

ATTACHMENT B

DRAFT COUNTY ORDINANCE – PROPOSAL B Submitted to PC Jan 2024, Amended August 2024

SECTION 1

Chapter 17.09 of the Tehama County Code is hereby repealed.

SECTION 2

Chapter 9.06 of the Tehama County Code is hereby repealed.

SECTION 3

Chapter 17.09 of the Tehama County Code is hereby added to read:

17.09.010 Authority and Title.

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code sections 11362.2(b), 11362.777(g), and 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 Cannabis Ordinance."

17.09.020 Purposes and Intent.

The purposes and intents of this Chapter are to:

- a) Regulate personal and commercial cannabis cultivation, distribution, sales and manufacturing in a manner that is consistent with State law and which promotes the health, safety, and general welfare of the residents and businesses in the unincorporated areas of Tehama County;
- b) Provide clear guidance to law enforcement, regulators, license holders, and the community at large as to what is legally permitted in Tehama County in relation to Cannabis Cultivation, Distribution, Sales and Manufacturing Limitations for Personal and Commercial Purposes;
- c) Protect the rights and welfare of Qualified Patients or their designated Primary Caregivers who cultivate medical cannabis for the personal medical use of the Qualified Patient in accordance with the Compassionate Use Act and the Medical Marijuana Program Act;

d) Protect the rights and welfare of all citizens pursuant to the Compassionate Use Act (C.U.A.), the Medical Marijuana Program Act (M.M.P.A.) and the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.); and

e) Nothing in this Chapter shall be construed to allow any activity relating to the cultivation, distribution or consumption of cannabis that is otherwise illegal under State law.

17.09.030 Findings.

(A) There is a legitimate need for medical cannabis in California. A study published in 2014 shows that 1.4 million Californians have used medical cannabis and an overwhelming majority of those users (92%) believe cannabis helped treat the symptoms of a serious medical condition ("Prevalence of medical marijuana use in California, 2012", *Drug and Alcohol Review* (2014), DOI 10.1111/dar. 12207).

(B)The voters of the State of California approved Proposition 215, the Compassionate Use Act of 1996 (codified as Health and Safety Code Section 11362.5), in 1996. That Act calls on "federal and state governments to implement a plan to provide for the safe and affordable distribution of cannabis to all patients in medical need of cannabis."

(C)The intent of the C.U.A. was to enable persons who are in need of cannabis for medical purposes, to use it without fear of criminal prosecution or other forms of sanction. California's Supreme Court has ruled on numerous occasions that qualified individuals under the C.U.A. are entitled to limited immunity from certain statutes, through the assertion of an affirmative defense to criminal charges, or applied as a civil remedy to sanctions (*People v. Mower* (2002) 28 Cal.4th 457; *People v. Frazier* (2005) 128 Cal.App.4th 807; *People v. Konow* (2004) 32 Cal.4th 995.) Furthermore, California's Supreme Court has ruled that qualified individuals may cultivate and possess cannabis in amounts that are reasonably related to the current or ongoing medical needs of the patient(s). (*People v. Kelly* (2010) 47 Cal.4th 1008.)

(D)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 Act", or M.M.P.A.) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate cannabis for medical purposes with an affirmative defense to certain specified State criminal and civil statutes. Assembly Bill 2650 (2010) and Assembly Bill 2000 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to "adopt local ordinances that regulate the location, operation, or establishment of a medical cannabis cooperative or collective" and to civilly or administratively enforce such ordinances.

(E) In the fall of 2015, the California Legislature passed and the Governor signed three significant pieces of legislation regarding medical cannabis. AB 266, AB 243, and SB 643 created a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis. Importantly, all licenses which could be issued by the state for such activities may first be approved by local governments. These laws went into effect January 1, 2016. However, the state indicated it needed until January 1, 2018 to create the new agencies that would be administering such a new licensing system, and to draft and adopt new regulations regarding the licensing that will occur. To date, these regulations have been published.

