

ORDINANCE NO. 2040

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

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

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 Section 9.06.010 of the Tehama County Code is hereby repealed.~~

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

9.06.010 - Authority and title. Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code sections 11362.2, subdivision (b), 11362.777, subdivision (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 Marijuana Cultivation Ordinance."

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 Section 9.06.020 of the Tehama County Code is hereby repealed.

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

9.06.020 Findings and Purpose.

- (A) California's medical marijuana laws, the Compassionate Use Act (California Health and Safety Code section 11362.5), the Medical Marijuana Program (California Health and Safety Code sections 11362.7 et seq.), and the Medical Cannabis Regulation and Safety Act (California Business and Professions Code sections 19300 et seq.), each recognize and preserve the authority of cities and counties under Section 7 of Article XI of the California Constitution to regulate the cultivation of marijuana.
- (B) The Adult Use of Marijuana Act (California Health and Safety Code sections 11362.1 et seq. and California Business and Professions Code section 26000 et seq.) likewise recognizes and preserves the authority of cities and counties to enact and enforce reasonable regulations for the cultivation of marijuana.
- (C) Tehama 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.

- (D) The unregulated cultivation of medical or non-medical marijuana in the unincorporated area of Tehama County can adversely affect the health, safety, and well-being of the County and its residents. Comprehensive regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation, and that are especially significant if the cultivation occurs outdoors, or if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in one place.
- (E) The cultivation of marijuana outdoors, where it is often readily observable by neighbors and the general public, increases the risk of trespassing and burglary, and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes. Outdoor cultivation further makes the premises more prone to act as an attractive nuisance for children, and increases the likelihood of offensive odors traveling off the premises. Additionally, experience in Tehama County and elsewhere demonstrates that outdoor cultivation of marijuana is often associated with violations of local, state, and federal environmental laws and pesticide regulations, threatening harm to local waterways and groundwater quality, and endangering the public health, safety, and welfare. To adequately protect the public health, safety, and welfare, it is proper and necessary to prohibit the outdoor cultivation of marijuana within the unincorporated area of Tehama County.
- (F) The indoor cultivation of marijuana within a residence or other structure used or intended for human occupancy presents potential health and safety risks to those living in the residence or otherwise occupying the structure, especially to children, including, but not limited to, increased risk of fire from grow light systems, exposure to fertilizers, pesticides, anti-fungus/mold agents, and exposure to potential property crimes. To adequately address these risks, it is proper and necessary that requests to cultivate marijuana within a residence or other structure used or intended for human occupancy be considered on a case-by-case basis through a Waiver process administered by the Tehama County Department of Environmental Health.
- (G) Cultivation of any amount of marijuana at locations or premises within one thousand feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises is especially hazardous to public health,

safety, and welfare, and to the protection of children and the person(s) cultivating the marijuana plants. To adequately address these risks, it is proper and necessary that requests to cultivate marijuana in such locations be considered on a case-by-case basis through a Waiver process administered by the Tehama County Department of Environmental Health.

- (H) The cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.
- (I) The cultivation of marijuana upon vacant lots (i.e., premises without a permitted residential use) presents a heightened risk of the harms that Chapter 9:06 was designed to prevent, including criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards, due to the absence of an onsite caretaker eligible to cultivate marijuana in accordance with state law. Marijuana cultivation upon vacant lots is more likely to violate the registration, setback, plant limit, security, and location requirements of this Chapter than marijuana cultivated accessory to a permitted residential use, is more likely to be diverted to unlawful use, and is less likely to serve the legitimate needs of persons cultivating marijuana in accordance with state law. Limiting the cultivation of marijuana to premises that contain a permitted residential use is proper and necessary to avoid the aforementioned harms, and to protect the health, safety, and welfare of the residents and businesses within the unincorporated area of the County of Tehama.
- (J) It is the purpose and intent of this chapter to implement State law by providing a means for regulating the cultivation of marijuana in a manner that is consistent with State law and which balances the interests of persons choosing to cultivate and use marijuana 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 California's medical marijuana laws and the Adult Use of Marijuana Act, and towards that end, is not intended to prohibit persons from individually or jointly 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 or jointly cultivated in any location or premises, in order to protect the public health, safety, and welfare in Tehama County.
- (K) In order to ensure compliance with the regulations set forth in the Marijuana Cultivation Ordinance, facilitate enforcement in the event of non-compliance, and reduce hazards to emergency and other public agency personnel responding to premises where marijuana is cultivated, it is reasonable, proper, and necessary to require that all premises where marijuana is cultivated register annually with the Department of Environmental Health.

