

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TEHAMA
TEHAMA AMENDING CHAPTER 9.06 OF THE TEHAMA COUNTY CODE
PERTAINING TO MARIJUANA CULTIVATION**

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

SECTION 1. Section 9.06.010 of the Tehama County Code is hereby
repealed.

SECTION 2. Section 9.06.010 is hereby added to the Tehama County Code
to read:

9.06.010 Authority and Title. Pursuant to the authority granted by Article
XI, section 7 of the California Constitution, Health and Safety Code section
11362.83, and Government Code sections 25845 and 53069.4, the Board of
Supervisors does enact this Chapter, which shall be known and may be cited as the
"Tehama County Marijuana Cultivation Ordinance."

SECTION 3. Section 9.06.020 of the Tehama County Code is hereby
repealed.

SECTION 4. Section 9.06.020 is hereby added to the Tehama County Code
to read:

9.06.020 Findings and Purpose. The Board of Supervisors of the County of
Tehama hereby finds and declares the following:

- (A) In 1996, the voters of the State of California approved
Proposition 215 (codified as California Health and Safety Code
section 11362.5, and entitled "The Compassionate Use Act of
1996").
- (B) The intent of Proposition was to enable persons who are in
need of marijuana for medical purposes to use it without fear of
criminal prosecution under limited, specified circumstances. The
Proposition further provides that "nothing in this section shall be
construed to supersede legislation prohibiting persons from
engaging in conduct that endangers others, or to condone the
diversion of marijuana for non-medical purposes." The ballot

arguments supporting Proposition 215 expressly acknowledged that "Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere."

- (C) In 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 et seq., and referred to as the "Medical Marijuana Program") to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to "[a]dopt[] local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" and to civilly and criminally enforce such ordinances.
- (D) Health and Safety Code section 11362.83, both as originally enacted, and as amended by Assembly Bill 1300, further recognize that counties and cities may also adopt and enforce any other ordinances that are consistent with the Medical Marijuana Program.
- (E) Ordinance No. 1936, which established Tehama County's original marijuana cultivation regulations, was upheld by the California Court of Appeal in *Browne v. County of Tehama* (2013) 213 Cal.App.4th 704. The Court specifically held that "[n]either the Compassionate Use Act nor the Medical Marijuana Program grants . . . anyone . . . an unfettered right to cultivate marijuana for medical purposes. Accordingly, the regulation of cultivation of medical marijuana does not conflict with either statute." Similarly, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court concurred that "[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land . . ."
- (F) The federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use

under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes.

- (G) The County's unique geographic and climatic conditions, which include dense forested areas receiving substantial precipitation, along with the sparse population in many areas of the County, provide conditions that are favorable to marijuana cultivation. Marijuana growers can achieve a high per-plant yield because of the County's favorable growing conditions. The federal Drug Enforcement Administration reports that various types of marijuana plants under various planting conditions may yield averages of 236 grams, or about one-half pound, to 846 grams, or nearly two pounds. Based on law enforcement seizures, yields in Tehama County have tended to be at the higher end of this range. The "street value" of a single cannabis plant is substantial. Pound prices for domestically produced high-grade cannabis sold illegally within Northern California can reach \$2,000 to \$5,000. A single marijuana plant cultivated within the County can thus yield \$4,000 or more in salable marijuana.

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

- (I) Cultivation of any amount of marijuana at locations or premises within 1,000 feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana plants.

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

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

- (L) The limited immunity from specified state marijuana laws provided by the Compassionate Use Act and Medical Marijuana Program does not confer the right to create or maintain a public

nuisance. By adopting the regulations contained in this Chapter, the County will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of marijuana in the unincorporated area of Tehama County.

- (M) The original provisions of Ordinance No. 1936 have proven inadequate to control the negative secondary impacts of unregulated marijuana cultivation. Specifically:
 - (i) The graduated plant limits, based on parcel size, have made it difficult for many marijuana growers to understand how many plants they are allowed, and have proven problematic to administer and enforce. For example, the original limits differentiate between mature and immature marijuana plants - leading to wide-spread confusion when previously immature plants reach maturity.
 - (ii) The original enforcement provisions, which were limited to nuisance abatement, are not an adequate deterrent to violation. Without a monetary or criminal penalty, the only consequence for violating the ordinance is removal of the offending plants. Further, physical abatement is costly, and cost recovery is slow and uncertain, limiting the number of sites that may be addressed each year, and thus practically limiting the effect of the ordinance.

