appeal shall be conducted in accordance with Article 31 of Chapter 3 of Part I of this Code. The decision of the Board of Supervisors shall be final and conclusive and shall be served upon the appellant by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator at his or her last known address.~~ Any amount found to be due shall be immediately due and payable within five (5) days upon the service of said notice.

Section 7. SECTION 1-05-1445 (“ACTIONS TO COLLECT DELINQUENCY AND DEFAULTED TAXES, PENALTIES AND INTEREST”) OF ARTICLE 11 (“TRANSIENT OCCUPANCY TAX”) OF CHAPTER 5 (“FINANCE”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Tulare County Ordinance Code is amended to read as follows:

**1-05-1445 ACTIONS TO COLLECT DELINQUENCY AND DEFAULTED TAXES,
PENALTIES AND INTEREST:**

(a) Certificate of Delinquency.

The Tax Collector is authorized to record a Certificate of Delinquency and Transient Occupancy Tax Lien in the official records of the County Recorder against any operator who fails to remit taxes, penalties, or interest due under this Article within the time herein required. The Certificate of Delinquency and Transient Occupancy Tax Lien may be recorded by the Tax Collector after:

(1) The tenth (10th) day following service or mailing of the notice required by subdivision (a) of either section 1-05-1420 or section 1-05-1425, if the operator does not timely file a ~~hearing application~~ request for administrative review as permitted under subdivision (b) of either section 1-05-1420 or section 1-05-1425, whichever is applicable.

(2) The fifteenth (15th) day after the Tax Collector’s determination of the amount of tax to be remitted pursuant to subdivision (d) of either section 1-05-1420 or section 1-05-1425, unless the operator files a timely appeal pursuant to section 1-05-1435.

(3) If the operator files a timely appeal pursuant to section 1-05-1435, the fifteenth (15th) day after service of the ~~Board of Supervisor’s findings~~ decision by the County Hearing Officer pursuant to section 1-05-1435.

The Certificate of Delinquency and Transient Occupancy Tax Lien may be recorded within three (3) years after the tax becomes due. The Certificate of Delinquency and Transient Occupancy Tax Lien shall be dated and specify the amount of tax and penalties due as of that date, the name and last known address of the operator liable for the same, and a statement that the Tax Collector has complied with all provisions of this Article with respect to the computation and levy of the tax owed by the operator. From the time of recordation of the Certificate of Delinquency and Transient Occupancy Tax Lien, the amount required to be paid, together with penalties and continually accruing interest, shall constitute a lien upon all real property within Tulare County owned by the operator or thereafter acquired prior to expiration of the lien. Except as otherwise provided in this Article, the lien shall have the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the filing of the Certificate of Delinquency and Transient Occupancy Tax Lien, unless sooner released or otherwise discharged. Within ten (10) years of the date of the recording of the Certificate of Delinquency and Transient Occupancy Tax Lien (or within ten (10) years of the date the last extension of the lien), the Tax Collector may extend the lien by recording either a new or the original certificate in the official records of the County Recorder, and from the

time of such recording, the original lien shall be extended for an additional ten (10) years unless sooner released or otherwise discharged. The lien shall not be released or discharged until the delinquent taxes, penalties for delinquency, and costs of collection are fully paid.

[No changes to subsections (b) and (c)]

Section 8. SECTION 1-05-1446 (“ACTION TO SEIZE PROPERTY OF OPERATOR TO ASSURE THE PAYMENT OF TAXES PENDING APPEAL UNDER SECTION 1-05-1435--APPEAL, JUDICIAL ACTION, BOND AND COSTS”) OF ARTICLE 11 (“TRANSIENT OCCUPANCY TAX”) OF CHAPTER 5 (“FINANCE”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Tulare County Ordinance Code is amended to read as follows:

1-05-1446 ACTION TO SEIZE PROPERTY OF OPERATOR TO ASSURE THE PAYMENT OF TAXES PENDING APPEAL UNDER SECTION 1-05-1435--APPEAL, JUDICIAL ACTION, BOND AND COSTS:

[No changes to subsection (a)]

(b) An operator may challenge a seizure made pursuant to this section by filing a verified petition in the superior court for a writ of prohibition or writ of mandate alleging:

(1) There are no grounds for the seizure;

(2) The declaration of the tax collector concerning the necessity for the seizure is untrue or inaccurate; and

(3) There are and will be sufficient funds in the possession of the operator to pay the taxes determined due upon the date that the decision in an appeal brought under Section 1-05-1435 is issued by the ~~Board of Supervisors~~ County Hearing Officer.

[No changes to subsections (c) and (d)]

Section 9. SECTION 1-23-5000 (“NOTICE OF VIOLATION, ORDER TO CORRECT AND NOTICE OF ASSESSMENT OF CIVIL FINES AND PENALTIES”) OF ARTICLE 5 (“PROCEDURES”) OF CHAPTER 23 (“ADMINISTRATIVE FINES”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Tulare County Ordinance Code is amended to read as follows:

1-23-5000 NOTICE OF VIOLATION, ORDER TO CORRECT AND NOTICE OF ASSESSMENT OF CIVIL FINES AND PENALTIES:

Upon determining that a violation of any provision of this ~~Ordinance~~ Code or Tulare County Ordinance No. 352 exists, the Director may take the following steps:

(a) Issue a Notice of Violation, Order to Correct, and Notice of Assessment of Civil Fines and Penalties (including Costs), hereinafter referred to as "Notice of Violation," to the property owner by certified mail, personal service, or service by mail, by the Director or a designee, or a peace officer. The Notice of Violation shall specify or contain:

[No changes to subsections (1) through (6)]

(7) A statement that the property owner affected by the Notice of Violation may, within fifteen (15) calendar days after delivery or service of the Notice of Violation, ~~appeal~~ request administrative review in writing, in a format to be prepared by the Tulare County Resource Management Agency, to the Director which issued the Notice of Violation the findings, determinations and amount of potential fines and penalties set out in the Notice of Violation, pursuant to the procedures set out in section 1-23-5015.

(8) The Notice of Violation shall contain a statement that, if the owner fails to request ~~an appeal~~ administrative review of the determination of administrative fines set out in the Notice of Violation, the determination of fines in the Notice of Violation shall be final.

(b) The Director may, in his or her discretion, record a copy of the Notice of Determination of Fine with the County Recorder of Tulare County. In the event of such recordation and in the event that the Notice of Violation is subsequently modified, the Director shall record a Notice of Correction. Correction of the violation shall not excuse the owner's liability for costs incurred during the administrative abatement process. In the event that the Notice of Violation is eliminated through the appeal process or because the violations have been corrected, the Director shall record a Notice of Withdrawal of the Notice of Violation or a Notice of Satisfaction and Compliance of the Notice of Violation.

(c) If the Director, or designee, determines that an effort is being made to correct the violation, he or she may grant an additional period of time for correction of the violation. Unless a request for administrative review of the Notice of Violation is filed as set out in ~~sections~~ section 1-23-5015 ~~and 1-23-5025~~, the Notice of Violation shall constitute the final administrative order or decision ~~on~~ of the local agency ~~and the assessment of administrative fines and penalties shall become a final order or decision within the meaning of Government Code section 53069.4(b)(1) and (c). It cannot be appealed and cannot be judicially reviewed, because the aggrieved person failed to exhaust available administrative remedies.~~

[No changes to subsection (d)]

Section 10. SECTION 1-23-5015 (“APPEAL OF NOTICE OF VIOLATION”) OF ARTICLE 5 (“PROCEDURES”) OF CHAPTER 23 (“ADMINISTRATIVE FINES”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Tulare County Ordinance Code is amended to read as follows:

1-23-5015 ~~APPEAL~~ ADMINISTRATIVE REVIEW OF NOTICE OF VIOLATION:

(a) Any person (~~“the appellant”~~) upon whom a Notice of Violation is served may ~~appeal~~ request administrative review of the findings, determinations, and/or amount of potential fines and penalties set out in the Notice of Violation pursuant to the procedures set forth in this section. The ~~appellant~~ aggrieved person must file a written ~~appeal~~ request with the ~~director~~ Director in a format to be prepared by the ~~Tulare County~~ Resource Management Agency, and return it to the address stated on the form within fifteen (15) days from the date of service of the Notice of Violation. Service of the ~~Notice of Violation~~ request may be effected by personal service, service by mail or certified mail. The time requirement for filing a request ~~for hearing form~~ shall be deemed jurisdictional and may not be waived. The written ~~appeal~~ request shall contain but not be limited to the following:

(1) A brief statement setting forth the interest the ~~appealing party~~ aggrieved person has in the matter relating to the imposition of the penalty;

(2) A brief statement of the material facts which the ~~appellant~~ aggrieved person claims support his or her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted; and

(3) An address at which the ~~appellant~~ aggrieved person agrees notice of any additional proceedings or an order relating to imposition of the administrative penalty may be received by first class mail.

(b) ~~An appeal~~ Administrative review of a Notice of Violation shall be heard by the Director, or designee, issuing the Notice of Determination of Fine as the ~~hearing~~ departmental review officer. The ~~appeal~~ hearing administrative review shall be set no sooner than twenty (20) days and no later than forty-five (45) days following the receipt of the written ~~appeal~~ request. Notice of the ~~appeal~~ hearing administrative review shall be mailed at least twelve (12) calendar days before the date set for the ~~hearing~~ review. Failure of the ~~appellant~~ aggrieved person to appear timely will cause the Notice of Violation and the assessment of administrative fines and penalties to become a final order or decision.

(c) In reviewing the Notice of Violation, the ~~hearing~~ administrative review officer shall consider the factors set forth in section 1-23-3020 above, and shall uphold, withdraw or modify the Notice of Violation and fines and penalties specified by that Notice. The ~~hearing~~ administrative review officer shall serve a copy of his or her written decision on the ~~appellant~~ aggrieved person. The written decision shall also include or be accompanied by a description of the right to appeal the

decision to the ~~Board of Supervisors~~ County Hearing Officer as provided in Section 1-23-5025 of this Article. The ~~hearing administrative review~~ officer's decision shall be deemed served within two days after the date it was mailed to the address provided by the ~~appellant~~ aggrieved person.

(d) ~~The~~ Unless the decision of the hearing administrative review officer shall constitute the administrative order or decision of the local agency and be final within the meaning of Government Code section 53069.4(c) unless is appealed to the ~~Board of Supervisors~~ County Hearing Officer as set out in section 1-23-5025, the decision shall constitute the final administrative order or decision on the local agency. It cannot be appealed and cannot be judicially reviewed, because the aggrieved person failed to exhaust available administrative remedies.

Section 11. SECTION 1-23-5025 ("APPEAL TO THE BOARD OF SUPERVISORS") OF ARTICLE 5 ("PROCEDURES") OF CHAPTER 23 ("ADMINISTRATIVE FINES") OF PART I ("GOVERNMENT AND ADMINISTRATION") of the Ordinance Code of Tulare County is amended to read as follows:

~~1-23-5025 APPEAL TO THE BOARD OF SUPERVISORS:~~

(a) The aggrieved person who appealed requested administrative review of the Notice of Violation pursuant to section 1-23-5015 may appeal the decision of the ~~hearing officer~~ administrative review officer to the ~~Board of Supervisors~~ County Hearing Officer, subject to the provisions of ~~section 165~~ Article 31 of Chapter 1 of Part I of this Ordinance Code.

(b) An appeal to the ~~Board~~ County Hearing Officer shall be filed with the Clerk to the Board of Supervisors in accordance with Article 31 of Chapter 3 of Part I of this Code and specifically set forth the grounds of the appeal. At the time of filing the appeal, the appellant shall pay a fee in an amount adequate to cover the cost of processing and hearing the appeal as established from time to time by resolution of the Board of Supervisors.

(c) The Clerk to the Board shall mail notice to the appellant of the date and time that the ~~Board~~ County Hearing Officer will ~~meet to~~ hear the appeal, which date shall be not less than five (5) calendar days after the date of mailing the notice.

(d) ~~At a time fixed by the Clerk of the Board, the Board shall meet to review the appeal. The appellant may appear and be heard on the matter.~~

(~~e-d~~) ~~The Notice of Violation and the written decision of the hearing officer shall be admitted into evidence. The owner shall bear the burden of proving that the decision of the hearing officer~~ Director should be repealed or modified.

(~~f-e~~) The hearing shall be conducted in the manner prescribed in ~~section 165~~ Article 31 of Chapter 3 of Part I of this Ordinance Code.

~~(g) In reviewing the decision of the hearing officer, the Board shall consider the factors set forth in section 1-23-3020 above, and shall uphold, repeal or modify the decision of the hearing officer and the Board shall uphold, eliminate, or modify any fines and penalties assessed by the hearing officer. The written decision shall also include or be accompanied by a description of the appellant's right to appeal the decision as provided in Government Code section 53069.4 and section 1-23-5035.~~

~~(h) The decision of the Board shall constitute the final administrative order or decision of the local agency within the meaning of Government Code section 53069.4(b)(1) and (c). The Clerk of the Board shall serve a copy of the Board's written decision on the appellant in the written notice of appeal. The Board's decision shall be deemed served within two days after the date it is mailed by the Clerk of the Board to the address provided by the appellant.~~

Section 12. SECTION 1-23-5035 ("JUDICIAL REVIEW") OF ARTICLE 5 ("PROCEDURES") OF CHAPTER 23 ("ADMINISTRATIVE FINES") OF PART I ("GOVERNMENT AND ADMINISTRATION") of the Tulare County Ordinance Code is amended to read as follows:

1-23-5035 JUDICIAL REVIEW:

Any person aggrieved by a final administrative order or decision imposing an administrative fine under Section 1-23-5025 above may seek review with the Trial Superior Court in Tulare County pursuant to Government Code 53069.4(b) Code of Civil Procedure section 1094.6. When giving written notice of the decision of the County Hearing Officer, the Clerk of the Board of Supervisors shall provide notice that the time within which judicial review must be sought is governed by Code of Civil Procedure section 1094.6.

Section 13. SECTION 1-27-1205 ("PROTEST OF IMPOSITION OF FEES") OF ARTICLE 5 ("ADMINISTRATIVE APPEAL AND PROTEST OF IMPOSITION OF FEE(S)") OF CHAPTER 27 ("PUBLIC FACILITIES IMPACT FEES") OF PART I ("GOVERNMENT AND ADMINISTRATION"), as added by Ordinance No. 3430, effective August 11, 2011, is renumbered without amendment to Section 1-27-1210.

Section 14. SECTION 1-27-1210 ("PROTEST PROCEDURE") OF ARTICLE 5 ("ADMINISTRATIVE APPEAL AND PROTEST OF IMPOSITION OF FEE(S)") OF CHAPTER 27 ("PUBLIC FACILITIES IMPACT FEES") OF PART I ("GOVERNMENT AND ADMINISTRATION"), as added by Ordinance No. 3430, effective August 11, 2011, is renumbered without amendment to Section 1-27-1215.

Section 15. SECTION 2-01-1030 (“JUDICIAL REVIEW OF DECISION”) OF CHAPTER 1 (“USE OF PUBLIC STREETS, SIDEWALKS AND OTHER PUBLIC PLACES”) OF PART II (“PUBLIC PLACES”) of the Tulare County Ordinance Code is amended to read as follows:

2-01-1030 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the Board of Supervisors made ~~after a hearing~~ pursuant to this Chapter, if the decision denies or revokes the permit, shall be made pursuant to section 1094.6 of the Code of Civil Procedure of the State of California. The method of judicial review, the time limits for judicial review, and all of the other provisions of said section 1094.6 shall govern such judicial review. When giving written notice to the applicant that the permit has been denied or revoked, the Board of Supervisors shall provide notice to the applicant that the time within which judicial review must be sought is governed by said section 1094.6.

Section 16. SECTION 2-03-1130 (“APPLICATION”) OF ARTICLE 5 (“BOATING AND SWIMMING”) OF CHAPTER 3 (“USE OF PUBLIC RIVERS AND STREAMS”) OF PART II (“PUBLIC PLACES”) of the Tulare County Ordinance Code is amended to read as follows:

2-03-1130 APPLICATION:

~~(a)~~ This Article shall apply to the use of the waters of the Kings River within Tulare County from the Fresno County boundary to the Kingsburg Weir, including any and all channels thereof.

Section 17. SECTION 4-03-1136 (“ACCEPTANCE OF OUT-OF-COUNTY WASTE”) OF ARTICLE 3 (“STORAGE AND DISPOSAL OF SOLID WASTE: PROHIBITIONS”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-03-1136 ACCEPTANCE OF OUT-OF-COUNTY WASTE:

No out-of-County waste shall be accepted at County Solid Waste facilities unless specifically approved by the ~~Resource Management Agency~~ Solid Waste Department Director. Denials may be appealed to the County Administrative Officer and then to the Board as provided in section 165 of this Code. The parameters to be considered when evaluating a request for acceptance of out-of-County waste are:

(a) The hauler of the out-of-County waste shall submit the request to the ~~Resource Management Agency~~ Solid Waste Department Director and file proof that ~~they have~~ the hauler has submitted a copy of the request to the jurisdiction from which ~~they collect~~ the hauler collects.

[no changes to subsections (b), (c), (d), or (e)]

Section 18. SECTION 4-03-1157 (“INVESTIGATION AND ISSUANCE OF INACCESSIBLE PROPERTY EXEMPTION”) OF ARTICLE 4 (“USE OF COLLECTION SERVICE”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1157 INVESTIGATION AND ISSUANCE OF INACCESSIBLE PROPERTY EX-EMPTION:

The ~~Resource Management Agency Solid Waste Department~~ Director shall investigate the exemption application and, upon determination that the subject premises is inaccessible to the County’s licensed Solid Waste Collector, the ~~Resource Management Agency Solid Waste Department~~ Director shall issue an exemption with or without conditions in accordance with Section 4-03-1155. If the particular property is accessible to the County’s licensed Solid Waste Collector, then the ~~Resource Management Agency Solid Waste Department~~ Director shall deny the application. The ~~Resource Management Agency Solid Waste Department~~ Director’s decision shall be in writing and final unless ~~appealed~~ a notice of appeal is filed in writing to with the Clerk of the Board of Supervisors within ten (10) calendar days of the Solid Waste Department Director’s decision. A hearing on the appeal shall be conducted by the County Hearing Officer in accordance with Section 165 Article 31 of Chapter 3 of Part I of the this Ordinance Code of Tulare County.

Section 19. SECTION 4-03-1167 (“INVESTIGATION AND ISSUANCE OF RECYCLING EXEMPTION”) OF ARTICLE 4 (“USE OF COLLECTION SERVICE”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1167 INVESTIGATION AND ISSUANCE OF RECYCLING EXEMPTION:

The ~~Resource Management Agency Solid Waste Department~~ Director shall investigate the exemption application and, upon determination that the applicant is able to appropriately recycle the Solid Waste generated on the premises, the ~~Resource Management Agency Solid Waste Department~~ Director may issue an exemption with or without conditions in accordance with Section 4-03-1165. If the applicant is unable to appropriately recycle the Solid Waste that may be generated on the property, then the ~~Resource Management Agency Solid Waste Department~~ Director shall deny the exemption. The ~~Resource Management Agency Solid Waste Department~~ Director’s decision shall be in writing and final unless an appeal is filed ~~appealed~~ in writing to with the Clerk to the Board of Supervisors within ten (10) calendar days of the Solid Waste Department Director’s decision in accordance with Article 31 of Chapter 3 of Part I of this Code. A hearing on the appeal shall be conducted by a County Hearing Officer in accordance with Section 165 Article 31 of Chapter 3 of Part I of the this Ordinance Code of Tulare County.

Section 20. SECTION 4-03-1175 (“SUSPENSION OR REVOCATION OF EXEMPTIONS”) OF ARTICLE 4 (“USE OF COLLECTION SERVICE”) OF CHAPTER 3 (“MANAGEMENT OF SOLID

WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1175 SUSPENSION OR REVOCATION OF EXEMPTIONS:

If the ~~Resource Management Agency~~ Solid Waste Department Director, upon reasonable cause, determines that grounds for the issuance of an exemption under either Section 4-03-1155 or 4-03-1165 no longer ~~exists~~ exist, ~~then~~ the ~~Resource Management Agency~~ Solid Waste Department Director shall issue a notice in writing under Section 4-03-1076 to the owner of the property and any person occupying such property stating that the grounds for granting the exemption no longer ~~exists~~ exist, specifying the basis for such determination, [comma added] and establishing a specific date upon which the exemption shall be suspended or revoked unless the ~~Resource Management Agency~~ Solid Waste Department Director’s determination is appealed by filing a notice of appeal in writing to with the Clerk to the Board of Supervisors within ten (10) calendar days of the Solid Waste Department Director’s decision in accordance with Article 31 of Chapter 3 of Part I of this Code. A hearing on the appeal shall be conducted by a County Hearing Officer in accordance with Section 165 Article 31 of Chapter 3 of Part I of the Ordinance this Code of Tulare County.

Section 21. SECTION 4-03-1180 (“DENIAL OR SUSPENSION: WAITING PERIOD FOR RENEWED APPLICATION”) OF ARTICLE 4 (“USE OF COLLECTION SERVICE”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1180 DENIAL OR SUSPENSION: WAITING PERIOD FOR RENEWED APPLICATION:

If an applicant is denied an exemption under Section 4-03-1167, if an applicant’s exemption is suspended or revoked under Section 4-03-1175, ~~or~~ if an applicant’s appeal under ~~Section 165 Article 31 of Chapter 3 of Part I~~ of any decision rendered against the applicant under Sections 4-03-1167 or 4-03-1175 is denied, or if an applicant’s appeal of an adverse decision by the County Hearing Officer is not overturned by a court, then the applicant may not submit an application for an exemption on the same premises or property under Sections 4-03-1165 or 4-03-1175 for a period of six (6) months after said determination has been made, unless the ~~Board~~ County Hearing Officer finds that the public interest requires reconsideration of the matter within a shorter period of time.

Section 22. SECTION 4-03-1330 (“OBJECTION TO TERMINATION”) OF ARTICLE 6 (“CUSTOMER SERVICE AND SERVICE TERMINATION”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1330 OBJECTION TO TERMINATION:

Any objections as to termination of service shall be submitted in writing by the owner or occupant of the subject premises to the ~~Resource Management Agency~~ Solid Waste Department Director. If an objection to termination of service is received by the ~~Resource Management Agency~~ Solid Waste Department Director prior to the date for termination of service, the termination of service shall be stayed pending a final decision on the objection to termination of service. If service has already been terminated at the time a written objection to the termination of service is received by the ~~Resource Management Agency~~ Solid Waste Department Director, service need not be resumed unless ordered by a final decision and/or in accordance with Section 4-03-1320 of this Chapter. The ~~Resource Management Agency~~ Solid Waste Department Director shall investigate any objection and render a decision in writing. Such decision shall be final unless a notice of appeal is filed ~~appealed~~ in writing to with the Clerk to the Board of Supervisors within ten (10) calendar days of the Solid Waste Department Director’s decision in accordance with Article 31 of Chapter 3 of Part I of this Code. A hearing on the appeal shall be conducted by a County Hearing Officer in accordance with ~~Section 165~~ Article 31 of Chapter 3 of Part I of the this Ordinance Code of Tulare County.

Section 23. SECTION 4-03-1550 (“APPEAL”) OF ARTICLE 10 (“RECYCLING AND DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1550 APPEAL:

(a) Except as herein provided, all appeals of decisions made by the Building Official or the Solid Waste ~~Manager~~ Department Director, or designee, on matters set forth in this Chapter shall be subject to the provisions of ~~Section 165~~ Article 31 of Chapter 3 of Part I of this Ordinance Code.

(b) Within ten (10) calendar days after the date on which written notice of the decision is mailed or delivered to the owner, Applicant or other interested party, the owner, Applicant, other interested party or his or her authorized agent may file a notice of appeal to with the Clerk to the Board of Supervisors for review of the decision in accordance with Article 31 of Chapter 3 of Part I of this Code. The decision shall be final unless such an appeal is filed within ten (10) calendar days of the mailing or delivery of notices to the Applicant. A hearing on the appeal shall be conducted by a County Hearing Officer in accordance with Article 31 of Chapter 3 of Part I of this Code.

~~(c) At the time of filing the appeal, the appellant shall pay a fee in an amount adequate to cover the cost of processing and hearing the appeal as established from time to time by resolution of the Board of Supervisors.~~

Section 24. SECTION 4-05-1065 (“JUDICIAL REVIEW OF DECISION”) OF ARTICLE 3 (“FIREWORKS”) OF CHAPTER 5 (“SAFETY REGULATIONS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-05-1065 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the Board of Supervisors made ~~after a hearing~~ pursuant to this Article, if the decision denies the permit, shall be made pursuant to section 1094.6 of the Code of Civil Procedure of the State of California. The method of judicial review, the time limits for judicial review, and all of the other provisions of said section 1094.6 shall govern such judicial review. When giving written notice to the applicant that the permit has been denied, the Board of Supervisors shall provide notice to the applicant that the time within which judicial review must be sought is governed by said section 1094.6.

Section 25. A DEFINITION OF “ADMINISTRATIVE REVIEW” IS ADDED TO SECTION 4-07-1400 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code, to read as follows:

"Administrative Review," for the purposes of this chapter, means the administrative review process prescribed in this Chapter, including both Administrative Reviews and Administrative Review Appeals, for the redress of issues relating to or arising from the enforcement of this Chapter including, but not limited to, Potentially Dangerous and Vicious Animals, permits, or such other administrative matters for which a person is entitled to an impartial third party making a determination.

Section 26. THE DEFINITION OF “HEARING” CONTAINED IN SECTION 4-07-1400 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

"Hearing," for the purposes of this chapter, means the process prescribed in Section 4.07.6100 Article 31 of Chapter 1 of Part I of this Code before the County Hearing Officer, for the redress of issues relating to or arising from the enforcement of this Chapter including, but not limited to, Potentially Dangerous and Vicious Animals, permits, or such other administrative matters for which a person is entitled to an impartial third party making a determination for appeals from Administrative Review Appeals.

Section 27. THE DEFINITION OF "HEARING OFFICER" CONTAINED IN SECTION 4-07-1400 ("DEFINITIONS") OF ARTICLE 1 ("GENERAL PROVISIONS") OF CHAPTER 7 ("CONTROL OF ANIMALS") OF PART IV ("HEALTH, SAFETY AND SANITATION") OF THE Tulare County Ordinance Code is amended to read as follows:

"Hearing Officer" means ~~the person~~ the County Hearing Officer designated by the Director, or his or her designee, under Article 31 of Chapter 1 of Part I of this Code. ~~to preside at and render judgments from Hearings transacted under the authority of this chapter. The person may be an employee of the County who is not assigned to Animal Services or otherwise subordinate to the Manager thereof, or a person who is not an employee but is retained to provide such services. Any such Hearing Officer shall be qualified by training or experience or shall be an attorney or an administrative law judge. The person shall be impartial and make a decision based on the evidence presented at the Hearing.~~

Section 28. SECTION 4-07-2100 ("CORRECTIVE ACTION PLAN") OF ARTICLE 2 ("ADMINISTRATION AND AUTHORITY") OF CHAPTER 7 ("CONTROL OF ANIMALS") OF PART IV ("HEALTH, SAFETY AND SANITATION") OF THE Tulare County Ordinance Code is amended to read as follows:

4-07-2100 CORRECTIVE ACTION PLAN:

At the discretion of the Animal Services Manager, in lieu of ~~a formal Hearing~~ an administrative review and in conjunction with the Animal's Owner, a corrective action plan may be put in place to abate Animal related issues. The Animal Owner will be served with the Corrective Action Plan signed by the Animal Services Manager outlining a plan of action, including but not limited to actions involving Animals running-at-large, minimum shelter requirements, veterinarian care, Animals worrying livestock or other Animals, Animal Nuisance complaints, or licensing, regarding the Animal or Animals in question. If the Owner or Custodian complies with the requirements of the Corrective Action Plan within the prescribed time period, no further action on the Animal or Animals will be taken and any pending action by Animal Services will cease. If the Owner or Custodian fails to comply with the requirements of the Corrective Action Plan within the prescribed period, Animal Services shall resume any pending action.

Should an Owner or Custodian dispute the action taken by Animal Services for the Owner or Custodian's failure to comply with the Corrective Action Plan, the Owner or Custodian may request ~~a Hearing and pay the applicable Hearing fees~~ administrative review as provided in section 4-07-2300. ~~Animal Services shall schedule the Hearing and provide notice to the Owner or Custodian, via first class mail or personal service, of the date, time and place of the Hearing. Failure to appear at the Hearing at the designated time and place will be deemed a forfeiture of the Animal.~~

Section 29. SUBSECTION D. OF SECTION 4-07-2300 ("ADMINISTRATIVE REVIEW OF ADMINISTRATIVE CITATION") OF ARTICLE 1 ("GENERAL PROVISIONS") OF CHAPTER 7

("CONTROL OF ANIMALS") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Ordinance Code of Tulare County is amended to read as follows:

D. Appeal of Administrative Review Officer's Decision. If the recipient of an Administrative Citation disagrees with the Administrative Review Officer's decision upholding the issuance of the Administrative Citation and/or administrative penalty amount assessed, the recipient may appeal the issuance of the Administrative Citation to the Director as set forth in this section.

1. Notice of Administrative Appeal. Within five (5) business days following the mailing date of the Administrative Review Officer's decision regarding the Administrative Citation, the recipient of the Administrative Citation may contest that decision by submitting a written administrative appeal to the Director. The failure to submit the written appeal within this period shall constitute a waiver of the right to an appeal and the decision shall be deemed confirmed. A copy of the notice of administrative appeal shall be served in person or by first class mail upon Animal Services by the contestant.

2. Conduct of ~~Hearing~~ Administrative Review Appeal. An Administrative Review Appeals Officer shall hear the appeal. At the hearing on appeal, the Administrative Review Appeals Officer shall review the written decision of the Administrative Review Officer, any documents pertaining to the matter, offered summaries of the evidence, such transcript of testimony as may be furnished, and will hear such testimony as is relevant to the issues raised in the Notice of Administrative Appeal. The Administrative Review Appeals Officer will limit new testimony only to that which is raised in the Notice of Appeal. The Administrative Review Appeals Officer will not be subject to the rules of evidence.

3. Judgment. If the fine or penalty has not been deposited and the decision of the Administrative Review Appeals Officer is against the contestant, and is not appealed to the County Hearing Officer, the issuing agency may proceed to collect the fees and penalties pursuant to the procedures set forth in this ordinance, or in any other manner provided by law.

Section 30. SUBSECTION E. OF SECTION 4-07-2300 ("ADMINISTRATIVE REVIEW OF ADMINISTRATIVE CITATION") OF ARTICLE 1 ("GENERAL PROVISIONS") OF CHAPTER 7 ("CONTROL OF ANIMALS") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Ordinance Code of Tulare County is added to read as follows:

E. Appeal of Administrative Review Appeals Officer's Decision. If the recipient disagrees with the Administrative Review Appeals Officer's decision, the recipient may appeal to the County Hearing Officer as set forth in this section.

1. Notice of Appeal. The person who filed the administrative review appeal may appeal the decision of the Administrative Review Appeals Officer to the County Hearing Officer, as provided by Article 31 of Chapter 1 of Part I of this Code. An appeal to the County Hearing Officer shall be in writing and shall be filed with the Clerk of the Board of Supervisors within ten (10)

calendar days after mailing of the notice of decision of the Administrative Review Appeals Officer. An appeal to the County Hearing Officer shall specifically set forth the grounds of the appeal. At the time of filing the appeal, the appellant shall pay a fee in an amount adequate to cover the cost of processing and hearing the appeal as established from time to time by resolution of the Board of Supervisors. The Clerk of the Board shall mail notice to the appellant of the date and time that the County Hearing Officer will hear the appeal, which date shall be not less than five (5) calendar days after the date of mailing the notice.

2. Conduct of Hearing. The County Hearing Officer shall hear the appeal in accordance with the provisions of Article 31 of Chapter 1 of Part I of this Code.

3. Judgment. If the fine or penalty has not been deposited and the decision of the County Hearing Officer is against the contestant, the issuing agency may proceed to collect the fees and penalties pursuant to the procedures set forth in this ordinance, or in any other manner provided by law.

Section 31. SECTION 4-07-3230 (“PROHIBITED CONDUCT”) OF ARTICLE 3 (“LICENSING, VACCINATIONS, ANIMAL OWNERSHIP & RESPONSIBILITIES”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-07-3230 PROHIBITED CONDUCT

[No changes to subsection A]

B. If found to be in violation of this section, the Owner or Custodian may be ordered by the Animal Services Manager, Administrative Review Officer, Administrative Review Appeals Officer, Hearing Officer, or Court to relocate or otherwise remove the Animal from the location where it is kept to prevent further violations. The Animal Services Manager, Administrative Review Officer, Administrative Review Appeals Officer, Hearing Officer, or Court may also prohibit the Owner or Custodian from owning Animals for a period of up to three years. These actions may be taken in addition to any other fine or punishment the Animal Services Manager, Administrative Review Officer, Administrative Review Appeals Officer, Hearing Officer, or Court deems necessary.

Section 32. SUBSECTION H OF SECTION 4-07-4008 (“PERMIT APPLICATION, FEES, AND TERM”) OF ARTICLE 4 (“KENNEL AND BREEDER PERMITS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

H. Right to Appeal Denial, Suspension, or Revocation of Kennel Permit. Should a Kennel Owner dispute the denial by Animal Services of ~~their~~ his or her application for a Kennel Permit, or suspension or revocation by Animal Services of ~~their~~ his or her existing Kennel Permit, the

Kennel Owner may request an Administrative Review. Animal Services shall schedule the Administrative Review and provide notice to the Kennel Owner, via first class mail or personal service, of the date, time and place of the Administrative Review. Failure to appear at the Administrative Review at the designated time and place will be deemed a forfeiture of the appeal and any fees.

~~Judicial review of a decision made after an appeal hearing pursuant to this section shall be made pursuant to Section 1094.6 of the California Code of Civil Procedure where and to the extent said section may be applicable.~~

Section 33. SUBSECTIONS I, J, AND K OF SECTION 4-07-4008 (“PERMIT APPLICATION, FEES, AND TERM”) OF ARTICLE 4 (“KENNEL AND BREEDER PERMITS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code are added to read as follows:

I. **Administrative Appeal.** If the Kennel Owner disagrees with the Administrative Review Officer's decision, the Kennel Owner may file an administrative appeal to the Administrative Review Appeals Officer as set forth in this section.

1. **Notice of Administrative Appeal.** Within five (5) business days following the mailing date of the Administrative Review Officer's decision, the Kennel Owner may contest that decision by submitting a written administrative appeal to the Administrative Review Appeals Officer. The failure to submit the written appeal within this period shall constitute a waiver of the right to an appeal and the decision shall be deemed confirmed. A copy of the notice of appeal shall be served in person or by first class mail upon Animal Services by the contestant.

2. **Conduct of Administrative Appeal.** At the hearing on appeal, the Administrative Review Appeals Officer shall review the written decision of the Administrative Review Officer, any documents pertaining to the matter, offered summaries of the evidence, such transcript of testimony as may be furnished, and will hear such testimony as is relevant to the issues raised in the Notice of Administrative Appeal. The Administrative Review Appeals Officer will limit new testimony only to that which is raised in the Notice of Appeal. The Administrative Review Appeals Officer will not be subject to the rules of evidence.

J. **Appeal to County Hearing Officer.** If the Kennel Owner disagrees with the Administrative Review Appeals Officer's decision, the Kennel Owner may appeal to the County Hearing Officer as set forth in this section.

1. **Notice of Appeal.** Within five (5) business days following the mailing date of the Administrative Review Appeals Officer's decision, the Kennel Owner may contest that decision by submitting a written appeal to the County Hearing Officer. The failure to submit the written appeal within this period shall constitute a waiver of the right to an appeal and the decision shall be

deemed confirmed. A copy of the notice of appeal shall be served in person or by first class mail upon Animal Services by the contestant.

2. Conduct of Hearing. The County Hearing Officer shall hear the appeal in accordance with the provisions of Article 31 of Chapter 1 of Part I of this Code.

K. Judicial Review. Judicial review of a decision by the County Hearing Officer pursuant to this section shall be made pursuant to section 1094.6 of the California Code of Civil Procedure where and to the extent said section may be applicable.

Section 34. SECTION 4-07-4400 (“VIOLATIONS”) OF ARTICLE 4 (“KENNEL AND BREEDER PERMITS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-07-4400 VIOLATIONS

[No changes to Subsection A]

B. Kennel Operators.

1. The following penalties will be imposed for violation of a Kennel Permit, including but not limited to minimum care standards, breeding permit requirement, number of animals:

a. First Violation: A penalty not to exceed one hundred dollars (\$100.00) per animal covered under the current permit. Example - 25 animals x \$100 = \$2,500 penalty for first violation.

b. Second Violation: A penalty not to exceed three hundred dollars (\$300.00) per animal covered under the current permit. Example - 25 animals x \$300 = \$7,500 penalty for second violation.

c. Third Violation: Kennel permit will be revoked. Permit holder will be banned from holding a kennel permit for a minimum period of 36 months from the expiration date of current permit. Example - if third violation occurs in December of current permit period the 36 months would commence ~~at~~ on the date the permit was scheduled to expire ~~June 30~~. Revocation of a Kennel Permit will entitle the permit holder to request a ~~Hearing by a Hearing Officer~~ Administrative Review.

Section 35. SUBSECTION F OF SECTION 4-07-5200 (“ANIMALS SUBJECT TO IMPOUNDMENT”) OF ARTICLE 5 (“AT LARGE, IMPOUNDMENT, RABIES QUARANTINE”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

F. Animal Impounded for Abuse or Neglect

1. In addition to any other civil or criminal penalties, Animals impounded or seized for violations of section 4-07-3210, section 4-07-3230, any of the statutes listed in section 4-07-5200(A)(3), or any other state or federal law prohibiting the mistreatment of animals will not be returned until the ~~owner~~ Owner demonstrates to the satisfaction of the seizing agency ~~or~~ [comma added] the ~~hearing officer~~ Administrative Review Officer, Administrative Review Appeals Officer, or the County Hearing Officer that the ~~owner~~ Owner can and will provide proper and necessary care for the ~~animal~~ Animal, and all costs for the seizure and care of the ~~animal~~ Animal are paid. The ~~animal's~~ Animal's return may be conditioned.

2. If the seizing agency believes that return of the Animal would endanger the Animal, the agency shall provide notice to the Owner that the Animal will not be returned to the Owner. ~~This decision may be appealed to~~ The Owner may request Administrative Hearing Review in the same manner as a in post-seizure hearing proceedings. The decision of the Administrative Hearing Review Officer may be appealed to a Hearing the Administrative Review Appeals Officer in the same manner as a ~~Potentially Dangerous or Vicious Dog, 4-07-6100~~ Kennel Operator under section 4-07-4008, except that evidence presented shall relate to the allegations of abuse or neglect.

3. The decision of the Administrative Review Appeals Officer may be appealed to the County Hearing Officer in the same manner as a Kennel Operator under section 4-07-4008.