(F) On November 8, 2016, the voters of California adopted Proposition 64. Proposition 64 allows adult use of cannabis and cannabis products, and cultivation of six cannabis plants by any adult. As part of that initiative, commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of cannabis was authorized. Like the legislative enactments the year before on medicinal cannabis, Proposition 64 created a new comprehensive state licensing system which would go into effect on January 1, 2018. To date, California's Legislature and Governor have adopted new legislation, collectively known as "the Medical and Adult Use of Cannabis Regulation and Safety Act" (M.A.U.C.R.S.A.). Unlike the legislative enactment the year before related to medical cannabis, legislative silence on the issue of commercial adult use cannabis activities by local government could nevertheless result in the issuance of state licenses to conduct such activities. Once State licenses are issued in 2018, all local jurisdictions that have not adopted local licensing regulations shall implement California's regulations, by default.

(G) California voters have enacted state law legalizing both medical and adult uses of cannabis. Unregulated and irresponsible cultivation, distribution, sales and manufacturing of cannabis can threaten the health and safety of the people of Tehama County. Many counties and cities have minimized these associated risks through the regulation and licensing of cannabis activities. Regulation of lawful cannabis activities maintains the culture of the county while creating increased opportunities for citizens who wish to participate in California's cannabis industry. By allowing cannabis activities, the county will benefit from licensing fees and additional tax revenues, jobs growth and stimulation of the local economy. The adoption of the proposed ordinance will signify the County's willingness to honor the will of the people and California laws to provide a safe method for people to obtain cannabis.

(H) The county contains areas with special characteristics, which include; timber production areas receiving substantial precipitation and subject to significant sediment runoff, natural habitat and primary flood areas containing sensitive habitats, highly productive agricultural areas within the Farmland Security Zone, general recreation areas set aside for outdoor family oriented recreational activities, private airports and

multi-family residential areas, which provide conditions that are unfavorable to cannabis cultivation, commercial distribution and processing because these activities could result in significant environmental impacts.

(I)The unregulated cultivation of cannabis 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 cannabis cultivation, for both commercial and personal purposes, is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment and indoor electrical fire hazards that may result from unregulated cannabis cultivation.

(J)Commercial Cultivation of any amount of cannabis at locations or premises within one thousand feet (M.A.U.C.R.S.A.) of schools, day care centers, day care homes, recreation centers, youth centers, libraries, churches, public parks or residential care facility as defined by section 17.08.013 of the Tehama County Code which serve 7 or more persons, creates unique risks that the cannabis plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles.

(K) It is the intent of this chapter to implement State law by providing a means for regulating the cultivation of cannabis, including hemp, in a manner that is consistent with State law and which balances the needs of qualified patients and their primary caregivers, cannabis farmers and processors, and promotes the health, safety, and welfare of the residents and businesses within the unincorporated territory of the County of Tehama.

(L)This chapter is intended to be consistent with the Compassionate Use Act (C.U.A.), the Medical Marijuana Program Act (M.M.P.A.) and the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.), 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 cannabis may be cultivated for personal or commercial purposes, including restrictions on the amount of cannabis that may be cultivated in any location or premises as determined by specific zoning designations of the Tehama County Municipal Code, in order to protect the public health, safety, and welfare in Tehama County.

(M)The American Herbal Products Association (AHPA), the leading voice in herbal products industry, published recommendations for regulators regarding medical cannabis cultivation and other activity in 2014. These recommendations show that the indoor and outdoor commercial cultivation of medical cannabis can be conducted in a manner that is safe, secure, and sustainable.

(N) Research conducted by various non-governmental organizations, universities, polling firms, peer review journals and think tanks, show that sensible regulations for medical cannabis preserve safe and legal access for consumers, while reducing crime and the negative impacts associated with criminal diversions of cannabis into the black market. Specifically, all evidence thus far has shown that communities with a fully regulated cannabis industry: have decreased property crime rates in areas with licensed operations; have decreased the rates of opioid dependency and overdose deaths, and; have decreased the rates of teenage cannabis use, when compared to communities without a regulated cannabis industry.

(O) The emerging new cannabis industry in California represents a significant growth in local jobs for every community that embraces regulated access to cannabis. The alternative is to literally surrender all cannabis revenues to the black market and prohibition industries. The commercial cultivation, distribution, sales and manufacturing of medical and adult use cannabis can generate a much-needed revenue stream for the County of Tehama.