The revised provisions contained in this Chapter are intended to address the aforementioned concerns, and more effectively control the harms caused by unregulated and noncompliant marijuana cultivation, while still accommodating the needs of medical patients and their caregivers to the greatest extent practicable.

- (N) While code enforcement in Tehama County has historically been complaint-driven, that has never been a precondition to the enforcement of this Chapter. Further, the Board of Supervisors recognizes that persons affected by code violations are frequently reluctant to file complaints, for fear of retaliation. Consequently, for purposes of clarity, no provision of this Code shall be construed to require a formal or informal complaint as a condition to enforcement of this Chapter, or to prevent the enforcing officer from undertaking such enforcement on his or

her own initiative.

- (O) It is the intention of the Board of Supervisors that the abatement provisions of Sections 9.06.050 through 9.06.160 and the administrative penalty provisions of Section 9.06.165 be the primary means of enforcement of this Chapter, and that prosecution under Section 9.06.230 be limited to those cases where the foregoing means are inadequate to obtain full compliance, as determined by the enforcing officer and District Attorney.
- (P) Nothing in this ordinance shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal under State or federal law. No provision of this Chapter deemed a defense or immunity to any action brought against any person by the Tehama County District Attorney, the Attorney General of State of California, or the United States of America.

SECTION 5. Section 9.06.030 of the Tehama County Code is hereby repealed.

SECTION 6. Section 9.06.030 is hereby added to the Tehama County Code to read:

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

- (A) "Child Care Center" means any licensed child care center, daycare center, or childcare home, or any preschool.
- (B) "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.
- (C) "Cultivation" means the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.
- (D) "Enforcing Officer" means the Health Officer or the Sheriff, or the authorized deputies or designees of either, or any person employed by the County of Tehama and appointed to the position of code enforcement officer, as

established by Tehama County Resolution Number 125-1991, each of whom is independently authorized to enforce this Chapter.

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

(F) "Marijuana plant" means any mature or immature marijuana plant, or any marijuana seedling.

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

(H) "Primary caregiver" shall have the meaning set forth in Health and Safety Code sections 11362.5 and 11362.7 et seq.

(I) "Qualified patient" shall have the meaning set forth in Health and Safety Code sections 11362.5 and 11362.7 et seq.

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

(K) "School Bus Stop" means any location designated in accordance with California Code of Regulations, Title 13, section 1238, to receive school buses, as defined in California Vehicle Code section 233, or school pupil activity buses, as defined in Vehicle Code section 546.

(L) "School Evacuation Site" means any location designated by formal action of the governing body, Superintendent, or principal of any school as a location to which juveniles are to be evacuated to, or are to assemble at, in the event of an emergency or other incident at the school.

(M) "Youth-oriented facility" means any facility that caters to or provides services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

SECTION 7. Section 9.06.040 of the Tehama County Code is hereby repealed.

SECTION 8. Section 9.06.040 is hereby added to the Tehama County Code to read:

9.06.040 Nuisance Declared.

A. The cultivation of more than twelve (12) marijuana plants, either indoors or outdoors, on any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter. The foregoing limitation shall be imposed regardless of the number of qualified patients or primary caregivers residing at the premises or participating directly or indirectly in the cultivation. Further, this limitation shall be imposed notwithstanding any assertion that the person(s) cultivating marijuana are the primary caregiver(s) for qualified patients or that such person(s) are collectively or cooperatively cultivating marijuana.

B. The cultivation of marijuana, in any amount or quantity, either indoors or outdoors, upon any premises located within one thousand (1,000) feet of any school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter.

1. Except as provided in Subdivision (B)(2), such distance shall be measured in a straight line from the boundary line of the premises upon which marijuana is cultivated to the boundary line of the premises upon which the school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is located.

2. If the premises is twenty (20) acres or greater in size, then such distance shall be measured in a straight line from the building in which the marijuana is cultivated, or, if the marijuana is cultivated in an outdoor area, from the fence required by Subdivision (c)(3), to the boundary line of the premises upon which the school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is located.