- (L) Neither California's medical marijuana laws nor the Adult Use of Marijuana Act confer the right to create or maintain a public nuisance. By adopting the regulations contained in this chapter, the county will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of marijuana in the unincorporated area of Tehama County.
- (M) Nothing in this ordinance shall be construed to allow the cultivation or use of marijuana for commercial purposes, or allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal under State or federal law. ~~No provision of this chapter deemed a defense or immunity to any action brought against any person by the Tehama County District Attorney, the Attorney General of State of California, or the United States of America.~~

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

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

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

- (A) "Child care center" means any licensed child care center, daycare center, or childcare home, or any preschool.
- (B) "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.
- (C) "Cultivation" means the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.
- (D) "Enforcing officer" means the health officer or the sheriff, or the authorized deputies or designees of either, or any person employed by the County of Tehama and appointed to the position of code enforcement officer, as established by Tehama County Resolution Number 125-1991, each of whom is independently authorized to enforce this chapter.
- (E) "Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code).
- (F) "Marijuana plant" means any mature or immature marijuana plant, or any marijuana seedling.

- (G) "Outdoor cultivation" shall mean any cultivation of marijuana that is not conducted within a detached fully enclosed secure accessory structure conforming to the requirements of Section 9.06.035, subdivision (E)(1). Outdoor cultivation includes, without limitation, cultivation of marijuana within a greenhouse or "hoophouse" or similar facility.
- (H) "Premises" shall mean a single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single "premises" for purposes of this chapter.

(I) "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.

(J) "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.

(K) "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.

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

SECTION 7. Section 9.06.035 of the Tehama County Code is hereby repealed.

SECTION 8. Section 9.06.035 is hereby added to the Tehama County Code to read:

9.06.035 Nuisance Declared.

The following regulations shall apply to premises used for marijuana cultivation in the unincorporated area of Tehama County:

- (A) The outdoor cultivation of marijuana, in any amount or quantity, is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter.

- (B) The cultivation of more than six marijuana plants on any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter. The foregoing limitation shall be imposed regardless of the number of persons residing at the premises or participating directly or indirectly in the cultivation. Further, this limitation shall be imposed notwithstanding any assertion that the person(s) cultivating marijuana are the primary caregiver(s) for qualified patients or that such person(s) are collectively or cooperatively cultivating marijuana.
- (C) Except as provided in a Waiver granted in accordance with subdivision (F), the cultivation of marijuana, in any amount or quantity, upon any premises located within one thousand feet of any school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter.
1. Except as provided in subdivision (C)(2), such distance shall be measured in a straight line from the boundary line of the premises upon which marijuana is cultivated to the boundary line of the premises upon which the school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is located.
 2. If the premises is twenty acres or greater in size, then such distance shall be measured in a straight line from the detached fully enclosed secure accessory structure in which the marijuana is cultivated required by subdivision (E)(1) to the boundary line of the premises upon which the school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is located.
- (D) Except as provided in a Waiver granted in accordance with subdivision (F), the cultivation of marijuana, in any amount or quantity, within a residence or any other structure used or intended for human occupancy is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter.
- (E) Except as provided in a Waiver granted in accordance with subdivision (F), the cultivation of marijuana, in any amount or quantity, upon any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter, unless all of the following conditions are satisfied:
1. The cultivation of marijuana must be conducted within a detached fully enclosed secure accessory structure conforming to the following standards:
 - a. The structure shall be a building completely detached from any residence or other structure used or intended for human occupancy. The structure shall comply with Title 15 of the Tehama County Code, and have a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments. The structure shall be secure against unauthorized entry, and accessible only through one or more lockable doors. Walls and roofs must be constructed of solid

materials that cannot be easily broken through, such as two inch by four inch or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

