

Exhibit A

**RESOLUTION NO. 95- 93**

**RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATIVE OFFICER TO DESIGNATE HEARING OFFICERS FOR THE PURPOSE OF CONSIDERING PROPOSED SHASTA COUNTY CODE ENFORCEMENT ACTIONS**

**WHEREAS**, Chapter 8.28 of the Shasta County Code sets forth a process for the abatement of Shasta County Code violations through the issuance of abatement orders and the conduct of a hearing on the proposed enforcement action; and

**WHEREAS**, the Board of Supervisors may serve as the hearing body in these matters or authorize another person or body to hear proposed actions and objections from the party or parties which are the subject of the enforcement action; and

**WHEREAS**, this particular approach to code enforcement, which may be used as an alternative to or in concert with other available nuisance abatement actions, would present a cost effective and fair way to obtain administrative review of proposed actions by County enforcement officers; and

**WHEREAS**, the Board has determined that the enforcement process in Chapter 8.28 would be most efficiently utilized by the authorization of persons or bodies other than the Board itself to conduct hearings pursuant to existing code provisions, and upon the adoption of hearing procedures that will supplement those procedures set forth in Section 8.28.050 of the Shasta County Code.

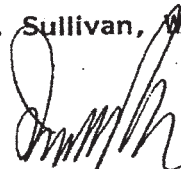
**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors:

1. Delegates to the County Administrative Officer authority to designate a person or body to serve as the hearing officer or body for any code enforcement action requiring a hearing, pursuant to Shasta County Code, Chapter 8.28; and
2. Adopts those hearing procedures set forth as Exhibit "A" to this resolution for the

conduct of nuisance abatement hearings that may occur in accordance with Shasta County Code, Chapter 8.28.

**PASSED AND ADOPTED** this 23rd day of May, 1995, by the Board of Supervisors of the County of Shasta by the following vote:

<b>AYES:</b>	Supervisors Dickerson, Fust, Sullivan, Wilson, and Clarke
<b>NOES:</b>	None
<b>ABSENT:</b>	None

  
\_\_\_\_\_  
IRWIN FUST, Chairman  
Board of Supervisors  
County of Shasta, State of California

**ATTEST:**

CAROLYN TAYLOR  
Clerk of the Board  
County of Shasta

By   
\_\_\_\_\_  
Deputy

**APPROVED AS TO LEGAL FORM:**

  
\_\_\_\_\_  
KAREN KEATING JAHR  
County Counsel

## EXHIBIT "A"

### COUNTY OF SHASTA RULES OF PROCEDURE FOR NUISANCE ABATEMENT HEARINGS

The Board of Supervisors of the County of Shasta has adopted these rules of procedures for the conduct of nuisance abatement hearings held pursuant to Shasta County Code sections 8.28.010 et seq.

#### A. DEFINITIONS.

1. **Hearing Officer.** "Hearing Officer" shall mean the person or body authorized to conduct nuisance abatement hearings pursuant to Chapter 8.28 of the Shasta County Code.

2. **Enforcing Officer.** "Enforcing Officer", as used in these rules, is defined as set forth in Shasta County Code Section 1.04.030, and his or her representative.

3. **Responding Party.** "Responding Party" shall refer to the owner or person in possession of property on which the alleged nuisance exists, or any other person who has received an abatement notice pursuant to Section 8.28.030, and includes the "objector" as that term is used in Section 8.28.050 of the Shasta County Code, and his or her representative.

4. **Code.** "Code" as used herein shall mean the Shasta County Code, as may be periodically amended.

#### B. GENERAL PROVISIONS.

1. The provisions of Code section 8.28.050 shall apply to any administrative hearing conducted under Code Chapter 8.28.

2. An administrative hearing conducted pursuant to Chapter 8.28 of the Code shall be held whenever the owner or possessor of the site subject to potential abatement, or other person who received an abatement notice, demands a hearing within the time set forth in the abatement notice, or when a hearing is deemed necessary by the hearing officer pursuant to the enforcing officer's request which substantiates the need for conducting such a hearing.

#### C. SUBPOENAS.

1. The hearing officer shall issue subpoenas pursuant to Government Code section 25170 as the hearing officer determines to be necessary. Such subpoenas may require the attendance at the hearing of persons or the production of books, papers or other things related to the subject matter of the hearing.