(P) According to the Environmental Impact Report issued by the California Department of Food and Agriculture, rogue actions undertaken by various law enforcement agencies have now been categorized as a negative environmental impact to the emerging cannabis industry.

(Q) Tehama County Zoning Code Chapter 17.09 is consistent with the Tehama County General Plan and its Land Use Classifications.

(R) The Tehama County Zoning Code for the Establishment of Cannabis Cultivation, Distribution, Sales and Manufacturing Limitations for Personal and Commercial Purposes is compatible with the various zoning designations included in the text of the amendment and provides for policies that will support compatibility findings for projects requiring further environmental review under Chapter 17.70, Use Permits.

(S) We therefore adopt the following Chapter to ensure the protection of the legitimate public interest in regulating the legal uses of medical and adult use cannabis in Tehama County.

17.09.040 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) "Cannabis" shares the same definition as found in California Health and Safety Code Section 11018 and "industrial hemp" shares the same definition as found in Health and Safety Code Section 11018.5.
- (G) "Cannabis plant" means any mature or immature cannabis plant, or any cannabis seedling.
- (H) "Outdoor cultivation" shall mean any cultivation of marijuana that is not conducted within a fully enclosed and secure building.
- (I) "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.
- (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) "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.

17.09.050 Establishment of Cannabis Cultivation for Personal Purposes.

A. The personal and collective outdoor or mixed light cultivation of cannabis plants for adult and medical uses shall be permitted in AG-1, AG-2, AG-3, AG-4, RE and R1 Zoning Districts, provided that;

1. In RE and R1 zoning districts there shall be a permitted dwelling on the premises as defined in Section 17.04.020 of the Tehama County Code.

2. The number of plants or area of plant canopy permitted does not exceed the limits set by the Compassionate Use Act (C.U.A.), the Medical Marijuana Program Act (M.M.P.A.) or the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.).

3. The total area of cannabis plant canopy shall not exceed 3% of the premises as defined in Section 17.04.020 of the Tehama County Code.

4. The cultivation area shall be less than 1,000 square feet and not exceed 20% slope, in all cases;

5. The cultivation area shall be securely confined and locked within a secured location that is neither visible, nor accessible to the public. This shall be accomplished by a minimum 6-foot-tall fence or barrier such as a wood board fence, chain link enclosure with privacy slats or a fenced greenhouse.

6. The cultivation area shall not be closer than fifty feet from front property line, ten feet side or rear property, nor forty feet from any dwelling upon adjoining parcels.

6. Personal Cannabis cultivation for adult use and medicinal uses shall not be made available for commercial purposes, or offered for sale on the premises.

17.09.060 Establishment of Cannabis Cultivation for Commercial Purposes.

A. The commercial outdoor or mixed light cultivation of cannabis plants for adult use and medicinal purposes, meeting the Cultivation License Types defined in Sections 26050 and 26061 of the Business and Professions Code shall be permitted in R-1-A, AG-1, AG-2, AG-3, AG-4, PD, M-1 and M-2 Zoning Districts, provided that;

1. Only Specialty Cottage Outdoor and Specialty Cottage Mixed-Light licenses are permitted on parcels exceeding five acres in size, in areas classified as Rural Large Lot and Rural Small Lot Residential in the Tehama County General Plan and designated as R-1 Zoning District, provided that;

a. The total area of cannabis plant canopy shall not exceed 3% of the premises as defined in Section 17.04.020 of the Tehama County Code;

b. The cultivation area shall be less than 2,500 square feet and not exceed 20% slope, in all cases;

c. The cultivation area shall be securely confined and locked within a secured location that is neither visible, nor accessible to the public. This shall be accomplished by a minimum 6-foot-tall fence or barrier

such as a wood board fence, chain link enclosure with privacy slats or a fenced greenhouse.

- d. The cultivation area shall not be closer than twenty-five feet to any street or property line.
- e. The operation shall require the securing of a Conditional Use Permit pursuant to Chapter 17.70 of the Tehama County Code and approval of the Tehama County Planning Commission;
- f. The Specialty Cottage Outdoor or Mixed-Light operation shall meet all State requirements for Commercial cultivation as required by the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.) and all pertinent State Cannabis Regulations ;
- g. The operation shall not be located within one thousand (1,000) feet of a school, day care center, day care home, recreation center, youth center, library, church, public park, or residential care facility as defined by section 17.08.013 of the Tehama County Code which serves 7 or more persons.