- b. Any structure, regardless of square footage, constructed, altered or used for the cultivation of marijuana must obtain a building permit from the building official. The intended use of the structure for marijuana cultivation shall be disclosed in the application for a building permit, and the structure shall be inspected for compliance with this chapter prior to the commencement of any cultivation. The conversion of any existing accessory structure, or portion thereof, for cultivation of marijuana shall be subject to these same permit requirements, and must be inspected by the building official for compliance with this chapter prior to the commencement of any cultivation. Cultivation within any structure may not commence without final approval of the building official.
 - c. The maximum electrical panel for the structure shall be fifty amps. Except for temporary use in case of emergency power loss, the use of generators to supply power to any system or activity associated with marijuana cultivation is prohibited.
 - d. Light systems utilized in connection with marijuana cultivation shall not exceed one thousand two hundred watts, shall comply with all applicable provisions of Title 15 of the Tehama County Code, and shall be shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure.
 - e. The structure shall be equipped with odor control filtration and ventilation system(s) adequate to prevent marijuana plant odors from exiting the interior of the structure.
 - f. The structure shall have locking doors and a working security system which shall consist of a standard audible residential alarm of at least ninety dB A, but not exceeding one hundred ten dB A.
 - g. Such structure shall be accessory to a permitted residential use in accordance with subdivision (G) of this section.
2. Each structure in which the marijuana is cultivated shall be set back at least one hundred feet from all boundaries of the premises. Such setback distance shall be measured in a straight line from the structure in which the marijuana is cultivated to the boundary line of the premises.
- (F) The cultivation of marijuana, in any amount or quantity, upon any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter, unless the person(s) owning, leasing, occupying, or having charge or possession of any premises have submitted the required annual registration for the

premises to the Tehama County Department of Environmental Health, and provided all of the following current information and documentation to the department:

1. The name of each person, owning, leasing, occupying, or having charge or possession of the premises;
2. The name of each person 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;
3. The number of marijuana plants cultivated on the premises; and
4. Such other information and documentation as the department determines is necessary to ensure compliance with state law and this chapter.
5. If the person(s) cultivating marijuana on any legal parcel is/are not the legal owner(s) of the parcel, such person(s) shall submit a notarized letter from the legal owner(s) consenting to the cultivation of marijuana on the parcel. This letter shall be examined by department, and shall then be returned to the submitter. The department shall prescribe forms for such letters.

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

The Tehama County Department of Environmental Health may refuse to accept a registration for any premises upon which marijuana cultivation is being conducted, or is proposed to be conducted, in violation of this chapter. The acceptance of a registration pursuant to this chapter shall not be deemed or construed to be a permit for or approval of any violation of this chapter. The acceptance of a registration shall not prevent the enforcing officer from thereafter requiring correction of violations or from preventing marijuana cultivation being carried out thereunder when in violation of this chapter.

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

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

At the time of registration, the owner or occupant of the premises may submit a written request that the director of environmental health waive the application of any provision of Subdivisions (C), (D), or (E) based upon a finding of unusual hardship or other good cause. Waiver requests shall not be unreasonably

denied. In the event that the California Attorney General issues a determination under Health and Safety Code section 11362.2, subdivision (b)(4), the foregoing Waiver authority shall then also include Subdivision (A). The director shall grant or deny each Waiver request in writing, and may impose reasonable conditions upon any Waiver granted. If granted, the Waiver shall remain valid until expiration of the registration, at which time the Waiver shall also expire. Renewal of any such Waiver may be requested at the same time as renewal of registration. If the Waiver request is denied or conditioned, the owner or occupant may submit a written appeal to the clerk of the board of supervisors within ten (10) calendar days. If a hearing officer has been appointed in accordance with Section 9.06.085, the appeal shall be heard by the hearing officer; otherwise the appeal shall be heard by the board of supervisors. The board of supervisors or hearing officer, as applicable, shall consider the matter de novo, and may affirm, reverse, or modify the determination of the director. The decision of the board of supervisors or hearing officer, as applicable, shall be final and conclusive.

- (G) The cultivation of marijuana, in any amount or quantity upon any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter, unless the premises contains a permitted residential use. For purposes of this subdivision, "permitted residential use" shall mean actual residential use of the premises that is conducted in a residential structure or manufactured home on a permanent foundation for which a final certificate of occupancy has been issued in accordance with Title 15 of the Tehama County Code.
- (H) The cultivation of marijuana, in any amount or quantity upon any premises, in connection with any "commercial cannabis activity," as defined in the Medical Cannabis Regulation and Safety Act, or any "commercial marijuana activity," as defined in the Adult Use of Marijuana Act, or by any licensee or person required to obtain a license under either statute, is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter.
- (I) No person owning, leasing, occupying, or having charge or possession of any premises within the county shall cause, allow, suffer, or permit such premises to be used for the outdoor or indoor cultivation of marijuana plants in violation of this chapter.

SECTION 9. Section 9.06.040 of the Tehama County Code is hereby repealed.

SECTION 10. Section 9.06.045 of the Tehama County Code is hereby repealed.