Section 36. THE HEADING OF ARTICLE 6 (“POTENTIALLY DANGEROUS AND VICIOUS ANIMALS, HEARINGS AND APPEALS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

**ARTICLE 6. POTENTIALLY DANGEROUS AND VICIOUS ANIMALS,
HEARINGS ADMINISTRATIVE REVIEW, AND APPEALS**

Section 37. SECTION 4-07-6000 (“POTENTIALLY DANGEROUS AND VICIOUS ANIMALS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-07-6000 POTENTIALLY DANGEROUS AND VICIOUS ANIMALS

[No changes to subsection A]

B. Owner Responsible: [period deleted]

1. Any Owner or Custodian of any Animal is deemed responsible for the acts committed by that Animal when the Owner or Custodian has failed to comply with the legal requirements for the keeping of that Animal as defined in this chapter. No person ~~hall~~ shall permit an Animal to act in such a manner as constitutes Potentially Dangerous or Vicious behavior as defined in Section ~~4.07.1400~~ 4-07-1400 of this chapter.

[No changes to subsection B.2]

[No changes to subsections C or D]

E. Filing of a Complaint

Any person, including employees of Animal Services, possessing personal knowledge of facts that there exists a Potentially Dangerous or Vicious Animal within the unincorporated area of the County or those incorporated areas served by Animal Services may file with Animal Services a written report, signed under ~~the~~ penalty of perjury, which contains the following facts:

1. A description of the offending Animal including, to the extent known, the color, size, sex, breed and name of the Animal, and the name and address of the Animal Owner or Custodian;
2. An assertion that the Animal described is a Potentially Dangerous or Vicious Animal within the meaning of Section ~~4.07.1400~~ 4-07-1400, together with a statement of the facts upon which the assertion was based, including the name and address of any person who has been victimized or injured, including a description of the extent of the injuries, the names and addresses of the witnesses thereto, the time, date, and location of the incident related to the assertion, and an explanation of how the personal knowledge of the affiant was acquired; and
3. The name, residential and occupational addresses and telephone numbers of the affiant.

[No changes to subsection F]

G. Impoundment of Animal. Upon receipt by Animal Services of a Potentially Dangerous or Vicious Animal Report, Animal Services shall initiate an investigation of the incident or incidents described in the report for the purpose of verifying the facts stated and obtaining other information. If, after an investigation, the identified facts show the existence of a Potentially Dangerous or Vicious Animal, Animal Services shall immediately locate and Impound the Animal which is the subject of the charges ~~and the~~ . The Owner or Custodian ~~shall have to~~ may request a ~~Hearing~~ Administrative Review, provided the request is submitted within six (6) business days, including Saturday, from the date of impoundment ~~and pay any applicable hearing fees.~~

Section 38. SECTION 4-07-6100 (“POTENTIALLY DANGEROUS AND VICIOUS ANIMAL HEARINGS AND APPEALS”) OF ARTICLE 6 (“POTENTIALLY DANGEROUS AND VICIOUS ANIMALS, HEARINGS AND APPEALS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-07-6100 POTENTIALLY DANGEROUS AND VICIOUS ANIMAL ~~HEARINGS~~ ADMINISTRATIVE REVIEW AND APPEALS:

A. ~~Notice of Hearing~~ Administrative Review Appeal

1. Administrative Review regarding a Potentially Dangerous or Vicious Animal shall proceed directly to an Administrative Review Appeal without an Administrative Review.

~~1 2. When a Hearing is requested by~~ After an Animal has been impounded under this Article, the Animal Owner or Custodian, [comma deleted] may file an Administrative Review Appeal of the impoundment. Animal Services shall set a date and time for the ~~hearing~~ Administrative Review Appeal and send a notice thereof by first class mail at least five (5) business days, including Saturday, before the scheduled ~~hearing~~ Administrative Review Appeal date to the Owner or Custodian at the address set forth on his or her request ~~for a hearing~~ and shall notify the victim and the Director of such ~~hearing~~ Administrative Review Appeal.

~~2 3.~~ Conversely, if, or after an investigation, the identified facts show that cause to conduct a Potentially Dangerous or Vicious Animal ~~Hearing~~ Administrative Review Appeal has not been shown, Animal Services shall notify the Animal Owner or Custodian to reclaim ~~their~~ the Animal from Animal Services.

B. ~~Conduct of Hearing~~ Administrative Review Appeal

1. The ~~Hearing~~ Administrative Review Appeal shall be conducted before a ~~person appointed as a Hearing Officer~~ the Administrative Review Appeals Officer.

2. The ~~Hearing~~ Administrative Review Appeal shall be ~~open to the public~~ an informal process.

~~3. The Owner or Custodian may be represented by counsel at the Owner or Custodian’s own discretion and cost. If Animal Services plans to be represented by counsel, such fact will be made clear to the Owner or Custodian upon writing regarding the time and place of the Hearing. Animal Services’ representation by counsel does not in any way entitle the Owner or Custodian to be represented by counsel.~~

~~4 3.~~ The burden at the Administrative Review Appeal is on the Animal Owner or Custodian to present evidence that explain why the Animal is not Potentially Dangerous or Vicious.

~~—5. The technical rules of evidence shall not be applicable to the Hearing, except that the Hearing Officer's decision may not be based wholly on hearsay evidence.~~

~~—6~~ 4. The Hearing Administrative Review Appeals Officer may find, based upon the ~~preponderance of the evidence~~ information presented, that:

a. The Animal is not Potentially Dangerous or Vicious and should be returned to its Owner or Custodian;

b. The Animal is not Potentially Dangerous or Vicious but that the attack, bite, or injury was the result of improper or negligent training, handling, or maintenance and that the License should be revoked and the Animal relinquished to Animal Services;

c. The Animal is Potentially Dangerous or Vicious but may be returned to the Owner or Custodian with stipulations and/or restrictions; or

d. The Animal is Potentially Dangerous or Vicious and that it should be humanely euthanized no sooner than the fifth business day, including Saturday, following the mailing of notice of determination.

7 5. The Hearing Administrative Review Appeals Officer shall make other orders required or authorized by this chapter.

8 6. The Hearing Administrative Review Appeals Officer may decide all issues for or against the Owner or Custodian of the Animal even if the Owner or Custodian fails to appear at the Hearing Administrative Review Appeal. Failure to appear at the Hearing Administrative Review Appeal will be deemed a forfeiture of the Animal.

C. Consideration of Evidence Information. In considering whether an Animal is Potentially Dangerous and/or Vicious, the Hearing Administrative Review Appeals Officer shall consider evidence relevant information, including, but not limited to, the following:

1. Any previous history of the Animal attacking, biting or causing injury to a human being or other Animal.

2. The nature and extent of injuries inflicted and the number of victims involved.

3. The location where the bite, attack or injury occurred.

4. The presence or absence of any provocation for the bite, attack, or injury.

5. The extent to which property has been damaged or destroyed.

6. Whether the Animal exhibits any characteristics of being trained for fighting or attacking, or other evidence to show such training or fighting.

7. Whether the Animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of Persons or other Animals.

8. Whether the Animal can be effectively trained or re-trained to change its temperament or behavior.

9. The manner in which the Animal had been maintained by its Owner or Custodian.

10. Any other relevant ~~evidence~~ information concerning the maintenance of the Animal.

11. Any other relevant ~~evidence~~ information regarding the ability of the Owner or Custodian to protect the public safety in the future if the Animal is permitted to remain in the County.

D. Mitigating Circumstances. In considering whether an Animal is Potentially Dangerous and/or Vicious, the ~~Hearing~~ Administrative Review Appeals Officer may ~~hear and~~ consider ~~evidence of information regarding~~ any of the following mitigating circumstances:

1. That the injury or damage complained of was sustained by a person who was committing a willful trespass or other tort upon the Premises occupied by the Owner or Custodian of the Animal, or was teasing, tormenting, abusing, or assaulting the Animal, or was committing or attempting to commit a crime.

2. That the Animal was protecting or defending a person within the immediate vicinity of the Animal from an unjustified attack or assault.

3. That the injury or damage complained of was sustained by a Domestic Animal which at the time of the injury or damage was teasing, tormenting, abusing, or assaulting the Animal which is the subject of the ~~Hearing~~ Administrative Review Appeal.

4. The injury or damage complained of was to a Domestic Animal and was sustained while the Animal in question was working as a hunting Animal, herding Animal, or predator control Animal on the property of, or under the control of, its Owner or Custodian and the damage or injury complained of was to a species or type of Domestic Animal appropriate to the work of the Animal.

~~E. Determinations and Orders—Notice—Compliance—Appeal—Finality of Appeal.~~
Determinations and Orders; Notice; Compliance; Appeal; Finality of Appeal

1. Within ten (10) calendar days after the ~~Hearing~~ Administrative Review Appeal is conducted, the ~~Hearing~~ Administrative Review Appeals Officer shall notify in writing Animal Services and the Owner or Custodian of the determination and orders issued, by first class mail or personal service at the address appearing on the request for ~~hearing~~ the Administrative Review Appeal.

2. If a determination is made by the ~~Hearing~~ Administrative Review Appeals Officer that the Animal is Potentially Dangerous or Vicious, and is returning the Animal to the Owner or Custodian, the Owner or Custodian shall comply with subsection F and G of this section within fifteen (15) calendar days after the date of determination or twenty (20) calendar days if notice of the determination is mailed to the Owner or Custodian by first class mail.

3. If a determination is made by the ~~Hearing~~ Administrative Review Appeals Officer that the Animal is not Potentially Dangerous or Vicious, but that the bite, attack, or injury was the result of improper or negligent training, handling, or maintenance, the following may apply:

a. The License may be revoked and reissued with reasonable terms, conditions or restrictions imposed for the training, handling, or maintenance of the Animal to protect the public health safety and welfare, only if it is determined that the Owner or Custodian is able and willing to properly train, handle, or maintain the Animal and a similar incident is not likely to occur in the future with proper training, handling, or maintenance; or

b. If the Owner or Custodian is unable or unwilling to properly train, handle, or maintain the Animal and ~~that~~ a similar incident is not likely to occur in the future with proper training, handling, or maintenance, then the Animal shall be relinquished to Animal Services.

4. If Animal Services or the Owner or Custodian of the Animal contests the determination, he or she may, within five (5) business days of the ~~receipt~~ date of the notice of determination, appeal the decision of the ~~Hearing~~ Administrative Review Appeals Officer to the ~~Director~~ County Hearing Officer.

5. The appeal shall be heard by ~~a second impartial~~ the County Hearing Officer appointed by the Director, other than the Hearing Officer who originally heard the petition as provided by Article 31 of Chapter 1 of Part I of this Code.

6. ~~The Director shall give notice by first class mail to Animal Services, to the appellant or Animal Owner or Custodian if Animal Services is the appellant, and to the victim(s), of the date, time and location of when the appeal will be heard.~~

~~7. The Hearing Officer hearing the appeal shall conduct a Hearing de novo, but upon submission of all relevant evidence, including but not limited to Animal Control reports, transcripts, and other testimony, from the first hearing, and make its own determination as to potential danger and viciousness of the Animal and make other orders authorized by this chapter, based upon evidence presented.~~

~~8. The Hearing shall be conducted in the same manner set forth in subsection B above.~~

~~9 6. The decision of the County Hearing Officer shall be final for all purposes. Judicial review of a decision made after an appeal hearing pursuant to this section shall be made pursuant to Section section 1094.6 of the California Code of Civil Procedure where and to the extent said section may be applicable.~~

F. Registration. Any Animal that has been declared ~~by the Hearing Officer~~ in a final decision to be Potentially Dangerous or Vicious within the meaning of Section 4-07-1400, and is being returned to the Owner or Custodian, shall be subject to special registration requirements as follows:

An Owner or Custodian of a Potentially Dangerous or Vicious Animal is required to pay, in addition to any Licensing or License Fee, an annual special registration fee (as applicable) which shall be valid and renewable concurrent with the effective dates of the Licensing of the Animal. Late registration is subject to a penalty fee equal to two times the annual registration fee.

G. Keeping of a Potentially Dangerous or Vicious Animal. In addition to any other provisions provided in the final decision rendered by the Hearing Officer, the keeping of an Animal that has been declared Potentially Dangerous or Vicious and returned to the Animal Owner or Custodian by the Administrative Review Appeals Officer or County Hearing Officer shall, at the minimum, be subject to the following provisions:

1. The Animal must at all times, when not under restraint by leash on public property, be securely confined in an enclosure under lock within a lawful fence.

2. The Animal must, at all times when kept in any part of a house or structure, be confined in such a manner that the Animal cannot exit such building on its own volition.

3. The Animal must, at all times, be licensed and registered as required by this chapter and must be kept in compliance with all the regulatory provisions of this chapter in its entirety.

4. The Animal Owner or Custodian must notify Animal Services in writing within three calendar days if the location of the Animal is to be permanently changed. An administration fee will be charged to modify the issued license.

5. The Owner or Custodian must allow Animal Services to inspect the property at such time as reasonable to insure the provisions ~~ordered by the Hearing Officer~~ of the final decision are

being complied with. All costs associated with these provisions or any other or additional provisions ordered by the Administrative Review Appeals Officer or County Hearing Officer shall be borne by the Owner or Custodian of the Animal that has been declared to be Potentially Dangerous or Vicious.

H. **Right to Destroy.** Nothing in this section shall be construed to prevent Animal Services from destroying an Animal that is in the act of dangerous or vicious behavior towards any person or other Animal as set forth in section 4-07-1400, if such immediate destruction is reasonably necessary to protect public safety.

Section 39. SECTION 4-09-1005 (“DEFINITIONS”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1005 DEFINITIONS:

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

(a) "Administrative Costs" means the costs to the County of performing the acts required under this Chapter, except the actual removal of the vehicle. The Board of Supervisors shall from time to time, by resolution, determine the administrative costs for the removal of each vehicle removed by the County if the vehicle is removed without a ~~hearing~~ administrative review pursuant to section 4-09-1045 of this Chapter. In those cases in which the Planning and Development Director conducts a ~~hearing~~ administrative review pursuant to section 4-09-1050 of this Chapter, he or she shall fix and determine the administrative costs which shall be the actual costs to the County of performing all of the acts pertaining to the specific vehicle which is the subject of the ~~hearing~~ administrative review except the actual removal of the vehicle.

[No changes to subsections (b) through (e)]

Section 40. SECTION 4-09-1020 (“ENFORCEMENT: PLANNING AND DEVELOPMENT DIRECTOR”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1020 ENFORCEMENT: PLANNING AND DEVELOPMENT DIRECTOR:

Except as otherwise provided herein, the provisions in this Chapter shall be administered and enforced by the Planning and Development Director and the employees in his or her department or other persons authorized by him or her to administer and enforce this Chapter.

Section 41. SECTION 4-09-1025 (“ENTERING OF PROPERTY”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1025 ENTERING PROPERTY:

(a) The Planning and Development Director, the employees in his or her department and other persons authorized by him or her may enter upon private or public property to examine a vehicle and to obtain information as to the ownership and identity of a vehicle when enforcing this Chapter.

(b) If the County enters into a contract with any person to remove or cause the removal of vehicles which have been declared to be public nuisances pursuant to this Chapter, such person may enter upon private or public property to remove such vehicles.

(c) Any person who in any way denies, obstructs, or hampers the entrance of the persons mentioned in this section upon private or public property to carry out the aforementioned duties, or who denies, obstructs or hampers the performance of such duties by such persons after they have entered the property shall be guilty of an infraction and shall be punishable as provided in section 125 of this ~~Ordinance~~ Code.

Section 42. SECTION 4-09-1030 (“VOLUNTARY COMPLIANCE”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1030 VOLUNTARY COMPLIANCE:

If it appears to the Planning and Development Director that an abandoned, wrecked, dismantled or inoperative vehicle is located on private or public property, he or she may follow such administrative procedures to secure voluntary removal of such vehicle as appear advisable in each individual case prior to giving a notice of intention to abate pursuant to section 4-09-1035 of this Chapter.

Section 43. SECTION 4-09-1035 (“NOTICE OF INTENT TO ABATE”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1035 NOTICE OF INTENTION TO ABATE:

If the Planning and Development Director cannot secure voluntary removal of the vehicle, pursuant to section 4-09-1030 of this Chapter, he or she shall give written notice of intention to abate and remove the vehicle. The notice shall contain a statement of the ~~hearing~~ administrative review rights of the owner of the property on which the vehicle is located and of the owner of the vehicle.

The statement shall include notice to the property owner that he or she may appear in person at ~~a hearing~~ the administrative review or may ~~present~~ submit a sworn written statement denying responsibility for the presence of the vehicle on the land with the reasons for such denial, in lieu of appearing. The notice of intention to abate shall be mailed, by certified mail, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owners of record of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership.

Section 44. SECTION 4-09-1040 (“REQUEST FOR HEARING”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1040 REQUEST FOR ~~HEARING~~ ADMINISTRATIVE REVIEW:

The registered or legal owner of the vehicle or the owner of the land on which the vehicle is located may request ~~a hearing~~ administrative review on the question of abatement and removal of the abandoned, wrecked, dismantled or inoperative vehicle and on the question of assessment of the administrative costs and cost of removal against the property on which it is located. Such request for ~~a hearing~~ administrative review shall be in writing and shall be filed with the Planning and Development Director not more than ten (10) days after the date on which the notice of intention described in section 4-09-1035 of this Chapter was mailed by the Planning and Development Director. If the owner of the land on which the vehicle is located filed with the Planning and Development Director a sworn statement denying responsibility for the presence of the vehicle on his or her land within said ten (10) day period, said statement shall be construed as a request for ~~a hearing~~ administrative review which does not require the presence of the owner submitting such request.

Section 45. SECTION 4-09-1045 (“FAILURE TO REQUEST HEARING: REMOVAL: COSTS”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

**4-09-1045 FAILURE TO REQUEST ~~HEARING~~ ADMINISTRATIVE REVIEW: RE-
MOVAL: COSTS:**

If no ~~hearing~~ administrative review is requested within the time limit specified in section 4-09-1040 of this Chapter, the Planning and Development Director shall cause the vehicle to be removed and taken to a junk yard, automobile dismantling yard or refuse disposal site. Except as otherwise provided in section 4-09-1090 of this Chapter, the owner shall be required to pay the administrative costs and the cost of removal, as determined by the Board of Supervisors in accordance with section 4-09-1005 of this Chapter. The Planning and Development Director shall send a request for payment of said costs to the owner of the property by regular mail and if ~~he~~ the owner does not pay the said costs within thirty (30) days after the date on which the letter

was mailed, the procedure set forth in subsection (c) of section 4-09-1085 of this Chapter shall be followed.

Section 46. SECTION 4-09-1050 (“PUBLIC HEARING”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1050 PUBLIC HEARING ADMINISTRATIVE REVIEW:

If a ~~public hearing~~ administrative review has been requested in accordance with the provisions of section 4-09-1040 of this Chapter, a ~~public hearing~~ such review shall be ~~held~~ conducted on the question of abatement and removal of a vehicle as an abandoned, wrecked, dismantled or inoperative vehicle and the assessment of the administrative costs and cost of removal against the property on which it is located. The Planning and Development Director or designee shall cause notices of the time and place of the ~~hearing~~ administrative review to be sent by regular mail to the owner of the land as shown on the last equalized County assessment roll, and to the last registered and legal owners of record of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership. Said notices shall be mailed at least ten (10) days before the date of the ~~hearing~~ review.

Section 47. SECTION 4-09-1055 (“CONDUCT OF HEARING”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1055 CONDUCT OF HEARING ADMINISTRATIVE REVIEW:

The ~~public hearings~~ administrative review under this ~~chapter~~ Chapter shall be conducted by the Planning and Development Director or designee. The ~~Planning and Development Director~~ administrative review officer shall ~~hear~~ consider all pertinent ~~evidence~~ information offered by all interested persons, including ~~testimony~~ on the condition of the vehicle and the circumstances concerning its location on private property or public property. ~~The technical rules of evidence shall not be applicable to the hearing.~~ The owner of the land on which the vehicle is located may appear in person at the ~~hearing~~ review or ~~present~~ may submit a sworn written statement for consideration at the ~~hearing~~ review. The owner of the land may deny responsibility for the presence of the vehicle on the land, with his or her reasons for such denial.

Section 48. SECTION 4-09-1060 (“DECISION BY PLANNING AND DEVELOPMENT DIRECTOR”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1060 DECISION BY PLANNING AND DEVELOPMENT DIRECTOR ADMINISTRATIVE REVIEW OFFICER:

(a) At the conclusion of the ~~public hearing~~ administrative review, the ~~Planning and Development Director~~ administrative review officer may find that a vehicle has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided. He or she may also determine the amount of the administrative costs, in accordance with sections 4-09-1005 and 4-09-1090 of this Chapter, and may determine that all or a portion of the administrative costs and the cost of removal are to be charged against the owner of the land on which the vehicle is located.

(b) If it is determined by the ~~Planning and Development Director~~ administrative review officer that the vehicle was placed on the land without the consent of the landowner and that ~~he~~ the landowner has not subsequently acquiesced in its presence, the ~~Planning and Development Director~~ administrative review officer shall not assess administrative costs or the cost of removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such landowner.

(c) The ~~Planning and Development Director~~ administrative review officer may impose such conditions and take such other action as he or she deems appropriate under the circumstances to carry out the purposes of this Chapter. He or she may delay the time for removal of the vehicle if, in his or her opinion, the circumstances justify it.

(d) The ~~Planning and Development Director~~ administrative review officer shall give written notice of his or her decision to all of the interested persons to whom the notice of ~~hearing~~ administrative review was mailed.

Section 49. SECTION 4-09-1065 (“APPEAL”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1065 APPEAL:

Within ten (10) days, ~~excluding Saturdays, Sundays and legal holidays,~~ after notice of the decision of the ~~Planning and Development Director~~ administrative review officer has been mailed to the interested parties, any person affected by the decision may file with the Clerk of the Board of Supervisors a written notice of appeal from said decision to the County Hearing Officer, as provided by Article 31 of Chapter 1 of Part I of this Code. ~~The Board of Supervisors shall thereafter set the matter for hearing. The Clerk of the Board of Supervisors shall give written notice of the~~

hearing to all of the persons mentioned in section 4-09-1050 of this Chapter. At the time and place set for the hearing, the Board of Supervisors shall hear the matter de novo and all of the provisions of section 4-09-1055 of this Chapter shall be applicable to said hearing. The decision of the Board of Supervisors after such hearing upon the appeal is final and conclusive as to all things involved in the matter. The Clerk of the Board of Supervisors shall give written notice of the decision of the Board to all of the persons to whom notice of the hearing was mailed.

Section 50. SECTION 4-09-1070 ("REMOVAL OF VEHICLE") OF CHAPTER 9 ("ABANDONED VEHICLES") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

4-09-1070 REMOVAL OF VEHICLE:

(a) At any time after the ~~Planning and Development Director~~ administrative review officer orders an abandoned, wrecked, dismantled or inoperative vehicle to be removed, pursuant to section 4-09-1060 of this Chapter, any interested party may cause such vehicle to be removed. If the ~~Planning and Development Director~~ administrative review officer has assessed administrative costs and the cost of removal against the property on which the vehicle is located, and the vehicle is voluntarily removed without cost to the County, only the administrative costs shall thereafter be collected from the owner of the land.

(b) If no appeal has been filed, and the vehicle has not been removed within ten (10) days, ~~excluding Saturdays, Sundays and legal holidays,~~ after the notice of the decision of the ~~Planning and Development Director~~ administrative review officer was mailed to the interested parties, the Planning and Development Director shall cause the vehicle to be removed and taken to a junk yard, automobile dismantling yard or refuse disposal site.

(c) If an appeal has been filed, and the vehicle has not been removed within ten (10) days, ~~excluding Saturdays, Sundays and legal holidays,~~ after the notice of the decision of the ~~Board of Supervisors~~ County Hearing Officer was mailed to the interested parties, the Planning and Development Director shall cause the vehicle to be removed and taken to a junk yard, automobile dismantling yard or refuse disposal site.

Section 51. SECTION 4-09-1085 ("COLLECTION OF COSTS") OF CHAPTER 9 ("ABANDONED VEHICLES") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

4-09-1085 COLLECTION OF COSTS:

(a) If the Planning and Development Director has caused the vehicle to be removed from the property, and he or she has assessed administrative costs and the cost of removal against the owner of the property on which the vehicle is located, he or she shall mail a notice to the owner of the property of the total costs to be paid by the owner of the property.

[No changes to subsections (b) through (c)]

Section 52. SECTION 4-11-1015 (“ENFORCEMENT”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1015 ENFORCEMENT:

Except as otherwise provided, this Chapter shall be administered and enforced by the County Fire ~~Warden~~ Chief, and his or her deputies and employees in his the department.

Section 53. SECTION 4-11-1070 (“DEFINITIONS”) OF ARTICLE 3 (“NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1070 DEFINITIONS:

[No changes to introductory paragraph or subsections (a) through (d)]

(e) "Cost of administration" means the cost to the County of doing the acts required under this Chapter, except the actual cost of abatement. The Board of Supervisors shall establish, from time to time, by resolution the fee necessary to cover the cost of administration per parcel for a nuisance abated by the County Fire ~~Warden~~ Chief without ~~hearing~~ administrative review. When a ~~hearing is held~~ administrative review is done by the ~~Board of Supervisors~~ administrative review officer or County Hearing Officer to review the determination of the County Fire ~~Warden~~ Chief that a nuisance exists, the ~~Board~~ administrative review officer or County Hearing Officer shall determine the actual cost of administration attributable to that parcel. For the purpose of determining the cost of administration, all contiguous property owned by the same person or persons shall be deemed to be a single parcel, even though the contiguous property may be designated with more than one Assessor’s Parcel Number.

Section 54. SECTION 4-11-1075 (“OWNER’S DUTY”) OF ARTICLE 3 (“NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1075 OWNER’S DUTY:

It is the duty of every owner of private property within the unincorporated areas of Tulare County to prevent a nuisance described in section 4-11-1065 of this Chapter from arising on, or existing upon, his or her property.

Section 55. THE HEADING OF ARTICLE 5 (“NOTICE OF HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

ARTICLE 5. NOTICE OF ~~HEARING ON~~ EXISTENCE OF NUISANCE

Section 56. SECTION 4-11-1125 (“NOTICE”) OF ARTICLE 5 (“NOTICE OF HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1125 NOTICE:

Whenever the County Fire ~~Warden~~ Chief determines that a nuisance described in section 4-11-1065 of this Chapter exists upon any private property within the County, [comma added] he or she shall notify the owner of the existence of the nuisance.

Section 57. SECTION 4-11-1130 (“NOTICE: CONTENTS”) OF ARTICLE 5 (“NOTICE OF HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1130 NOTICE: CONTENTS:

The notice required by section 4-11-1125 of this Chapter shall:

- (a) Identify the owner of the private property upon which the nuisance exists, as the name appears on the records of the County ~~Clerk/Recorder/Assessor~~ Assessor/Clerk-Recorder.
- (b) Describe the location of such private property by its commonly used street address, [comma added] giving the name or number of the street, road or highway and the number, if any, of the property.
- (c) Identify such property by reference to the Assessor’s Parcel Number.
- (d) Contain a statement that a fire hazardous condition exists and that it has been determined by the County Fire ~~Warden~~ Chief to be a public nuisance described in section 4-11-1065 of this Chapter.
- (e) Contain a statement that the owner may within seven (7) business days after mailing or personal delivery of the notice make a request in writing to the ~~Clerk of the Board of Supervisors~~

County Fire Chief for a hearing to appeal administrative review of the determination of the County Fire Warden Chief that the conditions existing create a public nuisance or to show that for some other reason those conditions should not be abated in accordance with the provisions of this Chapter.

(f) Contain a statement that, unless the owner corrects the fire hazardous condition or requests a hearing before the Board of Supervisors administrative review by the County Fire Chief to appeal the determination of the County Fire Warden, the County Fire Warden Chief will abate the nuisance, not less than fifteen (15) business days after the date said notice was mailed or personally delivered. It shall also state that the cost of such abatement, together with a charge for the cost of administration of the abatement program attributable to said abatement, may be made a special assessment added to the County assessment roll and become a lien on the real property, or placed on the unsecured tax roll.

Section 58. SECTION 4-11-1135 (“NOTICE: MAILING: PERSONAL DELIVERY”) OF ARTICLE 5 (“NOTICE OF HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1135 NOTICE: MAILING: PERSONAL DELIVERY:

The notice required by section 4-11-1125 of this Chapter shall be served by delivering it personally to the owner, or by mailing it by regular mail to the owner as his or her address appears on the last equalized assessment roll, except that, if the records of the County ~~Clerk/Recorder/Assessor~~ Assessor/Clerk-Recorder show that the ownership has changed since the last equalized assessment roll was compiled, notice shall be mailed to the new owner.

Section 59. SECTION 4-11-1140 (“NOTICE: POSTING”) OF ARTICLE 5 (“NOTICE OF HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1140 NOTICE: POSTING:

If the address of the new owner is not in the County ~~Clerk/Recorder/Assessor’s~~ Assessor/Clerk-Recorder’s records and is not otherwise discovered, notice may be given by posting copies along the subject property not more than one thousand (1000) feet apart. In no event shall fewer than two (2) signs be posted when giving notice pursuant to this section.

Section 60. THE TITLE OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

**ARTICLE 7. ~~HEARING ON~~ ADMINISTRATIVE REVIEW OF
EXISTENCE OF NUISANCE**

Section 61. SECTION 4-11-1190 (“HEARING: REQUEST”) OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1190 ~~HEARING~~ ADMINISTRATIVE REVIEW: REQUEST:

The owner of property upon which the County Fire ~~Warden~~ Chief has determined that a nuisance described in section 4-11-1065 of this Chapter exists may request ~~a hearing before the Board of Supervisors~~ administrative review on or before the seventh business day following the day of mailing of the notice or the date on which the notice was personally delivered by filing a written request ~~therefore with the Clerk of the Board of Supervisors~~ therefor with the County Fire Chief. The request shall describe the property by street name and number and Assessor’s Parcel Number and give the name of the owner and his or her address.

Section 62. SECTION 4-11-1195 (“HEARING: NOTICE”) OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1195 ~~HEARING~~ ADMINISTRATIVE REVIEW: NOTICE:

If ~~a hearing~~ administrative review has been requested in accordance with section 4-11-1190 of this Chapter the ~~Clerk~~ County Fire Chief or designee, as administrative review officer, shall set a date and time for such ~~a hearing~~ administrative review and send a notice thereof by regular mail at least seven (7) business days before such date to the owner at the address set forth on his or her request ~~and shall notify the County Fire Warden of such hearing~~.

Section 63. SECTION 4-11-1200 (“HEARING: CONDUCT”) OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1200 ~~HEARING~~ ADMINISTRATIVE REVIEW: CONDUCT:

At the date and time set, ~~a hearing~~ an administrative review shall be held by the ~~Board of Supervisors~~ administrative review officer. ~~The hearing shall be open to the public. The owner may be represented by counsel.~~ The ~~Board of Supervisors~~ administrative review officer shall ~~hear~~ consider all pertinent ~~evidence~~ information offered by all interested persons. ~~The technical rules of evidence shall not be applicable to the hearing, except that the Board’s decision may not be based wholly on hearsay evidence. All persons giving evidence shall be sworn before testifying. The owner may employ a shorthand reporter to report the hearing.~~

Section 64. SECTION 4-11-1205 (“HEARING: DECISION”) OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1205 ~~HEARING~~ ADMINISTRATIVE REVIEW: DECISION:

At the conclusion of the ~~hearing~~ administrative review, the ~~Board of Supervisors~~ administrative review officer may determine:

- (a) That no public nuisance exists.
- (b) That a public nuisance exists which should be abated in accordance with section 4-11-1260 of this Chapter. The ~~Board~~ administrative review officer shall thereupon order the nuisance abated no sooner than the fifth business day following the mailing of notice of the ~~Board’s~~ administrative review officer’s decision.
- (c) That a public nuisance exists which may be removed by some procedure proposed by the owner other than destruction of the fire hazardous plants or materials. If the ~~Board~~ administrative review officer determines that another procedure proposed by the ~~owners~~ owner may be employed to remove the public nuisance, ~~it~~ the officer shall set a reasonable time within which the owner must complete that procedure. If the owner fails to complete the procedure proposed within the time limit set by the ~~Board~~ administrative review officer, the County Fire ~~Warden~~ Chief may, upon five (5) business days notice, sent by him or her to the owner by regular mail, commence abatement in accordance with section 4-11-1260 of this Chapter. At any ~~hearing~~ administrative review in which it is determined that a public nuisance exists, whether abatement or implementation of an alternate procedure proposed by the owner is ordered, the ~~Board~~ administrative

ative review officer shall also determine the administrative costs incurred. The owner shall be entitled to be heard on the question of such administrative costs. ~~The decision of the Board of Supervisors shall be final as to all matters determined.~~

Section 65. SECTION 4-11-1210 (“APPEAL”) OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is added to read as follows:

4-11-1210 APPEAL:

Any person aggrieved by any decision of the administrative review officer may appeal to the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code.

Section 66. SECTION 4-11-1255 (“ABATEMENT BY OWNER”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1255 ABATEMENT BY OWNER:

Any owner may remove or cause to be removed a nuisance described in section 4-11-1065 of this Chapter at any time prior to commencement of abatement by, or at the direction of, the County Fire ~~Warden~~ Chief.

Section 67. SECTION 4-11-1260 (“ABATEMENT: ENTERING PRIVATE PROPERTY”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1260 ABATEMENT: ENTERING PRIVATE PROPERTY:

If the owner has not earlier removed the nuisance and if no request for ~~hearing~~ administrative review as provided by section 4-11-1190 of this Chapter is received by the ~~Clerk of the Board of Supervisors~~ County Fire Chief on or before the seventh business day following the mailing or personal delivery of the notice required by section 4-11-1125 of this Chapter, or if no notice of appeal to the County Hearing Officer after the administrative review officer’s decision is filed as provided by section 4-11-1210 of this Chapter, within the time provided in Article 31 of Chapter 1 of Part I of this Code, the County Fire ~~Warden~~ Chief shall cause the nuisance to be abated. The County Fire ~~Warden~~ Chief shall not commence the abatement until at least fifteen (15) business days after said notice was mailed or personally delivered to the owner. The County Fire ~~Warden~~ Chief, his or her deputies, the employees of his or her department and independent contractors

hired by him or her may enter upon private property on which a nuisance described in section 4-11-1065 of this Chapter exists for the purpose of abating that nuisance.

Section 68. SECTION 4-11-1265 (“ACCOUNTING”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1265 ACCOUNTING:

The County Fire ~~Warden~~ Chief shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the ~~Board of Supervisors~~ County Hearing Officer showing the cost of abatement and the cost of administration as declared in subsection (e) of section 4-11-1070 of this Chapter, or as determined by the ~~Board of Supervisors~~ administrative review officer pursuant to section 4-11-1205, or by the County Hearing Officer pursuant to section 4-11-1210 of this Chapter, for each parcel.

Section 69. SECTION 4-11-1270 (“HEARING ON ACCOUNTING: NOTICE: WAIVER BY PAYMENT”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1270 HEARING ON ACCOUNTING: NOTICE: WAIVER BY PAYMENT:

Upon receipt of the account of the County Fire ~~Warden~~ Chief, the Clerk of the Board of Supervisors shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than five (5) business days after the date of mailing of the notice, the ~~Board of Supervisors~~ County Hearing Officer will ~~meet to~~ review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the County Fire ~~Warden~~ Chief prior to the time set for the hearing by the Clerk of the Board of Supervisors. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable.

Section 70. SECTION 4-11-1275 (“HEARING ON ACCOUNTING”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1275 HEARING ON ACCOUNTING:

(a) At the time fixed, the ~~Board of Supervisors~~ County Hearing Officer shall ~~meet to~~ review the report of the County Fire ~~Warden~~ Chief. An owner may appear at said time and be heard on the questions whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed if that matter has not previously been reviewed in ~~a hearing held to an~~ administrative review of the determination of the County Fire ~~Warden~~ Chief that a nuisance existed.

(b) The report of the County Fire ~~Warden~~ Chief shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.

(c) The hearing shall be conducted in the manner prescribed in ~~section 4-11-1200 of this Chapter~~ Article 31 of Chapter 1 of Part I of this Code.

Section 71. SECTION 4-11-1280 (“MODIFICATIONS”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1280 MODIFICATIONS:

The ~~Board of Supervisors~~ County Hearing Officer shall make such modifications in the accounting as ~~it~~ he or she deems necessary and thereafter shall confirm the report by ~~resolution~~ written decision.

Section 72. SECTION 4-11-1285 (“SPECIAL ASSESSMENT AND LIEN”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1285 SPECIAL ASSESSMENT AND LIEN:

The Board of Supervisors may order that the cost of abating nuisances pursuant to this Chapter and the administrative costs as confirmed by the ~~Board~~ County Hearing Officer be placed upon the County tax roll by the County Auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to section 25845 of the Government Code ~~of the~~

~~State of California~~; provided, however, that the cost of abatement and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll.

Section 73. SECTION 4-11-1290 (“VIOLATION: PENALTY”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1290 VIOLATION: PENALTY:

The maintenance on private property of a public nuisance as described in section 4-11-1065 of this Chapter shall constitute an infraction, punishable under section 125 of this Ordinance Code if any of the following conditions are met:

(a) Such public nuisance is not corrected within fifteen (15) days after the County Fire ~~Warden~~ Chief has notified the property owner of the existence of the public nuisance and there has been no timely request made to the ~~Board of Supervisors~~ County Fire Chief for a ~~hearing on administrative review of~~ the determination of the existence of such public nuisance; or

(b) If, after a ~~hearing held administrative review by the Board of Supervisors~~, the ~~Board administrative review officer~~ determines that such a public nuisance exists and such public nuisance is not corrected within five (5) business days following mailing of the notice of the ~~Board’s administrative review officer’s~~ decision to the property owner; or

(c) If, after a ~~hearing administrative review and determination by the Board administrative review officer~~ that such a public nuisance exists and that such public nuisance may be removed by some procedure proposed by the owner other than destruction of the fire hazardous plants or materials, the ~~Board administrative review officer~~ has set a specific time within which the owner must complete the procedure, and such public nuisance is not corrected within the period of time as set by the ~~Board administrative review officer~~; or

(d) If, after a hearing by the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code, the public nuisance is not corrected within the time set by the County Hearing Officer.

Section 74. SECTION 4-13-1010 (“APPEAL OF DENIAL OR CONDITIONS”) OF ARTICLE 2 (“WELL PERMITS”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1010 ~~APPEAL~~ ADMINISTRATIVE REVIEW OF DENIAL OR CONDITIONS:

(a) If the Health Officer denies an application for a permit, or issues a permit subject to conditions which the permittee believes to be unreasonable, the permittee may ~~appeal to the Board of Supervisors~~ request administrative review. The permittee must file ~~notice of such appeal request~~ with the ~~Board of Supervisors~~ Health and Human Services Agency Director within ten (10) days of the Health Officer’s decision on the application or such ~~appeal review~~ will be deemed waived. The ~~Board of Supervisors~~ Health and Human Services Agency Director or designee, acting as administrative review officer, shall, within twenty (20) days after receipt of a written ~~appeal request~~, hold ~~a hearing~~ an administrative review to determine whether the permit shall be issued to the permittee and, if a permit is to be issued, the terms and conditions under which it shall be issued. Such ~~a hearing~~ administrative review shall be conducted in accordance with section 4-13-1027 of this Chapter and may be continued from time to time by the ~~Board~~ administrative review officer. The decision of the ~~Board of Supervisors~~ administrative review officer shall be rendered within seven (7) days after the conclusion of the hearing review ~~and the decision shall be final as to all matters determined.~~

(b) Any person aggrieved by any decision of the administrative review officer may appeal to the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code.

