

## Chapter 9.06 - MARIJUANA CULTIVATION

### Sections:

#### 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."

(Ord. No. 1936, § 1, 4-6-2010; Ord. No. 1980, §§ 1, 2, 8-6-2013)

#### 9.06.020 - Findings and purpose.

- (A) In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996").
- (B) The intent of Proposition [215] 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) 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 . . ."
- (E) 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.
- (F) 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 cultivation occurs

outdoors, or 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.

- (G) Cultivation of any amount of marijuana at locations or premises within one thousand 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.
- (H) 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.
- (I) The cultivation of marijuana upon vacant lots (i.e., premises without a permitted residential use) presents a heightened risk of the harms that Chapter 9.06 was designed to prevent, including criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards, due to the absence of an onsite caretaker eligible to cultivate marijuana in accordance with state law. Marijuana cultivation upon vacant lots is more likely to violate the registration, setback, plant limit, security, and location requirements of this Chapter than marijuana cultivated accessory to a permitted residential use, is more likely to be diverted to non-medical use, and is less likely to serve the legitimate needs of medical patients and their caregivers eligible to cultivate marijuana in accordance with state law. Limiting the cultivation of marijuana to premises that contain a permitted residential use is proper and necessary to avoid the aforementioned harms, and to protect the health, safety, and welfare of the residents and businesses within the unincorporated territory of the County of Tehama.
- (J) 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.
- (K) 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.
- (L) The original provisions of Ordinance No. 1936, as amended by Ordinance Nos. 1980 and 1990, have proven inadequate to control the negative secondary impacts of unregulated marijuana cultivation. Specifically:
  - (i) The cultivation of marijuana outdoors, where it is often readily observable by neighbors and the general public, increases the risk of trespassing and burglary, and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes. Outdoor cultivation further makes the premises more prone to act as an attractive nuisance for children, and increases the likelihood of offensive odors traveling off the premises. Additionally, experience in Tehama County and elsewhere demonstrates that outdoor cultivation of marijuana is often associated with violations of local, state, and federal environmental laws and pesticide regulations, threatening harm to local waterways and groundwater quality, and endangering the public health and safety. The previous provisions of Chapter 9.06, which allowed limited outdoor

cultivation, did not fully mitigate these adverse effects. To adequately protect the public health, safety, and welfare, it is proper and necessary to prohibit the outdoor cultivation of marijuana within the unincorporated area of Tehama County.

- (ii) The indoor cultivation marijuana within a residence or other structure used or intended for human occupancy presents potential health and safety risks to those living in the residence or otherwise occupying the structure, especially to children, including, but not limited to, increased risk of fire from grow light systems, exposure to fertilizers, pesticides, anti-fungus/mold agents, and exposure to potential property crimes. The previous provisions of Chapter 9.06, which did not restrict the structures in which marijuana may be cultivated, did not fully mitigate these adverse effects.
- (iii) The original administrative abatement provisions of Chapter 9.06 provided lengthy timeframes for appeal and abatement, and required every appeal to be personally heard by the Tehama County Board of Supervisors. These provisions have proven unnecessarily slow, burdensome, and inefficient, creating uncertainty for owners and occupants, hampering enforcement efforts, and unnecessarily prolonging the existence of harmful nuisance conditions. It is proper and necessary to provide an alternative administrative abatement process that more rapidly resolves alleged violations of this chapter, while preserving due process of law, ensuring accuracy of the factual determinations upon which an abatement is based, and providing the owners and occupants of premises subject to potential abatement with notice and an opportunity to be heard before a neutral decision-maker.

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.

- (M) 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.

(Ord. No. 1936, § 1, 4-6-2010; Ord. No. 1980, §§ 3, 4, 8-6-2013; Ord. No. 2000, §§ 2, 3, 3-3-2015)

#### 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) "Outdoor cultivation" shall mean any cultivation of marijuana that is not conducted within a detached fully enclosed secure accessory structure conforming to the requirements of Section 9.06.035, subdivision (E)(1). Outdoor cultivation includes, without limitation, cultivation of marijuana within a greenhouse or "hoophouse" or similar facility.
- (H) "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.
- (I) "Primary caregiver" shall have the meaning set forth in Health and Safety Code sections 11362.5 and 11362.7 et seq.
- (J) "Qualified patient" shall have the meaning set forth in Health and Safety Code sections 11362.5 and 11362.7 et seq.
- (K) "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.
- (L) "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.
- (M) "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.
- (N) "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.