C. The cultivation of marijuana, in any amount or quantity, either indoors or outdoors, upon any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter, unless all of the following conditions are satisfied:

1. The person(s) owning, leasing, occupying, or having charge or possession of any premises have registered the premises with the Tehama County Health Services Agency, and provided all of the following current information and documentation to the Agency:

a. The name of each person, owning, leasing, occupying, or

having charge or possession of the premises;

b. The name of each qualified patient or primary caregiver who participates in the cultivation, either directly or by providing reimbursement for marijuana or the services provided in conjunction with the provision of that marijuana;

c. A copy of the current valid medical recommendation or State-issued medical marijuana card for each qualified patient identified as required above, and for each qualified patient for whom any person identified as required above is the primary caregiver;

d. The number of marijuana plants cultivated on the premises; and

e. Such other information and documentation as the Agency determines is necessary to ensure compliance with State law and this Chapter.

This information and documentation shall be received in confidence, and shall be used or disclosed only for purposes of administration or enforcement of this Chapter or State law, or as otherwise required by law.

The Board of Supervisors may, by Resolution, establish a fee for such registration in accordance with all applicable legal requirements.

2. If the person(s) cultivating marijuana on any legal parcel is/are not the legal owner(s) of the parcel, such person(s) shall submit a notarized letter from the legal owner(s) consenting to the cultivation of marijuana on the parcel. This letter shall be examined by Agency, and shall then be returned to the submitter. The Agency shall prescribe forms for such letters.

3. All marijuana grown outside of any building must be fully enclosed by an opaque fence at least six (6) feet in height. The fence must be adequately secure to prevent unauthorized entry. Bushes, hedgerows, plastic sheeting, or cloth material (tarpaulins) shall not constitute an adequate fence under this Subdivision.

4. Each building or outdoor area in which the marijuana is cultivated shall be set back at least 100 feet from all boundaries of the premises, unless the enforcing officer or the Board of Supervisors reduces or waives this requirement based upon a finding of unusual hardship.

Such setback distance shall be measured in a straight line from the building in which the marijuana is cultivated, or, if the marijuana is cultivated in an outdoor area, from the fence required by Subdivision (c)(3), to the boundary line of the premises.

D. No person owning, leasing, occupying, or having charge or possession of any premises within the County shall cause, allow, suffer, or permit such premises to be used for the outdoor or indoor cultivation of marijuana plants in violation of this

Chapter.

SECTION 9. Section 9.06.060 of the Tehama County Code is hereby repealed.

SECTION 10. Section 9.06.060 is hereby added to the Tehama County Code to read:

9.06.060 Contents of Notice. The Notice set forth in section 9.06.050 shall be in writing and shall:

- (a) Identify the owner(s) of the property upon which the nuisance exists, as named in the records of the county assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.
- (b) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.
- (c) Identify such property by reference to the assessor's parcel number.
- (d) Contain a statement that unlawful marijuana cultivation exists on the premises and that it has been determined by the enforcing officer to be a public nuisance described in this Chapter.
- (e) Describe the unlawful marijuana cultivation that exists and the actions required to abate it.
- (h) Contain a statement that the owner or occupant is required to abate the unlawful marijuana cultivation within ten (10) calendar days after the date that said Notice was served.
- (i) Contain a statement that the owner or occupant may, within ten (10) calendar days after the date that said Notice was served, make a request in writing to the Clerk of the Board of Supervisors for a hearing to appeal the determination of the enforcing officer that the conditions existing constitute a public nuisance, or to show other cause why those conditions should not be abated in accordance with the provisions of this Chapter.
- (j) Contain a statement that, unless the owner or occupant abates the unlawful marijuana cultivation, or requests a hearing before the Board of Supervisors, within the time prescribed in the Notice, the enforcing officer will abate the nuisance. It shall also state that the abatement costs, including

administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

(k) State the applicable hearing fee, if such a fee has been established, and contain a statement that one who is legally indigent may obtain a waiver of the hearing fee as provided in this Chapter.

SECTION 11. Section 9.06.110 of the Tehama County Code is hereby repealed.

SECTION 12. Section 9.06.110 is hereby added to the Tehama County Code to read:

9.06.110 Enforcement.

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

- (1) Enter upon the property and abate the nuisance by County personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary. If any part of the work is to be accomplished by private contract, that contract shall be submitted to and approved by the Board of Supervisors prior to commencement of work. Nothing herein shall be construed to require that any private contract under this Code be awarded through competitive bidding procedures where such procedures are not required by the general laws of the State of California; and/or
- (2) Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance.

SECTION 13. Section 9.06.165 is hereby added to the Tehama County Code to read:

9.06.165 - Administrative Civil Penalties.