Section 75. SECTION 4-13-1011 (“JUDICIAL REVIEW OF DECISION”) OF ARTICLE 2 (“WELL PERMITS”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1011 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the ~~Board of Supervisors~~ County Hearing Officer made after a hearing pursuant to this Article, if the decision denies the permit, shall be made pursuant to section 1094.6 of the Code of Civil Procedure ~~of the State of California~~. The method of judicial review, the time limits for judicial review, and all of the other provisions of said section 1094.6 shall govern such judicial review. When giving written notice to the permittee that the permit has been denied, the Clerk of the Board of Supervisors shall provide notice to the permittee that the time within which judicial review must be sought is governed by said section 1094.6.

Section 76. SECTION 4-13-1024 (“NOTICE”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1024 NOTICE:

Whenever the Health Officer determines that a nuisance described in section 4-13-1023 of this Article exists, he/she shall deliver to the owner of the land upon which the nuisance has been determined to exist a written notice informing the owner of the determination of such nuisance. The notice shall state that unless the owner abates the nuisance within a time, following completion of service of the notice, therein stated, determined by the Health Officer to be a reasonable time to accomplish such abatement, but not less than two (2) weeks, or within such time files a ~~notice of appeal~~ request for administrative review with the ~~Clerk of the Board of Supervisors~~ Health and Human Services Agency Director, the Health Officer will abate the nuisance. It shall also state that the cost of such abatement may be added to the County assessment roll as a lien on the real property or placed on the unsecured tax roll.

Section 77. SECTION 4-13-1026 (“HEARING REQUEST”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1026 ~~HEARING~~ ADMINISTRATIVE REVIEW REQUEST:

The owner of property upon which the Health Officer has determined that a nuisance described in section 4-13-1023 of this Article exists may request a ~~hearing before~~ administrative review by the ~~Board of Supervisors for review of such determination~~ Health and Human Services Agency Director or designee within the time specified in section 4-13-1024 of this Article by filing a written request with the ~~Clerk of the Board of Supervisors~~ Health and Human Services Agency Director. The request shall describe the property on which the nuisance has been determined to exist by street name and number and give the name of the owner and his address. The ~~Clerk~~ administrative review officer shall set a date and time for ~~hearing~~ administrative review and send a notice thereof by regular mail at least ten (10) days before such date to the owner at the address set forth on his/her request and shall notify the Health Officer of such ~~hearing~~ administrative review.

Section 78. SECTION 4-13-1027 (“HEARING: CONDUCT”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1027 ~~HEARING~~ ADMINISTRATIVE REVIEW: CONDUCT:

At the date and time set, a ~~hearing~~ administrative review shall be ~~held done~~ by the ~~Board of Supervisors~~ administrative review officer. ~~The hearing shall be open to the public. The owner may~~

~~be represented by counsel. The Board of Supervisors administrative review officer shall hear consider all pertinent evidence information offered by all interested persons. The technical rules of evidence shall not be applicable to the hearing. All persons giving evidence shall be sworn before testifying. The owner may employ a shorthand reporter to report the hearing. The Board may continue said hearing from time to time.~~

Section 79. SECTION 4-13-1028 (“HEARING DECISION”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1028 HEARING ADMINISTRATIVE REVIEW DECISION; APPEAL:

~~(a) At the conclusion of the hearing administrative review, if the Board of Supervisors administrative review officer determines that a public nuisance exists, he or she shall thereupon order the nuisance abated no sooner than thirty (30) days following the mailing by the Clerk of notice of the Board’s review officer’s decision. The Board administrative review officer shall determine whether the nuisance is to be abated by correction or destruction.~~

~~(b) Any person aggrieved by any decision of the administrative review officer may appeal to the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code.~~

Section 80. SECTION 4-13-1029 (“JUDICIAL REVIEW OF DECISION”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1029 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the ~~Board of Supervisors~~ County Hearing Officer made after a hearing pursuant to section 4-13-1028 of this Article shall be made pursuant to sections 1094.5 and 1094.6 of the Code of Civil Procedure of the State of California. When giving written notice to the owner of the order of the ~~Board of Supervisors~~ County Hearing Officer to abate the nuisance, the Clerk of the Board ~~of Supervisors~~ shall include a statement that the time within which judicial review must be sought is governed by said section 1094.6.

Section 81. SECTION 4-13-1030 (“ABATEMENT – ENTERING PRIVATE PROPERTY”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1030 ABATEMENT – ENTERING PRIVATE PROPERTY:

If a nuisance is not corrected or ~~a hearing~~ administrative review sought within the time specified pursuant to section 4-13-1024 of this Article or if, after ~~hearing~~ administrative review, a nuisance

is not abated or a notice of appeal filed pursuant to, and in the time required by, section 4-13-1028 of this Article, or if, after appeal, a nuisance is not abated, the Health Officer shall cause the nuisance to be abated and for that purpose he/she, and others at his/her direction, may enter the property where the nuisance exists.

Section 82. SECTION 4-13-1031 (“ACCOUNTING: NOTICE”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1031 ACCOUNTING; [colon added] NOTICE:

The Health Officer shall keep an account of the cost of abatement and render a report in writing to the ~~Board of Supervisors~~ County Hearing Officer showing such cost. Upon receipt of the account of the Health Officer, the Clerk of the Board of Supervisors shall deposit a copy of the account in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time selected by the Clerk, but not less than ten (10) days after the date of mailing of the notice, the ~~Board of Supervisors~~ County Hearing Officer will review the account and that the owner may appear at said time and be heard.

Section 83. SECTION 4-13-1032 (“HEARING ON ACCOUNTING”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1032 HEARING ON ACCOUNTING:

At the time fixed, the ~~Board of Supervisors~~ County Hearing Officer shall ~~meet to~~ review the report of the Health Officer. The owner may appear at said time and be heard on the questions of whether the accounting is accurate and the amounts reported are reasonable. The report of the Health Officer shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable. The hearing shall be conducted in the manner prescribed in ~~section 4-13-1027 of this Article~~ 31 of Chapter 1 of Part I of this Code. The ~~Board of Supervisors~~ County Hearing Officer shall make such modifications in the accounting as ~~if he or she~~ he or she deems necessary and thereafter shall confirm the report by ~~resolution~~ written decision.

Section 84. SECTION 4-15-1010 (“ADMINISTRATION AND ENFORCEMENT”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1010 ADMINISTRATION AND ENFORCEMENT:

(a) Except as otherwise provided, this Chapter shall be administered and enforced by the Public Works Director.

(b) The Public Works Director, when he or she has probable cause to believe that a nuisance exists, as defined by section 4-15-1070 of this Chapter, may enter, inspect and investigate any watercourse located within the County.

Section 85. SECTION 4-15-1020 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1020 DEFINITIONS:

[No changes to introductory paragraph or subsections (a) through (d)]

(e) "Public Works Director" means the Public Works Director of Tulare County acting either directly or through his or her duly authorized agents.

[No changes to subsection (f)]

Section 86. SECTION 4-15-1075 (“OWNER’S DUTY”) OF ARTICLE 3 (“NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1075 OWNER’S DUTY:

It is the duty of every owner of property within the unincorporated area of Tulare County to prevent a nuisance described in section 4-15-1070 of this Article from arising in, or existing in any watercourse running adjacent to or through his or her property.

Section 87. SECTION 4-15-1125 (“NOTICE”) OF ARTICLE 5 (“NOTICE OF NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1125 NOTICE:

Whenever the Public Works Director determines that a nuisance described in section 4-15-1070 of this Chapter exists upon any property within the County he or she shall notify the owner of the property of the existence of the nuisance. Notice may be provided to any other person as determined by the Public Works Director.

Section 88. SECTION 4-15-1130 (“NOTICE: CONTENTS”) OF ARTICLE 5 (“NOTICE OF NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1130 NOTICE: CONTENTS:

The notice required by section 4-15-1125 of this Article shall:

(a) Identify the owner of the property upon which the nuisance exists, as the name appears on the records of the County ~~Clerk/Recorder/Assessor~~ Assessor/Clerk-Recorder.

(b) A description of the property sufficient to give its location.

(c) Contain a statement that a flood hazardous condition exists and that it has been determined by the Public Works Director to be a public nuisance as described in section 4-15-1070 of this Chapter.

(d) Contain a statement that the owner may within fifteen (15) business days after mailing, posting or personal delivery of the notice make a request in writing to the ~~Clerk of the Board~~ Resource Management Agency Director for a ~~hearing to appeal~~ administrative review of the determination of the Public Works Director that a public nuisance exists or to show that for some other reason those conditions should not be abated in accordance with the provisions of this Chapter.

(e) Contain a statement that, unless the owner abates the nuisance or requests a ~~hearing before the Board to appeal~~ administrative review of the determination of the Public Works Director within fifteen (15) business days after the date the notice was mailed, posted or delivered, the Public Works Director will abate the nuisance. With the exception of that condition described in section 4-15-1315 of this Chapter, it shall also state that the cost of such abatement, together with the cost of administration of the abatement program attributable to said abatement, may be made a special assessment added to the County assessment roll and become a lien on the real property, or placed on the unsecured tax roll.

Section 89. SECTION 4-15-1135 (“NOTICE: MAILING: PERSONAL DELIVERY: POSTING”) OF ARTICLE 5 (“NOTICE OF NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1135 NOTICE: MAILING: PERSONAL DELIVERY: POSTING:

The notice required by section 4-15-1125 of this Chapter shall be served by delivering it personally to the owner, or by mailing it by regular mail to the owner as his or her address appears on the last equalized assessment roll, except that, if the records of the County ~~Clerk/Recorder/Assessor~~

Assessor/Clerk-Recorder show that the ownership has changed since the last equalized assessment roll was compiled, notice shall be mailed to the new owner. If service cannot with diligent effort be accomplished by personal delivery or by mail, notice may be given by posting copies of the notice along the subject property not more than one thousand (1,000) feet apart, but in no event shall fewer than two (2) signs be posted.

Section 90. THE HEADING OF ARTICLE 7 (“HEARING ON NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) OF THE Tulare County Ordinance Code is amended to read as follows:

ARTICLE 7. ~~HEARING ON~~ ADMINISTRATIVE APPEAL OF NUISANCE

Section 91. SECTION 4-15-1185 (“HEARING: REQUEST”) OF ARTICLE 7 (“HEARING ON NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) OF THE Tulare County Ordinance Code is amended to read as follows:

4-15-1185 ~~HEARING~~ ADMINISTRATIVE REVIEW: REQUEST:

The owner of the property may file with the ~~Clerk of the Board~~ Resource Management Agency Director a written request for a ~~hearing before the Board~~ administrative review on or before the fifteenth business day following the day of mailing of the notice or the date on which the notice was personally delivered or posted.

Section 92. SECTION 4-15-1190 (“HEARING: NOTICE”) OF ARTICLE 7 (“HEARING ON NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) OF THE Tulare County Ordinance Code is amended to read as follows:

4-15-1190 ~~HEARING~~ ADMINISTRATIVE REVIEW: NOTICE:

If a ~~hearing~~ administrative review has been requested in accordance with section 4-15-1185 of this Article, the ~~Clerk of the Board~~ Resource Management Agency Director or designee, as administrative review officer, shall set a date and time for such a ~~hearing~~ administrative review and shall send a notice thereof by regular mail at least seven (7) business days before such date to the owner at the address set forth on his or her request and shall notify the Public Works Director of such ~~hearing~~ review.

Section 93. SECTION 4-15-1195 (“HEARING: CONDUCT”) OF ARTICLE 7 (“HEARING ON NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1195 ~~HEARING~~ ADMINISTRATIVE REVIEW: CONDUCT:

At the date and time set, ~~a hearing~~ administrative review shall be ~~held~~ conducted by the ~~Board~~ administrative review officer. ~~The hearing shall be open to the public. The owner may be represented by counsel. The Board administrative review officer shall hear~~ consider all pertinent ~~evi-~~ den- ~~ce~~ information offered by all interested persons. ~~The technical rules of evidence shall not be applicable to the hearing, except that the Board’s decision may not be based wholly on hearsay evidence. All persons giving evidence shall be sworn before testifying. The owner may employ a shorthand reporter to report the hearing.~~

Section 94. SECTION 4-15-1200 (“HEARING: DECISION”) OF ARTICLE 7 (“HEARING ON NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1200 ~~HEARING~~ ADMINISTRATIVE REVIEW: DECISION: APPEAL:

At the conclusion of the ~~hearing~~ administrative review, the ~~Board~~ administrative review officer may determine:

- (a) That no public nuisance exists.
- (b) That a public nuisance exists which should be abated in accordance with section 4-15-1255 of this Chapter. The ~~Board~~ administrative review officer shall thereupon order the nuisance abated by the owner by a specified date which shall be no sooner than ten (10) business days following the mailing of notice of the ~~Board’s~~ administrative review officer’s decision.
- (c) That a public nuisance exists which may be remedied by some procedure proposed by the owner other than abatement. If the ~~Board~~ administrative review officer determines that another procedure proposed by the owner may be employed to remove the public nuisance, ~~if the officer~~ the officer shall set a reasonable time within which the owner shall complete that procedure. If the owner fails to complete the procedure proposed within the time limit set by the ~~Board~~ administrative review officer, the Public Works Director may, upon ten (10) business days notice, sent by him or her to the owner by regular mail, commence abatement in accordance with section 4-15-1255 of this Chapter.
- (d) Any person aggrieved by any decision of the administrative review officer may appeal to the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code. The notice of appeal shall be filed within ten (10) business days following the mailing of notice of the administrative review officer’s decision.

(e) The decision of the ~~Board~~ County Hearing Officer shall be final as to all matters determined at said hearing.

Section 95. SECTION 4-15-1255 (“ABATEMENT: ENTERING PRIVATE PROPERTY”) OF ARTICLE 9 (“ABATEMENT”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1255 ABATEMENT: ENTERING PRIVATE PROPERTY:

If a nuisance is not corrected or abated by the owner, and if no request for ~~hearing~~ administrative review as provided by section 4-15-1185 of this Chapter is received ~~by the Clerk of the Board~~ within the fifteen (15) day period prescribed by section 4-15-1185 of this Chapter, or if no request for administrative review as provided by subdivision (d) of section 4-15-1200 of this Chapter is received within the period prescribed by section 4-15-1200 of this Chapter, or if the administrative review officer or County Hearing Officer has directed that the nuisance be corrected or abated, and it has not been corrected or abated within the time set by the administrative review officer or County Hearing Officer, the Public Works Director shall cause the nuisance to be abated by County forces, contractors employed by the County, or through contracts with other governmental entities. The Public Works Director, County employees who are to perform the work, and contractors or other governmental entities employed by the County to perform the work may enter upon private property on which the nuisance exists for the purpose of abating the nuisance.

Section 96. SECTION 4-15-1260 (“SAME: EMERGENCIES”) OF ARTICLE 9 (“ABATEMENT”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1260 SAME: EMERGENCIES:

Regardless of the provisions of section 4-15-1255 of this Chapter, if it appears to the Public Works Director, in the exercise of his or her reasonable judgment, that the failure to abate the nuisance immediately, without giving the notices and holding the ~~hearing~~ administrative review prescribed in Articles 5 and 7 of this Chapter, presents an immediate threat or danger to the public health, safety and welfare, the Public Works Director may abate such nuisance immediately, to the extent necessary to eliminate the threat or danger, without following the notice and ~~hearing~~ administrative review requirements set forth in said Article 7.

Section 97. SECTION 4-15-1310 (“ACCOUNTING”) OF ARTICLE 11 (“PAYMENT OF COSTS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1310 ACCOUNTING:

The Public Works Director shall keep an account of the cost of each abatement carried out by the County and shall render a report in writing to the ~~Board~~ County Hearing Officer showing the cost of abatement and the cost of administration. If property under more than one ownership has been included in an overall abatement project, the account shall show said costs for the property owned by each owner separately.

Section 98. SECTION 4-15-1320 (“HEARING ON ACCOUNTING: NOTICE: WAIVER BY PAYMENT”) OF ARTICLE 11 (“PAYMENT OF COSTS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1320 HEARING ON ACCOUNTING: NOTICE: WAIVER BY PAYMENT:

Upon receipt of the account of the Public Works Director, the Clerk of the Board shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time specified in the notice which is not less than five (5) business days after the date of mailing of the notice, the ~~Board~~ County Hearing Officer will ~~meet to~~ review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the Public Works Director at any time prior to the time set for the hearing by the ~~Board of Supervisors~~ County Hearing Officer. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right to said hearing and an admission that said accounting is accurate and reasonable.

Section 99. SECTION 4-15-1325 (“HEARING ON ACCOUNTING”) OF ARTICLE 11 (“PAYMENT OF COSTS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1325 HEARING ON ACCOUNTING:

(a) At the time fixed, the ~~Board~~ County Hearing Officer shall meet to review the report of the Public Works Director. The owner may appear at said time and be heard on the questions whether the accounting and the costs included are accurate and the amounts reported are reasonable.

(b) The report of the Public Works Director shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.

(c) The hearing shall be conducted in the manner prescribed in ~~section 4-15-1195 of this Chapter~~ Article 31 of Chapter 1 of Part I of this Code.

Section 100. SECTION 4-15-1330 (“MODIFICATIONS”) OF ARTICLE 11 (“PAYMENT OF COSTS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1330 MODIFICATIONS:

The ~~Board~~ County Hearing Officer shall make such modifications in the accounting as ~~it~~ he or she deems necessary based on the evidence at the hearing and thereafter shall confirm the accounting by ~~resolution~~ written decision.

Section 101. SECTION 4-19-1030 (“SUSPENSION OR REVOCATION: HEARING”) OF CHAPTER 19 (“PUBLIC HEALTH PERMITS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-19-1030 SUSPENSION OR REVOCATION: ~~HEARING~~ ADMINISTRATIVE REVIEW:

Whenever it appears to the Tulare County Health Officer that the holder of a permit subject to this Chapter has violated, or permitted any persons under his or her control to violate, any of the requirements of this Chapter; refused to allow the Tulare County Health Officer or his or her employees to conduct inspections and investigations reasonably necessary for the proper monitoring of the terms of the permit; or violated any State statute, rule, regulation or order governing the permitted activity, then the Tulare County Health Officer shall order ~~a hearing to be held~~ administrative review, with himself or herself or a person appointed by him or her as ~~hearing~~ administrative review officer, [comma added] to determine if the alleged violations have occurred and if suspension or revocation of the permit is warranted.

Section 102. SECTION 4-19-1035 (“SUSPENSION OR REVOCATION: HEARING: NOTICE AND CONDUCT”) OF CHAPTER 19 (“PUBLIC HEALTH PERMITS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-19-1035 SUSPENSION OR REVOCATION: ~~HEARING~~ ADMINISTRATIVE REVIEW: NOTICE AND CONDUCT:

The administrative review officer shall cause written notice of date of such ~~hearing~~ administrative review ~~shall to be delivered to~~ served on the permittee at least five (5) days in advance of such date by personal delivery or by certified mail, return receipt requested, at the business address of the permittee stated on the last permit application. The notice shall describe the nature of the

alleged violation or violations and inform the permittee of his right to attend in person or by designee and to present ~~testimony and evidence~~ information.

Section 103. SECTION 4-19-1040 (“SUSPENSION OR REVOCATION: DECISION”) OF CHAPTER 19 (“PUBLIC HEALTH PERMITS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-19-1040 SUSPENSION OR REVOCATION: ADMINISTRATIVE REVIEW DECISION:

(a) The ~~hearing~~ administrative review officer shall render his or her decision and send the permittee written notice thereof by certified mail, return receipt requested, within five (5) days of the conclusion of the ~~hearing~~ review. If the ~~hearing~~ administrative review officer determines that the violation is minor in nature and the applicant is willing and able to correct the problem within a period of thirty (30) days or less, then the ~~hearing~~ administrative review officer may suspend the permit in lieu of revocation. The length of the suspension shall be expressly noted in the notice of decision. In connection with such suspension, the ~~hearing~~ administrative review officer may impose any conditions which he or she feels necessary for the efficient correction of the problem, including submission to supplementary inspections at the permittee’s expense. Any such conditions shall be expressly noted in the notice of decision. Failure to pay for the cost of such supplemental inspections within five days of receipt of a written bill, or to correct the violation or violations prior to expiration of the period of suspension, shall constitute grounds for immediate revocation by the Tulare County Health Officer without right to further ~~hearing before~~ administrative review by him or her, or by his or her designee. Such revocation shall be effective upon receipt of written notice to the permittee, sent by certified mail, return receipt requested.

Section 104. SECTION 4-19-1045 (“SUSPENSION OR REVOCATION: APPEAL: JUDICIAL REVIEW”) OF CHAPTER 19 (“PUBLIC HEALTH PERMITS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-19-1045 SUSPENSION OR REVOCATION: APPEAL: JUDICIAL REVIEW:

The permittee shall have the right to appeal to the ~~Board of Supervisors~~ County Hearing Officer any decision of the ~~Tulare County Health Officer or his designee~~ administrative review officer to suspend or revoke a permit subject to this Chapter. All such appeals and the judicial review thereof shall be handled in accordance with, and be controlled, by ~~section 165~~ Article 31 of Chapter 1 of Part I of this Ordinance Code.

Section 105. SUBSECTION (a) OF SECTION 4-25-1005 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 25 (“AGRICULTURAL APPLICATION OF SEWAGE SLUDGE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

(a) "Agricultural Commissioner" means the Tulare County Agricultural Commissioner/Sealer or his or her designated representative or deputy.

Section 106. SECTION 4-25-1320 (“ACTION ON APPLICATIONS FOR REQUIRED APPROVALS”) OF ARTICLE 3 (“PERMIT REQUIREMENTS”) OF CHAPTER 25 (“AGRICULTURAL APPLICATION OF SEWAGE SLUDGE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-25-1320 ACTION ON APPLICATIONS FOR REQUIRED APPROVALS:

[No changes to subsections (a) through (g)]

~~(h) Any person adversely affected by the Decision of the Agricultural Commissioner regarding approval or denial of a Biosolids Management Permit, Nutrient Management Plan, or Land Spreading Site Plan may appeal the decision to the Board of Supervisors. An appeal to the Board of Supervisors shall be in writing and filed with the Clerk of the Board of Supervisors in accordance with Section 165 of the Ordinance Code of Tulare County. The Clerk shall give notice and the appeal hearing and decision procedure shall be handled in accordance with the provisions of Section 165 of this Ordinance Code.~~

(~~h~~ h) A Biosolids Management Permit approval or Land Spreading Site Plan approval may be revoked by the Agricultural Commissioner when evidence demonstrates that the applicant has violated any of the following:

- (1) ~~any~~ Any provision(s) of this Chapter, including its fee requirements, and the County’s Biosolids Land Spreading Regulations;
- (2) ~~any~~ Any federal/state laws or regulations; or
- (3) ~~the~~ The waste discharge requirements of the Regional Water Quality Control Board.

If the Agricultural Commissioner revokes the Biosolids Management Permit approval or Land Spreading Site Plan approval, a written notice to this effect shall be delivered within five (5) working days person or by certified mail to the business address of the name appearing on the application. The written notice shall state the grounds for the revocation.

(i) Any person adversely affected by the Decision of the Agricultural Commissioner regarding approval or denial of a Biosolids Management Permit, Nutrient Management Plan, or Land

Spreading Site Plan, or by an Agricultural Commissioner revocation, may request administrative review by the Agricultural Commissioner. Such request shall be filed not more than ten (10) calendar days after notice of the Decision has been mailed.

(j) If such request is filed, the Agricultural Commissioner or designee, as administrative review officer, shall give not less than five (5) days' written notice to the aggrieved person, of administrative review of the Decision or revocation.

(k) At such administrative review, the person may appear and explain why the Decision or revocation should be changed. The administrative review officer shall consider the factors set forth in this Chapter, and shall uphold, withdraw or modify the Decision or revocation. The administrative review officer shall serve a copy of his or her written decision on the aggrieved person. The written decision shall also include or be accompanied by a description of the right to appeal the decision to the County Hearing Officer. The administrative review officer's decision shall be deemed served within two days after the date it was mailed to the address provided by the aggrieved person.

(j l) The applicant aggrieved person may appeal an Agricultural Commissioner revocation the decision of the administrative review officer to the Board of Supervisors County Hearing Officer in accordance with Section 165 Article 31 of Chapter 1 of Part I of this Ordinance Code by filing a written notice of appeal and request for hearing before the Board of Supervisors with the Clerk of the Board of Supervisors not more than ten (10) calendar days after notice of the revocation decision has been delivered served. Unless the Agricultural Commissioner administrative review officer finds the grounds for the revocation decision to constitute an immediate threat to public health or safety, any revocation decision by the Agricultural Commissioner administrative review officer shall be stayed during the pendency of an appeal there from which has been properly and timely filed. At the next regular meeting of the Board of Supervisors following the filing of the appeal the Board of Supervisors shall set the matter for public hearing. The Clerk shall give notice to the applicant and the revocation appeal hearing and decision procedure shall be handled in accordance with the provisions of Section 165 Article 31 of Chapter 1 of Part I of this Ordinance Code.

Section 107. SECTION 5-01-1015 ("RECOVERY OF COSTS") OF ARTICLE 1 ("CURFEW") OF CHAPTER 1 ("PUBLIC MORALS") OF PART V ("PUBLIC WELFARE") of the Tulare County Ordinance Code is amended to read as follows:

5-01-1015 RECOVERY OF COSTS:

The County of Tulare may recover its administrative costs for processing violators of sections 5-01-1000 and 5-01-1005 as follows:

(a) A fee for the actual costs of administrative and transportation services for the return of the minor to his or her place of residence, or the custody of his or her parents or legal guardian may

be charged jointly or severally to the minor and his or her parents or legal guardian, in an amount not to exceed those actual costs.

(b) Upon petition of the person required to pay the fee, the ~~county~~ County Hearing Officer shall conduct a hearing as to the validity of the fees charged, and may upon good cause:

(1) Provide for a waiver of the payment of the fee by the parents or legal guardian upon a determination that the person has made reasonable efforts to exercise supervision and control over the minor.

(2) Provide for a determination of the ability to pay the fee and provide that the fee may be waived if neither the minor or parents or legal guardian has the ability to pay the fee.

(3) Provide for the performance of community service in lieu of imposition of the fee.

(4) Provide for waiver of payment of the fee by the parents or legal guardian upon the determination that the parents or legal guardian has limited physical or legal custody and control of the minor.

(c) The fees set forth herein shall be established from time to time as determined necessary by resolution of the Board of Supervisors of the County of Tulare. Said fees shall be based on the costs reasonably incurred as set forth herein. All other procedures ~~including the establishment of a hearing officer and procedures~~ for the hearings and other administrative steps herein shall be established by resolution of the Board of Supervisors of the County of Tulare pursuant to the County Hearing Officer ordinance in Article 31 of Chapter 1 of Part I of this Ordinance Code.

(d) The remedy in this sections is cumulative and does not preclude other remedies under ~~the Tulare County Ordinance~~ this Code or other state, federal and local laws. Nothing herein shall preclude the ~~county~~ County from seeking other legal or equitable remedies available to it by law.

(e) The provisions of this section shall be considered cumulative to all other laws, rules and regulations regulating curfew violations and other similar offenses.

Section 108. SECTION 6-01-4000 (“DENIAL OF LICENSE APPLICATION: RECONSIDERATION”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) of the Tulare County Ordinance Code is amended to read:

6-01-4000 DENIAL OF LICENSE APPLICATION: RECONSIDERATION:

[no changes to subsection (a)]

(b) The license collector shall provide notice to the applicant of such denial. Notice shall be in writing and shall be served, either personally or by mail, to the address of the applicant as set forth in the application. The notice shall indicate the reason for denial and the process by which the applicant may request reconsideration by the license collector through an ~~informal hearing~~ administrative review process at which the applicant may provide additional information. The Board of Supervisors may establish a fee for requesting reconsideration. The fee, if any, shall be set from time to time by resolution of the Board of Supervisors.

(c) An applicant's request for reconsideration must be filed or postmarked within ten (10) days of the date on the notice of denial. Notice of ~~the hearing~~ administrative review shall be given in the same manner that notice of the denial was given. The notice shall include the date, time, and place of the ~~hearing~~ administrative review, and shall state that at the time of ~~hearing~~ review the applicant may offer relevant ~~evidence~~ information supporting reconsideration of the denial and the issuance of a license.

(d) The ~~hearing~~ administrative review shall be ~~held~~ conducted within a reasonable time, but may be continued from time to time at the discretion of the license collector. The license collector shall issue a written decision within ten (10) days after the conclusion of the ~~hearing~~ review. The written decision shall indicate the reason(s) for the denial, and shall include information regarding appeal to the ~~Board of Supervisors~~ County Hearing Officer.

Section 109. SECTION 6-01-4010 ("EMERGENCY SUSPENSION") OF ARTICLE 4 ("DENIAL, SUSPENSION, AND REVOCATION") OF CHAPTER 1 ("LICENSING AND REGULATION OF BUSINESS OPERATIONS") of the Tulare County Ordinance Code is amended to read:

6-01-4010 EMERGENCY SUSPENSION:

A license issued pursuant to this Part is subject to emergency suspension under the following conditions and procedures:

(a) If the appropriate investigating officer, including but not limited to the Sheriff, Director of the Resource Management Agency, the Health Officer, the Fire Chief, or one of their duly appointed deputies or authorized employees, determines that the manner in which the business is being conducted or the nature of the business premises does not meet the requirements for the original issuance of a license and poses a threat to the immediate preservation of the public peace, health, safety, or general welfare, such officer may issue an emergency order against a licensee, or any person operating a licensed business on behalf of a licensee, immediately and temporarily suspending the license. The emergency order shall set forth the grounds upon which it is based, including a statement of facts constituting the alleged emergency necessitating the action. The emergency order is effective immediately upon issuance and service upon the owner, licensee or person operating the licensed business at the time of the issuance of the order.

(b) Within two business days after the emergency order is issued, the responsible investigating officer shall cause written notice of the emergency order to be sent to the licensee at the address listed on the license application and to the license collector. If the investigating officer desires a further suspension or revocation of the license pursuant to this Article and that the license remain suspended during such suspension or revocation proceedings, the investigating officer shall send with the written notice of the emergency order the written report required to suspend a license. Included in such report shall be the request that the license remain suspended and the facts showing the continued threat to the immediate preservation of the public peace, health, safety, or general welfare. The license collector shall set the ~~hearing~~ administrative review required for a suspension within fourteen days of the date the emergency order was issued and shall thereafter proceed as set forth for a suspension. If the license was suspended pursuant to an emergency order, the license collector shall render a decision and send the required written notice of the decision within three business days ~~of the close of the hearing~~ after the administrative review.

Section 110. SECTION 6-01-4020 (“SUSPENSION”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) of the Tulare County Ordinance Code is amended to read:

6-01-4020 SUSPENSION:

If the appropriate investigating officer determines at any time that the integrity of a licensee, the manner in which the business is being conducted, or the nature of the business premises does not meet the requirements for the original issuance of a license, or that the person conducting the business has committed or permitted a violation of any of the provisions of this Part, has committed or permitted any act contrary to good public morals or proper law enforcement, on or about the business premises, or has perpetuated or allowed an accumulation or succession of violations or incidents resulting in a pattern of persistent, warranted complaints or repeated law enforcement calls to or stops at the business premises, such investigating officer shall give written notice of the proposed action to the licensee and the license collector. The investigating officer shall make a written report of such findings to the licensee and the license collector and shall recommend to the license collector whether to permanently revoke the license or to suspend the license for a fixed period of time. The license collector shall give written notice to the licensee of ~~an informal hearing~~ administrative review at which the charges and recommendation of the investigating officer shall be acted upon. After the ~~informal hearing~~ administrative review the license collector shall give written notice to the licensee of the action taken and information regarding appeal to the ~~Board of Supervisors~~ County Hearing Officer by causing such written notice to be delivered to the person designated in the application as the authorized agent for the receipt of notices.

Section 111. SECTION 6-01-4030 (“REVOCATION OF LICENSE”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) of the Tulare County Ordinance Code is amended to read:

6-01-4030 REVOCATION OF LICENSE:

(a) A license issued in accordance with the provisions of this Part shall be revocable at any time by the license collector upon proof to the satisfaction of the license collector that such business is not being operated in accordance with all applicable health, safety, planning, building, zoning, or fire regulations, in a quiet and orderly manner, in conformance with considerations of public health, safety and welfare, in conformance with the requirements of this Part for that particular type of business, that the nature of the business is not substantially as was represented in the license application, or for failure to pay personal property taxes when due on personal property held in connection with the business licensed under this Part.

(b) Prior to the revocation of any license, the license collector shall provide notice to the licensee that such licensee is in violation of provisions of this Part, and that the license collector will ~~hold an informal hearing on~~ provide administrative review of the complaint and proposed revocation. The notice shall be in writing and served, either personally or by mail, to the address of the licensee as set forth in the license. The notice shall indicate the nature of the complaint, the date, time, and place of the ~~hearing~~ administrative review, and shall state that at the time of ~~hearing~~ review the licensee may offer relevant ~~evidence~~ information. The ~~hearing~~ administrative review shall be held within a reasonable time, but not less than ten (10) days after personal service or fifteen (15) days after mailing of the notice to the licensee. The license collector shall issue a written decision within ten (10) days after the conclusion of the ~~hearing~~ administrative review. The written decision shall indicate the reason(s) for the revocation, and shall include information regarding appeal to the ~~Board of Supervisors~~ County Hearing Officer.

(c) Notwithstanding subdivision (b) of this section, licenses may be immediately revoked without notice and prior to ~~any hearing~~ administrative review if, in the judgment of the license collector, the continuance of the business activity represents an immediate threat or danger to the public health or safety. In such a circumstance, the license collector shall provide notice of the immediate revocation in the same manner as set forth in subdivision (b) of this section on the day of revocation. The notice shall indicate the reason(s) for the revocation and that the license collector will ~~hold an informal hearing on~~ provide administrative review of the revocation. The notice shall indicate the date, time, and place of the ~~hearing~~ administrative review, and shall state that at the ~~hearing~~ review the licensee may offer relevant ~~evidence~~ information. The ~~hearing~~ administrative review shall be held within a reasonable time, but not less than five (5) days after personal service or ten (10) days after mailing of the notice to the licensee(s), unless the licensee and license collector stipulate otherwise in writing. The license collector shall issue a written decision within ten (10) days after the conclusion of the ~~hearing~~ administrative review. The written decision shall indicate the reason(s) for the denial, and shall include information regarding appeal to the ~~Board of Supervisors~~ County Hearing Officer.

Section 112. SECTION 6-01-4040 (“FINALITY OF DECISION”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) of the Tulare County Ordinance Code is amended to read:

6-01-4040 FINALITY OF DECISION:

(a) The initial decision of the license collector to deny an application for a license shall become final on the tenth (10th) day following the mailing of the decision, unless the applicant files a request for reconsideration.

(b) The decision of the license collector after ~~an informal hearing~~ administrative review, to grant or deny an application, suspend a license, grant or deny a renewal, or to revoke a business license, shall become final on the tenth (10th) day following the mailing of the decision, unless the person aggrieved by the decision files an appeal.

(c) When a decision by the license collector becomes final under this section, it cannot be appealed and cannot be judicially reviewed, because the aggrieved person failed to exhaust available administrative remedies.

Section 113. SECTION 6-01-4050 (“APPEAL TO BOARD OF SUPERVISORS”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Ordinance Code of Tulare County is amended to read as follows:

6-01-4050 APPEAL TO BOARD OF SUPERVISORS:

(a) Any person aggrieved by any decision of the license collector under this Part may appeal to the ~~Board of Supervisors~~ County Hearing Officer as provided in ~~Section 165~~ Article 31 of Chapter 1 of Part I of this ~~Ordinance~~ Code. The appeal and any appeal fee as may be adopted from time to time by resolution of the Board of Supervisors must be filed within ten (10) days of the mailing of notice of such decision or the deadline listed in ~~Section 165~~ Article 31 of Chapter 1 of Part I, whichever is later. The decision of the license collector shall be stayed pending hearing of the appeal, except when the license collector’s suspension or revocation is based upon an immediate threat or danger to the public health or safety.

(b) In accordance with the procedures set forth in Article 31 of Chapter 1 of Part I of this Code, the Clerk of the Board of Supervisors shall fix a time and place for hearing such appeal and ~~the license collector~~ shall give notice in writing to the aggrieved party of the time and place of the hearing by personal delivery or by mail, addressed to the licensee at the address appearing on the licensee’s or applicant’s application or license. The hearing shall be set to be heard by the ~~Board of Supervisors~~ County Hearing Officer within sixty (60) days of receipt of the appeal, unless the appellant(s) and the County stipulate to extend the time for hearing.

(c) At a hearing regarding an initial or supplemental application, the applicant shall bear the burden of proof. At a hearing regarding a denial of renewal or a revocation, the license collector shall bear the burden of proof.

~~(d) The decision of the Board of Supervisors shall be final and conclusive, and shall be served on the appellant, by personal delivery or by mail, within thirty (30) days after the conclusion of the hearing.~~

Section 114. SECTION 6-03-1042 (“HARDSHIP WAIVER OF LICENSE REQUIREMENT”) OF CHAPTER 3 (“ADULT-ORIENTED BUSINESSES”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Tulare County Ordinance Code is amended to read as follows:

6-03-1042 HARDSHIP WAIVER OF LICENSE REQUIREMENT:

(a) If one or more of the license requirements set forth in Sections 6-03-1040 and 6-03-1041 is physically impossible at the applicant’s premises, the applicant may apply in writing for a hardship waiver of the license requirement(s) to the license collector.

(b) The license collector shall ~~hold a hearing~~ conduct an administrative review within 10 days of receipt of the application for hardship waiver of the license requirement(s) and the hardship waiver will be granted if the license collector finds there is extreme hardship to the applicant due to certain physically unattainable license requirement(s) and waiver of those license requirement(s) will not have a negative effect on the health, safety or welfare of the County or the people of the County. The license collector may require that the applicant and the license collector agree in writing signed by both parties to a new condition to alleviate any negative effects on the health, safety, or welfare of the County or the people of the County due to waiver of any license requirement(s).

(c) The Board of Supervisors may establish a fee for applying for a hardship waiver. The fee shall be as set from time to time by resolution of the Board of Supervisors. The license collector shall require payment of any fee prior to ~~hearing~~ administrative review of an applicant’s request for hardship waiver.