2. Any party to the proceedings requesting the subpoena may make requests for the issuance of subpoenas to the hearing officer, in writing, at least 15 days before the date scheduled for the hearing and shall set forth, in detail, the factual basis for the necessity for a personal appearance or the production of books, papers or other things and the name and address of the person to whom the subpoena is directed. A copy of any responding party's request for one or more subpoenas shall be delivered to the enforcing officer at least 15 days before the

hearing. A copy of any enforcing officer's request for one or more subpoenas shall be delivered to the responding party at least 15 days before the hearing.

3. Any party which has received notice of a request to the hearing officer for subpoena issuance shall have three days to provide written comment to the hearing officer regarding the necessity for the subpoena(s). The determination of the hearing officer with regard to the issuance of the subpoena(s) shall be final.

#### **D. EVIDENCE.**

1. At the hearing, each party shall be entitled to present whatever non-cumulative and relevant evidence is needed to support that party's position. The formal rules of evidence or procedure applicable in judicial actions and proceedings shall not apply and any relevant evidence is admissible if it is non-cumulative and it is the sort of evidence which responsible persons are accustomed to rely on in the conduct of serious affairs.

2. Evidence may be submitted by way of declarations, executed under penalty of perjury. With regard to those declarants who are present at the hearing, the parties may cross-examine any such declarant on any matter deemed relevant by the hearing officer.

#### **E. DUTIES OF HEARING OFFICER.**

1. Generally, the hearing officer shall perform the duties as set forth in Chapter 8.28 of the Code.

2. The hearing officer shall also rule on the admissibility of evidence and any procedural issues presented by the parties.

3. The hearing officer may also establish other procedures determined necessary to facilitate the orderly conduct of any particular hearing.

#### **F. ORDER OF PRESENTATION.**

1. The County's enforcing officer shall make an opening statement, describing the acts or conditions constituting a nuisance, and respond specifically to the grounds set forth in the responding party's demand for hearing, if any have been presented. The enforcing officer shall then submit evidence in support of the proposed abatement action, which may be in the form of declarations under penalty of perjury, oral testimony, and/or documentary evidence where copies thereof are provided to the responding party.

2. Thereafter, the responding party may make an opening statement and present non-cumulative relevant evidence concerning the charges, including declarations under penalty of perjury, oral testimony, and/or documentary evidence where copies have been provided to the enforcing officer.

3. At the conclusion of the responding party's presentation, the enforcing officer, if he or she desires, may present rebuttal evidence as allowed by the hearing officer.

4. Upon a showing of good cause, the responding party may thereafter submit additional evidence as surrebuttal.

5. If desired, the responding party may make a closing argument, which opportunity shall be followed by a closing argument by the enforcing officer.

**G. HEARING OFFICER ACTION.**

1. At the conclusion of the hearing, the hearing officer may either make formal findings pursuant to Section 8.28.050 of the Code, or take the matter under submission.

2. If the matter is taken under submission, the hearing officer may request either or both parties to the proceeding to submit proposed findings by a specific date. Within ten days of that date by which proposed findings may be submitted, or from the date of the hearing if no request for the submittal of proposed findings has been made, the hearing officer shall issue its formal findings which shall include a determination, based on the evidence presented, of the following:

- (a) Whether the acts or conditions specified in the notice of abatement exist;
- (b) Whether those acts or conditions constitute a nuisance; and
- (c) If a nuisance is determined to exist:
  - I) Whether it presents an immediate threat to health or safety; or
  - II) If no immediate threat to health or safety exists, the period of time within which the responding party can cease the occupancy, use or activity subject to abatement by exercising reasonable diligence; and
- (d) If the nuisance(s) found to exist should be abated by the County if the responding party does not voluntarily commence or complete abatement in a timely fashion.

3. If the hearing officer finds that a nuisance does exist and should be abated, the hearing officer shall issue an order of abatement, which shall be final immediately upon its issuance, unless the order or a provision of the Code expressly provides otherwise.

**H. NOTICE OF FINDINGS AND ORDER**

1. A copy of the written findings of fact and order of abatement shall be served personally or by mail upon each responding party and all other persons on whom the notice of abatement was served.

2. The order may direct that any occupancy, use or activity which is the subject of the abatement hearing cease immediately if its existence or continuation is found to be an immediate threat to health or safety. Otherwise, the order shall provide that abatement of the nuisance is to be commenced within five calendar days of the service of the findings of fact and the order, and specify the period of time within which the occupancy, use or activity subject to abatement shall completely cease, as determined reasonable by the hearing officer.