- A. In addition to any other remedy prescribed in this Chapter, any nuisance as described in this Chapter may be subject to an administrative penalty of up to one thousand dollars (\$1,000) per day. The administrative penalty may be imposed via the administrative process set forth in this section, as provided in Government Code Section 53069.4, or may be imposed by the court if the violation requires court enforcement without an administrative process.
- B. Acts, omissions, or conditions in violation of this Chapter that continue, exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations.
- C. In the case of a continuing violation, if the violation does not create an immediate danger to health or safety, the enforcing officer or the court shall provide for a reasonable period of time, not to exceed ten (10) days, for the person responsible for the violation to correct or otherwise remedy the violation prior to the imposition of administrative penalties.
- D. In determining the amount of the administrative penalty, the enforcing officer, or the court if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and any other matters justice may require.
- E. The enforcing officer may commence the administrative process by issuance of a Notice of Violation and Proposed Administrative Penalty, which shall state the amount of the proposed administrative penalty and the reasons therefore. The Notice of Violation and Proposed Administrative Penalty may be combined with a Notice to Abate Unlawful Marijuana Cultivation issued pursuant to Section 9.06.050. The Notice shall be served by certified mail addressed to all of the following: (i) the owner of the property on which the violation exists, at the address shown on the last equalized assessment roll or as otherwise known to the enforcing officer; (ii) anyone known to the enforcing officer to be in possession of the property subject to the Notice, at the street address of the property; and (iii) any other person known to the enforcing officer who has caused, permitted, maintained, conducted, or otherwise suffered or allowed the violation to exist. The failure to serve any person described in this subsection shall not affect the validity of service or the validity of any penalties imposed upon any other person. The Notice shall inform the recipient of their right to request a hearing before the Board of Supervisors in accordance with this section. If such a hearing is not requested within ten (10) days after issuance of the Notice, the proposed

penalty shall become final and conclusive, and the person to whom the notice was issued shall immediately make payment of the penalty amount to the county.

- F. If any person to whom the Notice is issued requests a hearing before the Board of Supervisors, the person shall be notified by first class mail, postage prepaid, when the matter has been set for hearing. After the hearing, the Board may impose, modify, or disapprove, in whole or in part, by its own order, the proposed penalty set forth in the notice. The decision of the Board of Supervisors shall be final and conclusive. Any order of the Board of Supervisors shall become effective upon issuance thereof and shall be served by first class mail, postage prepaid, upon the appellant. Payment of an administrative penalty specified in the Board of Supervisors' order shall be made to the county within twenty (20) days of service of the order, unless timely appealed to the Superior Court in accordance with Government Code section 53069.4, subdivision (b).
- G. Interest shall accrue on all amounts due under this section, from the effective date of the administrative penalty order, as set forth in this section, to the date paid pursuant to the laws applicable to civil money judgments.
- H. In addition to any other legal remedy, whenever the amount of any administrative penalty imposed pursuant to this Section has not been satisfied in full within 90 days and has not been timely appealed to the Superior Court in accordance with Government Code section 53069.4, subdivision (b), or if appealed, such appeal has been dismissed or denied, this obligation may be enforced as a lien against the real property on which the violation occurred.
 - 1. The lien provided herein shall have no force and effect until recorded with the County Recorder. Once recorded, the administrative order shall have the force and effect and priority of a judgment lien governed by the provisions of Code of Civil Procedure section 697.340, and may be extended as provided in Code of Civil Procedure sections 683.110 to 683.220, inclusive.
 - 2. Interest shall accrue on the principal amount of the lien remaining unsatisfied pursuant to the law applicable to civil money judgments.
 - 3. Prior to recording any such lien, the enforcing officer shall prepare and file with the Clerk of the Board of Supervisors a report stating the amounts due and owing.
 - 4. The Clerk of the Board of Supervisors will fix a time, date, and place

for the Board of Supervisors to consider the report and any protests or objections to it.