(d) If the license collector denies an application for a hardship waiver of license requirement(s) pursuant to this section, the applicant may request an appeal to the ~~Board of Supervisors~~ County Hearing Officer within ten (10) days of the license collector’s decision pursuant to ~~Section 165 Article 31 of Chapter 1 of Part I of this Ordinance Code.~~

Section 115. SECTION 6-03-1140 (“PUBLIC NUISANCE”) OF CHAPTER 3 (“ADULT-ORIENTED BUSINESSES”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Tulare County Ordinance Code is amended to read as follows:

6-03-1140 PUBLIC NUISANCE:

Any adult-oriented business operated without a license as required by this Chapter, or determined to be in violation of the conditions of such license after administrative review, or after appeal as provided in this Chapter, is hereby declared to be a public nuisance, and is subject to abatement as provided in Article 11 of Chapter 1 of Part IV of this ~~Ordinance~~ Code.

Section 116. SECTION 6-05-8110 (“CIVIL PENALTIES AND REMEDIES”) OF ARTICLE 8 (“RECORDS OF OWNERSHIP OF NUT CROPS”) OF CHAPTER 5 (“AGRICULTURE”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Tulare County Ordinance Code is amended to read as follows:

6-05-8110 CIVIL PENALTIES AND REMEDIES:

(a) In accordance with Food and Agricultural Code Section 885, in lieu of pursuing a civil prosecution, the Agricultural Commissioner may levy a civil penalty against any Person violating the provisions of this Article. The civil penalty for each violation shall be, for a first violation, a fine of not more than five hundred dollars (\$500). For a second or subsequent violation, the fine shall be not less than seven hundred fifty dollars (\$750), nor more than one thousand dollars (\$1,000). Before the Agricultural Commissioner levies a civil penalty, the Person charged with the violation shall receive notice of the nature of the violation and shall be given opportunity to be heard. This shall include the right to review the evidence and a right to present evidence on his or her own behalf. Upon receiving the notice of violation, the Person charged has 15 calendar days within which to pay the civil penalty or file a ~~notice of appeal~~ request for administrative review with the Agricultural Commissioner in ~~accordance with~~ the same manner as provided by section 1-23-5015 of this ~~Ordinance~~ Code.

(b) Subdivision (e) of Food and Agricultural Code Section 43003 shall apply to any fine levied pursuant to this section for purposes of appealing the Agricultural Commissioner’s ~~initial hearing~~ administrative review decision to the Secretary of Food and Agriculture. Subdivision (f) of Food and Agricultural Code Section 43003 shall apply to any decision where a fine is levied and judgment is to be entered.

Section 117. SECTION 6-07-5040 (“NOTICE AND HEARING”) OF ARTICLE 5 (“ISSUANCE OF AMBULANCE SERVICE PROVIDER LICENSES”) OF CHAPTER 7 (“AMBULANCE AND EMERGENCY MEDICAL SERVICES”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Tulare County Ordinance Code is amended to read as follows:

6-07-5040 NOTICE AND HEARING:

(a) The Board shall hold a public hearing to consider the application and the Health Director’s recommendation, which hearing shall be held not later than forty-five (45) days after a completed application has been filed.

The Clerk of the Board shall set a date and time for the hearing and shall send a notice thereof by regular mail at least ten (10) days before the date of the hearing to the applicant, and to any interested party requesting such notice. The clerk shall also give notice of the hearing to the general public by publishing a notice of the hearing once, at least seven (7) days prior to the date of the hearing, in a newspaper of general circulation which is circulated in the service area(s) which would be affected by the results of the hearing.

(b) At the hearing, the Board shall hear all pertinent evidence offered by all interested persons. ~~The applicant may be represented by counsel, and all persons shall be sworn before testifying. The applicant may employ a shorthand reporter to report the hearing.~~ The Board may continue the hearing from time to time if it finds that the continuance is necessary or desirable.

Section 118. SECTION 6-07-9020 (“REVIEW BY LICENSE COLLECTOR”) OF ARTICLE 9 (“SUSPENSION AND REVOCATION OF AMBULANCE SERVICE PROVIDER LICENSES”) OF CHAPTER 7 (“AMBULANCE AND EMERGENCY MEDICAL SERVICES”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Tulare County Ordinance Code is amended to read as follows:

6-07-9020 REVIEW BY LICENSE COLLECTOR:

Upon receipt of the Health Director’s notice pursuant to section 6-07-9010, the license collector shall proceed as provided in Chapter 1 of this Part. If, at the conclusion of the proceedings, the applicable official finds that the ambulance service provider licensee has violated any of the provisions of this Chapter, the applicable official may revoke, suspend or modify the ambulance service provider license or take any other action which the official deems necessary for the best interests of the residents of the County. If the matter is appealed to the ~~Board of Supervisors~~ County Hearing Officer, the decision of the ~~Board~~ County Hearing Officer shall be final, and appeal therefrom may be made as provided in Chapter 1 of this Part.

Section 119. SECTION 6-07-9030 (“EMERGENCIES: SUMMARY SUSPENSION”) OF ARTICLE 9 (“SUSPENSION AND REVOCATION OF AMBULANCE SERVICE PROVIDER LICENSES”) OF CHAPTER 7 (“AMBULANCE AND EMERGENCY MEDICAL SERVICES”) OF PART VI

("BUSINESS LICENSES AND REGULATIONS") of the Tulare County Ordinance Code is amended to read as follows:

6-07-9030 EMERGENCIES: SUMMARY SUSPENSION:

The Health Director shall have the power to summarily suspend any ambulance service provider license if it appears to the Health Director, in the exercise of or her reasonable judgment, that the failure to suspend the ambulance service provider license presents an immediate threat or danger to the public health, safety, and welfare. The Health Director shall immediately give notice to the ~~Board~~ County Hearing Officer of the suspension and the reasons for the suspension in accordance with this Article and the ~~Board~~ County Hearing Officer shall thereafter hold a hearing on revocation of the ambulance service provider license pursuant to this Article.

Section 120. SECTION 6-15-2030 ("APPEAL FROM SUSPENSION OR REVOCATION") OF ARTICLE 2 ("ISSUANCE, DENIAL, AND REVOCATION OF LICENSE") OF CHAPTER 15 ("FORTUNE-TELLING") OF PART VI ("BUSINESS LICENSES AND REGULATIONS") of the Tulare County Ordinance Code is amended to read as follows:

6-15-2030 APPEAL FROM SUSPENSION OR REVOCATION:

If a fortune-telling license is denied, suspended, or revoked, the person aggrieved may appeal such action to the ~~Board of Supervisors~~ County Hearing Officer as set forth in Chapter 1 of this Part.

Section 121. SECTION 6-35-3010 ("APPEALS") OF ARTICLE 3 ("RESTRICTIONS ON OPERATIONS") OF CHAPTER 35 ("RIVER RAFTING") OF PART VI ("BUSINESS LICENSES AND REGULATIONS") of the Tulare County Ordinance Code is amended to read as follows:

6-35-3010 APPEALS:

Any applicant, licensee, or interested person may appeal any decision under this Chapter ~~to the Board of Supervisors~~ to the County Hearing Officer in compliance with ~~Section 165~~ Article 31 of Chapter 1 of Part I of this ~~Ordinance~~ Code upon payment of a fee in the amount set from time to time by resolution of the Board of Supervisors. The fee shall be paid to the Clerk of the Board of Supervisors.

Section 122. SECTION 7-01-1740 (“SOIL INVESTIGATION”) OF ARTICLE 9 (“TENTATIVE MAP”) OF CHAPTER 1 (“SUBDIVISION OF LAND”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Tulare County Ordinance Code is amended to read as follows:

7-01-1740 SOIL INVESTIGATION:

(a) In accordance with sections 17953-17957 of the Health and Safety Code ~~of the State of California~~, and sections 66490-66491 of the Government Code ~~of the State of California~~, if the final geological hydrological report prepared pursuant to section 7-01-1725 of this Article indicates the presence of critically expansive or loosely deposited soils or other soil problems which, if not corrected, would lead to structural defects, a soil investigation of each affected lot in the subdivision shall be prepared by a registered civil engineer. The soil investigation shall recommend corrective action which will adequately prevent structural damage to each dwelling proposed to be constructed on such soils. The report of the soil investigation shall be filed with the Planning and Development Director.

(b) The Planning and Development Director shall review the soil investigation report and, if he or she determines that the recommended corrective action will adequately prevent structural damage to each dwelling to be constructed in the subdivision, he or she shall approve it. If the Planning and Development Director determines that the recommended corrective action will not be adequate, he or she shall notify the person preparing the report of the inadequacies. Until the Planning and Development Director determines that the report, or amended report, contains recommendations that meet with his or her approval, the final subdivision map shall not be approved. All building permits issued for construction of dwellings in the subdivision shall be conditioned upon the incorporation of the approved recommended corrective action in the construction of each dwelling. Appeal from such determination shall be to the ~~local appeals board~~ Local Appeals Board established pursuant to ~~the Uniform Building~~ section 7-15-1050 of this Code.

Section 123. SECTION 7-15-1050 (“APPEALS”) OF ARTICLE 1 (“ADMINISTRATION AND PROCEDURES”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1050 APPEALS:

(a) Any determination made pursuant to Chapter 15 (Building Regulations) of this ~~Ordinance~~ Code by the Resource Management Agency Director or Fire Chief or their authorized representatives may be appealed in writing to the ~~Board of Supervisors of the County of Tulare~~ Local Appeals Board created under this section. To the extent practical, such appeal shall be subject to the procedural provisions of section 165 (Administrative Appeals) of ~~the this Tulare County Ordinance~~ Code, except as otherwise provided.

(b) There is hereby created a Local Appeals Board and Housing Appeals Board (hereinafter referred to as the "Local Appeals Board") as provided in section 1.8.8.1 of the California Building Code, consisting of five (5) members appointed by the Board of Supervisors. The term of office of each shall be four (4) years or until his or her successor is appointed and qualified. Vacancies other than upon the conclusion of a term shall be filled for the remainder of the predecessor's term. Members shall be qualified by experience and training to rule upon matters pertaining to building code interpretation, fire code interpretation, and suitability of alternate materials and types of construction, and shall not be employees of the County. It shall be the policy of the Board of Supervisors to appoint as members at least one (1) registered civil engineer, one (1) licensed architect, and one (1) contractor with at least a Class B license, but this policy shall in no way deprive the Board of Supervisors of its full discretion in the appointment of otherwise qualified persons. Each member shall receive twenty-five dollars (\$25.00) for each meeting attended but not to exceed fifty dollars (\$50.00) in any one (1) calendar month. The Local Appeals Board shall fix regular times and places for its meetings. Except where inconsistent with the provisions of this section or other provisions of this Code, the duties of the Local Appeals Board shall be as prescribed in section 1.8.8 of the California Building Code and elsewhere in this Code. The jurisdiction of the Local Appeals Board shall also extend to any other matters that the Board of Supervisors by ordinance or resolution makes subject to the jurisdiction of the Local Appeals Board.

(c) Appeals must be filed with the Clerk of the Board of Supervisors within thirty (30) days after the determination or decision from which appeal is being made has been rendered. Appeals must be made on forms furnished by the Clerk and available in person from the Clerk's office and on the Clerk's webpage. A separate appeal form must be filed for each matter being appealed. Any required attachments must be included with the appeal form. At the time of filing the appeal, the appellant must pay a fee in an amount adequate to cover the cost of processing and hearing the appeal, as that amount is established from time to time by resolution of the Board of Supervisors.

(d) Prescriptive standards as set forth in this Code do not constitute a decision of the building official or County Fire Chief appealable under this section.

(e) All applicants and appellants shall be given reasonable opportunity to be heard and present evidence. Decisions of the Local Appeals Board shall be in writing, shall advise the parties of their appeal rights under Code of Civil Procedure section 1094.6, and shall be delivered by the Clerk of the Board of Supervisors to the appellant either in person or by mailing to the address stated on the appeal or application, and to the relevant County Department. Decisions of the Local Appeals Board are final for administrative purposes, but may be appealed to the California Superior Court in accordance with Code of Civil Procedure section 1094.6.

(f) The Local Appeals Board shall have no authority relative to fees, permit processing, or other matters that are not directly related to building standards, and shall have no authority to waive the requirements of this Code. Appeals of any notice of violation or notice and order to abate any violation of this Code shall be heard and decided by a County Hearing Officer pursuant to Article 31 of Chapter 3 of Part I of this Code.

Section 124. SECTION 7-15-1069 (“APPEALS”) OF ARTICLE 2 (“CALIFORNIA BUILDING CODE OF REGULATIONS, PART 2, VOLUMES 1 AND 2”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1069 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the ~~Board of Supervisors~~ Local Appeals Board as ~~per provided in section 165 (Administrative Appeals) 7-15-1050 of the this County Ordinance Code.~~

Section 125. SECTION 7-15-1140 (“APPEALS”) OF ARTICLE 3 (“CALIFORNIA FIRE CODE”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1140 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Fire Department’s or other County Agency’s decision to the ~~Board of Supervisors~~ Local Appeals Board as ~~per provided in section 165 (Administrative Appeals) 7-15-1050 of the this County Ordinance Code.~~

Section 126. SECTION 7-15-1270 (“APPEAL”) OF ARTICLE 5 (“RELOCATION OF BUILDINGS”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1270 APPEAL:

(a) Any interested person may appeal to the ~~Board of Supervisors~~ Local Appeals Board from the decision of the Building Official to issue, conditionally issue or deny a relocation permit. Such an appeal shall be in accordance with section ~~165 (Administrative Appeals) 7-15-1050~~ in writing with the appropriate appeal fee, shall be filed with the Clerk to the Board of Supervisors, and shall state why the issuance, conditional issuance, or denial of the permit is improper under the provisions of Article 5 (Relocation of Buildings).

[No changes to subsection (b)]

(c) If the Building Official decides to deny a permit, the notice of appeal with the appeal fee must be filed by the applicant ~~during normal work hours for the permit~~ in the office of the Clerk to the

Board of Supervisors no later than ten (10) calendar days after ~~he receives~~ formal notice of such action ~~from~~ is served by the Building Official.

(d) Upon the filing of a written appeal and appeal fee, the Clerk to the Board of Supervisors shall cause a notice of the time of the appeal hearing to be mailed to the appellant, to the applicant if he or she is not the appellant, and to the Building Official, not less than ten (10) calendar days prior to the date set for the appeal hearing.

(e) After the appeal hearing, the ~~Board of Supervisors~~ Local Appeals Board may affirm, reverse or modify the decision of the Building Official, or refer the matter back to the Building Official for further action. The decision of the ~~Board of Supervisors~~ Local Appeals Board on the appeal shall be final.

(f) If an appeal is taken from a denial of a permit, and the ~~Board of Supervisors~~ Local Appeals Board determines that the permit should be issued, the notice requirements of section 7-15-1265 (Notice of Granting Permit) of this Article shall thereafter be substantially complied with, either by the ~~Board of Supervisors~~ Local Appeals Board or the Building Official, prior to the issuance of the permit. If an appeal is thereafter filed within the time limits set forth in subsection (b) above, a new appeal hearing shall be held prior to issuance of the permit.

Section 127. SECTION 7-15-1275 (“JUDICIAL REVIEW OF DECISION”) OF ARTICLE 5 (“RELOCATION OF BUILDINGS”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Tulare County Ordinance Code is amended to read as follows:

7-15-1275 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the Local Appeals Board ~~of Supervisors~~ made after a hearing pursuant to this Article, if the decision denies the permit, shall be made pursuant to ~~Section~~ section 1094.6 of the Code of Civil Procedure ~~of the State of California~~. The method of judicial review, the time limits for judicial review, and all of the other provisions of said ~~Section~~ section 1094.6 shall govern such judicial review. When giving written notice to the applicant that the permit has been denied, the Clerk of the Board of Supervisors shall provide notice to the applicant that the time within which judicial review must be sought is governed by said ~~Section~~ section 1094.6.

Section 128. SECTION 7-15-1425 (“APPEALS”) OF ARTICLE 7 (“EXCAVATION AND GRADING”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1425 APPEALS:

Appeals of any determination as to conformance with the grading standards in this Chapter may be filed in the manner provided in section ~~165 (Administrative Appeals)~~ 7-15-1050 of the ~~Ordinance~~ this Code.

Section 129. SECTION 7-15-1830 (“PERMITS: ISSUANCE”) OF ARTICLE 17 (“FIRE FLOW AND FIRE PROTECTION”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Tulare County Ordinance Code is amended to read as follows:

7-15-1830 PERMITS: ISSUANCE:

No permit of the type specified in Section 7-15-1825 (Scope of Article: Exceptions) of this Article shall be issued by the Resource Management Agency Director or authorized representative until:

(a) The Fire Chief or authorized representative, or the Local Appeals Board of Supervisors after an appeal hearing, determines and certifies in writing that the proposed construction or relocation complies with the requirements of this Article.

(b) The Assistant Director Public Works Branch of Resource Management Agency certifies in writing that the applicant has entered into an agreement for construction of the improvements required by this Article and deposited the required security when such an agreement and security are required under the provisions of this Article.

(c) All Fire Chief or authorized representative inspection fees required by this Article are paid.

Section 130. SECTION 7-15-1870 (“APPEAL”) OF ARTICLE 17 (“FIRE FLOW AND FIRE PROTECTION”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1870 APPEAL:

An applicant who wishes to appeal from any determination, ~~except those made by the Fire Marshal under Section 7-15-1875 (Voluntary Inspections)~~, made by the Fire Marshal or the Resource Management Agency Director, except those made by the Fire Marshal under Section 7-15-1875

(Voluntary Inspections), may do so to the ~~Board of Supervisors~~ Local Appeals Board as ~~per provided in section 165 (Administrative Appeals) 7-15-1050 of the County Ordinance~~ this Code.

Section 131. SECTION 7-15-1875 (“VOLUNTARY INSPECTIONS”) OF ARTICLE 17 (“FIRE FLOW AND FIRE PROTECTION”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Tulare County Ordinance Code is amended to read as follows:

7-15-1875 VOLUNTARY INSPECTIONS:

[No changes to introductory paragraph or subsections (a) through (c)]

(d) Nothing in this section shall be deemed to make it mandatory for the County or the Fire Department to perform any requested inspection. The decision to accept any application and grant a request for such an inspection shall rest solely with the ~~fire department~~ Fire Department and such application may be rejected or any request may be denied without cause. There shall be no appeals to the Local Appeals Board of Supervisors concerning any decision, finding or activity of the Fire Department under this section.

Section 132. SECTION 7-15-1880 (“JUDICIAL REVIEW OF DECISION”) OF ARTICLE 17 (“FIRE FLOW AND FIRE PROTECTION”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Tulare County Ordinance Code is amended to read as follows:

7-15-1880 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the Local Appeals Board of Supervisors made after a hearing pursuant to this Article, if the decision denies the permit, shall be made pursuant to ~~Section section~~ section section 1094.6 of the Code of Civil Procedure ~~of the State of California~~. The method of judicial review, the time limits for judicial review, and all of the other provisions of said ~~Section section~~ section section 1094.6 shall govern such judicial review. When giving written notice to the applicant that the permit has been denied, the Clerk of the Board of Supervisors shall provide notice to the applicant that the time within which judicial review must be sought is governed by said ~~Section section~~ section section 1094.6.

Section 133. SECTION 7-15-2130 (“APPEALS”) OF ARTICLE 20 (“CALIFORNIA HISTORICAL BUILDING CODE”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of Tulare County is amended to read as follows:

7-15-2130 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Resource Management Agency Director or authorized representative’s decision, or the decision of any county agency to

the ~~Board of Supervisors~~ Local Appeals Board as ~~per~~ provided in section ~~165 (Administrative Appeals) 7-15-1050 of the County Ordinance~~ this Code. If further appeal is necessary, ~~it~~ the decision shall be appealed to the State Historical Building Safety Board as ~~per~~ provided in Health and Safety Code ~~Section~~ section 18960 (e) ~~(1, 2, & 3)~~.

Section 134. SECTION 7-15-2230 (“APPEALS”) OF ARTICLE 21 (“TITLE 19, CALIFORNIA CODE OF REGULATIONS”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2230 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Fire Department’s decision, or the decision of any county agency, to the ~~Board of Supervisors~~ Local Appeals Board as ~~per~~ provided in section ~~165 (Administrative Appeals) 7-15-1050 of the County Ordinance~~ this Code.

Section 135. SECTION 7-15-2335 (“APPEALS”) OF ARTICLE 22 (“NFPA 1142, WATER SUPPLIES FOR SUBURBAN AND RURAL FIRE FIGHTING”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2335 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Fire Department’s decision to the ~~Board of Supervisors~~ Local Appeals Board as ~~per~~ provided in section ~~165 (Administrative Appeals) 7-15-1050 of the County Ordinance~~ this Code.

Section 136. SECTION 7-15-2430 (“APPEALS”) OF ARTICLE 23 (“CALIFORNIA RESIDENTIAL CODE, TITLE 24, PART 2.5”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2430 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Resource Management Agency Director or authorized representative’s decision, or the decision of any county agency, to the ~~Board of Supervisors~~ Local Appeals Board as ~~per~~ provided in section ~~165 (Administrative Appeals) 7-15-1050 of the County Ordinance~~ this Code.

Section 137. SECTION 7-15-2525 (“APPEALS”) OF ARTICLE 24 (“CALIFORNIA ADMINISTRATIVE CODE, TITLE 24, PART 1 [Building Standards”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2525 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the ~~Board of Supervisors~~ Local Appeals Board as ~~per provided in~~ section ~~165 (Administrative Appeals) 7-15-1050~~ of the ~~County Ordinance~~ this Code.

Section 138. SECTION 7-15-2625 (“APPEALS”) OF ARTICLE 25 (“CALIFORNIA ENERGY CODE, TITLE 24, PART 6”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2625 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the ~~Board of Supervisors~~ Local Appeals Board as ~~per provided in~~ section ~~165 (Administrative Appeals) 7-15-1050~~ of the ~~County Ordinance~~ this Code.

Section 139. SECTION 7-15-2725 (“APPEALS”) OF ARTICLE 26 (“CALIFORNIA GREEN BUILDINGS STANDARDS CODE, TITLE 24, PART 11”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2725 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the ~~Board of Supervisors~~ Local Appeals Board as ~~per provided in~~ section ~~165 (Administrative Appeals) 7-15-1050~~ of the ~~County Ordinance~~ this Code.

Section 140. SECTION 7-15-2825 (“APPEALS”) OF ARTICLE 27 (“CALIFORNIA REFERENCED STANDARDS CODE, TITLE 24, PART 12”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2825 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the ~~Board of Supervisors~~ Local Appeals Board as ~~per provided in section 165 (Administrative Appeals) 7-15-1050 of the County Ordinance~~ this Code.

Section 141. SECTION 7-15-2925 (“APPEALS”) OF ARTICLE 28 (“CALIFORNIA MECHANICAL CODE, TITLE 24 PART 4”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2925 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the ~~Board of Supervisors~~ Local Appeals Board as ~~per provided in section 165 (Administrative Appeals) 7-15-1050 of the County Ordinance~~ this Code.

Section 142. SECTION 7-15-2935 (“ADOPTION”) OF ARTICLE 29 (“UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2935 ADOPTION:

(a) Subject to subsections (~~a~~b) and (~~b~~c) below, the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, as published by the International Conference of Building Officials, is hereby referred to, adopted and made a part of this Article with the same effect as if fully set forth herein. The procedures and proceedings provided in said Uniform Code may, in the discretion of the Building Official, be used in place of procedures and proceedings that may be provided elsewhere in this ~~Ordinance~~ Code. All of the provisions of said Uniform Code as adopted and incorporated by this section shall apply to all of the unincorporated territory of the County of Tulare.

(~~a~~ b) Section 205 (Board of Appeals) and Chapter 5 (Appeal) of the Uniform Code for the Abatement of Dangerous Buildings are not adopted. The administrative enforcement of this Chapter is subject to the right of appeal as provided by section ~~165 (Administrative Appeals) 7-15-1050~~ of the Tulare County Ordinance this Code.

(~~b~~ c) Section 201 of the Uniform Code for the Abatement of Dangerous Buildings is amended by adding thereto a new Section 201.4 to read as follows:

Section 201.4 Authorized Representatives. In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint such number of technical officers and inspectors and other employees as shall be authorized from time to time. The Building Official may appoint such inspectors or employees as may be necessary to carry out the provision of the Uniform Code for the Abatement of Dangerous Buildings.

Section 143. SECTION 7-15-2960 (“APPEALS”) OF ARTICLE 31 (“CALIFORNIA EXISTING BUILDING CODE, TITLE 24, PART 10”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2960 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person ~~can~~ may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the ~~Board of Supervisors~~ Local Appeals Board as ~~per provided in~~ section ~~165 (Administrative Appeals) 7-15-1050~~ of the County Ordinance this Code.

Section 144. THE TITLE OF ARTICLE 5 (“NOISE MAKING DEVICES”) OF CHAPTER 29 (“RIGHT TO FARM”) OF PART VII (“LAND USE AND REGULATION”) of the Tulare County Ordinance Code is amended to read:

ARTICLE 5. NOISE MAKING ~~DEVICES~~ DEVICES

Section 145. THE TITLE OF SECTION 7-29-1120 (“NOISE MAKING DEVICES”) OF ARTICLE 5 (“NOISE MAKING DEVICES”) OF CHAPTER 29 (“RIGHT TO FARM”) OF PART VII (“LAND USE AND REGULATION”) of the Tulare County Ordinance Code is amended to read:

7-29-1120 Noise Making ~~Devises~~ Devices

[No change to text of 7-29-1120]

Section 146. SECTION 8-03-1015 (“ADMINISTRATION AND ENFORCEMENT”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“SEWER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-03-1015 ADMINISTRATION AND ENFORCEMENT:

(a) Except as otherwise provided, this Chapter shall be administered and enforced by the Public Works Director or his or her deputy.

(b) The Public Works Director, when he or she has probable cause to believe that a violation exists, as defined by Section 8-03-1030 of this Chapter, may enter, inspect and investigate any property located within the County.

Section 147. SECTION 8-03-1025 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“SEWER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-03-1025 DEFINITIONS:

[No change to introductory paragraph or subsections (a) through (c)]

(d) "Delft Colony" means the Delft Colony Zone of Benefit of ~~the~~ County Service Area No. 1 as established by the Board of Supervisors of the County of Tulare.

[No change to subsections (e) through (m)]

(n) "Owners of improved real property" means and includes persons who are recorded on the books of the County ~~Clerk/Recorder/Assessor~~ Assessor/Clerk-Recorder and County Tax Collector as the owners of lots or parcels of land that are improved by buildings that would be subject to service by Public Sewage System under the provisions of this ordinance.

[No change to subsections (o) through (u)]

(v) "Sewer Improvement Standards Ordinance" means the uncodified County of Tulare Ordinance of that title as adopted and amended from time to time by the Board of Supervisors.

Section 148. SECTION 8-03-1035 (“CONNECTION WITH SEWAGE SYSTEM”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“SEWER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-03-1035 CONNECTION WITH SEWAGE SYSTEM:

All buildings, houses, and dwelling units within the areas described in section 8-03-1020 shall be connected to the public sewage system within such areas within one hundred and twenty (120) days of the Board of ~~Supervisor’s~~ Supervisors’ acceptance of the Notice of Completion for the public sewage system within the specific Zone of Benefit in County Service Area No. 1 or in ~~county~~ County Service Area No. 2 unless the period of time to connect is extended by resolution or other official order of the Board of Supervisors or unless otherwise allowed by the Sewer Improvements Standards Ordinance.

Section 149. SECTION 8-03-1150 (“SEWER SERVICE CHARGES”) OF ARTICLE 5 (“SEWER SERVICE CHARGES”) OF CHAPTER 3 (“SEWER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-03-1150 SEWER SERVICE CHARGES:

From time to time, the Board of Supervisors shall establish fees or charges for the sewer services provided, including but not limited to connection fees and charges, sewer service rates and charges, stand-by charges, vacancy charges, reestablishment fees and charges, delinquency charges, and such other fees and charges as the Board finds reasonable and necessary to pay the cost of providing such service. Pursuant to Government Code section 25825 and Health and Safety Code section 5471 et seq., such fees and tolls shall be set out in and shall be collectable, including placement of delinquent fees on the tax rolls, as provided in the Sewer Fee Ordinance.

~~(a) Such public nuisance is not corrected within fifteen (15) days after the Public Works Director or his deputy has notified the property owner of the existence of the public nuisance and there has been no timely request made to the Board of Supervisors for a hearing on the determination of the existence of such public nuisance; or~~

~~(b) If, after a hearing held by the Board of Supervisors, the Board determines that such public nuisance is not corrected within ten (10) business days following mailing of the notice of the Board’s decision to the property owner; or~~

~~(c) If, after a hearing and determination by the Board that such a public nuisance exists and that such public nuisance may be removed by some procedure proposed by the owner and the Board has set a specific time within which the owner must complete the procedure, such public nuisance is not corrected within the period of time as set by the Board.~~

~~Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any such provision of this Chapter is committed, permitted or continued by such person, and shall be punishable therefore as provided hereinabove.~~

Section 150. SECTION 8-03-1200 (“VIOLATION: PENALTY”) OF ARTICLE 7 (“PENALTIES FOR VIOLATION”) OF CHAPTER 3 (“SEWER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-03-1200 VIOLATION: PENALTY:

The maintenance on private property of a public nuisance as described in sections 8-03-1030 or 8-03-1045 of this Chapter shall constitute an infraction, punishable under section 125 of this Ordinance Code, if any of the following conditions are met:

(a) Such public nuisance is not corrected within fifteen (15) days after the Public Works Director or his or her deputy has notified the property owner of the existence of the public nuisance, and there has been no timely request made to the Resource Management Agency Director for administrative review on the determination of the existence of such public nuisance; or

(b) If, after administrative review, the administrative review officer has determined that a public nuisance exists, and such public nuisance is not corrected within ten (10) business days following mailing of the notice of the administrative review decision to the property owner, and there has been no timely notice of appeal filed with the Clerk to the Board of Supervisors; or

(c) If, after administrative review, the administrative review officer has determined that a public nuisance exists, and that such public nuisance may be removed by some procedure proposed by the owner and the administrative review has set a specific time within which the owner must complete the procedure, and such public nuisance is not corrected within the period of time as set by the administrative review officer, and there has been no timely notice of appeal to the County Hearing Officer filed with the Clerk to the Board of Supervisors; or

(d) If, after an appeal hearing held by the County Hearing Officer under Article 31 of Chapter 1 of Part I of this Code, the County Hearing Officer determines that a public nuisance exists, and such public nuisance is not corrected within ten (10) business days following mailing of the notice of the Hearing Officer’s decision to the property owner; or

(e) If, after a an appeal hearing held by the County Hearing Officer, the County Hearing Officer determines that a public nuisance exists, and that such public nuisance may be removed by some procedure proposed by the owner and the County Hearing Officer has set a specific time within which the owner must complete the procedure, such public nuisance is not corrected within the period of time as set by the County Hearing Officer.

Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any such provision of this Chapter is committed, permitted or continued by such person, and shall be punishable therefore as provided hereinabove.

Section 151. SECTION 8-05-1005 (“PURPOSE”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“WATER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-05-1005 PURPOSE:

It is the purpose of this Chapter to protect the ~~heath~~ health, safety, and welfare of the residents of the County of Tulare through the prevention of public ~~heath~~ health and other nuisances related to water service within certain areas of the County of Tulare. It shall be construed liberally to that end.

Section 152. SECTION 8-05-1010 (“NOT EXCLUSIVE REGULATION”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“WATER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-05-1010 NOT EXCLUSIVE REGULATION:

This Chapter is not the exclusive regulation of public ~~heath~~ health and other nuisances relating to water service. It shall supplement and be in addition to the other regulating statutes and ordinances heretofore and hereafter enacted by the State, the County, or any other legal entity or agency having jurisdiction.

Section 153. SECTION 8-05-1015 (“ADMINISTRATION AND ENFORCEMENT”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“WATER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-05-1015 ADMINISTRATION AND ENFORCEMENT:

(a) Except as otherwise provided, this Chapter shall be administered and enforced by the Public Works Director or his or her deputy.

(b) The Public Works Director, when he or she has probable cause to believe that a violation exists, as defined by section 8-05-1075 of this Chapter, may enter, inspect, and investigate any property located within the County.

Section 154. SECTION 8-05-1025 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“WATER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-05-1025 DEFINITIONS:

[No change to introductory paragraph or subsections (a) through (d)]

(e) "Owners of improved real property" means and includes persons who are recorded on the books of the County ~~Clerk/Recorder/Assessor~~ Assessor/Clerk-Recorder and County Tax Collector as the owners of lots or parcels of land that are improved by buildings that would be subject to service by a Public Water System under the provisions of this Chapter.

[No change to subsections (f) through (k)]

Section 155. SECTION 8-05-1245 (“VIOLATION: PENALTY”) OF ARTICLE 9 (“PENALTIES FOR VIOLATION”) OF CHAPTER 3 (“WATER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-05-1245 VIOLATION: PENALTY:

The maintenance on private property of a public nuisance as described in sections 8-05-1075 or 8-05-1090 of this Chapter shall constitute an infraction, punishable under section 125 of this ~~Ordinance~~ Code, if any of the following conditions are met:

(a) Such public nuisance is not corrected within fifteen (15) days after the Public Works Director or his or her deputy has notified the property owner of the existence of the public nuisance and there has been no timely request made to the ~~Board of Supervisors~~ Resource Management Agency ~~for a hearing on administrative review of~~ the determination of such public nuisance; or

(b) If, after ~~a hearing held by the Board of Supervisors~~ administrative review, the ~~Board~~ administrative review officer determines that such a public nuisance exists, and such public nuisance is not corrected within ten (10) business days following mailing of the notice of the ~~Board's~~ administrative review officer's decision to the property owner, and there has been no timely notice of appeal to the County Hearing Officer filed with the Clerk to the Board of Supervisors; or

(c) If, after ~~a hearing~~ administrative review and determination by the ~~Board~~ administrative review officer that such a public nuisance exists and that such public nuisance may be removed by some procedure proposed by the owner, and the ~~Board~~ administrative review officer has set a specific time within which the owner must complete the procedure, such public nuisance is not corrected within the period of time as set by the ~~Board~~ administrative review officer, and there has been no timely notice of appeal to the County Hearing Officer filed with the Clerk to the Board of Supervisors; or

(d) If, after a hearing held by the County Hearing Officer, the Hearing Officer determines that such public nuisance exists, and such public nuisance is not corrected within ten (10) business days following mailing of the notice of the Hearing Officer's decision to the property owner; or

(e) If, after a hearing and determination by the County Hearing Officer that such a public nuisance exists and that such public nuisance may be removed by some procedure proposed by the owner, and the Hearing Officer has set a specific time within which the owner must complete the procedure, such public nuisance is not corrected within the period of time as set by the Hearing Officer.

Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any such provision of this Chapter is committed, permitted or continued by such person, and shall be punishable thereof as provided hereinabove.

Section 156. SEVERABILITY AND EFFECT: The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 157. PUBLICATION: The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof a summary shall be published once in a newspaper printed and published in the County of Tulare, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

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THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on _____, 2019 at a regular meeting of said Board duly and regularly convened on said day, by the following vote:

AYES: _____
NOES: _____
ABSENT: _____

Chairman, Board of Supervisors

ATTEST: JASON T. BRITT, Clerk of the Board of Supervisors/County Administrative Officer

By: _____
Deputy

Approved as to Legal Form:
COUNTY COUNSEL

By: _____
Deputy

Matter # 2019343

JLK/5-10-2019/2019343/1320609.docx

ORDINANCE NO. _____

AN ORDINANCE ADDING ARTICLE 31 TO CHAPTER 3 OF PART I, AND AMENDING VARIOUS SECTIONS OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO ADMINISTRATIVE HEARING PROCEDURES, ESTABLISHING THE OFFICE OF COUNTY HEARING OFFICER, AND ESTABLISHING A LOCAL APPEALS BOARD, AND CORRECTING MISCELLANEOUS CLERICAL ERRORS.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. ARTICLE 31 (“ADMINISTRATIVE HEARING PROCEDURES AND OFFICE OF COUNTY HEARING OFFICER”) IS ADDED TO CHAPTER 3 (“COUNTY OFFICES AND DEPARTMENTS”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Ordinance Code of Tulare County, to read as follows:

**ARTICLE 31. ADMINISTRATIVE HEARING PROCEDURES AND
OFFICE OF COUNTY HEARING OFFICER**

1-31-1000 ADMINISTRATIVE HEARING PROCEDURES:

As to any matter that the Board of Supervisors by ordinance or resolution makes subject to the provisions of this Article, the administrative appeal shall be controlled by the procedures set forth in this Article. The provisions of this Article shall be applicable only where there is a specific reference to this Article by resolution, or ordinance, directing that the provisions of this Article shall control.

1-31-1010 DEFINITIONS:

For the purposes of this Article, the following words and phrases shall have the following meanings:

(a) “Clerk” or “Clerk to the Board of Supervisors” means the Chief Clerk of the Board of Supervisors, or his or her designee.

(b) "County Department" means the Department responsible for the enforcement of the cited violation(s) of this Code or other County policy or rule subject to appeal before a Hearing Officer.

(c) "County Officer" means the County Officer or employee charged with the enforcement of the cited violation(s) of this Code or other County policy and/or rule subject to appeal before a Hearing Officer.

(d) "Hearing" means an administrative adjudicative proceeding presided over by a Hearing Officer who receives evidence and legal arguments prior to issuing a decision resolving contested issues of law and/or fact.

(e) "Hearing Officer" means a qualified person appointed to be a County Hearing Officer pursuant to this Article.

(f) "Party" or "parties" means the County Department or County Officer, on behalf of the County, and the appellant(s) and/or the individual(s) against whom the County is proceeding.

1-31-1020 FORM AND CONTENTS OF APPEAL FORM:

All appeals subject to this Article must be filed using forms furnished by the Clerk to the Board of Supervisors and available in person from the Clerk's office and on the Clerk's webpage. A separate appeal form must be filed for each matter being appealed. Any required attachments must be included with the appeal form. At the time of filing the appeal, the appellant must pay a fee in an amount adequate to cover the cost of processing and hearing the appeal, as that amount is established from time to time by resolution of the Board of Supervisors.

1-31-1030 WHERE FILED:

The appeal form must be filed with the Clerk in person, by delivery, or by mail. The appeal may not be filed by facsimile transmission or other electronic means.

1-31-1040 INCOMPLETE OR INCORRECT STATUS:

The Clerk shall promptly notify the appellant if required information is missing from the appeal form or is incorrect. The Clerk's notice shall contain an explanation of the deficiency, a request for the missing or correct information, and a warning that unless the missing or correct information is provided within fifteen (15) days after the date of the notice, or the last date the appeal may be filed, whichever is later, the appeal will be considered untimely, will be deemed denied, and as a result the decision or action appealed from will be deemed to have been confirmed.

1-31-1050 TIME FOR FILING:

(a) To be considered valid, an appeal must be filed with the Clerk during the appropriate filing period. When an appeal is filed after the applicable deadline, the Clerk shall promptly notify the appellant and applicable County Officer or Department of the untimely filing. The notice shall contain an explanation of the untimely filing and notice pursuant to subsection (b) that failure to timely file the appeal is jurisdictional, cannot be waived, is deemed a waiver of the right of appeal, the untimely-filed appeal is deemed denied, and as a result the decision or action appealed from is deemed confirmed.