(Ord. No. 1936, § 1, 4-6-2010; Ord. No. 1980, §§ 5, 6, 8-6-2013; Ord. No. 2000, §§ 4, 5, 3-3-2015)

#### 9.06.035 - Nuisance declared.

Subject to subdivision (H) below, the following regulations shall apply to premises used for marijuana cultivation in the unincorporated area of Tehama County:

- A. The outdoor cultivation of marijuana, in any amount or quantity, is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter.
- B. The cultivation of more than twelve marijuana plants 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.
- C. The cultivation of marijuana, in any amount or quantity, upon any premises located within one thousand 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 acres or greater in size, then such distance shall be measured in a straight line from the detached fully enclosed secure accessory structure in which the marijuana is cultivated required by subdivision (E)(1) 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.
- D. The cultivation of marijuana, in any amount or quantity, within a residence or any other structure used or intended for human occupancy is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter.
- E. The cultivation of marijuana, in any amount or quantity, 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 cultivation of marijuana must be conducted within a detached fully enclosed secure accessory structure conforming to the following standards:
    - a. The structure shall be a building completely detached from any residence or other structure used or intended for human occupancy. The structure shall comply with Title 15 of the Tehama County Code, and have a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments. The structure shall be secure against unauthorized entry, and accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two inch by four inch or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.
    - b. Any structure, regardless of square footage, constructed, altered or used for the cultivation of marijuana must obtain a building permit from the building official. The intended use of the structure for marijuana cultivation shall be disclosed in the application for a building permit, and the structure shall be inspected for compliance with this chapter prior to the commencement of any cultivation. The conversion of any existing accessory structure, or portion thereof, for cultivation of marijuana shall be subject to these same permit requirements, and must be inspected by the building official for compliance with this chapter prior to the commencement of any cultivation. Cultivation within any structure may not commence without final approval of the building official.
    - c. The maximum electrical panel for the structure shall be fifty amps. Except for temporary use in case of emergency power loss, the use of generators to supply power to any system or activity associated with marijuana cultivation is prohibited.
    - d. Reserved.
    - e. Light systems utilized in connection with marijuana cultivation shall not exceed one thousand two hundred watts, shall comply with all applicable provisions of Title 15 of the Tehama County Code, and shall be shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure.
    - f. The structure shall be equipped with odor control filtration and ventilation system(s) adequate to prevent marijuana plant odors from exiting the interior of the structure.

- g. The structure shall have locking doors and a working security system which shall consist of a standard audible residential alarm of at least ninety dB A, but not exceeding one hundred ten dB A.
  - h. Such structure shall be accessory to a permitted residential use in accordance with subdivision (F) of this section.
2. The person(s) owning, leasing, occupying, or having charge or possession of any premises have submitted the required annual registration for the premises to the Tehama County Department of Environmental Health, and provided all of the following current information and documentation to the department:
- 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 department 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 Tehama County Department of Environmental Health may refuse to accept a registration for any premises upon which marijuana cultivation is being conducted, or is proposed to be conducted, in violation of this chapter. The acceptance of a registration pursuant to this chapter shall not be deemed or construed to be a permit for or approval of any violation of this chapter. The acceptance of a registration shall not prevent the enforcing officer from thereafter requiring correction of violations or from preventing marijuana cultivation being carried out thereunder when in violation of this chapter.

The board of supervisors may, by resolution, establish a fee for such annual registration in accordance with all applicable legal requirements.

Every registration under this chapter shall be valid for no more than one calendar year and shall expire on December 31st of that year. An expired registration shall be renewed in the same manner as an initial registration hereunder. In the event that the registration of any premises for any calendar year is submitted after March 1st of that year, the registrant shall pay a late registration penalty equal to fifty percent of the applicable registration fee. The director of environmental health may waive the late registration penalty if the failure to timely register was due to reasonable cause and not due to willful neglect.

- 3. 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 department, and shall then be returned to the submitter. The department shall prescribe forms for such letters.
- 4. Each structure in which the marijuana is cultivated shall be set back at least one hundred feet from all boundaries of the premises, unless the enforcing officer, the hearing 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 structure in which the marijuana is cultivated to the boundary line of the premises.