5. The Clerk of the Board of Supervisors shall serve the owner of the property with a hearing notice not less than ten (10) days before the hearing date. The notice must set forth the amount of the delinquent administrative penalty that is due. Notice must be delivered by first class mail, postage prepaid, addressed to the owner at the address shown on the last equalized assessment roll or as otherwise known. Service by mail is effective on the date of mailing and failure of owner to actually receive notice does not affect its validity.
 6. Any person whose real property is subject to a lien pursuant to this Section may file a written protest with the Clerk of the Board of Supervisors and/or may protest orally at the Board of Supervisors meeting. Each written protest or objection must contain a description of the property in which the protesting party is interested and the grounds of such protest or objection.
 7. At the conclusion of the hearing, the Board of Supervisors will adopt a resolution confirming, discharging, or modifying the lien amount.
 8. Within 30 days following the Board of Supervisors' adoption of a resolution imposing a lien, the Clerk of the Board of Supervisors will file same as a judgment lien in the Tehama County Recorder's Office.
 9. Once the County receives full payment for outstanding principal, penalties, and costs, the Clerk of the Board of Supervisors will either record a notice of satisfaction or provide the owner with a notice of satisfaction for recordation at the Tehama County Recorder's Office. This notice of satisfaction will cancel the County's lien under this section.
 10. The lien may be foreclosed and the real property sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The County shall be entitled to its attorneys fees and costs.
- I. Administrative penalties imposed pursuant to this section shall also constitute a personal obligation of each person who causes, permits, maintains, conducts or otherwise suffers or allows the nuisance to exist. In the event that administrative penalties are imposed pursuant to this section on two or more persons for the same violation, all such persons shall be

jointly and severally liable for the full amount of the penalties imposed. In addition to any other remedy, the county may prosecute a civil action through the office of the county counsel to collect any administrative penalty imposed pursuant to this section.

- J. Payment of administrative penalties under this Section does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the Notice of Violation and Proposed Administrative Penalty. The payment of administrative penalties does not bar the County from taking any other enforcement action regarding a violation that is not corrected.

SECTION 14. Section 9.06.166 is hereby added to the Tehama County Code to read:

9.06.166 – Administrative Hearing Fees.

- A. The Board of Supervisors may, by Resolution, establish fees for hearings conducted under Sections 9.06.080 and 9.06.165.
- B. If the requesting party claims an economic hardship in paying the hearing fee, that party may apply for a waiver of the hearing fee on forms provided by the Clerk of the Board of Supervisors for that purpose. The forms shall be substantially similar to those required of litigants initiating court proceedings in forma pauperis pursuant to Government Code sections 68630 et seq. The forms shall be executed under penalty of perjury and contain a declaration as to the truthfulness and correctness of the information contained therein. If the Clerk is satisfied from the information contained in the forms that an requesting party qualifies for a waiver under this section, the Clerk shall allow the hearing to go forward without payment of the fee.

Upon filing a timely hearing request and for good cause shown, the Clerk may grant the requesting party a period of time beyond expiration of the appeal period in which to complete and submit the waiver forms. In no event shall the additional time exceed two days.

Failure to submit the waiver forms or pay the hearing fee in a timely manner shall cause the appeal request to be automatically denied. Enforcement of the Notice to Abate Unlawful Marijuana Cultivation and/or Notice of Violation and Proposed Administrative Penalties, as applicable, may then proceed as if no request for hearing had been submitted.

- C. If the hearing fee is paid and the Board of Supervisors finds there is no nuisance as described in this Chapter, the hearing fee shall be refunded to the person who paid the fee, without interest.

SECTION 15. Section 9.06.230 is hereby added to the Tehama County Code to read:

9.06.230 Misdemeanor Penalty. Any person violating any provision of this chapter shall be guilty of a misdemeanor.

SECTION 16. If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The board hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

SECTION 17. The Board of Supervisors hereby finds that this Ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the Board of Supervisors further finds that the Ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment). The Chief Administrator is hereby directed to file a Notice of Exemption.

SECTION 18. This ordinance shall take effect thirty (30) days from the date of its adoption, and prior to the expiration of fifteen (15) days from the adoption thereof shall be published at least one time in the *Red Bluff Daily News*, a newspaper of general circulation in Tehama County.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Tehama, State of California, at a regular meeting of the Board of Supervisors on the 6th day of August, 2013 by the following vote:

AYES: Supervisors Williams, Chamblin, Bruce, Bundy and Garton

NOES: None

ABSENT OR NOT VOTING: None



CHAIRMAN, Board of Supervisors

STATE OF CALIFORNIA)
) ss
COUNTY OF TEHAMA)

I, BEVERLY ROSS, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Tehama, State of California, hereby certify the above and foregoing to be a full, true and correct copy of an ordinance adopted by said Board of Supervisors on the 6th day of August, 2013.

DATED: This 6th day of August, 2013.

BEVERLY ROSS, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Tehama, State of California.

By 
Deputy