(b) Failure to timely file an appeal is jurisdictional, cannot be waived, is deemed a waiver of the right of appeal, an untimely-filed appeal is deemed to have been denied, and as a result the decision or action appealed from is deemed to have been confirmed.

1-31-1060 REQUEST TO WAIVE APPEAL FEE:

An appellant who is indigent may request that the fee imposed by the Board of Supervisors for processing an appeal be waived. The Clerk shall provide a form on which the appellant may request the waiver, showing his or her financial condition under penalty of perjury. If the appellant properly completes and signs the waiver form, then the Clerk shall accept the status of the appellant as indigent, and shall accept the appeal for filing without payment of the fee.

1-31-1070 AUTHORIZATION AND DIRECTION TO CLERK:

The Clerk is authorized and directed to take all actions and to do all things necessary to comply with and carry into effect all provisions of this Article as well as all other provisions of this Code related to administrative appeals.

1-31-1080 OFFICE OF COUNTY HEARING OFFICER CREATED:

Pursuant to Government Code section 27720 et seq., the office of County Hearing Officer is hereby established.

1-31-1090 DUTIES OF OFFICE:

The duties of the office of the County Hearing Officer are to conduct those hearings that are delegated to it by the Board of Supervisors by ordinance or resolution in accordance with the requirements of Government Code section 27720 et seq.

1-31-1100 APPOINTMENT OF COUNTY HEARING OFFICERS:

(a) The Board of Supervisors shall appoint a panel of not less than five attorneys-at-law as County Hearing Officers (hereafter, individually referred to as "Hearing Officer"), who shall each satisfy the requirements of section 1-31-1040, herein. Additionally, the County may contract with the Office of Administrative Hearings of the State of California, pursuant to Government Code section 27727, for the services for an administrative law judge to conduct proceedings pursuant to this Article.

(b) A vacancy in any one of the Hearing Officer panel positions shall be filled in the same manner in which the position that has become vacant was filled, and the person appointed to such vacancy shall serve the remainder of the unexpired term of the person who left office or was removed from office.

(c) A Hearing Officer appointed to the panel of Hearing Officers shall be an independent contractor. To avoid conflicts of interest, including the appearance of conflicts, a Hearing Officer shall provide no services to the County other than those of a Hearing Officer.

(d) The County Administrative Officer is authorized to execute service agreements with individuals appointed to the panel of Hearing Officers, subject to approval of the form of the contract by County Counsel. Such Hearing Officers shall be compensated for their services on an hourly or flat rate basis, and reimbursed for their actual and necessary expenses, as the County and the Hearing Officer may agree.

1-31-1110 QUALIFICATIONS OF COUNTY HEARING OFFICERS:

(a) A Hearing Officer shall have the qualifications stated in Government Code section 27724.

(b) A Hearing Officer shall maintain an active license to practice law in the State of California continuously during his or her term of office.

(c) Failure by a Hearing Officer to satisfy the requirements of subsection (b) of this section following his or her appointment shall automatically revoke a Hearing Officer's appointment to serve. A Hearing Officer shall immediately notify the Clerk of his or her failure to satisfy the requirements of subsection (b) of this section.

1-31-1120 TERM OF OFFICE:

The term of office of each Hearing Officer appointed to the panel of Hearing Officer shall be four years and shall commence on the day of his or her appointment, provided that each Hearing Officer shall continue to serve until his or her successor has been duly appointed and qualified. A Hearing Officer who is in the process of hearing a matter when the Hearing Officer's term expires, however, shall continue to discharge his or her duties as a Hearing Officer for the matter until the matter is completed. A Hearing Officer may be appointed to successive terms.

1-31-1130 REMOVAL/REVOCATION OF HEARING OFFICER APPOINTMENT:

A Hearing Officer may be removed from the panel of Hearing Officers appointed hereunder as follows:

(a) A Hearing Officer may be removed from the position of Hearing Officer by the County at any time for cause.

(b) If a Hearing Officer is disbarred, suspended, or put on involuntary inactive status by the California State Bar, or resigns membership to the State Bar of California, then the Hearing Officer's appointment is automatically revoked.

(c) If a Hearing Officer is removed, or his or her appointment automatically revoked while presiding over a matter, then the Clerk shall randomly select a replacement Hearing Officer for the matter from the panel of Hearing Officers, or arrange to contract with the Office of Administrative Hearings of the State of California to provide an administrative law judge to serve as the Hearing Officer for the matter, and the vacancy on the panel shall be filled as provided in section 1-31-1100.

1-31-1140 INDEPENDENT AUTHORITY:

The appointment, selection, employment, performance evaluation, compensation, and benefits of a Hearing Officer shall not be directly or indirectly conditioned upon the outcome of hearings conducted hereunder, including, but not limited to, the findings of violations and/or the amount of any penalties or costs imposed or assessed.

1-31-1150 DESIGNATION OF HEARING OFFICER:

(a) Upon receipt of a notice of an appeal that is subject to this Article, on a rotating basis the Clerk shall designate a member of the Hearing Officer panel appointed hereunder to serve as the County Hearing Officer for the matter. If the panel member designated is unable to serve as the Hearing Officer for the matter, then the Clerk shall designate another panel member to serve as the Hearing Officer for the matter, or arrange to contract with the Office of Administrative Hearings of the State of California to provide an administrative law judge to serve as the Hearing Officer for the matter.

(b) The Clerk shall promptly notify the parties in writing of the designation of the Hearing Officer for the matter. Within ten (10) days thereafter, each party shall be entitled to make a written request to the Clerk for reassignment of the hearing to another Hearing Officer. Each party shall be entitled to make only one (1) such request in a given matter. Upon the filing of a request for reassignment in accordance with the provisions of this section, without any further act or proof, the Clerk shall reassign the matter to the next available Hearing Officer in the rotation, or arrange to contract with the Office of Administrative Hearings of the State of California to provide an administrative law judge to serve as the Hearing Officer for the matter. Upon reassignment, a new notice of assignment of Hearing Officer shall be served on the parties. A party that did not request reassignment the first time may file its own request for reassignment as described above after the notice of assignment of the second Hearing Officer is served.

1-31-1160 INITIAL TELECONFERENCE; NOTICE OF HEARING; PLACE OF HEARINGS; CLERICAL AND TECHNICAL SUPPORT:

(a) Within fifteen (15) days after the final notice of assignment of a Hearing Officer, the Hearing Officer, the Clerk, and the parties shall hold a teleconference to discuss procedures, scheduling,

and any other matters of interest. The Hearing Officer may require the parties to hold additional teleconferences as needed.

(b) When the Hearing Officer, in consultation with the Clerk and the parties, has established a hearing date, then the Clerk shall send written notice of the time, date, and place of the hearing to the parties not less than thirty (30) days prior to the hearing date. Unless otherwise agreed by the parties and the Hearing Officer, all hearings hereunder shall be held in the chambers of the Board of Supervisors.

(c) The Clerk shall provide such clerical and technical support to the Hearing Officer as the Hearing Officer may reasonably require, including clerical support at hearings and providing for audio and/or video recording of the proceedings.

1-31-1170 DISQUALIFICATION OF HEARING OFFICER:

(a) A Hearing Officer shall be perform his or her duties hereunder impartially, competently, and diligently. A Hearing Officer is subject to disqualification for bias, prejudice, or interest in a proceeding. Any party may raise objections to the Hearing Officer for the record and ask that the Hearing Officer disqualify him- or herself. A Hearing Officer shall voluntarily disqualify him- or herself and withdraw from any case in which there are valid grounds for disqualification. The Hearing Officer shall make the decision to grant or deny the request for disqualification. A denial of such a request may be appealed by any party to the County Administrative Officer, or his or her designee, who shall make a final determination on the request. If a Hearing Officer is disqualified for any reason, then the Clerk shall randomly select a replacement Hearing Officer for the matter from the panel of Hearing Officers or arrange to contract with the Office of Administrative Hearings of the State of California to provide an administrative law judge to serve as the Hearing Officer for the matter.

(b) It is not alone or in itself grounds for disqualification, without further evidence of bias, prejudice, or interest, that the Hearing Officer:

(1) Is or is not a member of a "class" or group of persons who share the same racial, ethnic, religious, gender, sexual orientation, or similar class or group identity, and the proceeding involves the rights of a specific person who belongs to that class or group.

(2) Has experience, technical competence, or specialized knowledge of, or has, in any capacity, expressed a view on, a legal, factual, or policy issue presented in the proceeding.

(3) Has, as a lawyer or public official, participated in the drafting of laws or regulations, or in the effort to pass or defeat laws or regulations, the meaning, effect, or application of which is in issue in the proceeding.

1-31-1180 GENERAL AUTHORITY OF COUNTY HEARING OFFICER:

When any provision of this Code, any resolution of the Board of Supervisors, or any policy of a County Department provides that an appeal from an administrative action by a County Officer or Department shall be assigned to a Hearing Officer appointed under this Article, the Hearing Officer shall have the authority to conduct a hearing, receive evidence, administer oaths, rule on the admissibility of evidence and upon questions of law, and any other powers or duties authorized by law. The Hearing Officer may, upon the stipulation of all parties, waive or modify any provision of the rules in this Article for that type of hearing, in completely or in part.

The Hearing Officer's authority on a particular matter, however, may be limited by the applicable Ordinance Code provision.

1-31-1190 CONDUCT OF HEARINGS:

A Hearing Officer shall conduct and preside over hearings pursuant to the following procedures, unless agreed in writing by the parties to the proceeding or otherwise specified in this Code:

(a) During the hearing, each party may be represented by counsel or another representative of the party's choice.

(b) Both before and during the hearing, at the request of any party the Hearing Officer may issue *subpoenas* and *subpoenas duces tecum* for the attendance of witnesses and the production of documents at the hearing. Compliance with Code of Civil Procedure section 1985 et seq. shall be a condition precedent to the issuance of a *subpoena duces tecum*. Any amount required to be paid to witnesses appearing pursuant to a *subpoena* under section 1985 et seq. shall be paid by the party at whose request the witness was subpoenaed.

(c) The scope of the hearing shall be limited to the order, citation, decision, or determination being appealed, the grounds for relief raised in the notice of appeal, and any specific requirements of this Code.

(d) Oral evidence shall be taken by the Hearing Officer only upon oath or affirmation during the hearing. If the appellant does not testify on his/her own behalf, the appellant may be called and examined as if under cross-examination.

(e) Each party shall have the following rights during a hearing:

(1) To call and examine witnesses;

(2) To introduce exhibits;

(3) To cross-examine opposing witnesses on any matter relevant to the issues whether or not the matter was elicited or discussed during direct examination;

(4) To impeach witnesses, regardless of which party first called them to testify, and

(5) To rebut unfavorable or negative evidence.

(f) The Hearing Officer is authorized to control the scope of evidence and the parties' means to obtain evidence in a particular hearing. The Hearing Officer may direct any party to produce documentary or other evidence in that party's control if reasonably necessary to the determination of the matter pending before the Hearing Officer, and may consider any unexplained refusal or failure to produce such evidence in rendering a decision.

(g) No discovery requests to other parties are allowed, including depositions, requests for production of documents, requests for admission, and all other discovery permitted in civil cases, except as expressly permitted in this Article.

(h) The hearing need not be conducted according to technical rules relating to evidence or witnesses, except as provided in this Article. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient by itself to support a finding unless it would be admissible over objections in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

(i) At the request of any party, or on his or her own accord, the Hearing Officer may take official notice of any fact that may be judicially noticed by the courts of California. The Hearing Officer shall inform the parties of the matters to be noticed and those matters shall be noted in the record. Each party shall be given a reasonable opportunity to refute any request by a party or action by the Hearing Officer on his or her own accord to take official notice.

(j) Except where otherwise provided in this Code, the burden of proof and production of evidence at the hearing shall be with the County. Except where otherwise provided in this Code, the burden of proof (persuasion) shall be by a preponderance of the evidence.

(k) All hearings conducted by a Hearing Officer shall be open to the public. Any interested person shall have the right to speak at the hearing subject to the Hearing Officer's right to exclude irrelevant and unduly repetitious evidence. Notwithstanding the above, the parties have the right to petition the Hearing Officer to allow, and the Hearing Officer may in his or her discretion allow, submission of evidence outside the presence of the public, if such evidence would not be disclosable under the Public Records Act, Government Code section 6250 et seq.

(l) Other than at the hearing and except for scheduling, administrative purposes, or emergencies that do not deal with substantive matters, there shall be no direct oral communication between the parties and the Hearing Officer on any matter related to the hearing without each party being present in person or by telephone or other means. Any written communication to the Hearing Officer by a party shall be copied to and served on the other party. Parties, as used in this section, shall also be deemed to refer to representatives for the parties. The Hearing Officer shall promptly forward and/or inform the other party or parties if he or she receives a communication which violates this provision.

(m) The failure of the appellant or any interested party to raise an objection either before or during the hearing regarding any defect in notice or procedure provided under this Code, or at law or in equity, shall be deemed a waiver of the defect. For purposes of a waiver of objection in this subsection, defect in procedure shall include a claim that the Hearing Officer should be disqualified under section 1-31-1170.

(n) Unless otherwise provided in this Code, if the appellant fails to appear for the hearing at the time and place noticed, then the Hearing Officer shall dismiss the appeal for failure to appear. If the appeal is dismissed, the order, citation, decision, or determination appealed from shall become final and effective on the date of the dismissal. Upon an appellant's request for reconsideration of the dismissal for failure to appear, which must be filed within thirty (30) days of the dismissal, and a showing of good cause, the Hearing Officer may set aside the dismissal upon the appellant's failure to appear, and may reschedule the matter for hearing.

(o) The Hearing Officer may inspect any subject premises, provided that the Hearing Officer (1) must give reasonable notice to the parties of the date and time of the inspection, (2) must give the parties an opportunity to be present during the inspection, (3) must state on the record any material facts observed and his or her conclusions drawn therefrom, and (4) must allow each party the right to rebut or explain any of the Hearing Officer's observations and conclusions.

(p) The Hearing Officer may request that the parties to the matter submit written briefs or statements of their position prior to or after the conclusion of the hearing. Any such briefs or statements shall be provided to the Hearing Officer and all parties on a schedule determined by the Hearing Officer, with all briefs filed and served simultaneously.

(q) The Hearing Officer may grant postponements or continuances from time to time upon request and for good cause, or upon his or her own motion.

(r) Any motions by the parties shall be in writing or made orally on the record during the hearing and shall clearly state the action requested and the grounds relied upon.

(s) Nothing in this Article is to be construed as preventing the parties from stipulating to lesser intervals than those prescribed herein. For good cause shown and after giving each party an opportunity to be heard, the Hearing Officer may also shorten the times specified in this Article.

(t) Unless otherwise provided in this Code, the Hearing Officer shall follow the order of proceeding described below in each hearing. The Hearing Officer may vary this order only if the Hearing Officer determines, and states on the record, that special circumstances exist that justify the variance:

(1) Ensure the Clerk begins the audio or video recording of the hearing and announce the beginning of the proceedings;

(2) Identify the hearing;

(3) Request that all attendants at the hearing state their names, and their titles or relation to this matter;

(4) Explain to attendants how the hearing will proceed and address any necessary notifications required by these procedures;

(5) Have the Clerk swear in all prospective witnesses;

(6) Hear any preliminary motions or objections;

(7) Allow parties to make opening statements;

(8) Allow the party with the burden of proof and production of evidence to present its evidence and witnesses;

(9) Allow the adverse party to present its evidence and witnesses;

(10) Allow the parties to present rebuttal evidence and witnesses;

(11) Allow the parties to make closing statements;

(12) Explain the process for the issuance of the final written decision and appeals procedures;

(13) Direct the parties to file closing briefs on specific issues, if the Hearing Officer deems this necessary; and

(14) Close the hearing and request the Clerk to terminate the recording of the hearing.

1-31-1200 CONDUCT OF WITNESSES:

If during a proceeding conducted under this Article any person disobeys or resists any lawful order, refuses to respond to a subpoena, refuses to take the oath or affirmation as a witness, thereafter refuses to be examined, engages in misconduct, or obstructs the proceeding, a Hearing Officer shall certify the facts to the Superior Court of the County to initiate proceedings pursuant to Government Code sections 25173 through 25175.

1-31-1210 DECISION:

(a) After the Hearing Officer has considered all evidence presented, including any closing briefs required of the parties, and the relevant standard of review, the Hearing Officer shall issue his or her decision on the matter in writing, within thirty (30) days of the date the matter was deemed submitted for decision. The decision shall include (i) a statement of the issues, (ii) findings of fact, (iii) a summary of the relevant evidence, (iv) a resolution of the credibility of witnesses where there is conflicting testimony, (v) a determination of the prevailing party and, if applicable to the matter, (vi) an award of reasonable attorney's fees and costs to the prevailing party, if the matter is brought in accordance with section 4-01-1370 or 7-15-3715 of this Code, and (vii) a final determination and order affirming, reversing, or modifying the finding, decision, or action that was the subject of the hearing, or referring the matter back to County Officer or County Department for further action. If the Hearing Officer finds that the County Officer or Department acted in an arbitrary or capricious manner in the underlying matter, the Hearing Officer may include an order that the appeal fee paid by the appellant be refunded.

(b) Alternatively, the decision may be issued orally at the conclusion of the hearing, so long as it is accompanied by a written decision within thirty (30) days of the date the matter was deemed submitted for decision. The parties may waive a written decision, provided the Hearing Officer has advised the parties that in the absence of a written decision the matter may not be appealed to court.

(c) The Hearing Officer may file with the County Administrative Officer a written request for one extension of up to thirty (30) days for submission of the written decision, which request shall be granted or denied by the County Administrative Officer in his or her discretion. The Hearing Officer shall promptly abide by the decision of the County Administrative Officer.

(d) The Hearing Officer shall submit the written decision to the Clerk, who shall promptly mail a copy to all parties along with a proof of service.

(e) The written decision shall include a notice that the parties have ninety (90) days to pursue a petition for a writ of administrative mandamus of the decision under Code of Civil Procedure section 1094.6.

(f) Unless otherwise provided in this Code or the Hearing Officer's decision, the decision shall be effective upon issuance, whether at the hearing or upon serving the written decision pursuant to subsection (c) of this section.

(g) Unless otherwise provided in this Code, the Hearing Officer's decision shall be final for all purposes, shall be a final agency action for purposes of writ review, shall not be subject to reconsideration or rehearing, and shall not be subject to further administrative appeal.

1-31-1220 RECORDING OF THE HEARING:

The Clerk shall cause an audio and/or video recording of the hearing to be made. Any party at his or her own expense may provide for the taking of testimony by a qualified stenographic reporter.

1-31-1230 ADMINISTRATIVE RECORD; COSTS OF PREPARATION:

(a) The official administrative record of an appeal proceeding heard by a Hearing Officer shall be comprised of the following: all written notices; all briefs, motions, responses, or objections filed with the Hearing Officer prior to or during the proceeding; all exhibits admitted as evidence during the proceeding; the recording of the proceeding; and the Hearing Officer's rulings, including all findings, decisions, and orders. The Clerk shall maintain the Official Record for the period of time required by the applicable records retention policy.

(b) The Clerk shall provide a copy of the official record, or requested portion thereof, to any party upon written request and payment by the requesting party of the actual costs of duplication. No written request for a record of proceedings shall be deemed filed with the Clerk unless and until such person has deposited with the Clerk the estimated costs of preparation thereof as determined by the Clerk, with the difference, if any, from actual costs to be refunded or paid at the time of delivery of the record. The cost of preparing the record may be waived for individuals who meet the qualifications of a fee waiver in the Superior Court of this state.

1-31-1240 JUDICIAL REVIEW:

An appeal from a final administrative decision rendered by a Hearing Officer shall be to the California Superior Court in accordance with all applicable laws and rules, including the provisions of Code of Civil Procedure section 1094.6.

1-31-1250 ADDITIONAL RULES OF PROCEDURE:

The Board of Supervisors by ordinance or resolution may adopt additional rules of procedure governing the conduct of hearings presided over by Hearing Officers.

**1-31-1260 OTHER PUBLIC ENTITY'S EMPLOYMENT OF HEARING OFFICER;
REIMBURSEMENT TO COUNTY:**

Pursuant to Government Code section 27725, any other local public entity may contract with the County to employ the services of a County Hearing Officer. The duties and responsibilities of the Hearing Officer described in Government Code sections 27721 and 27722 shall be set forth in the contract between the County and the other local public entity. Reimbursement to the County for the services of a County Hearing Officer shall be made as provided in the contract between the County and the other local public entity. If no provision for reimbursement is contained in the contract, then reimbursement shall be made on a pro rata basis of actual cost to the County in providing the service, including salaries, benefits, overhead, and any travel expense.

1-31-1270 EFFECT ON EXISTING LAW:

The provisions of this Article constitute an alternative to, and do not supersede, any other provision of law, including this Code, specifying that any matter may be heard or determined by a Hearing Officer.

Section 2. THE TITLE OF SECTION 165 ("ADMINISTRATIVE APPEALS") OF THE GENERAL PROVISIONS of the Ordinance Code of Tulare County is amended to read as follows:

165 ADMINISTRATIVE APPEALS TO THE BOARD OF SUPERVISORS:

Section 3. SECTION 1-05-1195 ("EXCEPTIONS AND DISPUTES") OF ARTICLE 5 ("CRIMINAL JUSTICE ADMINISTRATIVE FEES") OF CHAPTER 5 ("FINANCE") of the Ordinance Code of Tulare County is amended to read as follows:

1-05-1195 EXCEPTIONS AND DISPUTES:

[No changes to subsection (a)]

(b) Disputes as to whether a particular type of booking is subject to the established fees or falls within the exceptions shall be initially determined by the Sheriff. If the Sheriff's decision does not satisfactorily resolve the dispute, the dispute may be decided by the County Administrative Officer. If the County Administrative Officer does not satisfactorily resolve the dispute, the matter may be appealed to the Board of Supervisors pursuant to section 165 of this Code. The decision of the Board of Supervisors shall be final.

Section 4. SECTION 1-05-1420 (“FAILURE TO COLLECT AND REPORT TAX”) OF ARTICLE 11 (“TRANSIENT OCCUPANCY TAX”) OF CHAPTER 5 (“FINANCE”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Ordinance Code of Tulare County is amended to read as follows:

1-05-1420 FAILURE TO COLLECT AND REPORT TAX:

[No changes to subsection (a)]

(b) Such operator may, within ten (10) days after the serving or mailing of such notice, make application in writing to the Tax Collector for administrative review on the amount assessed. If application by the operator for administrative review is not made within said ten (10) day period, the tax, interest and penalties determined by the Tax Collector shall become final and conclusive and immediately due and payable within five (5) days following the ten (10) day period. If such application is made, the Tax Collector shall give not less than five (5) days’ written notice to the operator, in the manner prescribed above, to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest, and penalties.

(c) At such administrative review, the operator may appear and offer an explanation of why such specified tax, interest, and penalties should not be so fixed.

(d) After such administrative review the Tax Collector shall determine the proper tax to be remitted and shall thereafter give written notice to the operator in the manner prescribed above of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable fifteen (15) days after the serving or mailing of such notice unless an appeal is taken as provided in section 1-05-1435 of this Article.

Section 5. SECTION 1-05-1425 (“DEFICIENCY DETERMINATIONS”) OF ARTICLE 11 (“TRANSIENT OCCUPANCY TAX”) OF CHAPTER 5 (“FINANCE”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Ordinance Code of Tulare County is amended to read as follows:

1-05-1425 DEFICIENCY DETERMINATIONS:

[No changes to subsection (a)]

(b) The operator may, within ten (10) days after service or mailing of such notice, apply in writing to the Tax Collector for administrative review on the amount assessed. If an application by the operator for administrative review is not received within the time prescribed, the tax, interest and penalties, if any, determined by the Tax Collector shall become final and conclusive and immediately due and payable within five (5) days following the ten (10) day period after the service or mailing of notice. If such application is timely made, the Tax Collector shall give not less than five (5) days of written notice in the manner prescribed herein to the operator to show

cause, at a time and place fixed in such notice, why the assessed amount should not be fixed for such tax, interest, and penalties.

(c) At such administrative review, the operator may appear and offer an explanation of why the assessed amount, including interest and penalties, should not be so fixed.

(d) After such administrative review the Tax Collector shall determine the proper tax to be remitted and shall thereafter give written notice to the operator in the manner prescribed herein of such determination and the amount of such tax, interest, and penalties. The Tax Collector's determination shall be presumed to be correct. In connection with all appeals, the operator has the burden of proving that the Tax Collector's determination is incorrect, and the burden of producing sufficient evidence to establish the correct tax liability. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 1-05-1435.

Section 6. SECTION 1-05-1435 ("APPEALS") OF ARTICLE 11 ("TRANSIENT OCCUPANCY TAX") OF CHAPTER 5 ("FINANCE") OF PART I ("GOVERNMENT AND ADMINISTRATION") of the Ordinance Code of Tulare County is amended to read as follows:

1-05-1435 APPEALS:

Any operator aggrieved by any decision of the Tax Collector may appeal to the County Hearing Officer by filing a notice of appeal with the Clerk to the Board of Supervisors in accordance with Article 31 of Chapter 3 of Part I of this Code within fifteen (15) days after the serving or mailing of the notice of the decision. The time and place for hearing such appeal shall be fixed and the hearing shall be conducted in accordance with Article 31 of Chapter 3 of Part I of this Code. Any amount found to be due shall be immediately due and payable within five (5) days upon the service of said notice.

Section 7. SECTION 1-05-1445 ("ACTIONS TO COLLECT DELINQUENCY AND DEFAULTED TAXES, PENALTIES AND INTEREST") OF ARTICLE 11 ("TRANSIENT OCCUPANCY TAX") OF CHAPTER 5 ("FINANCE") OF PART I ("GOVERNMENT AND ADMINISTRATION") of the Tulare County Ordinance Code is amended to read as follows:

**1-05-1445 ACTIONS TO COLLECT DELINQUENCY AND DEFAULTED TAXES,
PENALTIES AND INTEREST:**

(a) Certificate of Delinquency

The Tax Collector is authorized to record a Certificate of Delinquency and Transient Occupancy Tax Lien in the official records of the County Recorder against any operator who fails to remit taxes, penalties, or interest due under this Article within the time herein required. The Certificate of Delinquency and Transient Occupancy Tax Lien may be recorded by the Tax Collector after:

(1) The tenth (10th) day following service or mailing of the notice required by subdivision (a) of either section 1-05-1420 or section 1-05-1425, if the operator does not timely file a request for administrative review as permitted under subdivision (b) of either section 1-05-1420 or section 1-05-1425, whichever is applicable.

(2) The fifteenth (15th) day after the Tax Collector's determination of the amount of tax to be remitted pursuant to subdivision (d) of either section 1-05-1420 or section 1-05-1425, unless the operator files a timely appeal pursuant to section 1-05-1435.

(3) If the operator files a timely appeal pursuant to section 1-05-1435, the fifteenth (15th) day after service of the decision by the County Hearing Officer pursuant to section 1-05-1435.

The Certificate of Delinquency and Transient Occupancy Tax Lien may be recorded within three (3) years after the tax becomes due. The Certificate of Delinquency and Transient Occupancy Tax Lien shall be dated and specify the amount of tax and penalties due as of that date, the name and last known address of the operator liable for the same, and a statement that the Tax Collector has complied with all provisions of this Article with respect to the computation and levy of the tax owed by the operator. From the time of recordation of the Certificate of Delinquency and Transient Occupancy Tax Lien, the amount required to be paid, together with penalties and continually accruing interest, shall constitute a lien upon all real property within Tulare County owned by the operator or thereafter acquired prior to expiration of the lien. Except as otherwise provided in this Article, the lien shall have the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the filing of the Certificate of Delinquency and Transient Occupancy Tax Lien, unless sooner released or otherwise discharged. Within ten (10) years of the date of the recording of the Certificate of Delinquency and Transient Occupancy Tax Lien (or within ten (10) years of the date the last extension of the lien), the Tax Collector may extend the lien by recording either a new or the original certificate in the official records of the County Recorder, and from the time of such recording, the original lien shall be extended for an additional ten (10) years unless sooner released or otherwise discharged. The lien shall not be released or discharged until the delinquent taxes, penalties for delinquency, and costs of collection are fully paid.

[No changes to subsections (b) and (c)]

Section 8. SECTION 1-05-1446 (“ACTION TO SEIZE PROPERTY OF OPERATOR TO ASSURE THE PAYMENT OF TAXES PENDING APPEAL UNDER SECTION 1-05-1435--APPEAL, JUDICIAL ACTION, BOND AND COSTS”) OF ARTICLE 11 (“TRANSIENT OCCUPANCY TAX”) OF CHAPTER 5 (“FINANCE”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Tulare County Ordinance Code is amended to read as follows:

1-05-1446 ACTION TO SEIZE PROPERTY OF OPERATOR TO ASSURE THE PAYMENT OF TAXES PENDING APPEAL UNDER SECTION 1-05-1435--APPEAL, JUDICIAL ACTION, BOND AND COSTS:

[No changes to subsection (a)]

(b) An operator may challenge a seizure made pursuant to this section by filing a verified petition in the superior court for a writ of prohibition or writ of mandate alleging:

(1) There are no grounds for the seizure;

(2) The declaration of the tax collector concerning the necessity for the seizure is untrue or inaccurate; and

(3) There are and will be sufficient funds in the possession of the operator to pay the taxes determined due upon the date that the decision in an appeal brought under Section 1-05-1435 is issued by the County Hearing Officer.

[No changes to subsections (c) and (d)]

Section 9. SECTION 1-23-5000 (“NOTICE OF VIOLATION, ORDER TO CORRECT AND NOTICE OF ASSESSMENT OF CIVIL FINES AND PENALTIES”) OF ARTICLE 5 (“PROCEDURES”) OF CHAPTER 23 (“ADMINISTRATIVE FINES”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Tulare County Ordinance Code is amended to read as follows:

1-23-5000 NOTICE OF VIOLATION, ORDER TO CORRECT AND NOTICE OF ASSESSMENT OF CIVIL FINES AND PENALTIES:

Upon determining that a violation of any provision of this Code or Tulare County Ordinance No. 352 exists, the Director may take the following steps:

(a) Issue a Notice of Violation, Order to Correct, and Notice of Assessment of Civil Fines and Penalties (including Costs), hereinafter referred to as "Notice of Violation," to the property owner by certified mail, personal service, or service by mail, by the Director or a designee, or a peace officer. The Notice of Violation shall specify or contain:

[No changes to subsections (1) through (6)]

(7) A statement that the property owner affected by the Notice of Violation may, within fifteen (15) calendar days after delivery or service of the Notice of Violation, request administrative review in writing, in a format to be prepared by the Tulare County Resource Management Agency, to the Director which issued the Notice of Violation the findings, determinations and amount of potential fines and penalties set out in the Notice of Violation, pursuant to the procedures set out in section 1-23-5015.

(8) The Notice of Violation shall contain a statement that, if the owner fails to request administrative review of the determination of administrative fines set out in the Notice of Violation, the determination of fines in the Notice of Violation shall be final.

(b) The Director may, in his or her discretion, record a copy of the Notice of Determination of Fine with the County Recorder of Tulare County. In the event of such recordation and in the event that the Notice of Violation is subsequently modified, the Director shall record a Notice of Correction. Correction of the violation shall not excuse the owner's liability for costs incurred during the administrative abatement process. In the event that the Notice of Violation is eliminated through the appeal process or because the violations have been corrected, the Director shall record a Notice of Withdrawal of the Notice of Violation or a Notice of Satisfaction and Compliance of the Notice of Violation.

(c) If the Director, or designee, determines that an effort is being made to correct the violation, he or she may grant an additional period of time for correction of the violation. Unless a request for administrative review of the Notice of Violation is filed as set out in section 1-23-5015, the Notice of Violation shall constitute the final administrative order or decision of the local agency. It cannot be appealed and cannot be judicially reviewed, because the aggrieved person failed to exhaust available administrative remedies.

[No changes to subsection (d)]

Section 10. SECTION 1-23-5015 ("APPEAL OF NOTICE OF VIOLATION") OF ARTICLE 5 ("PROCEDURES") OF CHAPTER 23 ("ADMINISTRATIVE FINES") OF PART I ("GOVERNMENT AND ADMINISTRATION") of the Tulare County Ordinance Code is amended to read as follows:

1-23-5015 ADMINISTRATIVE REVIEW OF NOTICE OF VIOLATION:

(a) Any person upon whom a Notice of Violation is served may request administrative review of the findings, determinations, and/or amount of potential fines and penalties set out in the Notice of Violation pursuant to the procedures set forth in this section. The aggrieved person must file a written request with the Director in a format to be prepared by the Resource Management Agency, and return it to the address stated on the form within fifteen (15) days from the date of

service of the Notice of Violation. Service of the request may be effected by personal service, service by mail or certified mail. The time requirement for filing a request shall be deemed jurisdictional and may not be waived. The written request shall contain but not be limited to the following:

(1) A brief statement setting forth the interest the aggrieved person has in the matter relating to the imposition of the penalty;

(2) A brief statement of the material facts which the aggrieved person claims support his or her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted; and

(3) An address at which the aggrieved person agrees notice of any additional proceedings or an order relating to imposition of the administrative penalty may be received by first class mail.

(b) Administrative review of a Notice of Violation shall be heard by the Director, or designee, issuing the Notice of Determination of Fine as the departmental review officer. The administrative review shall be set no sooner than twenty (20) days and no later than forty-five (45) days following the receipt of the written request. Notice of the administrative review shall be mailed at least twelve (12) calendar days before the date set for the review. Failure of the aggrieved person to appear timely will cause the Notice of Violation and the assessment of administrative fines and penalties to become a final order or decision.

(c) In reviewing the Notice of Violation, the administrative review officer shall consider the factors set forth in section 1-23-3020 above, and shall uphold, withdraw or modify the Notice of Violation and fines and penalties specified by that Notice. The hearing administrative review officer shall serve a copy of his or her written decision on the aggrieved person. The written decision shall also include or be accompanied by a description of the right to appeal the decision to the County Hearing Officer as provided in Section 1-23-5025 of this Article. The administrative review officer's decision shall be deemed served within two days after the date it was mailed to the address provided by the aggrieved person.

(d) Unless the decision of the administrative review officer is appealed to the County Hearing Officer as set out in section 1-23-5025, the decision shall constitute the final administrative order or decision on the local agency. It cannot be appealed and cannot be judicially reviewed, because the aggrieved person failed to exhaust available administrative remedies.

Section 11. SECTION 1-23-5025 (“APPEAL TO THE BOARD OF SUPERVISORS”) OF ARTICLE 5 (“PROCEDURES”) OF CHAPTER 23 (“ADMINISTRATIVE FINES”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Ordinance Code of Tulare County is amended to read as follows:

1-23-5025 APPEAL:

(a) The aggrieved person who requested administrative review of the Notice of Violation pursuant to section 1-23-5015 may appeal the decision of the administrative review officer to the County Hearing Officer, subject to the provisions of Article 31 of Chapter 1 of Part I of this Code.

(b) An appeal to the County Hearing Officer shall be filed with the Clerk to the Board of Supervisors in accordance with Article 31 of Chapter 3 of Part I of this Code and specifically set forth the grounds of the appeal. At the time of filing the appeal, the appellant shall pay a fee in an amount adequate to cover the cost of processing and hearing the appeal as established from time to time by resolution of the Board of Supervisors.

(c) The Clerk to the Board shall mail notice to the appellant of the date and time that the County Hearing Officer will hear the appeal, which date shall be not less than five (5) calendar days after the date of mailing the notice.

(d) The owner shall bear the burden of proving that the decision of the Director should be repealed or modified.

(e) The hearing shall be conducted in the manner prescribed in Article 31 of Chapter 3 of Part I of this Code.

Section 12. SECTION 1-23-5035 (“JUDICIAL REVIEW”) OF ARTICLE 5 (“PROCEDURES”) OF CHAPTER 23 (“ADMINISTRATIVE FINES”) OF PART I (“GOVERNMENT AND ADMINISTRATION”) of the Tulare County Ordinance Code is amended to read as follows:

1-23-5035 JUDICIAL REVIEW:

Any person aggrieved by a final administrative order or decision imposing an administrative fine under Section 1-23-5025 above may seek review with the Superior Court pursuant to Code of Civil Procedure section 1094.6. When giving written notice of the decision of the County Hearing Officer, the Clerk of the Board of Supervisors shall provide notice that the time within which judicial review must be sought is governed by Code of Civil Procedure section 1094.6.

Section 13. SECTION 1-27-1205 (“PROTEST OF IMPOSITION OF FEES”) OF ARTICLE 5 (“ADMINISTRATIVE APPEAL AND PROTEST OF IMPOSITION OF FEE(S)”) OF CHAPTER 27 (“PUBLIC FACILITIES IMPACT FEES”) OF PART I (“GOVERNMENT AND

ADMINISTRATION”), as added by Ordinance No. 3430, effective August 11, 2011, is renumbered without amendment to Section 1-27-1210.

Section 14. SECTION 1-27-1210 (“PROTEST PROCEDURE”) OF ARTICLE 5 (“ADMINISTRATIVE APPEAL AND PROTEST OF IMPOSITION OF FEE(S)”) OF CHAPTER 27 (“PUBLIC FACILITIES IMPACT FEES”) OF PART I (“GOVERNMENT AND ADMINISTRATION”), as added by Ordinance No. 3430, effective August 11, 2011, is renumbered without amendment to Section 1-27-1215.

Section 15. SECTION 2-01-1030 (“JUDICIAL REVIEW OF DECISION”) OF CHAPTER 1 (“USE OF PUBLIC STREETS, SIDEWALKS AND OTHER PUBLIC PLACES”) OF PART II (“PUBLIC PLACES”) of the Tulare County Ordinance Code is amended to read as follows:

2-01-1030 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the Board of Supervisors made pursuant to this Chapter, if the decision denies or revokes the permit, shall be made pursuant to section 1094.6 of the Code of Civil Procedure of the State of California. The method of judicial review, the time limits for judicial review, and all of the other provisions of said section 1094.6 shall govern such judicial review. When giving written notice to the applicant that the permit has been denied or revoked, the Board of Supervisors shall provide notice to the applicant that the time within which judicial review must be sought is governed by said section 1094.6.

Section 16. SECTION 2-03-1130 (“APPLICATION”) OF ARTICLE 5 (“BOATING AND SWIMMING”) OF CHAPTER 3 (“USE OF PUBLIC RIVERS AND STREAMS”) OF PART II (“PUBLIC PLACES”) of the Tulare County Ordinance Code is amended to read as follows:

2-03-1130 APPLICATION:

This Article shall apply to the use of the waters of the Kings River within Tulare County from the Fresno County boundary to the Kingsburg Weir, including any and all channels thereof.

Section 17. SECTION 4-03-1136 (“ACCEPTANCE OF OUT-OF-COUNTY WASTE”) OF ARTICLE 3 (“STORAGE AND DISPOSAL OF SOLID WASTE: PROHIBITIONS”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-03-1136 ACCEPTANCE OF OUT-OF-COUNTY WASTE:

No out-of-County waste shall be accepted at County Solid Waste facilities unless specifically approved by the Solid Waste Department Director. Denials may be appealed to the County Administrative Officer and then to the Board as provided in section 165 of this Code. The

parameters to be considered when evaluating a request for acceptance of out-of-County waste are:

(a) The hauler of the out-of-County waste shall submit the request to the Solid Waste Department Director and file proof that the hauler has submitted a copy of the request to the jurisdiction from which the hauler collects.

[no changes to subsections (b), (c), (d), or (e)]

Section 18. SECTION 4-03-1157 (“INVESTIGATION AND ISSUANCE OF INACCESSIBLE PROPERTY EXEMPTION”) OF ARTICLE 4 (“USE OF COLLECTION SERVICE”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1157 INVESTIGATION AND ISSUANCE OF INACCESSIBLE PROPERTY EXEMPTION:

The Solid Waste Department Director shall investigate the exemption application and, upon determination that the subject premises is inaccessible to the County’s licensed Solid Waste Collector, the Solid Waste Department Director shall issue an exemption with or without conditions in accordance with Section 4-03-1155. If the particular property is accessible to the County’s licensed Solid Waste Collector, then the Solid Waste Department Director shall deny the application. The Solid Waste Department Director’s decision shall be in writing and final unless a notice of appeal is filed in writing with the Clerk of the Board of Supervisors within ten (10) calendar days of the Solid Waste Department Director’s decision. A hearing on the appeal shall be conducted by the County Hearing Officer in accordance with Article 31 of Chapter 3 of Part I of this Code.

Section 19. SECTION 4-03-1167 (“INVESTIGATION AND ISSUANCE OF RECYCLING EXEMPTION”) OF ARTICLE 4 (“USE OF COLLECTION SERVICE”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1167 INVESTIGATION AND ISSUANCE OF RECYCLING EXEMPTION:

The Solid Waste Department Director shall investigate the exemption application and, upon determination that the applicant is able to appropriately recycle the Solid Waste generated on the premises, the Solid Waste Department Director may issue an exemption with or without conditions in accordance with Section 4-03-1165. If the applicant is unable to appropriately recycle the Solid Waste that may be generated on the property, then the Solid Waste Department Director shall deny the exemption. The Solid Waste Department Director’s decision shall be in writing and final unless an appeal is filed in writing with the Clerk to the Board of Supervisors within ten (10) calendar days of the Solid Waste Department Director’s decision in accordance with Article 31 of

Chapter 3 of Part I of this Code. A hearing on the appeal shall be conducted by a County Hearing Officer in accordance with Article 31 of Chapter 3 of Part I of this Code.

Section 20. SECTION 4-03-1175 (“SUSPENSION OR REVOCATION OF EXEMPTIONS”) OF ARTICLE 4 (“USE OF COLLECTION SERVICE”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1175 SUSPENSION OR REVOCATION OF EXEMPTIONS:

If the Solid Waste Department Director, upon reasonable cause, determines that grounds for the issuance of an exemption under either Section 4-03-1155 or 4-03-1165 no longer exist, then the Solid Waste Department Director shall issue a notice in writing under Section 4-03-1076 to the owner of the property and any person occupying such property stating that the grounds for granting the exemption no longer exist, specifying the basis for such determination, and establishing a specific date upon which the exemption shall be suspended or revoked unless the Solid Waste Department Director’s determination is appealed by filing a notice of appeal in writing with the Clerk to the Board of Supervisors within ten (10) calendar days of the Solid Waste Department Director’s decision in accordance with Article 31 of Chapter 3 of Part I of this Code. A hearing on the appeal shall be conducted by a County Hearing Officer in accordance with Article 31 of Chapter 3 of Part I of this Code.

Section 21. SECTION 4-03-1180 (“DENIAL OR SUSPENSION: WAITING PERIOD FOR RENEWED APPLICATION”) OF ARTICLE 4 (“USE OF COLLECTION SERVICE”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1180 DENIAL OR SUSPENSION: WAITING PERIOD FOR RENEWED APPLICATION:

If an applicant is denied an exemption under Section 4-03-1167, if an applicant’s exemption is suspended or revoked under Section 4-03-1175, if an applicant’s appeal under Article 31 of Chapter 3 of Part I of any decision rendered against the applicant under Sections 4-03-1167 or 4-03-1175 is denied, or if an applicant’s appeal of an adverse decision by the County Hearing Officer is not overturned by a court, then the applicant may not submit an application for an exemption on the same premises or property under Sections 4-03-1165 or 4-03-1175 for a period of six (6) months after said determination has been made, unless the County Hearing Officer finds that the public interest requires reconsideration of the matter within a shorter period of time.

Section 22. SECTION 4-03-1330 (“OBJECTION TO TERMINATION”) OF ARTICLE 6 (“CUSTOMER SERVICE AND SERVICE TERMINATION”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1330 OBJECTION TO TERMINATION:

Any objections as to termination of service shall be submitted in writing by the owner or occupant of the subject premises to the Solid Waste Department Director. If an objection to termination of service is received by the Solid Waste Department Director prior to the date for termination of service, the termination of service shall be stayed pending a final decision on the objection to termination of service. If service has already been terminated at the time a written objection to the termination of service is received by the Solid Waste Department Director, service need not be resumed unless ordered by a final decision and/or in accordance with Section 4-03-1320 of this Chapter. The Solid Waste Department Director shall investigate any objection and render a decision in writing. Such decision shall be final unless a notice of appeal is filed in writing with the Clerk to the Board of Supervisors within ten (10) calendar days of the Solid Waste Department Director’s decision in accordance with Article 31 of Chapter 3 of Part I of this Code. A hearing on the appeal shall be conducted by a County Hearing Officer in accordance with Article 31 of Chapter 3 of Part I of this Code.

Section 23. SECTION 4-03-1550 (“APPEAL”) OF ARTICLE 10 (“RECYCLING AND DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS”) OF CHAPTER 3 (“MANAGEMENT OF SOLID WASTE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

4-03-1550 APPEAL:

(a) Except as herein provided, all appeals of decisions made by the Building Official or the Solid Waste Department Director, or designee, on matters set forth in this Chapter shall be subject to the provisions of Article 31 of Chapter 3 of Part I of this Code.

(b) Within ten (10) calendar days after the date on which written notice of the decision is mailed or delivered to the owner, Applicant or other interested party, the owner, Applicant, other interested party or his or her authorized agent may file a notice of appeal with the Clerk to the Board of Supervisors for review of the decision in accordance with Article 31 of Chapter 3 of Part I of this Code. The decision shall be final unless such an appeal is filed within ten (10) calendar days of the mailing or delivery of notices to the Applicant. A hearing on the appeal shall be conducted by a County Hearing Officer in accordance with Article 31 of Chapter 3 of Part I of this Code.

Section 24. SECTION 4-05-1065 (“JUDICIAL REVIEW OF DECISION”) OF ARTICLE 3 (“FIREWORKS”) OF CHAPTER 5 (“SAFETY REGULATIONS”) OF PART IV (“HEALTH,

SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-05-1065 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the Board of Supervisors made pursuant to this Article, if the decision denies the permit, shall be made pursuant to section 1094.6 of the Code of Civil Procedure of the State of California. The method of judicial review, the time limits for judicial review, and all of the other provisions of said section 1094.6 shall govern such judicial review. When giving written notice to the applicant that the permit has been denied, the Board of Supervisors shall provide notice to the applicant that the time within which judicial review must be sought is governed by said section 1094.6.

Section 25. A DEFINITION OF “ADMINISTRATIVE REVIEW” IS ADDED TO SECTION 4-07-1400 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code, to read as follows:

"Administrative Review," for the purposes of this chapter, means the administrative review process prescribed in this Chapter, including both Administrative Reviews and Administrative Review Appeals, for the redress of issues relating to or arising from the enforcement of this Chapter including, but not limited to, Potentially Dangerous and Vicious Animals, permits, or such other administrative matters for which a person is entitled to an impartial third party making a determination.

Section 26. THE DEFINITION OF “HEARING” CONTAINED IN SECTION 4-07-1400 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

"Hearing," for the purposes of this chapter, means the process prescribed in Article 31 of Chapter 1 of Part I of this Code before the County Hearing Officer, for appeals from Administrative Review or Administrative Review Appeals.

Section 27. THE DEFINITION OF “HEARING OFFICER” CONTAINED IN SECTION 4-07-1400 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

"Hearing Officer" means the County Hearing Officer under Article 31 of Chapter 1 of Part I of this Code.

Section 28. SECTION 4-07-2100 (“CORRECTIVE ACTION PLAN”) OF ARTICLE 2 (“ADMINISTRATION AND AUTHORITY”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-07-2100 CORRECTIVE ACTION PLAN:

At the discretion of the Animal Services Manager, in lieu of an administrative review and in conjunction with the Animal’s Owner, a corrective action plan may be put in place to abate Animal related issues. The Animal Owner will be served with the Corrective Action Plan signed by the Animal Services Manager outlining a plan of action, including but not limited to actions involving Animals running-at-large, minimum shelter requirements, veterinarian care, Animals worrying livestock or other Animals, Animal Nuisance complaints, or licensing, regarding the Animal or Animals in question. If the Owner or Custodian complies with the requirements of the Corrective Action Plan within the prescribed time period, no further action on the Animal or Animals will be taken and any pending action by Animal Services will cease. If the Owner or Custodian fails to comply with the requirements of the Corrective Action Plan within the prescribed period, Animal Services shall resume any pending action.

Should an Owner or Custodian dispute the action taken by Animal Services for the Owner or Custodian’s failure to comply with the Corrective Action Plan, the Owner or Custodian may request administrative review as provided in section 4-07-2300.

Section 29. SUBSECTION D. OF SECTION 4-07-2300 (“ADMINISTRATIVE REVIEW OF ADMINISTRATIVE CITATION”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

D. Appeal of Administrative Review Officer's Decision. If the recipient of an Administrative Citation disagrees with the Administrative Review Officer's decision upholding the issuance of the Administrative Citation and/or administrative penalty amount assessed, the recipient may appeal the issuance of the Administrative Citation to the Director as set forth in this section.

1. Notice of Administrative Appeal. Within five (5) business days following the mailing date of the Administrative Review Officer's decision regarding the Administrative Citation, the recipient of the Administrative Citation may contest that decision by submitting a written administrative appeal to the Director. The failure to submit the written appeal within this period shall constitute a waiver of the right to an appeal and the decision shall be deemed confirmed. A copy of the notice of administrative appeal shall be served in person or by first class mail upon Animal Services by the contestant.

2. Conduct of Administrative Review Appeal. An Administrative Review Appeals Officer shall hear the appeal. At the hearing on appeal, the Administrative Review Appeals Officer shall

review the written decision of the Administrative Review Officer, any documents pertaining to the matter, offered summaries of the evidence, such transcript of testimony as may be furnished, and will hear such testimony as is relevant to the issues raised in the Notice of Administrative Appeal. The Administrative Review Appeals Officer will limit new testimony only to that which is raised in the Notice of Appeal. The Administrative Review Appeals Officer will not be subject to the rules of evidence.

3. Judgment. If the fine or penalty has not been deposited and the decision of the Administrative Review Appeals Officer is against the contestant, and is not appealed to the County Hearing Officer, the issuing agency may proceed to collect the fees and penalties pursuant to the procedures set forth in this ordinance, or in any other manner provided by law.

Section 30. SUBSECTION E. OF SECTION 4-07-2300 (“ADMINISTRATIVE REVIEW OF ADMINISTRATIVE CITATION”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is added to read as follows:

E. Appeal of Administrative Review Appeals Officer's Decision. If the recipient disagrees with the Administrative Review Appeals Officer's decision, the recipient may appeal to the County Hearing Officer as set forth in this section.

1. Notice of Appeal. The person who filed the administrative review appeal may appeal the decision of the Administrative Review Appeals Officer to the County Hearing Officer, as provided by Article 31 of Chapter 1 of Part I of this Code. An appeal to the County Hearing Officer shall be in writing and shall be filed with the Clerk of the Board of Supervisors within ten (10) calendar days after mailing of the notice of decision of the Administrative Review Appeals Officer. An appeal to the County Hearing Officer shall specifically set forth the grounds of the appeal. At the time of filing the appeal, the appellant shall pay a fee in an amount adequate to cover the cost of processing and hearing the appeal as established from time to time by resolution of the Board of Supervisors. The Clerk of the Board shall mail notice to the appellant of the date and time that the County Hearing Officer will hear the appeal, which date shall be not less than five (5) calendar days after the date of mailing the notice.

2. Conduct of Hearing. The County Hearing Officer shall hear the appeal in accordance with the provisions of Article 31 of Chapter 1 of Part I of this Code.

3. Judgment. If the fine or penalty has not been deposited and the decision of the County Hearing Officer is against the contestant, the issuing agency may proceed to collect the fees and penalties pursuant to the procedures set forth in this ordinance, or in any other manner provided by law.

Section 31. SECTION 4-07-3230 (“PROHIBITED CONDUCT”) OF ARTICLE 3 (“LICENSING, VACCINATIONS, ANIMAL OWNERSHIP & RESPONSIBILITIES”) OF CHAPTER 7

("CONTROL OF ANIMALS") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

4-07-3230 PROHIBITED CONDUCT

[No changes to subsection A]

B. If found to be in violation of this section, the Owner or Custodian may be ordered by the Animal Services Manager, Administrative Review Officer, Administrative Review Appeals Officer, Hearing Officer, or Court to relocate or otherwise remove the Animal from the location where it is kept to prevent further violations. The Animal Services Manager, Administrative Review Officer, Administrative Review Appeals Officer, Hearing Officer, or Court may also prohibit the Owner or Custodian from owning Animals for a period of up to three years. These actions may be taken in addition to any other fine or punishment the Animal Services Manager, Administrative Review Officer, Administrative Review Appeals Officer, Hearing Officer, or Court deems necessary.

Section 32. SUBSECTION H OF SECTION 4-07-4008 ("PERMIT APPLICATION, FEES, AND TERM") OF ARTICLE 4 ("KENNEL AND BREEDER PERMITS") OF CHAPTER 7 ("CONTROL OF ANIMALS") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

H. Right to Appeal Denial, Suspension, or Revocation of Kennel Permit. Should a Kennel Owner dispute the denial by Animal Services of his or her application for a Kennel Permit, or suspension or revocation by Animal Services of his or her existing Kennel Permit, the Kennel Owner may request an Administrative Review. Animal Services shall schedule the Administrative Review and provide notice to the Kennel Owner, via first class mail or personal service, of the date, time and place of the Administrative Review. Failure to appear at the Administrative Review at the designated time and place will be deemed a forfeiture of the appeal and any fees.

Section 33. SUBSECTIONS I, J, AND K OF SECTION 4-07-4008 ("PERMIT APPLICATION, FEES, AND TERM") OF ARTICLE 4 ("KENNEL AND BREEDER PERMITS") OF CHAPTER 7 ("CONTROL OF ANIMALS") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code are added to read as follows:

I. Administrative Appeal. If the Kennel Owner disagrees with the Administrative Review Officer's decision, the Kennel Owner may file an administrative appeal to the Administrative Review Appeals Officer as set forth in this section.

1. Notice of Administrative Appeal. Within five (5) business days following the mailing date of the Administrative Review Officer's decision, the Kennel Owner may contest that decision by submitting a written administrative appeal to the Administrative Review Appeals Officer. The

failure to submit the written appeal within this period shall constitute a waiver of the right to an appeal and the decision shall be deemed confirmed. A copy of the notice of appeal shall be served in person or by first class mail upon Animal Services by the contestant.

2. Conduct of Administrative Appeal. At the hearing on appeal, the Administrative Review Appeals Officer shall review the written decision of the Administrative Review Officer, any documents pertaining to the matter, offered summaries of the evidence, such transcript of testimony as may be furnished, and will hear such testimony as is relevant to the issues raised in the Notice of Administrative Appeal. The Administrative Review Appeals Officer will limit new testimony only to that which is raised in the Notice of Appeal. The Administrative Review Appeals Officer will not be subject to the rules of evidence.

J. Appeal to County Hearing Officer. If the Kennel Owner disagrees with the Administrative Review Appeals Officer's decision, the Kennel Owner may appeal to the County Hearing Officer as set forth in this section.

1. Notice of Appeal. Within five (5) business days following the mailing date of the Administrative Review Appeals Officer's decision, the Kennel Owner may contest that decision by submitting a written appeal to the County Hearing Officer. The failure to submit the written appeal within this period shall constitute a waiver of the right to an appeal and the decision shall be deemed confirmed. A copy of the notice of appeal shall be served in person or by first class mail upon Animal Services by the contestant.

2. Conduct of Hearing. The County Hearing Officer shall hear the appeal in accordance with the provisions of Article 31 of Chapter 1 of Part I of this Code.

K. Judicial Review. Judicial review of a decision by the County Hearing Officer pursuant to this section shall be made pursuant to section 1094.6 of the California Code of Civil Procedure where and to the extent said section may be applicable.

Section 34. SECTION 4-07-4400 ("VIOLATIONS") OF ARTICLE 4 ("KENNEL AND BREEDER PERMITS") OF CHAPTER 7 ("CONTROL OF ANIMALS") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

4-07-4400 VIOLATIONS

[No changes to subsection A]

B. Kennel Operators.

1. The following penalties will be imposed for violation of a Kennel Permit, including but not limited to minimum care standards, breeding permit requirement, number of animals:

a. First Violation: A penalty not to exceed one hundred dollars (\$100.00) per animal covered under the current permit. Example - 25 animals x \$100 = \$2,500 penalty for first violation.

b. Second Violation: A penalty not to exceed three hundred dollars (\$300.00) per animal covered under the current permit. Example - 25 animals x \$300 = \$7,500 penalty for second violation.

c. Third Violation: Kennel permit will be revoked. Permit holder will be banned from holding a kennel permit for a minimum period of 36 months from the expiration date of current permit. Example - if third violation occurs in December of current permit period the 36 months would commence on the date the permit was scheduled to expire. Revocation of a Kennel Permit will entitle the permit holder to request Administrative Review.

Section 35. SUBSECTION F OF SECTION 4-07-5200 (“ANIMALS SUBJECT TO IMPOUNDMENT”) OF ARTICLE 5 (“AT LARGE, IMPOUNDMENT, RABIES QUARANTINE”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

F. Animal Impounded for Abuse or Neglect

1. In addition to any other civil or criminal penalties, Animals impounded or seized for violations of section 4-07-3210, section 4-07-3230, any of the statutes listed in section 4-07-5200(A)(3), or any other state or federal law prohibiting the mistreatment of animals will not be returned until the Owner demonstrates to the satisfaction of the seizing agency, the Administrative Review Officer, Administrative Review Appeals Officer, or the County Hearing Officer that the Owner can and will provide proper and necessary care for the Animal, and all costs for the seizure and care of the Animal are paid. The Animal’s return may be conditioned.

2. If the seizing agency believes that return of the Animal would endanger the Animal, the agency shall provide notice to the Owner that the Animal will not be returned to the Owner. The Owner may request Administrative Review in the same manner as in post-seizure proceedings. The decision of the Administrative Review Officer may be appealed to the Administrative Review Appeals Officer in the same manner as a Kennel Operator under section 4-07-4008, except that evidence presented shall relate to the allegations of abuse or neglect.

3. The decision of the Administrative Review Appeals Officer may be appealed to the County Hearing Officer in the same manner as a Kennel Operator under section 4-07-4008.

Section 36. THE HEADING OF ARTICLE 6 (“POTENTIALLY DANGEROUS AND VICIOUS ANIMALS, HEARINGS AND APPEALS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

**ARTICLE 6. POTENTIALLY DANGEROUS AND VICIOUS ANIMALS,
ADMINISTRATIVE REVIEW, AND APPEALS**

Section 37. SECTION 4-07-6000 (“POTENTIALLY DANGEROUS AND VICIOUS ANIMALS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-07-6000 POTENTIALLY DANGEROUS AND VICIOUS ANIMALS

[No changes to subsection A]

B. Owner Responsible

1. Any Owner or Custodian of any Animal is deemed responsible for the acts committed by that Animal when the Owner or Custodian has failed to comply with the legal requirements for the keeping of that Animal as defined in this chapter. No person shall permit an Animal to act in such a manner as constitutes Potentially Dangerous or Vicious behavior as defined in Section 4-07-1400 of this chapter.

[No changes to subsection B.2]

[No changes to subsections C or D]

E. Filing of a Complaint

Any person, including employees of Animal Services, possessing personal knowledge of facts that there exists a Potentially Dangerous or Vicious Animal within the unincorporated area of the County or those incorporated areas served by Animal Services may file with Animal Services a written report, signed under penalty of perjury, which contains the following facts:

1. A description of the offending Animal including, to the extent known, the color, size, sex, breed and name of the Animal, and the name and address of the Animal Owner or Custodian;

2. An assertion that the Animal described is a Potentially Dangerous or Vicious Animal within the meaning of Section 4-07-1400, together with a statement of the facts upon which the assertion was based, including the name and address of any person who has been victimized or injured, including a description of the extent of the injuries, the names and addresses of the witnesses

thereto, the time, date, and location of the incident related to the assertion, and an explanation of how the personal knowledge of the affiant was acquired; and

3. The name, residential and occupational addresses and telephone numbers of the affiant.

[No changes to subsection F]

G. Impoundment of Animal. Upon receipt by Animal Services of a Potentially Dangerous or Vicious Animal Report, Animal Services shall initiate an investigation of the incident or incidents described in the report for the purpose of verifying the facts stated and obtaining other information. If, after an investigation, the identified facts show the existence of a Potentially Dangerous or Vicious Animal, Animal Services shall immediately locate and Impound the Animal which is the subject of the charges. The Owner or Custodian may request Administrative Review, provided the request is submitted within six (6) business days, including Saturday, from the date of impoundment.

Section 38. SECTION 4-07-6100 (“POTENTIALLY DANGEROUS AND VICIOUS ANIMAL HEARINGS AND APPEALS”) OF ARTICLE 6 (“POTENTIALLY DANGEROUS AND VICIOUS ANIMALS, HEARINGS AND APPEALS”) OF CHAPTER 7 (“CONTROL OF ANIMALS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Ordinance Code of Tulare County is amended to read as follows:

**4-07-6100 POTENTIALLY DANGEROUS AND VICIOUS ANIMAL
ADMINISTRATIVE REVIEW AND APPEALS:**

A. Administrative Review Appeal

1. Administrative Review regarding a Potentially Dangerous or Vicious Animal shall proceed directly to an Administrative Review Appeal without an Administrative Review.

2. After an Animal has been impounded under this Article, the Animal Owner or Custodian may file an Administrative Review Appeal of the impoundment. Animal Services shall set a date and time for the Administrative Review Appeal and send a notice thereof by first class mail at least five (5) business days, including Saturday, before the scheduled Administrative Review Appeal date to the Owner or Custodian at the address set forth on his or her request and shall notify the victim and the Director of such Administrative Review Appeal.

3. Conversely, if, after an investigation, the identified facts show that cause to conduct a Potentially Dangerous or Vicious Animal Administrative Review Appeal has not been shown, Animal Services shall notify the Animal Owner or Custodian to reclaim the Animal from Animal Services.

B. Conduct of Administrative Review

1. The Administrative Review Appeal shall be conducted before the Administrative Review Appeals Officer.

2. The Administrative Review Appeal shall be an informal process.

3. The burden at the Administrative Review Appeal is on the Animal Owner or Custodian to explain why the Animal is not Potentially Dangerous or Vicious.

4. The Administrative Review Appeals Officer may find, based upon the information presented, that:

a. The Animal is not Potentially Dangerous or Vicious and should be returned to its Owner or Custodian;

b. The Animal is not Potentially Dangerous or Vicious but that the attack, bite, or injury was the result of improper or negligent training, handling, or maintenance and that the License should be revoked and the Animal relinquished to Animal Services;

c. The Animal is Potentially Dangerous or Vicious but may be returned to the Owner or Custodian with stipulations and/or restrictions; or

d. The Animal is Potentially Dangerous or Vicious and that it should be humanely euthanized no sooner than the fifth business day, including Saturday, following the mailing of notice of determination.

5. The Administrative Review Appeals Officer shall make other orders required or authorized by this chapter.

6. The Administrative Review Appeals Officer may decide all issues for or against the Owner or Custodian of the Animal even if the Owner or Custodian fails to appear at the Administrative Review Appeal. Failure to appear at the Administrative Review Appeal will be deemed a forfeiture of the Animal.

C. Consideration of Information. In considering whether an Animal is Potentially Dangerous and/or Vicious, the Administrative Review Appeals Officer shall consider relevant information, including, but not limited to, the following:

1. Any previous history of the Animal attacking, biting or causing injury to a human being or other Animal.

2. The nature and extent of injuries inflicted and the number of victims involved.

3. The location where the bite, attack or injury occurred.
4. The presence or absence of any provocation for the bite, attack, or injury.
5. The extent to which property has been damaged or destroyed.
6. Whether the Animal exhibits any characteristics of being trained for fighting or attacking, or other evidence to show such training or fighting.
7. Whether the Animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of Persons or other Animals.
8. Whether the Animal can be effectively trained or re-trained to change its temperament or behavior.
9. The manner in which the Animal had been maintained by its Owner or Custodian.
10. Any other relevant information concerning the maintenance of the Animal.
11. Any other relevant information regarding the ability of the Owner or Custodian to protect the public safety in the future if the Animal is permitted to remain in the County.

D. Mitigating Circumstances. In considering whether an Animal is Potentially Dangerous and/or Vicious, the Administrative Review Appeals Officer may consider information regarding any of the following mitigating circumstances:

1. That the injury or damage complained of was sustained by a person who was committing a willful trespass or other tort upon the Premises occupied by the Owner or Custodian of the Animal, or was teasing, tormenting, abusing, or assaulting the Animal, or was committing or attempting to commit a crime.
2. That the Animal was protecting or defending a person within the immediate vicinity of the Animal from an unjustified attack or assault.
3. That the injury or damage complained of was sustained by a Domestic Animal which at the time of the injury or damage was teasing, tormenting, abusing, or assaulting the Animal which is the subject of the Administrative Review Appeal.
4. The injury or damage complained of was to a Domestic Animal and was sustained while the Animal in question was working as a hunting Animal, herding Animal, or predator control Animal on the property of, or under the control of, its Owner or Custodian and the damage or

injury complained of was to a species or type of Domestic Animal appropriate to the work of the Animal.

E. Determinations and Orders; Notice; Compliance; Appeal; Finality of Appeal

1. Within ten (10) calendar days after the Administrative Review Appeal is conducted, the Administrative Review Appeals Officer shall notify in writing Animal Services and the Owner or Custodian of the determination and orders issued, by first class mail or personal service at the address appearing on the request for the Administrative Review Appeal.

2. If a determination is made by the Administrative Review Appeals Officer that the Animal is Potentially Dangerous or Vicious, and is returning the Animal to the Owner or Custodian, the Owner or Custodian shall comply with subsection F and G of this section within fifteen (15) calendar days after the date of determination or twenty (20) calendar days if notice of the determination is mailed to the Owner or Custodian by first class mail.

3. If a determination is made by the Administrative Review Appeals Officer that the Animal is not Potentially Dangerous or Vicious, but that the bite, attack, or injury was the result of improper or negligent training, handling, or maintenance, the following may apply:

a. The License may be revoked and reissued with reasonable terms, conditions or restrictions imposed for the training, handling, or maintenance of the Animal to protect the public health safety and welfare, only if it is determined that the Owner or Custodian is able and willing to properly train, handle, or maintain the Animal and a similar incident is not likely to occur in the future with proper training, handling, or maintenance; or

b. If the Owner or Custodian is unable or unwilling to properly train, handle, or maintain the Animal and a similar incident is not likely to occur in the future with proper training, handling, or maintenance, then the Animal shall be relinquished to Animal Services.

4. If Animal Services or the Owner or Custodian of the Animal contests the determination, he or she may, within five (5) business days of the date of the notice of determination, appeal the decision of the Administrative Review Appeals Officer to the County Hearing Officer.

5. The appeal shall be heard by the County Hearing Officer as provided by Article 31 of Chapter 1 of Part I of this Code.

6. The decision of the County Hearing Officer shall be final for all purposes. Judicial review of a decision made after an appeal hearing pursuant to this section shall be made pursuant to section 1094.6 of the Code of Civil Procedure.

F. Registration. Any Animal that has been declared in a final decision to be Potentially Dangerous or Vicious within the meaning of Section 4-07-1400, and is being returned to the Owner or Custodian, shall be subject to special registration requirements as follows:

An Owner or Custodian of a Potentially Dangerous or Vicious Animal is required to pay, in addition to any Licensing or License Fee, an annual special registration fee (as applicable) which shall be valid and renewable concurrent with the effective dates of the Licensing of the Animal. Late registration is subject to a penalty fee equal to two times the annual registration fee.

G. Keeping of a Potentially Dangerous or Vicious Animal. In addition to any other provisions provided in the final decision, the keeping of an Animal that has been declared Potentially Dangerous or Vicious and returned to the Animal Owner or Custodian by the Administrative Review Appeals Officer or County Hearing Officer shall, at the minimum, be subject to the following provisions:

1. The Animal must at all times, when not under restraint by leash on public property, be securely confined in an enclosure under lock within a lawful fence.

2. The Animal must, at all times when kept in any part of a house or structure, be confined in such a manner that the Animal cannot exit such building on its own volition.

3. The Animal must, at all times, be licensed and registered as required by this chapter and must be kept in compliance with all the regulatory provisions of this chapter in its entirety.

4. The Animal Owner or Custodian must notify Animal Services in writing within three calendar days if the location of the Animal is to be permanently changed. An administration fee will be charged to modify the issued license.

5. The Owner or Custodian must allow Animal Services to inspect the property at such time as reasonable to insure the provisions of the final decision are being complied with. All costs associated with these provisions or any other or additional provisions ordered by the Administrative Review Appeals Officer or County Hearing Officer shall be borne by the Owner or Custodian of the Animal that has been declared Potentially Dangerous or Vicious.

H. Right to Destroy. Nothing in this section shall be construed to prevent Animal Services from destroying an Animal that is in the act of dangerous or vicious behavior towards any person or other Animal as set forth in section 4-07-1400, if such immediate destruction is reasonably necessary to protect public safety.

Section 39. SECTION 4-09-1005 (“DEFINITIONS”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) OF THE Tulare County Ordinance Code is amended to read as follows:

4-09-1005 DEFINITIONS:

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

(a) "Administrative Costs" means the costs to the County of performing the acts required under this Chapter, except the actual removal of the vehicle. The Board of Supervisors shall from time to time, by resolution, determine the administrative costs for the removal of each vehicle removed by the County if the vehicle is removed without administrative review pursuant to section 4-09-1045 of this Chapter. In those cases in which the Planning and Development Director conducts administrative review pursuant to section 4-09-1050 of this Chapter, he or she shall fix and determine the administrative costs which shall be the actual costs to the County of performing all of the acts pertaining to the specific vehicle which is the subject of the administrative review except the actual removal of the vehicle.

[No changes to subsections (b) through (e)]

Section 40. SECTION 4-09-1020 (“ENFORCEMENT: PLANNING AND DEVELOPMENT DIRECTOR”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) OF THE Tulare County Ordinance Code is amended to read as follows:

4-09-1020 ENFORCEMENT: PLANNING AND DEVELOPMENT DIRECTOR:

Except as otherwise provided herein, the provisions in this Chapter shall be administered and enforced by the Planning and Development Director and the employees in his or her department or other persons authorized by him or her to administer and enforce this Chapter.

Section 41. SECTION 4-09-1025 (“ENTERING OF PROPERTY”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) OF THE Tulare County Ordinance Code is amended to read as follows:

4-09-1025 ENTERING PROPERTY:

(a) The Planning and Development Director, the employees in his or her department and other persons authorized by him or her may enter upon private or public property to examine a vehicle and to obtain information as to the ownership and identity of a vehicle when enforcing this Chapter.

(b) If the County enters into a contract with any person to remove or cause the removal of vehicles which have been declared to be public nuisances pursuant to this Chapter, such person may enter upon private or public property to remove such vehicles.

(c) Any person who in any way denies, obstructs, or hampers the entrance of the persons mentioned in this section upon private or public property to carry out the aforementioned duties, or who denies, obstructs or hampers the performance of such duties by such persons after they have entered the property shall be guilty of an infraction and shall be punishable as provided in section 125 of this Code.

Section 42. SECTION 4-09-1030 (“VOLUNTARY COMPLIANCE”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1030 VOLUNTARY COMPLIANCE:

If it appears to the Planning and Development Director that an abandoned, wrecked, dismantled or inoperative vehicle is located on private or public property, he or she may follow such administrative procedures to secure voluntary removal of such vehicle as appear advisable in each individual case prior to giving a notice of intention to abate pursuant to section 4-09-1035 of this Chapter.

Section 43. SECTION 4-09-1035 (“NOTICE OF INTENT TO ABATE”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1035 NOTICE OF INTENTION TO ABATE:

If the Planning and Development Director cannot secure voluntary removal of the vehicle, pursuant to section 4-09-1030 of this Chapter, he or she shall give written notice of intention to abate and remove the vehicle. The notice shall contain a statement of the administrative review rights of the owner of the property on which the vehicle is located and of the owner of the vehicle. The statement shall include notice to the property owner that he or she may appear in person at the administrative review or may submit a sworn written statement denying responsibility for the presence of the vehicle on the land with the reasons for such denial, in lieu of appearing. The notice of intention to abate shall be mailed, by certified mail, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owners of record of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership.

Section 44. SECTION 4-09-1040 (“REQUEST FOR HEARING”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1040 REQUEST FOR ADMINISTRATIVE REVIEW:

The registered or legal owner of the vehicle or the owner of the land on which the vehicle is located may request administrative review on the question of abatement and removal of the abandoned, wrecked, dismantled or inoperative vehicle and on the question of assessment of the administrative costs and cost of removal against the property on which it is located. Such request for administrative review shall be in writing and shall be filed with the Planning and Development Director not more than ten (10) days after the date on which the notice of intention described in section 4-09-1035 of this Chapter was mailed by the Planning and Development Director. If the owner of the land on which the vehicle is located filed with the Planning and Development Director a sworn statement denying responsibility for the presence of the vehicle on his or her land within said ten (10) day period, said statement shall be construed as a request for administrative review which does not require the presence of the owner submitting such request.

Section 45. SECTION 4-09-1045 (“FAILURE TO REQUEST HEARING: REMOVAL: COSTS”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

**4-09-1045 FAILURE TO REQUEST ADMINISTRATIVE REVIEW: REMOVAL:
COSTS:**

If no administrative review is requested within the time limit specified in section 4-09-1040 of this Chapter, the Planning and Development Director shall cause the vehicle to be removed and taken to a junk yard, automobile dismantling yard or refuse disposal site. Except as otherwise provided in section 4-09-1090 of this Chapter, the owner shall be required to pay the administrative costs and the cost of removal, as determined by the Board of Supervisors in accordance with section 4-09-1005 of this Chapter. The Planning and Development Director shall send a request for payment of said costs to the owner of the property by regular mail and if the owner does not pay the said costs within thirty (30) days after the date on which the letter was mailed, the procedure set forth in subsection (c) of section 4-09-1085 of this Chapter shall be followed.

Section 46. SECTION 4-09-1050 (“PUBLIC HEARING”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1050 ADMINISTRATIVE REVIEW:

If administrative review has been requested in accordance with the provisions of section 4-09-1040 of this Chapter, such review shall be conducted on the question of abatement and removal of a vehicle as an abandoned, wrecked, dismantled or inoperative vehicle and the assessment of the administrative costs and cost of removal against the property on which it is located. The Planning and Development Director or designee shall cause notices of the time and place of the administrative review to be sent by regular mail to the owner of the land as shown on the last equalized County assessment roll, and to the last registered and legal owners of record of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership. Said notices shall be mailed at least ten (10) days before the date of the review.

Section 47. SECTION 4-09-1055 (“CONDUCT OF HEARING”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1055 CONDUCT OF ADMINISTRATIVE REVIEW:

The administrative review under this Chapter shall be conducted by the Planning and Development Director or designee. The administrative review officer shall consider all pertinent information offered by all interested persons, including on the condition of the vehicle and the circumstances concerning its location on private property or public property. The owner of the land on which the vehicle is located may appear in person at the review or may submit a sworn written statement for consideration at the review. The owner of the land may deny responsibility for the presence of the vehicle on the land, with his or her reasons for such denial.

Section 48. SECTION 4-09-1060 (“DECISION BY PLANNING AND DEVELOPMENT DIRECTOR”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1060 DECISION BY ADMINISTRATIVE REVIEW OFFICER:

(a) At the conclusion of the administrative review, the administrative review officer may find that a vehicle has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided. He or she may also determine the amount of the administrative costs, in accordance with sections 4-09-1005 and 4-09-1090 of this Chapter, and may determine that all or

a portion of the administrative costs and the cost of removal are to be charged against the owner of the land on which the vehicle is located.

(b) If it is determined by the administrative review officer that the vehicle was placed on the land without the consent of the landowner and that the landowner has not subsequently acquiesced in its presence, the administrative review officer shall not assess administrative costs or the cost of removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such landowner.

(c) The administrative review officer may impose such conditions and take such other action as he or she deems appropriate under the circumstances to carry out the purposes of this Chapter. He or she may delay the time for removal of the vehicle if, in his or her opinion, the circumstances justify it.

(d) The administrative review officer shall give written notice of his or her decision to all of the interested persons to whom the notice of administrative review was mailed.

Section 49. SECTION 4-09-1065 (“APPEAL”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1065 APPEAL:

Within ten (10) days after notice of the decision of the administrative review officer has been mailed to the interested parties, any person affected by the decision may file with the Clerk of the Board of Supervisors a written notice of appeal from said decision to the County Hearing Officer, as provided by Article 31 of Chapter 1 of Part I of this Code.

Section 50. SECTION 4-09-1070 (“REMOVAL OF VEHICLE”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1070 REMOVAL OF VEHICLE:

(a) At any time after the administrative review officer orders an abandoned, wrecked, dismantled or inoperative vehicle to be removed, pursuant to section 4-09-1060 of this Chapter, any interested party may cause such vehicle to be removed. If the administrative review officer has assessed administrative costs and the cost of removal against the property on which the vehicle is located, and the vehicle is voluntarily removed without cost to the County, only the administrative costs shall thereafter be collected from the owner of the land.

(b) If no appeal has been filed, and the vehicle has not been removed within ten (10) days, after the notice of the decision of the administrative review officer was mailed to the interested parties,

the Planning and Development Director shall cause the vehicle to be removed and taken to a junk yard, automobile dismantling yard or refuse disposal site.

(c) If an appeal has been filed, and the vehicle has not been removed within ten (10) days after the notice of the decision of the County Hearing Officer was mailed to the interested parties, the Planning and Development Director shall cause the vehicle to be removed and taken to a junk yard, automobile dismantling yard or refuse disposal site.

Section 51. SECTION 4-09-1085 (“COLLECTION OF COSTS”) OF CHAPTER 9 (“ABANDONED VEHICLES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-09-1085 COLLECTION OF COSTS:

(a) If the Planning and Development Director has caused the vehicle to be removed from the property, and he or she has assessed administrative costs and the cost of removal against the owner of the property on which the vehicle is located, he or she shall mail a notice to the owner of the property of the total costs to be paid by the owner of the property.