- F. The cultivation of marijuana, in any amount or quantity upon any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter, unless the premises contains a permitted residential use. For purposes of this subdivision, "permitted residential use" shall mean actual residential use of the premises that is conducted in a residential structure or manufactured home on a permanent foundation for which a final certificate of occupancy has been issued in accordance with Title 15 of the Tehama County Code.
- G. 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.
- H. If this section is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, the provisions of Section 9.06.040 shall apply to regulate premises used for marijuana cultivation in the unincorporated area of Tehama County.
- I. Subdivisions (A) and (E)(1) of this Section shall not apply to the following marijuana cultivation until January 1, 2016:
  - 1. Marijuana cultivation commenced in full compliance with the provisions of Chapter 9.06 of the Tehama County Code, including the premises registration requirements, as it read prior to the adoption of the ordinance enacting this section, upon April 1, 2015. Marijuana cultivation described in this subdivision shall be required to comply with the provisions of this section and Section 9.06.040 pertaining to outdoor marijuana cultivation until December 31, 2015.

(Ord. No. 2000, § 6, 3-3-2015)

9.06.040 - Nuisance declared.

When this section is applicable pursuant to Section 9.06.035, subdivision (H), the following regulations shall apply to premises used for marijuana cultivation in the unincorporated area of Tehama County:

- A. The cultivation of more than twelve 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 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 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 submitted the required annual registration for the premises to the Tehama County Department of Environmental Health, and provided all of the following current information and documentation to the department:
  - 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 department 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 annual registration in accordance with all applicable legal requirements.

Every registration under this chapter shall be valid for no more than one calendar year and shall expire on December 31st of that year. An expired registration shall be renewed in the same manner as an initial registration hereunder. In the event that the registration of any premises for any calendar year is submitted after March 1st of that year, the registrant shall pay a late registration penalty equal to fifty percent of the applicable registration fee. The director of environmental health may waive the late registration penalty if the failure to timely register was due to reasonable cause and not due to willful neglect.

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 department, and shall then be returned to the submitter. The department 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 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 one hundred 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. 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 the premises contains a permitted residential use. For purposes of this subdivision, "permitted residential use" shall mean actual residential use of the premises that is conducted in a residential structure or manufactured home on a permanent foundation for which a final certificate of occupancy has been issued in accordance with Title 15 of the Tehama County Code.



- E. 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.

(Ord. No. 1936, § 1, 4-6-2010; Ord. No. 1980, §§ 7, 8, 8-6-2013; Ord. No. 1990, §§ 2, 3, 4-15-2014; Ord. No. 2000, §§ 7, 8, 3-3-2015)

9.06.045 - Change in land use.

The county shall encourage any person proposing to construct or operate a new or relocated school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility to consider whether the proposed location of such use is within one thousand feet of a registered premises upon which marijuana is cultivated. Upon request, the Tehama County Health Services Agency shall inform any person proposing to construct or operate a new or relocated school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility regarding whether there is a registered premises upon which marijuana is cultivated within one thousand feet of the proposed location of such use, and, if so, shall also inform the person, owning, leasing, occupying, or having charge or possession of the registered premises that such a use is being proposed within one thousand feet of the premises.

(Ord. No. 1936, § 1, 4-6-2010)

9.06.050 - Notice to abate unlawful marijuana cultivation.

Whenever the enforcing officer determines that a public nuisance as described in chapter exists on any premises within the unincorporated area of Tehama County, he or she is authorized to notify the owner(s) and/or occupant(s) of the property, through issuance of a "Notice to Abate Unlawful Marijuana Cultivation."

(Ord. No. 1936, § 1, 4-6-2010)

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.
- (f) Contain a statement that the owner or occupant is required to abate the unlawful marijuana cultivation within ten calendar days after the date that said notice was served.
- (g) Contain a statement that the owner or occupant may, within ten 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.

- (h) 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.
- (i) 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.

(Ord. No. 1936, § 1, 4-6-2010; Ord. No. 1980, §§ 9, 10, 8-6-2013)

9.06.070 - Service of notice.

- A. The notice set forth in Section 9.06.050 shall be served by delivering it personally to the owner and to the occupant, or by mailing it by regular United States mail, together with a certificate of mailing, to the occupant of the property at the address thereof, and to any non-occupying owner at his or her address as it appears on the last equalized assessment roll, except that:
  - 1. If the records of the county assessor show that the ownership has changed since the last equalized assessment roll was completed, the notice shall also be mailed to the new owner at his or her address as it appears in said records; or
  - 2. In the event that, after reasonable effort, the enforcing officer is unable to serve the notice as set above, service shall be accomplished by posting a copy of the notice on the real property upon which the nuisance exists as follows: Copies of the notice shall be posted along the frontage of the subject property and at such other locations on the property reasonably likely to provide notice to the owner. In no event shall fewer than two copies of the order be posted on a property pursuant to this section.
- B. The date of service is deemed to be the date of deposit in the mail, personal delivery, or posting, as applicable.