SECTION 11. Section 9.06.100 of the Tehama County Code is hereby repealed.

SECTION 12. Section 9.06.100 is hereby added to the Tehama County Code to read:

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. An owner or occupant abating unlawful marijuana cultivation hereunder shall notify the enforcing officer upon completion of abatement and shall provide evidence that the unlawful marijuana cultivation 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 marijuana cultivation has been completely removed from the premises and lawfully disposed or relocated, and notification has been provided as set forth in this section.

SECTION 13. Section 9.06.130 of the Tehama County Code is hereby repealed.

SECTION 14. Section 9.06.130 is hereby added to the Tehama County Code to read:

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 ten (10) calendar days after the date of mailing of the notice, the board of supervisors or hearing officer, as applicable, 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. 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.

SECTION 15. Section 9.06.155 is hereby added to the Tehama County Code to read:

9.06.155 – Alternative hearing procedure. If a hearing officer has been appointed in accordance with Section 9.06.085, the hearing required under Sections 9.06.130 through 9.06.150 may be conducted by such hearing officer, who 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 Sections 9.06.130 through 9.06.150.

SECTION 16. Section 9.06.160 of the Tehama County Code is hereby repealed.

SECTION 17. Section 9.06.160 is hereby added to the Tehama County Code to read:

9.06.160 - 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.

SECTION 18. Section 9.06.165 of the Tehama County Code is hereby repealed.

SECTION 19. Section 9.06.165 is hereby added to the Tehama County Code to read:

9.06.165 - Administrative civil penalties.

- (A) In addition to any other remedy prescribed in this chapter, any nuisance as described in this chapter may be subject to an administrative penalty of up to one thousand dollars per day. The administrative penalty may be imposed via the administrative process set forth in this section, as provided in Government Code Section 53069.4, or may be imposed by the court if the violation requires court enforcement without an administrative process.
- (B) Acts, omissions, or conditions in violation of this chapter that continue, exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations.
- (C) In the case of a continuing violation, if the violation does not create an immediate danger to health or safety, the enforcing officer or the court shall provide for a reasonable period of time, not to exceed five calendar days, for the person responsible for the violation to correct or otherwise remedy the violation prior to the imposition of administrative penalties.
- (D) In determining the amount of the administrative penalty, the enforcing officer, or the court if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and any other matters justice may require.
- (E) The enforcing officer may commence the administrative process by issuance of a notice of violation and proposed administrative penalty, which shall state the amount of the

proposed administrative penalty and the reasons therefore. The notice of violation and proposed administrative penalty may be combined with a notice to abate unlawful marijuana cultivation issued pursuant to Section 9.06.050 or a notice and administrative order to show cause pursuant to Section 9.06.085. The notice shall be served by certified mail addressed to all of the following: (i) the owner of the property on which the violation exists, at the address shown on the last equalized assessment roll or as otherwise known to the enforcing officer; (ii) anyone known to the enforcing officer to be in possession of the property subject to the notice, at the street address of the property; and (iii) any other person known to the enforcing officer who has caused, permitted, maintained, conducted, or otherwise suffered or allowed the violation to exist. The failure to serve any person described in this subsection shall not affect the validity of service or the validity of any penalties imposed upon any other person.

- (F) Except as provided in subdivision (G), the notice shall inform the recipient of their right to request a hearing before the board of supervisors in accordance with this section. If such a hearing is not requested within ten (10) 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 9.06.085, the notice shall inform the recipient that a hearing will be held before a hearing officer appointed in accordance with that section and specify the date, time, and location of this hearing. Failure of the person or persons to whom the notice was issued to appear and present evidence shall constitute a failure to exhaust administrative remedies.
- (H) After the hearing, the board or hearing officer may impose, modify, or disapprove, in whole or in part, by written order, the proposed penalty set forth in the notice. The decision of the board of supervisors or hearing officer shall be final and conclusive. Any order of the board of supervisors or hearing officer shall become effective upon issuance thereof and shall be served by first class mail, postage prepaid, upon the appellant. Payment of an administrative penalty specified in said order shall be made to the county within twenty 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 (10) 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 9.06.085, 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.

SECTION 20. Section 9.06.230 of the Tehama County Code is hereby repealed.

SECTION 21. Section 9.06.230 is hereby added to the Tehama County Code to read:

9.06.230 – No criminal penalty. Notwithstanding any other provision of this Code, violation of this chapter shall not be a misdemeanor or an infraction.

SECTION 22. 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 2nd day of May, 2017 by the following vote:

