

ORDINANCE NO. 1936

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

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

SECTION 1. Chapter 9.06 is hereby added to the Tehama County Code to read:

Chapter 9.06

MARIJUANA CULTIVATION

Sections:

- 9.06.010 Authority and Title.
- 9.06.020 Findings and Purpose.
- 9.06.030 Definitions.
- 9.06.040 Nuisance Declared.
- 9.06.050 Notice to Abate Unlawful Marijuana Cultivation.
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- 9.06.070 Service of Notice.
- 9.06.080 Administrative Review.
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- 9.06.140 Hearing on Accounting.
- 9.06.150 Modifications.
- 9.06.160 Special Assessment and Lien.
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- 9.06.190 No Duty to Enforce.
- 9.06.200 Remedies Cumulative.
- 9.06.210 Other Nuisance.
- 9.06.220 Severability.

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 section 25845, the Board of Supervisors does enact this Chapter, which shall be known and may be cited as the "Tehama County Marijuana Cultivation Ordinance."

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.) 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.
- (D) Health and Safety Code section 11362.83 expressly allows Cities and Counties to adopt and enforce ordinances that are consistent with Senate Bill 420.
- (E) 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.

- (F) 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.
- (G) Proposition 215 and Senate Bill 420 primarily address the criminal law, providing qualifying patients and primary caregivers with limited immunity from state criminal prosecution under certain identified statutes. Neither Proposition 215 nor Senate Bill 420, nor the Attorney General's August 2008 *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use* adopted pursuant to Senate Bill 420, provides comprehensive civil regulation of premises used for marijuana cultivation. The unregulated cultivation of marijuana in the unincorporated area of Tehama County can adversely affect the health, safety, and well-being of the County and its residents. Comprehensive civil 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.
- (H) 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.

- (I) 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.
- (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 right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this 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) 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.

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, 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, unless otherwise specifically provided herein.
- (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 Proposition 215 and Senate Bill 420.
- (I) "Qualified patient" shall have the meaning set forth in Proposition 215 and Senate Bill 420.
- (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.

9.06.040 Nuisance Declared.

A. The cultivation of more than the following number of 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:

1. If the premises is twenty (20) acres in size or less, no more than 12 mature marijuana plants or 24 immature marijuana plants shall be cultivated on the premises. If both mature and immature marijuana plants are cultivated on the premises, there shall be no more than 12 mature marijuana plants and no more than 24 total marijuana plants.

2. If the premises is greater than twenty (20) acres in size but less than one hundred and sixty (160) acres in size, no more than 30 mature marijuana plants or 60 immature marijuana plants shall be cultivated on the premises. If both mature and immature marijuana plants are cultivated on the premises, there shall be no more than 30 mature marijuana plants and no more than 60 total marijuana plants.

3. If the premises is one hundred and sixty (160) acres or greater in size, no more than 99 marijuana plants, whether mature or immature, shall be cultivated on the premises.

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 or hedgerows 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 from the boundaries of the premises as follows:

a. If the premises is twenty (20) acres in size or less, each cultivation building or area 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.

b. If the premises is greater than twenty (20) acres in size but less than one hundred and sixty (160) acres in size, each cultivation building or area shall be set back at least 300 feet from all boundaries of the premises.

c. If the premises is one hundred and sixty (160) acres or greater in size, each cultivation building or area shall be set back at least 1,000 feet from all boundaries of the premises.

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.

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 (1,000) 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 (1,000) 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 (1,000) feet of the premises.

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."

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 fourteen (14) calendar days after the date that said Notice was served.
- (g) 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.
- (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.

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 (2) 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.

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 (10) 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 (7) days nor more than thirty (30) 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.

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 attorneys' fees incurred by the County in the action or proceeding.

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.

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 fourteen (14) 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.

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.

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 (5) 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.

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.

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.

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.

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.

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.

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.

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.

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.

SECTION 2. 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 3. 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 April, 2010 by the following vote:

AYES: Supervisors Williams, Warner, Russell, and Avilla

NOES: Supervisor Willard

ABSENT OR NOT VOTING: None



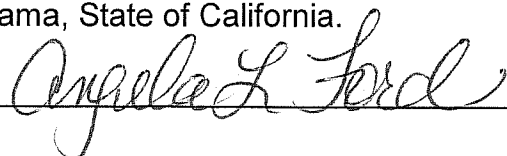
CHAIRMAN, Board of Supervisors

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 April, 2010.

DATED: This 6th day of April, 2010.

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

By  Deputy