(Ord. No. 1936, § 1, 4-6-2010)

9.06.075 - Recordation.

- A. Upon issuance of a notice to abate unlawful marijuana cultivation or notice and administrative order to show cause, the enforcing officer may record with the Tehama County Recorder a notice of pending nuisance abatement proceeding. A notice of pending nuisance abatement proceeding will describe the property and the condition in violation of this chapter.
- B. If a notice of pending nuisance abatement proceeding is recorded, the enforcing officer shall serve and record a notice of final disposition when the nuisance abatement proceeding has been completed, including any hearings or appeals and the completion of any work necessary to abate the nuisance. If the work to abate the nuisance is performed at county expense, or if administrative penalties are imposed under this chapter, the notice of final disposition need not be issued until those costs and penalties have been paid or a lien for those costs and penalties has been recorded. The notice of final disposition shall be served upon any party that was served with the notice to abate unlawful marijuana cultivation or notice and administrative order to show cause.

(Ord. No. 2004, § 1, 6-2-2015)

9.06.080 - Administrative review.

- A. Any person upon whom an notice to abate unlawful marijuana cultivation has been served may appeal the determination of the enforcing officer that the conditions set forth in the notice constitute a public

nuisance to the board of supervisors, or may show cause before the board of supervisors why those conditions should not be abated in accordance with the provisions of this chapter. Any such administrative review shall be commenced by filing a written request for a hearing with the clerk of the board of supervisors within ten calendar days after the date that said notice was served. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived. In the absence of a timely filed written request that complies fully with the requirements of this section, the findings of the enforcing officer contained in the notice shall become final and conclusive on the eleventh day following service of the notice.

- B. Upon timely receipt of a written request for hearing which complies with the requirements of this section, the clerk of the board of supervisors shall set a hearing date not less than seven days nor more than thirty days from the date the request was filed. The clerk shall send written notice of the hearing date to the requesting party, to any other parties upon whom the notice was served, and to the enforcing officer.
- C. Any hearing conducted pursuant to this chapter need not be conducted according to technical rules relating to evidence, witnesses and hearsay. 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 which might make improper the admission of the evidence over objection in civil actions. The board of supervisors has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- D. The board of supervisors may continue the administrative hearing from time to time.
- E. The board of supervisors shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the notice to abate unlawful marijuana cultivation. The board of supervisors shall issue a written decision in the form of a resolution, which shall include findings relating to the existence or nonexistence of the alleged unlawful marijuana cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the notice. Such decision shall be mailed to, or personally served upon, the party requesting the hearing, any other parties upon whom the notice was served, and the enforcing officer.
- F. The decision of the board of supervisors shall be final and conclusive.

(Ord. No. 1936, § 1, 4-6-2010)

#### 9.06.085 - Alternative procedure.

As an alternative to the procedures set forth in Sections 9.06.050 through 9.06.080, the enforcing officer may issue a notice and administrative order to show cause in accordance with this section. The notice and administrative order to show cause may be combined with a notice of violation and proposed administrative penalty issued pursuant to Section 9.06.165.

- A. The notice and order shall:
  - 1. 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.
  - 2. 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.
  - 3. Identify such property by reference to the assessor's parcel number.
  - 4. 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.

5. Describe the unlawful marijuana cultivation that exists and the actions required to abate it.
  6. Contain a statement that the owner or occupant is required to abate the unlawful marijuana cultivation within five calendar days after the date that said notice was served.
  7. Notify the recipient(s) that, unless the owner or occupant abates the conditions, a hearing will be held before a hearing officer appointed in accordance with this Section to determine whether there is any good cause why these conditions should not be abated. The notice shall specify the date, time, and location of this hearing, and shall state that the owner or occupant will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this chapter, or whether there is any other good cause why those conditions should not be abated.
  8. Contain a statement that, unless the owner or occupant abates the conditions, or shows good cause before the Hearing Officer why the conditions should not be abated, 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.
- B. The notice and order shall be served in the manner set forth in Section 9.06.070, provided that any service by mail shall be made by overnight mail or overnight courier service. If the Notice and Order is served by overnight mail or overnight courier service, then the time periods set forth in subdivisions (A)(6) and (D) of this section shall be extended by one additional day. Copies of the notice and order shall also be posted in accordance with subdivision (A)(2) of Section 9.06.070, in addition to any other methods of service set forth in that section. The failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings.
  - C. In order to hear cases brought by the enforcing officer under this section, the board of supervisors hereby establishes for such purpose the Office of County Hearing Officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, to which Office the Board of Supervisors shall appoint one or more hearing examiners. Each such hearing examiner shall be an attorney at law having been admitted to practice before the courts of this state for at least five years. Hearing examiners shall be appointed for a period of not less than one year. In the event that the Board appoints more than one hearing examiner, each day of hearings required under this section shall be assigned to a hearing examiner based upon an alphabetical rotation. Hearing examiners shall have those powers set forth in sections 27721 and 27722 of the Government Code, including the power to conduct the hearing, the power to decide the matter under this section upon which a hearing has been held, the power to make findings of fact and conclusions of law required for the decision, the power to issue subpoenas at the request of a party of interest, the power to receive evidence, the power to administer oaths, the power to rule on questions of law and the admissibility of evidence, the power to continue the hearing from time to time, and the power to prepare a record of the proceedings.
  - D. Pursuant to Government Code sections 25845, subdivision (i) and 27721, subdivision (A), the Hearing Officer shall hold an administrative hearing to determine whether the conditions existing on the property subject to the notice constitute a nuisance under this chapter, or whether there is any other good cause why those conditions should not be abated. This hearing shall be held no less than five calendar days after service of the notice.
  - E. The owner or occupant of the property shall be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this chapter, or whether there is any other good cause why those conditions should not be abated.
  - F. In the event that the owner or occupant does not appear and present evidence at the hearing, the hearing officer may base their decision solely upon the evidence submitted by the enforcing officer. Failure of the owner or occupant to appear and present evidence at the hearing shall constitute a failure to exhaust administrative remedies.

- G. Any hearing conducted pursuant to this chapter need not be conducted according to technical rules relating to evidence, witnesses and hearsay. 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 which might make improper the admission of the evidence over objection in civil actions. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- H. The hearing officer shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the notice and order. The Hearing Officer shall issue a written decision, which shall include findings relating to the existence or nonexistence of the alleged unlawful marijuana cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the notice. If the notice and order has been combined with a Notice of Violation and Proposed Administrative Penalty, the decision shall also include the matters set forth in Tehama County Code section 9.06.165, subdivision (H). Such decision shall be mailed to, or personally served upon, the party requesting the hearing, any other parties upon whom the notice was served, and the enforcing officer. The decision shall be final when signed by the Hearing Officer and served as herein provided.
- I. Whenever the enforcing officer becomes aware that an owner or occupant has failed to abate any unlawful marijuana cultivation within two calendar days of the date of service of the decision of the Hearing Officer under this section requiring such abatement, the enforcing officer may 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.
- J. The costs of abatement and administrative costs for every abatement carried out under this section may be recovered in accordance with Sections 9.06.090 and 9.06.120 through 9.06.160.

(Ord. No. 2000, § 9, 3-3-2015; Ord. No. 2004, §§ 3, 4, 6-2-2015)

9.06.090 - Liability for costs.

- A. In any enforcement action brought pursuant to this chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the unlawful marijuana cultivation to exist shall be liable for all costs incurred by the county, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this chapter, whether those costs are incurred prior to, during, or following enactment of this chapter;
- B. In any action by the enforcing officer to abate unlawful marijuana cultivation under this chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the county elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the county in the action or proceeding.

(Ord. No. 1936, § 1, 4-6-2010)

9.06.100 - Abatement by owner or occupant.

Any owner or occupant may abate the unlawful marijuana cultivation or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer.

(Ord. No. 1936, § 1, 4-6-2010)

#### 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 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.

(Ord. No. 1936, § 1, 4-6-2010; Ord. No. 1980, §§ 11, 12, 8-6-2013)

#### 9.06.120 - Accounting.

The enforcing officer 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 showing the cost of abatement and the administrative costs for each parcel.

(Ord. No. 1936, § 1, 4-6-2010)

#### 9.06.130 - Notice of hearing on accounting; waiver by payment.

Upon receipt of the account of the enforcing officer, 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 business days after the date of mailing of the notice, the board of supervisors 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 enforcing officer prior to the time set for the hearing by 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.