2. Specialty, Small and Medium Outdoor and Mixed-Light Licenses, Nursery, Processor and Producing Dispensary Licenses, meeting the Cultivation License Types defined in Sections 26050 and 26061 of the Business and Professions Code are permitted in AG-1, AG-2, AG-3, AG-4 PD, M-1 and M-2 Zoning Districts, provided that;

- a. The total plant canopy permitted does not exceed the limits set by the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.).
- b. The cultivation area shall not exceed 10% of the premises as defined in Section 17.04.020 of the Tehama County Code and not exceed 20% slope, in all cases
- c. The cultivation area shall be securely confined and locked within a secured location that is neither visible, nor accessible to the public. This shall be accomplished by a minimum 6-foot-tall fence or barrier such as a wood board fence, chain link enclosure with privacy slats or a fenced greenhouse.
- d. The cultivation area shall not be closer than twenty-five feet to any street or property line;

- e. The operation shall require the securing of a Conditional Use Permit pursuant to Chapter 17.70 of the Tehama County Code and approval of the Tehama County Planning Commission;
- f. Every commercial cannabis farm shall meet all State requirements for Commercial cultivation as required by the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.);
- g. Each commercial cannabis farm shall not be located within one thousand (1,000) feet of a school, day care center, day care home, recreation center, youth center, library, church, public park, or residential care facility as defined by section 17.08.013 of the Tehama County Code which serves 7 or more persons.

17.09.070 Establishment of Cannabis Distribution and Retail Sales.

A. Commercial distribution and retail sales of adult use and medical cannabis shall be permitted in C-1, C-2, PD, M-1 and M-2 Zoning Districts, provided that;

1. The distributor or dispensary secures a Conditional Use Permit pursuant to Chapter 17.70 of the Tehama County Code and approval of the Tehama County Planning Commission and Board of Supervisors;

2. The operation meets all State requirements for commercial distribution or retail sales, as required by the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.).

3. The operation shall not be located within one thousand (1,000) feet of a school, day care center, day care home, recreation center, youth center, library, church, public park, or residential care facility as defined by section 17.08.013 of the Tehama County Code which serves 7 or more persons.

17.09.080 Establishment of Non-Volatile Cannabis Manufacturing and Testing Laboratories.

A. Commercial manufacturing of non-volatile cannabis plant conversions for adult use and medical purposes and testing laboratories shall be permitted in a PD, M-1, or M-2 Zoning District, provided that;

1. The non-volatile manufacturer or testing laboratory secures a Conditional Use Permit pursuant to Chapter 17.70 of the Tehama County Code.

2. The operation shall meet all State requirements for commercial non-volatile manufacturing of cannabis products or testing laboratory as required by the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.).

3. The operation shall not be located within one thousand (1,000) feet of a school, day care center, day care home, recreation center, youth center, library, church,

public park, or residential care facility as defined by section 17.08.013 of the Tehama County Code which serves 7 or more persons.

17.09.090 Establishment of Volatile Cannabis Manufacturing.

A. Commercial manufacturing of volatile marijuana plant conversions for adult use and medical purposes shall be permitted in a PD, M-1, or M-2 Zoning District, provided that;

1. The volatile manufacturer secures a Conditional Use Permit pursuant to Chapter 17.70 of the Tehama County Code.

2. The operation shall meet all State requirements for commercial volatile manufacturing of cannabis products as required by the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.).

3. The operation shall not be located within one thousand (1,000) feet of a school, day care center, day care home, recreation center, youth center, library, church, public park, or residential care facility as defined by section 17.08.013 of the Tehama County Code which serves 7 or more persons.

17.09.100 Limitations on Outdoor Cannabis Cultivation, Distribution, and Sales.

A. . All outdoor cannabis cultivation as well as the establishment of commercial cannabis distribution or retail sales operations are prohibited in the R-2, R-3, R-4, G-R, AV, PF, NR, FS and TPZ Zoning Districts.