[No changes to subsections (b) through (c)]

Section 52. SECTION 4-11-1015 (“ENFORCEMENT”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1015 ENFORCEMENT:

Except as otherwise provided, this Chapter shall be administered and enforced by the County Fire Chief, and his or her deputies and employees in the department.

Section 53. SECTION 4-11-1070 (“DEFINITIONS”) OF ARTICLE 3 (“NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1070 DEFINITIONS:

[No changes to introductory paragraph or subsections (a) through (d)]

(e) "Cost of administration" means the cost to the County of doing the acts required under this Chapter, except the actual cost of abatement. The Board of Supervisors shall establish, from time to time, by resolution the fee necessary to cover the cost of administration per parcel for a nuisance

abated by the County Fire Chief without administrative review. When administrative review is done by the administrative review officer or County Hearing Officer to review the determination of the County Fire Chief that a nuisance exists, the administrative review officer or County Hearing Officer shall determine the actual cost of administration attributable to that parcel. For the purpose of determining the cost of administration, all contiguous property owned by the same person or persons shall be deemed to be a single parcel, even though the contiguous property may be designated with more than one Assessor's Parcel Number.

Section 54. SECTION 4-11-1075 ("OWNER'S DUTY") OF ARTICLE 3 ("NUISANCE") OF CHAPTER 11 ("FIRE HAZARDOUS WEEDS AND RUBBISH") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1075 OWNER'S DUTY:

It is the duty of every owner of private property within the unincorporated areas of Tulare County to prevent a nuisance described in section 4-11-1065 of this Chapter from arising on, or existing upon, his or her property.

Section 55. THE HEADING OF ARTICLE 5 ("NOTICE OF HEARING ON EXISTENCE OF NUISANCE") OF CHAPTER 11 ("FIRE HAZARDOUS WEEDS AND RUBBISH") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

ARTICLE 5. NOTICE OF ~~HEARING ON~~ EXISTENCE OF NUISANCE

Section 56. SECTION 4-11-1125 ("NOTICE") OF ARTICLE 5 ("NOTICE OF HEARING ON EXISTENCE OF NUISANCE") OF CHAPTER 11 ("FIRE HAZARDOUS WEEDS AND RUBBISH") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1125 NOTICE:

Whenever the County Fire Chief determines that a nuisance described in section 4-11-1065 of this Chapter exists upon any private property within the County, he or she shall notify the owner of the existence of the nuisance.

Section 57. SECTION 4-11-1130 (“NOTICE: CONTENTS”) OF ARTICLE 5 (“NOTICE OF HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1130 NOTICE: CONTENTS:

The notice required by section 4-11-1125 of this Chapter shall:

- (a) Identify the owner of the private property upon which the nuisance exists, as the name appears on the records of the County Assessor/Clerk-Recorder.
- (b) Describe the location of such private property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.
- (c) Identify such property by reference to the Assessor’s Parcel Number.
- (d) Contain a statement that a fire hazardous condition exists and that it has been determined by the County Fire Chief to be a public nuisance described in section 4-11-1065 of this Chapter.
- (e) Contain a statement that the owner may within seven (7) business days after mailing or personal delivery of the notice make a request in writing to the County Fire Chief for administrative review of the determination of the County Fire Chief that the conditions existing create a public nuisance or to show that for some other reason those conditions should not be abated in accordance with the provisions of this Chapter.
- (f) Contain a statement that, unless the owner corrects the fire hazardous condition or requests administrative review by the County Fire Chief, the County Fire Chief will abate the nuisance, not less than fifteen (15) business days after the date said notice was mailed or personally delivered. It shall also state that the cost of such abatement, together with a charge for the cost of administration of the abatement program attributable to said abatement, may be made a special assessment added to the County assessment roll and become a lien on the real property, or placed on the unsecured tax roll.

Section 58. SECTION 4-11-1135 (“NOTICE: MAILING: PERSONAL DELIVERY”) OF ARTICLE 5 (“NOTICE OF HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1135 NOTICE: MAILING: PERSONAL DELIVERY:

The notice required by section 4-11-1125 of this Chapter shall be served by delivering it personally to the owner, or by mailing it by regular mail to the owner as his or her address appears on the

last equalized assessment roll, except that, if the records of the County Assessor/Clerk-Recorder show that the ownership has changed since the last equalized assessment roll was compiled, notice shall be mailed to the new owner.

Section 59. SECTION 4-11-1140 (“NOTICE: POSTING”) OF ARTICLE 5 (“NOTICE OF HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1140 NOTICE: POSTING:

If the address of the new owner is not in the County Assessor/Clerk-Recorder’s records and is not otherwise discovered, notice may be given by posting copies along the subject property not more than one thousand (1000) feet apart. In no event shall fewer than two (2) signs be posted when giving notice pursuant to this section.

Section 60. THE TITLE OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

**ARTICLE 7. ADMINISTRATIVE REVIEW OF
EXISTENCE OF NUISANCE**

Section 61. SECTION 4-11-1190 (“HEARING: REQUEST”) OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1190 ADMINISTRATIVE REVIEW: REQUEST:

The owner of property upon which the County Fire Chief has determined that a nuisance described in section 4-11-1065 of this Chapter exists may request administrative review on or before the seventh business day following the day of mailing of the notice or the date on which the notice was personally delivered by filing a written request therefor with the County Fire Chief. The request shall describe the property by street name and number and Assessor’s Parcel Number and give the name of the owner and his or her address.

Section 62. SECTION 4-11-1195 (“HEARING: NOTICE”) OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1195 ADMINISTRATIVE REVIEW: NOTICE:

If administrative review has been requested in accordance with section 4-11-1190 of this Chapter the County Fire Chief or designee, as administrative review officer, shall set a date and time for such administrative review and send a notice thereof by regular mail at least seven (7) business days before such date to the owner at the address set forth on his or her request.

Section 63. SECTION 4-11-1200 (“HEARING: CONDUCT”) OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1200 ADMINISTRATIVE REVIEW: CONDUCT:

At the date and time set, an administrative review shall be held by the administrative review officer. The administrative review officer shall consider all pertinent information offered by all interested persons.

Section 64. SECTION 4-11-1205 (“HEARING: DECISION”) OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1205 ADMINISTRATIVE REVIEW: DECISION:

At the conclusion of the administrative review, the administrative review officer may determine:

- (a) That no public nuisance exists.
- (b) That a public nuisance exists which should be abated in accordance with section 4-11-1260 of this Chapter. The administrative review officer shall thereupon order the nuisance abated no sooner than the fifth business day following the mailing of notice of the administrative review officer’s decision.
- (c) That a public nuisance exists which may be removed by some procedure proposed by the owner other than destruction of the fire hazardous plants or materials. If the administrative review officer determines that another procedure proposed by the owner may be employed to remove the public nuisance, the officer shall set a reasonable time within which the owner must

complete that procedure. If the owner fails to complete the procedure proposed within the time limit set by the administrative review officer, the County Fire Chief may, upon five (5) business days notice, sent by him or her to the owner by regular mail, commence abatement in accordance with section 4-11-1260 of this Chapter. At any administrative review in which it is determined that a public nuisance exists, whether abatement or implementation of an alternate procedure proposed by the owner is ordered, the administrative review officer shall also determine the administrative costs incurred. The owner shall be entitled to be heard on the question of such administrative costs.

Section 65. SECTION 4-11-1210 (“APPEAL”) OF ARTICLE 7 (“HEARING ON EXISTENCE OF NUISANCE”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is added to read as follows:

4-11-1210 APPEAL:

Any person aggrieved by any decision of the administrative review officer may appeal to the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code.

Section 66. SECTION 4-11-1255 (“ABATEMENT BY OWNER”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1255 ABATEMENT BY OWNER:

Any owner may remove or cause to be removed a nuisance described in section 4-11-1065 of this Chapter at any time prior to commencement of abatement by, or at the direction of, the County Fire Chief.

Section 67. SECTION 4-11-1260 (“ABATEMENT: ENTERING PRIVATE PROPERTY”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1260 ABATEMENT: ENTERING PRIVATE PROPERTY:

If the owner has not earlier removed the nuisance and if no request for administrative review as provided by section 4-11-1190 of this Chapter is received by the County Fire Chief on or before the seventh business day following the mailing or personal delivery of the notice required by section 4-11-1125 of this Chapter, or if no notice of appeal to the County Hearing Officer after the administrative review officer’s decision is filed as provided by section 4-11-1210 of this Chapter, within the time provided in Article 31 of Chapter 1 of Part I of this Code, the County Fire Chief

shall cause the nuisance to be abated. The County Fire Chief shall not commence the abatement until at least fifteen (15) business days after said notice was mailed or personally delivered to the owner. The County Fire Chief, his or her deputies, the employees of his or her department and independent contractors hired by him or her may enter upon private property on which a nuisance described in section 4-11-1065 of this Chapter exists for the purpose of abating that nuisance.

Section 68. SECTION 4-11-1265 (“ACCOUNTING”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1265 ACCOUNTING:

The County Fire Chief shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the County Hearing Officer showing the cost of abatement and the cost of administration as declared in subsection (e) of section 4-11-1070 of this Chapter, or as determined by the administrative review officer pursuant to section 4-11-1205, or by the County Hearing Officer pursuant to section 4-11-1210 of this Chapter, for each parcel.

Section 69. SECTION 4-11-1270 (“HEARING ON ACCOUNTING: NOTICE: WAIVER BY PAYMENT”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1270 HEARING ON ACCOUNTING: NOTICE: WAIVER BY PAYMENT:

Upon receipt of the account of the County Fire Chief, the Clerk of the Board of Supervisors shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than five (5) business days after the date of mailing of the notice, the County Hearing Officer will review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the County Fire Chief prior to the time set for the hearing by the Clerk of the Board of Supervisors. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable.

Section 70. SECTION 4-11-1275 (“HEARING ON ACCOUNTING”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1275 HEARING ON ACCOUNTING:

(a) At the time fixed, the County Hearing Officer shall review the report of the County Fire Chief. An owner may appear at said time and be heard on the questions whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed if that matter has not previously been reviewed in an administrative review of the determination of the County Fire Chief that a nuisance existed.

(b) The report of the County Fire Chief shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.

(c) The hearing shall be conducted in the manner prescribed in Article 31 of Chapter 1 of Part I of this Code.

Section 71. SECTION 4-11-1280 (“MODIFICATIONS”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1280 MODIFICATIONS:

The County Hearing Officer shall make such modifications in the accounting as he or she deems necessary and thereafter shall confirm the report by written decision.

Section 72. SECTION 4-11-1285 (“SPECIAL ASSESSMENT AND LIEN”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1285 SPECIAL ASSESSMENT AND LIEN:

The Board of Supervisors may order that the cost of abating nuisances pursuant to this Chapter and the administrative costs as confirmed by the County Hearing Officer be placed upon the County tax roll by the County Auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to section 25845 of the Government Code; provided, however, that the cost of abatement and the cost of administration as finally

determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll.

Section 73. SECTION 4-11-1290 (“VIOLATION: PENALTY”) OF ARTICLE 9 (“ABATEMENT AND REPORT OF COST”) OF CHAPTER 11 (“FIRE HAZARDOUS WEEDS AND RUBBISH”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1290 VIOLATION: PENALTY:

The maintenance on private property of a public nuisance as described in section 4-11-1065 of this Chapter shall constitute an infraction, punishable under section 125 of this Code if any of the following conditions are met:

(a) Such public nuisance is not corrected within fifteen (15) days after the County Fire Chief has notified the property owner of the existence of the public nuisance and there has been no timely request made to the County Fire Chief for administrative review of the determination of the existence of such public nuisance; or

(b) If, after administrative review, the administrative review officer determines that such a public nuisance exists and such public nuisance is not corrected within five (5) business days following mailing of the notice of the administrative review officer’s decision to the property owner; or

(c) If, after administrative review and determination by the administrative review officer that such a public nuisance exists and that such public nuisance may be removed by some procedure proposed by the owner other than destruction of the fire hazardous plants or materials, the administrative review officer has set a specific time within which the owner must complete the procedure, and such public nuisance is not corrected within the period of time as set by the administrative review officer; or

(d) If, after a hearing by the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code, the public nuisance is not corrected within the time set by the County Hearing Officer.

Section 74. SECTION 4-13-1010 (“APPEAL OF DENIAL OR CONDITIONS”) OF ARTICLE 2 (“WELL PERMITS”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1010 ADMINISTRATIVE REVIEW OF DENIAL OR CONDITIONS:

(a) If the Health Officer denies an application for a permit, or issues a permit subject to conditions which the permittee believes to be unreasonable, the permittee may request administrative

review. The permittee must file such request with the Health and Human Services Agency Director within ten (10) days of the Health Officer's decision on the application or such review will be deemed waived. The Health and Human Services Agency Director or designee, acting as administrative review officer, shall, within twenty (20) days after receipt of a written request, hold an administrative review to determine whether the permit shall be issued to the permittee and, if a permit is to be issued, the terms and conditions under which it shall be issued. Such administrative review shall be conducted in accordance with section 4-13-1027 of this Chapter and may be continued from time to time by the administrative review officer. The decision of the administrative review officer shall be rendered within seven (7) days after the conclusion of the review.

(b) Any person aggrieved by any decision of the administrative review officer may appeal to the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code.

Section 75. SECTION 4-13-1011 ("JUDICIAL REVIEW OF DECISION") OF ARTICLE 2 ("WELL PERMITS") OF CHAPTER 13 ("CONSTRUCTION OF WELLS") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

4-13-1011 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the County Hearing Officer made after a hearing pursuant to this Article, if the decision denies the permit, shall be made pursuant to section 1094.6 of the Code of Civil Procedure. The method of judicial review, the time limits for judicial review, and all of the other provisions of said section 1094.6 shall govern such judicial review. When giving written notice to the permittee that the permit has been denied, the Clerk of the Board of Supervisors shall provide notice to the permittee that the time within which judicial review must be sought is governed by said section 1094.6.

Section 76. SECTION 4-13-1024 ("NOTICE") OF ARTICLE 4 ("NUISANCE") OF CHAPTER 13 ("CONSTRUCTION OF WELLS") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

4-13-1024 NOTICE:

Whenever the Health Officer determines that a nuisance described in section 4-13-1023 of this Article exists, he/she shall deliver to the owner of the land upon which the nuisance has been determined to exist a written notice informing the owner of the determination of such nuisance. The notice shall state that unless the owner abates the nuisance within a time, following completion of service of the notice, therein stated, determined by the Health Officer to be a reasonable time to accomplish such abatement, but not less than two (2) weeks, or within such time files a request for administrative review with the Health and Human Services Agency Director, the Health Officer will abate the nuisance. It shall also state that the cost of such

abatement may be added to the County assessment roll as a lien on the real property or placed on the unsecured tax roll.

Section 77. SECTION 4-13-1026 (“HEARING REQUEST”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1026 ADMINISTRATIVE REVIEW REQUEST:

The owner of property upon which the Health Officer has determined that a nuisance described in section 4-13-1023 of this Article exists may request administrative review by the Health and Human Services Agency Director or designee within the time specified in section 4-13-1024 of this Article by filing a written request with the Health and Human Services Agency Director. The request shall describe the property on which the nuisance has been determined to exist by street name and number and give the name of the owner and his address. The administrative review officer shall set a date and time for administrative review and send a notice thereof by regular mail at least ten (10) days before such date to the owner at the address set forth on his/her request and shall notify the Health Officer of such administrative review.

Section 78. SECTION 4-13-1027 (“HEARING: CONDUCT”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1027 ADMINISTRATIVE REVIEW: CONDUCT:

At the date and time set, administrative review shall be done by the administrative review officer. The administrative review officer shall consider all pertinent information offered by all interested persons.

Section 79. SECTION 4-13-1028 (“HEARING DECISION”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1028 ADMINISTRATIVE REVIEW DECISION: APPEAL:

(a) At the conclusion of the administrative review, if the administrative review officer determines that a public nuisance exists, he or she shall thereupon order the nuisance abated no sooner than thirty (30) days following the mailing of notice of the review officer’s decision. The administrative review officer shall determine whether the nuisance is to be abated by correction or destruction.

(b) Any person aggrieved by any decision of the administrative review officer may appeal to the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code.

Section 80. SECTION 4-13-1029 (“JUDICIAL REVIEW OF DECISION”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1029 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the County Hearing Officer made after a hearing pursuant to section 4-13-1028 of this Article shall be made pursuant to sections 1094.5 and 1094.6 of the Code of Civil Procedure of the State of California. When giving written notice to the owner of the order of the County Hearing Officer to abate the nuisance, the Clerk of the Board of Supervisors shall include a statement that the time within which judicial review must be sought is governed by said section 1094.6.

Section 81. SECTION 4-13-1030 (“ABATEMENT – ENTERING PRIVATE PROPERTY”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1030 ABATEMENT – ENTERING PRIVATE PROPERTY:

If a nuisance is not corrected or administrative review sought within the time specified pursuant to section 4-13-1024 of this Article or if, after administrative review, a nuisance is not abated or a notice of appeal filed pursuant to, and in the time required by, section 4-13-1028 of this Article, or if, after appeal, a nuisance is not abated, the Health Officer shall cause the nuisance to be abated and for that purpose he/she, and others at his/her direction, may enter the property where the nuisance exists.

Section 82. SECTION 4-13-1031 (“ACCOUNTING: NOTICE”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1031 ACCOUNTING: NOTICE:

The Health Officer shall keep an account of the cost of abatement and render a report in writing to the County Hearing Officer showing such cost. Upon receipt of the account of the Health Officer, the Clerk of the Board of Supervisors shall deposit a copy of the account in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time selected by the Clerk, but not less than ten (10) days after the date of mailing of the notice, the County Hearing Officer will review the account and that the owner may appear at said time and be heard.

Section 83. SECTION 4-13-1032 (“HEARING ON ACCOUNTING”) OF ARTICLE 4 (“NUISANCE”) OF CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-13-1032 HEARING ON ACCOUNTING:

At the time fixed, the County Hearing Officer shall review the report of the Health Officer. The owner may appear at said time and be heard on the questions of whether the accounting is accurate and the amounts reported are reasonable. The report of the Health Officer shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable. The hearing shall be conducted in the manner prescribed in Article 31 of Chapter 1 of Part I of this Code. The County Hearing Officer shall make such modifications in the accounting as he or she deems necessary and thereafter shall confirm the report by written decision.

Section 84. SECTION 4-15-1010 (“ADMINISTRATION AND ENFORCEMENT”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1010 ADMINISTRATION AND ENFORCEMENT:

(a) Except as otherwise provided, this Chapter shall be administered and enforced by the Public Works Director.

(b) The Public Works Director, when he or she has probable cause to believe that a nuisance exists, as defined by section 4-15-1070 of this Chapter, may enter, inspect and investigate any watercourse located within the County.

Section 85. SECTION 4-15-1020 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1020 DEFINITIONS:

[No changes to introductory paragraph or subsections (a) through (d)]

(e) "Public Works Director" means the Public Works Director of Tulare County acting either directly or through his or her duly authorized agents.

[No changes to subsection (f)]

Section 86. SECTION 4-15-1075 (“OWNER’S DUTY”) OF ARTICLE 3 (“NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1075 OWNER’S DUTY:

It is the duty of every owner of property within the unincorporated area of Tulare County to prevent a nuisance described in section 4-15-1070 of this Article from arising in, or existing in any watercourse running adjacent to or through his or her property.

Section 87. SECTION 4-15-1125 (“NOTICE”) OF ARTICLE 5 (“NOTICE OF NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1125 NOTICE:

Whenever the Public Works Director determines that a nuisance described in section 4-15-1070 of this Chapter exists upon any property within the County he or she shall notify the owner of the property of the existence of the nuisance. Notice may be provided to any other person as determined by the Public Works Director.

Section 88. SECTION 4-15-1130 (“NOTICE: CONTENTS”) OF ARTICLE 5 (“NOTICE OF NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1130 NOTICE: CONTENTS:

The notice required by section 4-15-1125 of this Article shall:

- (a) Identify the owner of the property upon which the nuisance exists, as the name appears on the records of the County Assessor/Clerk-Recorder.
- (b) A description of the property sufficient to give its location.
- (c) Contain a statement that a flood hazardous condition exists and that it has been determined by the Public Works Director to be a public nuisance as described in section 4-15-1070 of this Chapter.
- (d) Contain a statement that the owner may within fifteen (15) business days after mailing, posting or personal delivery of the notice make a request in writing to the Resource Management Agency Director for administrative review of the determination of the Public Works Director that a public nuisance exists or to show that for some other reason those conditions should not be abated in accordance with the provisions of this Chapter.

(e) Contain a statement that, unless the owner abates the nuisance or requests administrative review of the determination of the Public Works Director within fifteen (15) business days after the date the notice was mailed, posted or delivered, the Public Works Director will abate the nuisance. With the exception of that condition described in section 4-15-1315 of this Chapter, it shall also state that the cost of such abatement, together with the cost of administration of the abatement program attributable to said abatement, may be made a special assessment added to the County assessment roll and become a lien on the real property, or placed on the unsecured tax roll.

Section 89. SECTION 4-15-1135 (“NOTICE: MAILING: PERSONAL DELIVERY: POSTING”) OF ARTICLE 5 (“NOTICE OF NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1135 NOTICE: MAILING: PERSONAL DELIVERY: POSTING:

The notice required by section 4-15-1125 of this Chapter shall be served by delivering it personally to the owner, or by mailing it by regular mail to the owner as his or her address appears on the last equalized assessment roll, except that, if the records of the County Assessor/Clerk-Recorder show that the ownership has changed since the last equalized assessment roll was compiled, notice shall be mailed to the new owner. If service cannot with diligent effort be accomplished by personal delivery or by mail, notice may be given by posting copies of the notice along the subject property not more than one thousand (1,000) feet apart, but in no event shall fewer than two (2) signs be posted.

Section 90. THE HEADING OF ARTICLE 7 (“HEARING ON NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

ARTICLE 7. ADMINISTRATIVE APPEAL OF NUISANCE

Section 91. SECTION 4-15-1185 (“HEARING: REQUEST”) OF ARTICLE 7 (“HEARING ON NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1185 ADMINISTRATIVE REVIEW: REQUEST:

The owner of the property may file with the Resource Management Agency Director a written request for administrative review on or before the fifteenth business day following the day of mailing of the notice or the date on which the notice was personally delivered or posted.

Section 92. SECTION 4-15-1190 (“HEARING: NOTICE”) OF ARTICLE 7 (“HEARING ON NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1190 ADMINISTRATIVE REVIEW: NOTICE:

If administrative review has been requested in accordance with section 4-15-1185 of this Article, the Resource Management Agency Director or designee, as administrative review officer, shall set a date and time for such administrative review and shall send a notice thereof by regular mail at least seven (7) business days before such date to the owner at the address set forth on his or her request and shall notify the Public Works Director of such review.

Section 93. SECTION 4-15-1195 (“HEARING: CONDUCT”) OF ARTICLE 7 (“HEARING ON NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1195 ADMINISTRATIVE REVIEW: CONDUCT:

At the date and time set, administrative review shall be conducted by the administrative review officer. The administrative review officer shall consider all pertinent information offered by all interested persons.

Section 94. SECTION 4-15-1200 (“HEARING: DECISION”) OF ARTICLE 7 (“HEARING ON NUISANCE”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1200 ADMINISTRATIVE REVIEW: DECISION: APPEAL:

At the conclusion of the administrative review, the administrative review officer may determine:

- (a) That no public nuisance exists.
- (b) That a public nuisance exists which should be abated in accordance with section 4-15-1255 of this Chapter. The administrative review officer shall thereupon order the nuisance abated by the owner by a specified date which shall be no sooner than ten (10) business days following the mailing of notice of the administrative review officer’s decision.
- (c) That a public nuisance exists which may be remedied by some procedure proposed by the owner other than abatement. If the administrative review officer determines that another procedure proposed by the owner may be employed to remove the public nuisance, the officer shall set a reasonable time within which the owner shall complete that procedure. If the owner fails to complete the procedure proposed within the time limit set by the administrative review officer, the Public Works Director may, upon ten (10) business days notice, sent by him or her to

the owner by regular mail, commence abatement in accordance with section 4-15-1255 of this Chapter.

(d) Any person aggrieved by any decision of the administrative review officer may appeal to the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code. The notice of appeal shall be filed within ten (10) business days following the mailing of notice of the administrative review officer's decision.

(e) The decision of the County Hearing Officer shall be final as to all matters determined at said hearing.

Section 95. SECTION 4-15-1255 ("ABATEMENT: ENTERING PRIVATE PROPERTY") OF ARTICLE 9 ("ABATEMENT") OF CHAPTER 15 ("WATERCOURSES") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

4-15-1255 ABATEMENT: ENTERING PRIVATE PROPERTY:

If a nuisance is not corrected or abated by the owner, and if no request for administrative review as provided by section 4-15-1185 of this Chapter is received within the fifteen (15) day period prescribed by section 4-15-1185 of this Chapter, or if no request for administrative review as provided by subdivision (d) of section 4-15-1200 of this Chapter is received within the period prescribed by section 4-15-1200 of this Chapter, or if the administrative review officer or County Hearing Officer has directed that the nuisance be corrected or abated, and it has not been corrected or abated within the time set by the administrative review officer or County Hearing Officer, the Public Works Director shall cause the nuisance to be abated by County forces, contractors employed by the County, or through contracts with other governmental entities. The Public Works Director, County employees who are to perform the work, and contractors or other governmental entities employed by the County to perform the work may enter upon private property on which the nuisance exists for the purpose of abating the nuisance.

Section 96. SECTION 4-15-1260 ("SAME: EMERGENCIES") OF ARTICLE 9 ("ABATEMENT") OF CHAPTER 15 ("WATERCOURSES") OF PART IV ("HEALTH, SAFETY AND SANITATION") of the Tulare County Ordinance Code is amended to read as follows:

4-15-1260 SAME: EMERGENCIES:

Regardless of the provisions of section 4-15-1255 of this Chapter, if it appears to the Public Works Director, in the exercise of his or her reasonable judgment, that the failure to abate the nuisance immediately, without giving the notices and holding the administrative review prescribed in Articles 5 and 7 of this Chapter, presents an immediate threat or danger to the public health, safety and welfare, the Public Works Director may abate such nuisance immediately, to the extent

necessary to eliminate the threat or danger, without following the notice and administrative review requirements set forth in said Article 7.

Section 97. SECTION 4-15-1310 (“ACCOUNTING”) OF ARTICLE 11 (“PAYMENT OF COSTS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1310 ACCOUNTING:

The Public Works Director shall keep an account of the cost of each abatement carried out by the County and shall render a report in writing to the County Hearing Officer showing the cost of abatement and the cost of administration. If property under more than one ownership has been included in an overall abatement project, the account shall show said costs for the property owned by each owner separately.

Section 98. SECTION 4-15-1320 (“HEARING ON ACCOUNTING: NOTICE: WAIVER BY PAYMENT”) OF ARTICLE 11 (“PAYMENT OF COSTS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1320 HEARING ON ACCOUNTING: NOTICE: WAIVER BY PAYMENT:

Upon receipt of the account of the Public Works Director, the Clerk of the Board shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time specified in the notice which is not less than five (5) business days after the date of mailing of the notice, the County Hearing Officer will review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the Public Works Director at any time prior to the time set for the hearing by the County Hearing Officer. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right to said hearing and an admission that said accounting is accurate and reasonable.

Section 99. SECTION 4-15-1325 (“HEARING ON ACCOUNTING”) OF ARTICLE 11 (“PAYMENT OF COSTS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1325 HEARING ON ACCOUNTING:

(a) At the time fixed, the County Hearing Officer shall meet to review the report of the Public Works Director. The owner may appear at said time and be heard on the questions whether the accounting and the costs included are accurate and the amounts reported are reasonable.

(b) The report of the Public Works Director shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.

(c) The hearing shall be conducted in the manner prescribed in Article 31 of Chapter 1 of Part I of this Code.

Section 100. SECTION 4-15-1330 (“MODIFICATIONS”) OF ARTICLE 11 (“PAYMENT OF COSTS”) OF CHAPTER 15 (“WATERCOURSES”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-15-1330 MODIFICATIONS:

The County Hearing Officer shall make such modifications in the accounting as he or she deems necessary based on the evidence at the hearing and thereafter shall confirm the accounting by written decision.

Section 101. SECTION 4-19-1030 (“SUSPENSION OR REVOCATION: HEARING”) OF CHAPTER 19 (“PUBLIC HEALTH PERMITS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-19-1030 SUSPENSION OR REVOCATION: ADMINISTRATIVE REVIEW:

Whenever it appears to the Tulare County Health Officer that the holder of a permit subject to this Chapter has violated, or permitted any persons under his or her control to violate, any of the requirements of this Chapter; refused to allow the Tulare County Health Officer or his or her employees to conduct inspections and investigations reasonably necessary for the proper monitoring of the terms of the permit; or violated any State statute, rule, regulation or order governing the permitted activity, then the Tulare County Health Officer shall order administrative review, with himself or herself or a person appointed by him or her as administrative review officer, to determine if the alleged violations have occurred and if suspension or revocation of the permit is warranted.

Section 102. SECTION 4-19-1035 (“SUSPENSION OR REVOCATION: HEARING: NOTICE AND CONDUCT”) OF CHAPTER 19 (“PUBLIC HEALTH PERMITS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-19-1035 SUSPENSION OR REVOCATION: ADMINISTRATIVE REVIEW: NOTICE AND CONDUCT:

The administrative review officer shall cause written notice of date of such administrative review to be served on the permittee at least five (5) days in advance of such date by personal delivery

or by certified mail, return receipt requested, at the business address of the permittee stated on the last permit application. The notice shall describe the nature of the alleged violation or violations and inform the permittee of his right to attend in person or by designee and to present information.

Section 103. SECTION 4-19-1040 (“SUSPENSION OR REVOCATION: DECISION”) OF CHAPTER 19 (“PUBLIC HEALTH PERMITS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

**4-19-1040 SUSPENSION OR REVOCATION: ADMINISTRATIVE REVIEW
DECISION:**

(a) The administrative review officer shall render his or her decision and send the permittee written notice thereof by certified mail, return receipt requested, within five (5) days of the conclusion of the review. If the administrative review officer determines that the violation is minor in nature and the applicant is willing and able to correct the problem within a period of thirty (30) days or less, then the administrative review officer may suspend the permit in lieu of revocation. The length of the suspension shall be expressly noted in the notice of decision. In connection with such suspension, the administrative review officer may impose any conditions which he or she feels necessary for the efficient correction of the problem, including submission to supplementary inspections at the permittee’s expense. Any such conditions shall be expressly noted in the notice of decision. Failure to pay for the cost of such supplemental inspections within five days of receipt of a written bill, or to correct the violation or violations prior to expiration of the period of suspension, shall constitute grounds for immediate revocation by the Tulare County Health Officer without right to further administrative review by him or her, or by his or her designee. Such revocation shall be effective upon receipt of written notice to the permittee, sent by certified mail, return receipt requested.

Section 104. SECTION 4-19-1045 (“SUSPENSION OR REVOCATION: APPEAL: JUDICIAL REVIEW”) OF CHAPTER 19 (“PUBLIC HEALTH PERMITS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-19-1045 SUSPENSION OR REVOCATION: APPEAL: JUDICIAL REVIEW:

The permittee shall have the right to appeal to the County Hearing Officer any decision of the administrative review officer to suspend or revoke a permit subject to this Chapter. All such appeals and the judicial review thereof shall be handled in accordance with, and be controlled, by Article 31 of Chapter 1 of Part I of this Code.

Section 105. SUBSECTION (a) OF SECTION 4-25-1005 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 25 (“AGRICULTURAL APPLICATION OF SEWAGE SLUDGE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

(a) "Agricultural Commissioner" means the Tulare County Agricultural Commissioner/Sealer or his or her designated representative or deputy.

Section 106. SECTION 4-25-1320 (“ACTION ON APPLICATIONS FOR REQUIRED APPROVALS”) OF ARTICLE 3 (“PERMIT REQUIREMENTS”) OF CHAPTER 25 (“AGRICULTURAL APPLICATION OF SEWAGE SLUDGE”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) of the Tulare County Ordinance Code is amended to read as follows:

4-25-1320 ACTION ON APPLICATIONS FOR REQUIRED APPROVALS:

[No changes to subsections (a) through (g)]

(h) A Biosolids Management Permit approval or Land Spreading Site Plan approval may be revoked by the Agricultural Commissioner when evidence demonstrates that the applicant has violated any of the following:

(1) Any provision(s) of this Chapter, including its fee requirements, and the County’s Biosolids Land Spreading Regulations;

(2) Any federal/state laws or regulations; or

(3) The waste discharge requirements of the Regional Water Quality Control Board.

If the Agricultural Commissioner revokes the Biosolids Management Permit approval or Land Spreading Site Plan approval, a written notice to this effect shall be delivered within five (5) working days person or by certified mail to the business address of the name appearing on the application. The written notice shall state the grounds for the revocation.

(i) Any person adversely affected by the Decision of the Agricultural Commissioner regarding approval or denial of a Biosolids Management Permit, Nutrient Management Plan, or Land Spreading Site Plan, or by an Agricultural Commissioner revocation, may request administrative review by the Agricultural Commissioner. Such request shall be filed not more than ten (10) calendar days after notice of the Decision has been mailed.

(j) If such request is filed, the Agricultural Commissioner or designee, as administrative review officer, shall give not less than five (5) days’ written notice to the aggrieved person, of administrative review of the Decision or revocation.

(k) At such administrative review, the person may appear and explain why the Decision or revocation should be changed. The administrative review officer shall consider the factors set forth in this Chapter, and shall uphold, withdraw or modify the Decision or revocation. The administrative review officer shall serve a copy of his or her written decision on the aggrieved person. The written decision shall also include or be accompanied by a description of the right to appeal the decision to the County Hearing Officer. The administrative review officer's decision shall be deemed served within two days after the date it was mailed to the address provided by the aggrieved person.

(l) The aggrieved person may appeal the decision of the administrative review officer to the County Hearing Officer in accordance with Article 31 of Chapter 1 of Part I of this Code by filing a written notice of appeal with the Clerk of the Board of Supervisors not more than ten (10) calendar days after notice of the decision has been served. Unless the administrative review officer finds the grounds for the decision to constitute an immediate threat to public health or safety, any decision by the administrative review officer shall be stayed during the pendency of an appeal there from which has been properly and timely filed. The Clerk shall give notice to the applicant and the hearing and decision procedure shall be handled in accordance with the provisions of Article 31 of Chapter 1 of Part I of this Code.

Section 107. SECTION 5-01-1015 ("RECOVERY OF COSTS") OF ARTICLE 1 ("CURFEW") OF CHAPTER 1 ("PUBLIC MORALS") OF PART V ("PUBLIC WELFARE") of the Tulare County Ordinance Code is amended to read as follows:

5-01-1015 RECOVERY OF COSTS:

The County of Tulare may recover its administrative costs for processing violators of sections 5-01-1000 and 5-01-1005 as follows:

(a) A fee for the actual costs of administrative and transportation services for the return of the minor to his or her place of residence, or the custody of his or her parents or legal guardian may be charged jointly or severally to the minor and his or her parents or legal guardian, in an amount not to exceed those actual costs.

(b) Upon petition of the person required to pay the fee, the County Hearing Officer shall conduct a hearing as to the validity of the fees charged, and may upon good cause:

(1) Provide for a waiver of the payment of the fee by the parents or legal guardian upon a determination that the person has made reasonable efforts to exercise supervision and control over the minor.

(2) Provide for a determination of the ability to pay the fee and provide that the fee may be waived if neither the minor or parents or legal guardian has the ability to pay the fee.

(3) Provide for the performance of community service in lieu of imposition of the fee.

(4) Provide for waiver of payment of the fee by the parents or legal guardian upon the determination that the parents or legal guardian has limited physical or legal custody and control of the minor.

(c) The fees set forth herein shall be established from time to time as determined necessary by resolution of the Board of Supervisors of the County of Tulare. Said fees shall be based on the costs reasonably incurred as set forth herein. All other procedures for the hearings and other administrative steps herein shall be pursuant to the County Hearing Officer ordinance in Article 31 of Chapter 1 of Part I of this Code.

(d) The remedy in this sections is cumulative and does not preclude other remedies under this Code or other state, federal and local laws. Nothing herein shall preclude the County from seeking other legal or equitable remedies available to it by law.

(e) The provisions of this section shall be considered cumulative to all other laws, rules and regulations regulating curfew violations and other similar offenses.

Section 108. SECTION 6-01-4000 (“DENIAL OF LICENSE APPLICATION: RECONSIDERATION”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) of the Tulare County Ordinance Code is amended to read:

6-01-4000 DENIAL OF LICENSE APPLICATION: RECONSIDERATION:

[No changes to subsection (a)]

(b) The license collector shall provide notice to the applicant of such denial. Notice shall be in writing and shall be served, either personally or by mail, to the address of the applicant as set forth in the application. The notice shall indicate the reason for denial and the process by which the applicant may request reconsideration by the license collector through an administrative review process at which the applicant may provide additional information. The Board of Supervisors may establish a fee for requesting reconsideration. The fee, if any, shall be set from time to time by resolution of the Board of Supervisors.

(c) An applicant’s request for reconsideration must be filed or postmarked within ten (10) days of the date on the notice of denial. Notice of administrative review shall be given in the same manner that notice of the denial was given. The notice shall include the date, time, and place of the administrative review, and shall state that at the time of review the applicant may offer relevant information supporting reconsideration of the denial and the issuance of a license.

(d) The administrative review shall be conducted within a reasonable time, but may be continued from time to time at the discretion of the license collector. The license collector shall issue a written decision within ten (10) days after the conclusion of the review. The written decision shall indicate the reason(s) for the denial, and shall include information regarding appeal to the County Hearing Officer.

Section 109. SECTION 6-01-4010 (“EMERGENCY SUSPENSION”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) of the Tulare County Ordinance Code is amended to read:

6-01-4010 EMERGENCY SUSPENSION:

A license issued pursuant to this Part is subject to emergency suspension under the following conditions and procedures:

(a) If the appropriate investigating officer, including but not limited to the Sheriff, Director of the Resource Management Agency, the Health Officer, the Fire Chief, or one of their duly appointed deputies or authorized employees, determines that the manner in which the business is being conducted or the nature of the business premises does not meet the requirements for the original issuance of a license and poses a threat to the immediate preservation of the public peace, health, safety, or general welfare, such officer may issue an emergency order against a licensee, or any person operating a licensed business on behalf of a licensee, immediately and temporarily suspending the license. The emergency order shall set forth the grounds upon which it is based, including a statement of facts constituting the alleged emergency necessitating the action. The emergency order is effective immediately upon issuance and service upon the owner, licensee or person operating the licensed business at the time of the issuance of the order.