#### 9.06.140 - Hearing on accounting.

- A. At the time fixed, the board of supervisors shall meet to review the report of the enforcing officer. 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.
- B. The report of the enforcing officer shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.

- C. The board of supervisors shall also determine whether or not the owner(s) had actual knowledge of the unlawful marijuana cultivation, or could have acquired such knowledge through the exercise of reasonable diligence. If it is determined at the hearing that the owner(s) did not have actual knowledge of the unlawful marijuana cultivation, and could not have acquired such knowledge through the exercise of reasonable diligence, costs for the abatement shall not be assessed against such parcel or otherwise attempted to be collected from the owner(s) of such parcel.

(Ord. No. 1936, § 1, 4-6-2010)

9.06.150 - Modifications.

The board of supervisors shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution.

(Ord. No. 1936, § 1, 4-6-2010)

9.06.160 - 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 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. The board of supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to section 25845 of the Government Code.

(Ord. No. 1936, § 1, 4-6-2010)

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 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 five calendar 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 or a notice and administrative order to show cause pursuant to Section 9.06.085. 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.

- F. Except as provided in subdivision (G), 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 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. 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.
- G. If the notice of violation and proposed administrative penalty is combined with a notice and administrative order to show cause pursuant to Section 9.06.085, the notice shall inform the recipient that a hearing will be held before a hearing officer appointed in accordance with that section and specify the date, time, and location of this hearing. Failure of the person or persons to whom the notice was issued to appear and present evidence shall constitute a failure to exhaust administrative remedies.
- H. After the hearing, the board or hearing officer may impose, modify, or disapprove, in whole or in part, by written order, the proposed penalty set forth in the notice. The decision of the board of supervisors or hearing officer shall be final and conclusive. Any order of the board of supervisors or hearing officer 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 said order shall be made to the county within twenty days of service of the order, unless timely appealed to the Superior Court in accordance with Government Code section 53069.4, subdivision (b).
- I. 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.
- J. 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 ninety 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 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 thirty 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.
- K. 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.
- L. 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.

(Ord. No. 1980, § 13, 8-6-2013; Ord. No. 2000, §§ 10, 11, 3-3-2015; Ord. No. 2004, §§ 5, 6, 6-2-2015)

#### 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.

(Ord. No. 1980, § 14, 8-6-2013)

#### 9.06.170 - Enforcement by civil action.

As an alternative to the procedures set forth in Sections 9.06.050 through 9.06.080, the county may abate the violation of this chapter by the prosecution of a civil action through the office of the county counsel, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this chapter or requiring compliance with other terms.

(Ord. No. 1936, § 1, 4-6-2010)

#### 9.06.180 - Summary abatement.

Notwithstanding any other provision of this chapter, when any unlawful marijuana cultivation constitutes an immediate threat to public health or safety, and when the procedures set forth in Sections 9.06.050 through 9.06.080 would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the county to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified in Section 9.06.070, but the formal notice and hearing procedures set forth in this chapter shall not apply. The county may nevertheless recover its costs for abating that nuisance in the manner set forth in Sections 9.06.120 through 9.06.160.

(Ord. No. 1936, § 1, 4-6-2010)

#### 9.06.190 - No duty to enforce.

Nothing in this chapter shall be construed as imposing on the enforcing officer or the County of Tehama any duty to issue an notice to abate unlawful marijuana cultivation, nor to abate any unlawful marijuana cultivation, nor to take any other action with regard to any unlawful marijuana cultivation, and neither the enforcing officer nor the County of Tehama shall be held liable for failure to issue an order to abate any unlawful marijuana cultivation, nor for failure to abate any unlawful marijuana cultivation, nor for failure to take any other action with regard to any unlawful marijuana cultivation.

(Ord. No. 1936, § 1, 4-6-2010)

#### 9.06.200 - Remedies cumulative.

All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law. Nothing in this chapter shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

(Ord. No. 1936, § 1, 4-6-2010)

#### 9.06.210 - Other nuisance.

Nothing in this chapter shall be construed as a limitation on the county's authority to abate any nuisance which may otherwise exist from the planting, growing, harvesting, drying, processing or storage of marijuana plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building.

(Ord. No. 1936, § 1, 4-6-2010)

9.06.220 - Severability.

If any section, subsection, sentence, clause, portion, or phrase of this chapter 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.

(Ord. No. 1936, § 1, 4-6-2010)

9.06.230 - Misdemeanor penalty.

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

(Ord. No. 1980, § 15, 8-6-2013)