17.09.110 Establishment of Indoor Cannabis Cultivation for Personal Purposes.

A. Personal indoor Cannabis cultivation for adult use and medicinal purposes is allowed in all permitted structures, excluding dwelling units, in all Zoning Districts, provided that;

1. The residents of the property meet the requirements of the Compassionate Use Act (C.U.A.), the Medical Marijuana Program Act (M.M.P.A.), the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.), and all other state law.

2. Personal Cannabis cultivation for adult use and medicinal uses shall not be made available for commercial purposes, or offered for sale on the premises.

17.09.120 Establishment of Indoor Cannabis Cultivation for Commercial Purposes.

A. Commercial Indoor Cannabis cultivation, meeting the Indoor Cultivation License Types defined in Sections 26050 and 26061 of the Business and Professions Code for adult use and medicinal purposes shall be permitted in a PD, M-1 or M-2 Zoning District, provided that:

1. The operation secures a Conditional Use Permit pursuant to Chapter 17.70 of the Tehama County Code.

2. Every commercial cannabis farm shall meet all State requirements for Commercial cultivation as required by the Medical and Adult Use of Cannabis Regulation and Safety Act (M.A.U.C.R.S.A.);

3. Each commercial cannabis farm shall not be located within one thousand (1,000) feet of a school, day care center, day care home, recreation center, youth center, library, church, public park, or residential care facility as defined by section 17.08.013 of the Tehama County Code which serves 7 or more persons..

17.09.130 Violations and Penalties.

A. . Any violation(s) of any provision(s) of this chapter by any individual(s), whether in their personal or professional capacities, shall be considered a nuisance pursuant to Tehama County Municipal Code Section 10.16.020(E).

17.09.135 Notice to abate unlawful cannabis cultivation or commercial activity.

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 Cannabis Cultivation or Commercial Activity."

17.09.140 Procedure.

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 17.09.230.

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 a cannabis cultivation or commercial cannabis activity 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 cannabis cultivation or commercial cannabis activity that exists on the premises and the actions required to abate it.
 6. Contain a statement that the owner or occupant is required to abate the unlawful cannabis cultivation or commercial cannabis activity 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 by delivering it personally to the owner and to the occupant of the premises, or by mail 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 along the frontage of the subject real property and at such other locations on the property reasonably likely to provide notice to the owner in addition to any other methods of service set forth in this section. In no event shall fewer than two copies of the order be posted on a property pursuant to this 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 cannabis cultivation or commercial activity, 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 17.09.230, 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 cannabis cultivation or commercial activity 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 17.09.150 and 17.09.180 through 17.09.220.

17.09.150 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 cannabis cultivation or commercial activity 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 cannabis cultivation or commercial activity 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.

17.09.160 Abatement by owner or occupant.

Any owner or occupant may abate the unlawful cannabis cultivation or commercial activity or cause it to be abated at any time prior to commencement of abatement by, or

at the direction of, the enforcing officer. An owner or occupant abating unlawful cannabis cultivation or commercial activity hereunder shall notify the enforcing officer upon completion of abatement and shall provide evidence that the unlawful cannabis cultivation or commercial activity has been lawfully disposed or lawfully relocated to another premises in compliance with this chapter or outside the county. Abatement shall not be deemed completed until the unlawful cannabis cultivation or commercial activity has been completely removed from the premises and lawfully disposed or relocated, and notification has been provided as set forth in this section.

17.09.170 Enforcement.

(a) Whenever the enforcing officer becomes aware that an owner or occupant has failed to abate any unlawful cannabis cultivation or commercial activity within ten days of the date of service of the notice to unlawful cannabis cultivation or commercial activity, 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.

17.09.180 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.

17.09.190 Unlawful cultivation upon public benefit properties.

A. The board of supervisors or director of environmental health may, in their sole and exclusive discretion, withhold imposition of, or may compromise the amount of, any abatement cost, administrative cost, or administrative civil penalty that would otherwise be imposed under this chapter upon a property owner that meets all of the following conditions:

1. The property owner is a public agency, a public utility, a mutual water company, a nonprofit public benefit corporation that has as a principal purpose the conservation of land and water resources, or a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development;
 2. The property owner, or their officers, employees, or agents, did not cause, permit, or otherwise suffer or allow the unlawful cannabis cultivation to exist upon the property; and
 3. The property owner has provided the County with any necessary consent for the abatement of the unlawful cannabis cultivation from the property.
- B. The withholding or compromise of any abatement costs, administrative costs, or administrative civil penalties under this section is not subject to the limitations set forth in Chapter 10.17 of the Tehama County Code.
- C. The withholding or compromise of any abatement cost, administrative cost, or administrative civil penalty for any property owner under this section shall not reduce or otherwise affect the amount or enforceability of any abatement cost, administrative cost, or administrative civil penalty imposed under this Chapter upon any other person.

17.09.200 Notice of hearing on accounting; waiver by payment.

Upon receipt of the account of the enforcing officer, the enforcing officer 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 ten calendar days after the date of mailing of the notice the hearing officer will hold a hearing 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. 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.

17.09.210 Hearing on accounting.

- A. At the time fixed, the hearing officer shall hold a hearing 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 hearing officer shall also determine whether or not the owner(s) had actual knowledge of the unlawful cannabis cultivation or commercial activity, 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 cannabis cultivation or commercial activity, 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.

D. At the conclusion of the hearing, the hearing officer will prepare a recommended decision and resolution for the board of supervisors pursuant to Government Code sections 25845, subdivision (i) and 27721, subdivision (b). The recommended decision and resolution shall include any proposed modifications to the accounting. The hearing officer shall promptly submit that recommendation and the administrative record to the clerk of the board of supervisors. The board of supervisors may adopt the recommended decision and resolution without further notice of hearing, or may set the matter for a de novo hearing before the board of supervisors. In the event that the board sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of this section and Section 17.09.200.

17.09.220 Special assessment and lien.

The board of supervisors may order that all or any part of 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.

17.09.230 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 cannabis cultivation or commercial activity issued pursuant to Section 17.09.135 or a notice and administrative order to show cause pursuant to Section 17.09.140. 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 calendar 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 17.09.140, 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 calendar 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, all or any part of 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 or hearing officer, as applicable, 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 calendar 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 hearing. 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. If a hearing officer has been appointed in accordance with Section 17.09.140, the hearing required under this subdivision (J) may be conducted by such hearing officer, who will prepare a recommended decision and resolution for the board of supervisors. The hearing officer shall forthwith submit that recommendation and the administrative record to the clerk of the board of supervisors. The board of supervisors may adopt the recommended decision and resolution without further notice of hearing, or may set the matter for a de novo hearing before the board of supervisors. In the event that the board sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of this subdivision (J).

9. 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.

10. 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.

11. 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.

17.09.240 Administrative hearing fees.

A. The board of supervisors may, by resolution, establish fees for hearings conducted under 17.09.230.

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 cannabis cultivation or commercial activity 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.

17.09.250 Enforcement by civil action.

As an alternative to the procedures set forth in this chapter, 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.

17.09.260 Summary abatement.

Notwithstanding any other provision of this chapter, when any unlawful cannabis cultivation or commercial activity constitutes an immediate threat to public health or safety, and when the procedures set forth in Sections 17.09.135 through 17.09.140 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 Sections 17.09.135 through 17.09.140, 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 17.09.180 through 17.09.220.

17.09.270 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 a notice to abate unlawful cannabis cultivation or commercial activity, nor to abate any unlawful cannabis cultivation or commercial activity, nor to take any other action with regard to any unlawful cannabis cultivation or commercial activity, and neither the enforcing officer nor the County of Tehama shall be held liable for failure to issue an order to abate any unlawful cannabis cultivation or commercial activity, nor for failure to abate any unlawful cannabis cultivation or commercial activity, nor for failure to take any other action with regard to any unlawful cannabis cultivation or commercial activity.

17.09.280 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.

17.09.290 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 cannabis or industrial hemp or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building.

17.09.300 Severability.

If any provision(s) of this measure / ordinance or the application thereof to any person(s) or circumstance(s) is/are held invalid, that invalidity shall not affect other provisions or applications of this measure / ordinance, which can be given effect without the invalid provision(s) or application(s), and to this end, the provisions and applications of this measure / ordinance are severable.

17.09.320 No criminal penalty.

Notwithstanding any other provision of this Code, violation of this chapter shall not be a misdemeanor or an infraction.