(b) Within two business days after the emergency order is issued, the responsible investigating officer shall cause written notice of the emergency order to be sent to the licensee at the address listed on the license application and to the license collector. If the investigating officer desires a further suspension or revocation of the license pursuant to this Article and that the license remain suspended during such suspension or revocation proceedings, the investigating officer shall send with the written notice of the emergency order the written report required to suspend a license. Included in such report shall be the request that the license remain suspended and the facts showing the continued threat to the immediate preservation of the public peace, health, safety, or general welfare. The license collector shall set the administrative review required for a suspension within fourteen days of the date the emergency order was issued and shall thereafter proceed as set forth for a suspension. If the license was suspended pursuant to an emergency order, the license collector shall render a decision and send the required written notice of the decision within three business days after the administrative review.

Section 110. SECTION 6-01-4020 (“SUSPENSION”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) of the Tulare County Ordinance Code is amended to read:

6-01-4020 SUSPENSION:

If the appropriate investigating officer determines at any time that the integrity of a licensee, the manner in which the business is being conducted, or the nature of the business premises does not meet the requirements for the original issuance of a license, or that the person conducting the business has committed or permitted a violation of any of the provisions of this Part, has committed or permitted any act contrary to good public morals or proper law enforcement, on or about the business premises, or has perpetuated or allowed an accumulation or succession of violations or incidents resulting in a pattern of persistent, warranted complaints or repeated law enforcement calls to or stops at the business premises, such investigating officer shall give written notice of the proposed action to the licensee and the license collector. The investigating officer shall make a written report of such findings to the licensee and the license collector and shall recommend to the license collector whether to permanently revoke the license or to suspend the license for a fixed period of time. The license collector shall give written notice to the licensee of administrative review at which the charges and recommendation of the investigating officer shall be acted upon. After the administrative review the license collector shall give written notice to the licensee of the action taken and information regarding appeal to the County Hearing Officer by causing such written notice to be delivered to the person designated in the application as the authorized agent for the receipt of notices.

Section 111. SECTION 6-01-4030 (“REVOCATION OF LICENSE”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) of the Tulare County Ordinance Code is amended to read:

6-01-4030 REVOCATION OF LICENSE:

(a) A license issued in accordance with the provisions of this Part shall be revocable at any time by the license collector upon proof to the satisfaction of the license collector that such business is not being operated in accordance with all applicable health, safety, planning, building, zoning, or fire regulations, in a quiet and orderly manner, in conformance with considerations of public health, safety and welfare, in conformance with the requirements of this Part for that particular type of business, that the nature of the business is not substantially as was represented in the license application, or for failure to pay personal property taxes when due on personal property held in connection with the business licensed under this Part.

(b) Prior to the revocation of any license, the license collector shall provide notice to the licensee that such licensee is in violation of provisions of this Part, and that the license collector will provide administrative review of the complaint and proposed revocation. The notice shall be in writing and served, either personally or by mail, to the address of the licensee as set forth in the

license. The notice shall indicate the nature of the complaint, the date, time, and place of the administrative review, and shall state that at the time of review the licensee may offer relevant information. The administrative review shall be held within a reasonable time, but not less than ten (10) days after personal service or fifteen (15) days after mailing of the notice to the licensee. The license collector shall issue a written decision within ten (10) days after the conclusion of the administrative review. The written decision shall indicate the reason(s) for the revocation, and shall include information regarding appeal to the County Hearing Officer.

(c) Notwithstanding subdivision (b) of this section, licenses may be immediately revoked without notice and prior to administrative review if, in the judgment of the license collector, the continuance of the business activity represents an immediate threat or danger to the public health or safety. In such a circumstance, the license collector shall provide notice of the immediate revocation in the same manner as set forth in subdivision (b) of this section on the day of revocation. The notice shall indicate the reason(s) for the revocation and that the license collector will provide administrative review of the revocation. The notice shall indicate the date, time, and place of the administrative review, and shall state that at the review the licensee may offer relevant information. The administrative review shall be held within a reasonable time, but not less than five (5) days after personal service or ten (10) days after mailing of the notice to the licensee(s), unless the licensee and license collector stipulate otherwise in writing. The license collector shall issue a written decision within ten (10) days after the conclusion of the administrative review. The written decision shall indicate the reason(s) for the denial, and shall include information regarding appeal to the County Hearing Officer.

Section 112. SECTION 6-01-4040 (“FINALITY OF DECISION”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) of the Tulare County Ordinance Code is amended to read:

6-01-4040 FINALITY OF DECISION:

(a) The initial decision of the license collector to deny an application for a license shall become final on the tenth (10th) day following the mailing of the decision, unless the applicant files a request for reconsideration.

(b) The decision of the license collector after administrative review, to grant or deny an application, suspend a license, grant or deny a renewal, or to revoke a business license, shall become final on the tenth (10th) day following the mailing of the decision, unless the person aggrieved by the decision files an appeal.

(c) When a decision by the license collector becomes final under this section, it cannot be appealed and cannot be judicially reviewed, because the aggrieved person failed to exhaust available administrative remedies.

Section 113. SECTION 6-01-4050 (“APPEAL TO BOARD OF SUPERVISORS”) OF ARTICLE 4 (“DENIAL, SUSPENSION, AND REVOCATION”) OF CHAPTER 1 (“LICENSING AND REGULATION OF BUSINESS OPERATIONS”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Ordinance Code of Tulare County is amended to read as follows:

6-01-4050 APPEAL:

(a) Any person aggrieved by any decision of the license collector under this Part may appeal to the County Hearing Officer as provided in Article 31 of Chapter 1 of Part I of this Code. The appeal and any appeal fee as may be adopted from time to time by resolution of the Board of Supervisors must be filed within ten (10) days of the mailing of notice of such decision or the deadline listed in Article 31 of Chapter 1 of Part I, whichever is later. The decision of the license collector shall be stayed pending hearing of the appeal, except when the license collector’s suspension or revocation is based upon an immediate threat or danger to the public health or safety.

(b) In accordance with the procedures set forth in Article 31 of Chapter 1 of Part I of this Code, the Clerk of the Board of Supervisors shall fix a time and place for hearing such appeal and shall give notice in writing to the aggrieved party of the time and place of the hearing by personal delivery or by mail, addressed to the licensee at the address appearing on the licensee’s or applicant’s application or license. The hearing shall be set to be heard by the County Hearing Officer within sixty (60) days of receipt of the appeal, unless the appellant(s) and the County stipulate to extend the time for hearing.

(c) At a hearing regarding an initial or supplemental application, the applicant shall bear the burden of proof. At a hearing regarding a denial of renewal or a revocation, the license collector shall bear the burden of proof.

Section 114. SECTION 6-03-1042 (“HARDSHIP WAIVER OF LICENSE REQUIREMENT”) OF CHAPTER 3 (“ADULT-ORIENTED BUSINESSES”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Tulare County Ordinance Code is amended to read as follows:

6-03-1042 HARDSHIP WAIVER OF LICENSE REQUIREMENT:

(a) If one or more of the license requirements set forth in Sections 6-03-1040 and 6-03-1041 is physically impossible at the applicant’s premises, the applicant may apply in writing for a hardship waiver of the license requirement(s) to the license collector.

(b) The license collector shall conduct an administrative review within 10 days of receipt of the application for hardship waiver of the license requirement(s) and the hardship waiver will be granted if the license collector finds there is extreme hardship to the applicant due to certain physically unattainable license requirement(s) and waiver of those license requirement(s) will not have a negative effect on the health, safety or welfare of the County or the people of the County.

The license collector may require that the applicant and the license collector agree in writing signed by both parties to a new condition to alleviate any negative effects on the health, safety, or welfare of the County or the people of the County due to waiver of any license requirement(s).

(c) The Board of Supervisors may establish a fee for applying for a hardship waiver. The fee shall be as set from time to time by resolution of the Board of Supervisors. The license collector shall require payment of any fee prior to administrative review of an applicant's request for hardship waiver.

(d) If the license collector denies an application for a hardship waiver of license requirement(s) pursuant to this section, the applicant may request an appeal to the County Hearing Officer within ten (10) days of the license collector's decision pursuant to Article 31 of Chapter 1 of Part I of this Code.

Section 115. SECTION 6-03-1140 ("PUBLIC NUISANCE") OF CHAPTER 3 ("ADULT-ORIENTED BUSINESSES") OF PART VI ("BUSINESS LICENSES AND REGULATIONS") of the Tulare County Ordinance Code is amended to read as follows:

6-03-1140 PUBLIC NUISANCE:

Any adult-oriented business operated without a license as required by this Chapter, or determined to be in violation of the conditions of such license after administrative review, or after appeal as provided in this Chapter, is hereby declared to be a public nuisance, and is subject to abatement as provided in Article 11 of Chapter 1 of Part IV of this Code.

Section 116. SECTION 6-05-8110 ("CIVIL PENALTIES AND REMEDIES") OF ARTICLE 8 ("RECORDS OF OWNERSHIP OF NUT CROPS") OF CHAPTER 5 ("AGRICULTURE") OF PART VI ("BUSINESS LICENSES AND REGULATIONS") of the Tulare County Ordinance Code is amended to read as follows:

6-05-8110 CIVIL PENALTIES AND REMEDIES:

(a) In accordance with Food and Agricultural Code Section 885, in lieu of pursuing a civil prosecution, the Agricultural Commissioner may levy a civil penalty against any Person violating the provisions of this Article. The civil penalty for each violation shall be, for a first violation, a fine of not more than five hundred dollars (\$500). For a second or subsequent violation, the fine shall be not less than seven hundred fifty dollars (\$750), nor more than one thousand dollars (\$1,000). Before the Agricultural Commissioner levies a civil penalty, the Person charged with the violation shall receive notice of the nature of the violation and shall be given opportunity to be heard. This shall include the right to review the evidence and a right to present evidence on his or her own behalf. Upon receiving the notice of violation, the Person charged has 15 calendar days within which to pay the civil penalty or file a request for administrative review with the Agricultural Commissioner in the same manner as provided by section 1-23-5015 of this Code.

(b) Subdivision (e) of Food and Agricultural Code Section 43003 shall apply to any fine levied pursuant to this section for purposes of appealing the Agricultural Commissioner's administrative review decision to the Secretary of Food and Agriculture. Subdivision (f) of Food and Agricultural Code Section 43003 shall apply to any decision where a fine is levied and judgment is to be entered.

Section 117. SECTION 6-07-5040 ("NOTICE AND HEARING") OF ARTICLE 5 ("ISSUANCE OF AMBULANCE SERVICE PROVIDER LICENSES") OF CHAPTER 7 ("AMBULANCE AND EMERGENCY MEDICAL SERVICES") OF PART VI ("BUSINESS LICENSES AND REGULATIONS") of the Tulare County Ordinance Code is amended to read as follows:

6-07-5040 NOTICE AND HEARING:

(a) The Board shall hold a public hearing to consider the application and the Health Director's recommendation, which hearing shall be held not later than forty-five (45) days after a completed application has been filed.

The Clerk of the Board shall set a date and time for the hearing and shall send a notice thereof by regular mail at least ten (10) days before the date of the hearing to the applicant, and to any interested party requesting such notice. The clerk shall also give notice of the hearing to the general public by publishing a notice of the hearing once, at least seven (7) days prior to the date of the hearing, in a newspaper of general circulation which is circulated in the service area(s) which would be affected by the results of the hearing.

(b) At the hearing, the Board shall hear all pertinent evidence offered by all interested persons. The Board may continue the hearing from time to time if it finds that the continuance is necessary or desirable.

Section 118. SECTION 6-07-9020 ("REVIEW BY LICENSE COLLECTOR") OF ARTICLE 9 ("SUSPENSION AND REVOCATION OF AMBULANCE SERVICE PROVIDER LICENSES") OF CHAPTER 7 ("AMBULANCE AND EMERGENCY MEDICAL SERVICES") OF PART VI ("BUSINESS LICENSES AND REGULATIONS") of the Tulare County Ordinance Code is amended to read as follows:

6-07-9020 REVIEW BY LICENSE COLLECTOR:

Upon receipt of the Health Director's notice pursuant to section 6-07-9010, the license collector shall proceed as provided in Chapter 1 of this Part. If, at the conclusion of the proceedings, the applicable official finds that the ambulance service provider licensee has violated any of the provisions of this Chapter, the applicable official may revoke, suspend or modify the ambulance service provider license or take any other action which the official deems necessary for the best interests of the residents of the County. If the matter is appealed to the County Hearing Officer,

the decision of the County Hearing Officer shall be final, and appeal therefrom may be made as provided in Chapter 1 of this Part.

Section 119. SECTION 6-07-9030 (“EMERGENCIES: SUMMARY SUSPENSION”) OF ARTICLE 9 (“SUSPENSION AND REVOCATION OF AMBULANCE SERVICE PROVIDER LICENSES”) OF CHAPTER 7 (“AMBULANCE AND EMERGENCY MEDICAL SERVICES”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Tulare County Ordinance Code is amended to read as follows:

6-07-9030 EMERGENCIES: SUMMARY SUSPENSION:

The Health Director shall have the power to summarily suspend any ambulance service provider license if it appears to the Health Director, in the exercise of or her reasonable judgment, that the failure to suspend the ambulance service provider license presents an immediate threat or danger to the public health, safety, and welfare. The Health Director shall immediately give notice to the County Hearing Officer of the suspension and the reasons for the suspension in accordance with this Article and the County Hearing Officer shall thereafter hold a hearing on revocation of the ambulance service provider license pursuant to this Article.

Section 120. SECTION 6-15-2030 (“APPEAL FROM SUSPENSION OR REVOCATION”) OF ARTICLE 2 (“ISSUANCE, DENIAL, AND REVOCATION OF LICENSE”) OF CHAPTER 15 (“FORTUNE-TELLING”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Tulare County Ordinance Code is amended to read as follows:

6-15-2030 APPEAL FROM SUSPENSION OR REVOCATION:

If a fortune-telling license is denied, suspended, or revoked, the person aggrieved may appeal such action to the County Hearing Officer as set forth in Chapter 1 of this Part.

Section 121. SECTION 6-35-3010 (“APPEALS”) OF ARTICLE 3 (“RESTRICTIONS ON OPERATIONS”) OF CHAPTER 35 (“RIVER RAFTING”) OF PART VI (“BUSINESS LICENSES AND REGULATIONS”) of the Tulare County Ordinance Code is amended to read as follows:

6-35-3010 APPEALS:

Any applicant, licensee, or interested person may appeal any decision under this Chapter to the County Hearing Officer in compliance with Article 31 of Chapter 1 of Part I of this Code upon payment of a fee in the amount set from time to time by resolution of the Board of Supervisors. The fee shall be paid to the Clerk of the Board of Supervisors.

Section 122. SECTION 7-01-1740 (“SOIL INVESTIGATION”) OF ARTICLE 9 (“TENTATIVE MAP”) OF CHAPTER 1 (“SUBDIVISION OF LAND”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Tulare County Ordinance Code is amended to read as follows:

7-01-1740 SOIL INVESTIGATION:

(a) In accordance with sections 17953-17957 of the Health and Safety Code, and sections 66490-66491 of the Government Code, if the final geological hydrological report prepared pursuant to section 7-01-1725 of this Article indicates the presence of critically expansive or loosely deposited soils or other soil problems which, if not corrected, would lead to structural defects, a soil investigation of each affected lot in the subdivision shall be prepared by a registered civil engineer. The soil investigation shall recommend corrective action which will adequately prevent structural damage to each dwelling proposed to be constructed on such soils. The report of the soil investigation shall be filed with the Planning and Development Director.

(b) The Planning and Development Director shall review the soil investigation report and, if he or she determines that the recommended corrective action will adequately prevent structural damage to each dwelling to be constructed in the subdivision, he or she shall approve it. If the Planning and Development Director determines that the recommended corrective action will not be adequate, he or she shall notify the person preparing the report of the inadequacies. Until the Planning and Development Director determines that the report, or amended report, contains recommendations that meet with his or her approval, the final subdivision map shall not be approved. All building permits issued for construction of dwellings in the subdivision shall be conditioned upon the incorporation of the approved recommended corrective action in the construction of each dwelling. Appeal from such determination shall be to the Local Appeals Board established pursuant to section 7-15-1050 of this Code.

Section 123. SECTION 7-15-1050 (“APPEALS”) OF ARTICLE 1 (“ADMINISTRATION AND PROCEDURES”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1050 APPEALS:

(a) Any determination made pursuant to Chapter 15 (Building Regulations) of this Code by the Resource Management Agency Director or Fire Chief or their authorized representatives may be appealed in writing to the Local Appeals Board created under this section. To the extent practical, such appeal shall be subject to the procedural provisions of section 165 (Administrative Appeals) of this Code, except as otherwise provided.

(b) There is hereby created a Local Appeals Board and Housing Appeals Board (hereinafter referred to as the “Local Appeals Board”) as provided in section 1.8.8.1 of the California Building Code, consisting of five (5) members appointed by the Board of Supervisors. The term of office of

each shall be four (4) years or until his or her successor is appointed and qualified. Vacancies other than upon the conclusion of a term shall be filled for the remainder of the predecessor's term. Members shall be qualified by experience and training to rule upon matters pertaining to building code interpretation, fire code interpretation, and suitability of alternate materials and types of construction, and shall not be employees of the County. It shall be the policy of the Board of Supervisors to appoint as members at least one (1) registered civil engineer, one (1) licensed architect, and one (1) contractor with at least a Class B license, but this policy shall in no way deprive the Board of Supervisors of its full discretion in the appointment of otherwise qualified persons. Each member shall receive twenty-five dollars (\$25.00) for each meeting attended but not to exceed fifty dollars (\$50.00) in any one (1) calendar month. The Local Appeals Board shall fix regular times and places for its meetings. Except where inconsistent with the provisions of this section or other provisions of this Code, the duties of the Local Appeals Board shall be as prescribed in section 1.8.8 of the California Building Code and elsewhere in this Code. The jurisdiction of the Local Appeals Board shall also extend to any other matters that the Board of Supervisors by ordinance or resolution makes subject to the jurisdiction of the Local Appeals Board.

(c) Appeals must be filed with the Clerk of the Board of Supervisors within thirty (30) days after the determination or decision from which appeal is being made has been rendered. Appeals must be made on forms furnished by the Clerk and available in person from the Clerk's office and on the Clerk's webpage. A separate appeal form must be filed for each matter being appealed. Any required attachments must be included with the appeal form. At the time of filing the appeal, the appellant must pay a fee in an amount adequate to cover the cost of processing and hearing the appeal, as that amount is established from time to time by resolution of the Board of Supervisors.

(d) Prescriptive standards as set forth in this Code do not constitute a decision of the building official or County Fire Chief appealable under this section.

(e) All applicants and appellants shall be given reasonable opportunity to be heard and present evidence. Decisions of the Local Appeals Board shall be in writing, shall advise the parties of their appeal rights under Code of Civil Procedure section 1094.6, and shall be delivered by the Clerk of the Board of Supervisors to the appellant either in person or by mailing to the address stated on the appeal or application, and to the relevant County Department. Decisions of the Local Appeals Board are final for administrative purposes, but may be appealed to the California Superior Court in accordance with Code of Civil Procedure section 1094.6.

(f) The Local Appeals Board shall have no authority relative to fees, permit processing, or other matters that are not directly related to building standards, and shall have no authority to waive the requirements of this Code. Appeals of any notice of violation or notice and order to abate any violation of this Code shall be heard and decided by a County Hearing Officer pursuant to Article 31 of Chapter 3 of Part I of this Code.

Section 124. SECTION 7-15-1069 (“APPEALS”) OF ARTICLE 2 (“CALIFORNIA BUILDING CODE OF REGULATIONS, PART 2, VOLUMES 1 AND 2”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1069 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 125. SECTION 7-15-1140 (“APPEALS”) OF ARTICLE 3 (“CALIFORNIA FIRE CODE”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1140 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Fire Department’s or other County Agency’s decision to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 126. SECTION 7-15-1270 (“APPEAL”) OF ARTICLE 5 (“RELOCATION OF BUILDINGS”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1270 APPEAL:

(a) Any interested person may appeal to the Local Appeals Board from the decision of the Building Official to issue, conditionally issue or deny a relocation permit. Such an appeal shall be in accordance with section 7-15-1050 in writing with the appropriate appeal fee, shall be filed with the Clerk to the Board of Supervisors, and shall state why the issuance, conditional issuance, or denial of the permit is improper under the provisions of Article 5 (Relocation of Buildings).

[No changes to subsection (b)]

(c) If the Building Official decides to deny a permit, the notice of appeal with the appeal fee must be filed by the applicant in the office of the Clerk to the Board of Supervisors no later than ten (10) calendar days after formal notice of such action is served by the Building Official.

(d) Upon the filing of a written appeal and appeal fee, the Clerk to the Board of Supervisors shall cause a notice of the time of the appeal hearing to be mailed to the appellant, to the applicant if he or she is not the appellant, and to the Building Official, not less than ten (10) calendar days prior to the date set for the appeal hearing.

(e) After the appeal hearing, the Local Appeals Board may affirm, reverse or modify the decision of the Building Official, or refer the matter back to the Building Official for further action. The decision of the Local Appeals Board on the appeal shall be final.

(f) If an appeal is taken from a denial of a permit, and the Local Appeals Board determines that the permit should be issued, the notice requirements of section 7-15-1265 (Notice of Granting Permit) of this Article shall thereafter be substantially complied with, either by the Local Appeals Board or the Building Official, prior to the issuance of the permit. If an appeal is thereafter filed within the time limits set forth in subsection (b) above, a new appeal hearing shall be held prior to issuance of the permit.

Section 127. SECTION 7-15-1275 (“JUDICIAL REVIEW OF DECISION”) OF ARTICLE 5 (“RELOCATION OF BUILDINGS”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Tulare County Ordinance Code is amended to read as follows:

7-15-1275 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the Local Appeals Board made after a hearing pursuant to this Article, if the decision denies the permit, shall be made pursuant to section 1094.6 of the Code of Civil Procedure. The method of judicial review, the time limits for judicial review, and all of the other provisions of said section 1094.6 shall govern such judicial review. When giving written notice to the applicant that the permit has been denied, the Clerk of the Board of Supervisors shall provide notice to the applicant that the time within which judicial review must be sought is governed by said section 1094.6.

Section 128. SECTION 7-15-1425 (“APPEALS”) OF ARTICLE 7 (“EXCAVATION AND GRADING”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1425 APPEALS:

Appeals of any determination as to conformance with the grading standards in this Chapter may be filed in the manner provided in section 7-15-1050 of this Code.

Section 129. SECTION 7-15-1830 (“PERMITS: ISSUANCE”) OF ARTICLE 17 (“FIRE FLOW AND FIRE PROTECTION”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND

USE REGULATION AND PLANNING”) of the Tulare County Ordinance Code is amended to read as follows:

7-15-1830 PERMITS: ISSUANCE:

No permit of the type specified in Section 7-15-1825 (Scope of Article: Exceptions) of this Article shall be issued by the Resource Management Agency Director or authorized representative until:

(a) The Fire Chief or authorized representative, or the Local Appeals Board after an appeal hearing, determines and certifies in writing that the proposed construction or relocation complies with the requirements of this Article.

(b) The Assistant Director Public Works Branch of Resource Management Agency certifies in writing that the applicant has entered into an agreement for construction of the improvements required by this Article and deposited the required security when such an agreement and security are required under the provisions of this Article.

(c) All Fire Chief or authorized representative inspection fees required by this Article are paid.

Section 130. SECTION 7-15-1870 (“APPEAL”) OF ARTICLE 17 (“FIRE FLOW AND FIRE PROTECTION”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-1870 APPEAL:

An applicant who wishes to appeal from any determination made by the Fire Marshal or the Resource Management Agency Director, except those made by the Fire Marshal under Section 7-15-1875 (Voluntary Inspections), may do so to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 131. SECTION 7-15-1875 (“VOLUNTARY INSPECTIONS”) OF ARTICLE 17 (“FIRE FLOW AND FIRE PROTECTION”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Tulare County Ordinance Code is amended to read as follows:

7-15-1875 VOLUNTARY INSPECTIONS:

[No changes to introductory paragraph or subsections (a) through (c)]

(d) Nothing in this section shall be deemed to make it mandatory for the County or the Fire Department to perform any requested inspection. The decision to accept any application and grant a request for such an inspection shall rest solely with the Fire Department and such

application may be rejected or any request may be denied without cause. There shall be no appeals to the Local Appeals Board concerning any decision, finding or activity of the Fire Department under this section.

Section 132. SECTION 7-15-1880 (“JUDICIAL REVIEW OF DECISION”) OF ARTICLE 17 (“FIRE FLOW AND FIRE PROTECTION”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Tulare County Ordinance Code is amended to read as follows:

7-15-1880 JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the Local Appeals Board made after a hearing pursuant to this Article, if the decision denies the permit, shall be made pursuant to section 1094.6 of the Code of Civil Procedure. The method of judicial review, the time limits for judicial review, and all of the other provisions of said section 1094.6 shall govern such judicial review. When giving written notice to the applicant that the permit has been denied, the Clerk of the Board of Supervisors shall provide notice to the applicant that the time within which judicial review must be sought is governed by said section 1094.6.

Section 133. SECTION 7-15-2130 (“APPEALS”) OF ARTICLE 20 (“CALIFORNIA HISTORICAL BUILDING CODE”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of Tulare County is amended to read as follows:

7-15-2130 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Resource Management Agency Director or authorized representative’s decision, or the decision of any county agency to the Local Appeals Board as provided in section 7-15-1050 of this Code. If further appeal is necessary, the decision shall be appealed to the State Historical Building Safety Board as provided in Health and Safety Code section 18960.

Section 134. SECTION 7-15-2230 (“APPEALS”) OF ARTICLE 21 (“TITLE 19, CALIFORNIA CODE OF REGULATIONS”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2230 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Fire Department’s decision, or the decision of any county agency, to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 135. SECTION 7-15-2335 (“APPEALS”) OF ARTICLE 22 (“NFPA 1142, WATER SUPPLIES FOR SUBURBAN AND RURAL FIRE FIGHTING”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2335 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Fire Department’s decision to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 136. SECTION 7-15-2430 (“APPEALS”) OF ARTICLE 23 (“CALIFORNIA RESIDENTIAL CODE, TITLE 24, PART 2.5”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2430 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Resource Management Agency Director or authorized representative’s decision, or the decision of any county agency, to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 137. SECTION 7-15-2525 (“APPEALS”) OF ARTICLE 24 (“CALIFORNIA ADMINISTRATIVE CODE, TITLE 24, PART 1 [Building Standards]”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2525 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 138. SECTION 7-15-2625 (“APPEALS”) OF ARTICLE 25 (:CALIFORNIA ENERGY CODE, TITLE 24, PART 6”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2625 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 139. SECTION 7-15-2725 (“APPEALS”) OF ARTICLE 26 (“CALIFORNIA GREEN BUILDINGS STANDARDS CODE, TITLE 24, PART 11”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2725 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 140. SECTION 7-15-2825 (“APPEALS”) OF ARTICLE 27 (“CALIFORNIA REFERENCED STANDARDS CODE, TITLE 24, PART 12”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2825 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 141. SECTION 7-15-2925 (“APPEALS”) OF ARTICLE 28 (“CALIFORNIA MECHANICAL CODE, TITLE 24 PART 4”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2925 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 142. SECTION 7-15-2935 (“ADOPTION”) OF ARTICLE 29 (“UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS”) OF CHAPTER 15 (“BUILDING REGULATIONS”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2935 ADOPTION:

(a) Subject to subsections (b) and (c) below, the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, as published by the International Conference of Building Officials, is hereby referred to, adopted and made a part of this Article with the same effect as if fully set forth herein. The procedures and proceedings provided in said Uniform Code may, in the discretion of the Building Official, be used in place of procedures and proceedings that may be provided elsewhere in this Code. All of the provisions of said Uniform Code as adopted and incorporated by this section shall apply to all of the unincorporated territory of the County of Tulare.

(b) Section 205 (Board of Appeals) and Chapter 5 (Appeal) of the Uniform Code for the Abatement of Dangerous Buildings are not adopted. The administrative enforcement of this Chapter is subject to the right of appeal as provided by section 7-15-1050 of this Code.

(c) Section 201 of the Uniform Code for the Abatement of Dangerous Buildings is amended by adding thereto a new Section 201.4 to read as follows:

Section 201.4 Authorized Representatives. In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint such number of technical officers and inspectors and other employees as shall be authorized from time to time. The Building Official may appoint such inspectors or employees as may be necessary to carry out the provision of the Uniform Code for the Abatement of Dangerous Buildings.

Section 143. SECTION 7-15-2960 (“APPEALS”) OF ARTICLE 31 (“CALIFORNIA EXISTING BUILDING CODE, TITLE 24, PART 10”) OF PART VII (“LAND USE REGULATION AND PLANNING”) of the Ordinance Code of Tulare County is amended to read as follows:

7-15-2960 APPEALS:

When any person is affected by the application of these regulations and believes that these regulations are being applied incorrectly, such person may appeal the Resource Management Agency’s decision, or the decision of any county agency, to the Local Appeals Board as provided in section 7-15-1050 of this Code.

Section 144. THE TITLE OF ARTICLE 5 (“NOISE MAKING DEVICES”) OF CHAPTER 29 (“RIGHT TO FARM”) OF PART VII (“LAND USE AND REGULATION”) of the Tulare County Ordinance Code is amended to read:

ARTICLE 5. NOISE MAKING DEVICES

Section 145. THE TITLE OF SECTION 7-29-1120 (“NOISE MAKING DEVICES”) OF ARTICLE 5 (“NOISE MAKING DEVICES”) OF CHAPTER 29 (“RIGHT TO FARM”) OF PART VII (“LAND USE AND REGULATION”) of the Tulare County Ordinance Code is amended to read:

7-29-1120 Noise Making Devices

[No change to text of 7-29-1120]

Section 146. SECTION 8-03-1015 (“ADMINISTRATION AND ENFORCEMENT”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“SEWER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-03-1015 ADMINISTRATION AND ENFORCEMENT:

(a) Except as otherwise provided, this Chapter shall be administered and enforced by the Public Works Director or his or her deputy.

(b) The Public Works Director, when he or she has probable cause to believe that a violation exists, as defined by Section 8-03-1030 of this Chapter, may enter, inspect and investigate any property located within the County.

Section 147. SECTION 8-03-1025 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“SEWER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-03-1025 DEFINITIONS:

[No change to introductory paragraph or subsections (a) through (c)]

(d) "Delft Colony" means the Delft Colony Zone of Benefit of County Service Area No. 1 as established by the Board of Supervisors of the County of Tulare.

[No change to subsections (e) through (m)]

(n) "Owners of improved real property" means and includes persons who are recorded on the books of the County Assessor/Clerk-Recorder and County Tax Collector as the owners of lots or parcels of land that are improved by buildings that would be subject to service by Public Sewage System under the provisions of this ordinance.

[No change to subsections (o) through (u)]

(v) "Sewer Improvement Standards Ordinance" means the uncodified County of Tulare Ordinance of that title as adopted and amended from time to time by the Board of Supervisors.

Section 148. SECTION 8-03-1035 (“CONNECTION WITH SEWAGE SYSTEM”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“SEWER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-03-1035 CONNECTION WITH SEWAGE SYSTEM:

All buildings, houses, and dwelling units within the areas described in section 8-03-1020 shall be connected to the public sewage system within such areas within one hundred and twenty (120) days of the Board of Supervisors’ acceptance of the Notice of Completion for the public sewage system within the specific Zone of Benefit in County Service Area No. 1 or in County Service Area No. 2 unless the period of time to connect is extended by resolution or other official order of the Board of Supervisors or unless otherwise allowed by the Sewer Improvements Standards Ordinance.

Section 149. SECTION 8-03-1150 (“SEWER SERVICE CHARGES”) OF ARTICLE 5 (“SEWER SERVICE CHARGES”) OF CHAPTER 3 (“SEWER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-03-1150 SEWER SERVICE CHARGES:

From time to time, the Board of Supervisors shall establish fees or charges for the sewer services provided, including but not limited to connection fees and charges, sewer service rates and charges, stand-by charges, vacancy charges, reestablishment fees and charges, delinquency charges, and such other fees and charges as the Board finds reasonable and necessary to pay the cost of providing such service. Pursuant to Government Code section 25825 and Health and Safety Code section 5471 et seq., such fees and tolls shall be set out in and shall be collectable, including placement of delinquent fees on the tax rolls, as provided in the Sewer Fee Ordinance.

Section 150. SECTION 8-03-1200 (“VIOLATION: PENALTY”) OF ARTICLE 7 (“PENALTIES FOR VIOLATION”) OF CHAPTER 3 (“SEWER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-03-1200 VIOLATION: PENALTY:

The maintenance on private property of a public nuisance as described in sections 8-03-1030 or 8-03-1045 of this Chapter shall constitute an infraction, punishable under section 125 of this Code, if any of the following conditions are met:

- (a) Such public nuisance is not corrected within fifteen (15) days after the Public Works Director or his or her deputy has notified the property owner of the existence of the public nuisance, and there has been no timely request made to the Resource Management Agency Director for administrative review on the determination of the existence of such public nuisance; or
- (b) If, after administrative review, the administrative review officer has determined that a public nuisance exists, and such public nuisance is not corrected within ten (10) business days following mailing of the notice of the administrative review decision to the property owner, and there has been no timely notice of appeal filed with the Clerk to the Board of Supervisors; or
- (c) If, after administrative review, the administrative review officer has determined that a public nuisance exists, and that such public nuisance may be removed by some procedure proposed by the owner and the administrative review has set a specific time within which the owner must complete the procedure, and such public nuisance is not corrected within the period of time as set by the administrative review officer, and there has been no timely notice of appeal to the County Hearing Officer filed with the Clerk to the Board of Supervisors; or
- (d) If, after an appeal hearing held by the County Hearing Officer under Article 31 of Chapter 1 of Part I of this Code, the County Hearing Officer determines that a public nuisance exists, and

such public nuisance is not corrected within ten (10) business days following mailing of the notice of the Hearing Officer's decision to the property owner; or

(e) If, after a an appeal hearing held by the County Hearing Officer, the County Hearing Officer determines that a public nuisance exists, and that such public nuisance may be removed by some procedure proposed by the owner and the County Hearing Officer has set a specific time within which the owner must complete the procedure, such public nuisance is not corrected within the period of time as set by the County Hearing Officer.

Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any such provision of this Chapter is committed, permitted or continued by such person, and shall be punishable therefore as provided hereinabove.

Section 151. SECTION 8-05-1005 ("PURPOSE") OF ARTICLE 1 ("GENERAL PROVISIONS") OF CHAPTER 3 ("WATER SERVICE") OF PART VIII ("COUNTY SERVICE AREAS") of the Tulare County Ordinance Code is amended to read:

8-05-1005 PURPOSE:

It is the purpose of this Chapter to protect the health, safety, and welfare of the residents of the County of Tulare through the prevention of public health and other nuisances related to water service within certain areas of the County of Tulare. It shall be construed liberally to that end.

Section 152. SECTION 8-05-1010 ("NOT EXCLUSIVE REGULATION") OF ARTICLE 1 ("GENERAL PROVISIONS") OF CHAPTER 3 ("WATER SERVICE") OF PART VIII ("COUNTY SERVICE AREAS") of the Tulare County Ordinance Code is amended to read:

8-05-1010 NOT EXCLUSIVE REGULATION:

This Chapter is not the exclusive regulation of public health and other nuisances relating to water service. It shall supplement and be in addition to the other regulating statutes and ordinances heretofore and hereafter enacted by the State, the County, or any other legal entity or agency having jurisdiction.

Section 153. SECTION 8-05-1015 ("ADMINISTRATION AND ENFORCEMENT") OF ARTICLE 1 ("GENERAL PROVISIONS") OF CHAPTER 3 ("WATER SERVICE") OF PART VIII ("COUNTY SERVICE AREAS") of the Tulare County Ordinance Code is amended to read:

8-05-1015 ADMINISTRATION AND ENFORCEMENT:

(a) Except as otherwise provided, this Chapter shall be administered and enforced by the Public Works Director or his or her deputy.

(b) The Public Works Director, when he or she has probable cause to believe that a violation exists, as defined by section 8-05-1075 of this Chapter, may enter, inspect, and investigate any property located within the County.

Section 154. SECTION 8-05-1025 (“DEFINITIONS”) OF ARTICLE 1 (“GENERAL PROVISIONS”) OF CHAPTER 3 (“WATER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-05-1025 DEFINITIONS:

[No change to introductory paragraph or subsections (a) through (d)]

(e) "Owners of improved real property" means and includes persons who are recorded on the books of the County Assessor/Clerk-Recorder and County Tax Collector as the owners of lots or parcels of land that are improved by buildings that would be subject to service by a Public Water System under the provisions of this Chapter.

[No change to subsections (f) through (k)]

Section 155. SECTION 8-05-1245 (“VIOLATION: PENALTY”) OF ARTICLE 9 (“PENALTIES FOR VIOLATION”) OF CHAPTER 3 (“WATER SERVICE”) OF PART VIII (“COUNTY SERVICE AREAS”) of the Tulare County Ordinance Code is amended to read:

8-05-1245 VIOLATION: PENALTY:

The maintenance on private property of a public nuisance as described in sections 8-05-1075 or 8-05-1090 of this Chapter shall constitute an infraction, punishable under section 125 of this Code, if any of the following conditions are met:

(a) Such public nuisance is not corrected within fifteen (15) days after the Public Works Director or his or her deputy has notified the property owner of the existence of the public nuisance and there has been no timely request made to the Resource Management Agency for administrative review of the determination of such public nuisance; or

(b) If, after administrative review, the administrative review officer determines that such a public nuisance exists, and such public nuisance is not corrected within ten (10) business days following mailing of the notice of the administrative review officer’s decision to the property owner, and there has been no timely notice of appeal to the County Hearing Officer filed with the Clerk to the Board of Supervisors; or

(c) If, after administrative review and determination by the administrative review officer that such a public nuisance exists and that such public nuisance may be removed by some procedure proposed by the owner, and the administrative review officer has set a specific time within which

the owner must complete the procedure, such public nuisance is not corrected within the period of time as set by the administrative review officer, and there has been no timely notice of appeal to the County Hearing Officer filed with the Clerk to the Board of Supervisors; or

(d) If, after a hearing held by the County Hearing Officer, the Hearing Officer determines that such public nuisance exists, and such public nuisance is not corrected within ten (10) business days following mailing of the notice of the Hearing Officer's decision to the property owner; or

(e) If, after a hearing and determination by the County Hearing Officer that such a public nuisance exists and that such public nuisance may be removed by some procedure proposed by the owner, and the Hearing Officer has set a specific time within which the owner must complete the procedure, such public nuisance is not corrected within the period of time as set by the Hearing Officer.

Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any such provision of this Chapter is committed, permitted or continued by such person, and shall be punishable thereof as provided hereinabove.

Section 156. SEVERABILITY AND EFFECT: The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 157. PUBLICATION: The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof a summary shall be published once in a newspaper printed and published in the County of Tulare, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on _____, 2019 at a regular meeting of said Board duly and regularly convened on said day, by the following vote:

AYES: _____
NOES: _____
ABSENT: _____

Chairman, Board of Supervisors

ATTEST: JASON T. BRITT, Clerk of the Board of
Supervisors/County Administrative Officer

By: _____
Deputy

Approved as to Legal Form:
COUNTY COUNSEL

By: _____
Deputy

Matter # 2019343

JLK/DMM/5/10/2019/2019343/1320629