

ORDINANCE NO. 1586

**AN ORDINANCE OF THE COUNTY OF SUTTER AMENDING THE SUTTER COUNTY
ORDINANCE CODE BY ADDING CHAPTER 410 PERTAINING TO MARIJUANA
CULTIVATION**

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

SECTION 1: The Sutter County Ordinance Code is amended by adding Chapter 410 to read, in its entirety, as follows:

Chapter 410

MARIJUANA CULTIVATION

SECTIONS:

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410-010 AUTHORITY AND TITLE

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

The Board of Supervisors of the County of Sutter hereby finds and declares the following:

(A) In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996").

(B) The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The Proposition further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes." The ballot arguments supporting Proposition 215 expressly acknowledged that "Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere."

(C) In 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 et seq.) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes.

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

(E) The federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes.

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

(G) Proposition 215 and Senate Bill 420 primarily address the criminal law, providing qualifying patients and primary caregivers with limited immunity from state criminal prosecution under certain identified statutes. Neither Proposition 215 nor Senate Bill 420, nor the Attorney

General's August 2008 *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use* adopted pursuant to Senate Bill 420, provides comprehensive civil regulation of premises used for marijuana cultivation. The unregulated cultivation of marijuana in the unincorporated area of Sutter County can adversely affect the health, safety, and well-being of the County and its residents. Comprehensive civil regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation, and that are especially significant if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in one place.

(H) Cultivation of any amount of marijuana at locations or premises within 2,000 feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana plants.

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

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

(K) The limited right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Chapter, the County will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of marijuana in the unincorporated area of Sutter County.

(L) Nothing in this ordinance shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal under State or federal law. No provision of this Chapter shall be deemed a defense or immunity to any action brought against any person by the Sutter County

District Attorney, the Attorney General of State of California, or the United States of America.

410-030 DEFINITIONS

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

(A) “Administrative Hearing Officer” means an individual appointed by the Board of Supervisors pursuant to California Government Code Section 27720, et seq. for the purpose of conducting hearings for the county. Said individual shall be an attorney at law who has been admitted to practice before the courts of the State of California for at least five years prior to appointment. The Administrative Hearing Officer shall be authorized to decide a matter upon which a hearing has been held pursuant to California Government Code Section 27721 and shall render a written decision, including any findings or conclusions required for that decision, and submit the decision and the record to the clerk of the Board of Supervisors.

(B) “Child Care Center” means any licensed child care center, daycare center, or childcare home, or any preschool.

(C) “Church” means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

(D) “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.

(E) “Enforcing Officer” means the Development Services Director or the Sheriff, or the authorized deputies or designees of either, each of whom is independently authorized to enforce this Chapter.

(F) “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).

(G) “Marijuana plant” means any mature or immature marijuana plant, or any marijuana seedling, unless otherwise specifically provided herein.

(1) “Immature Marijuana Plant” means a marijuana plant with no observable flowers or buds.

(2) “Mature Marijuana Plant” means a marijuana plant which has flowers or buds that are readily observable by an unaided visual examination.

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

(I) "Primary caregiver" shall have the meaning set forth in Proposition 215 and Senate Bill 420.

(J) "Qualified patient" shall have the meaning set forth in Proposition 215 and Senate Bill 420.

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

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

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

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

410-040 NUISANCE DECLARED

(A) The cultivation of marijuana, in any amount or quantity, either indoors or outdoors, upon any premises located within two thousand (2,000) feet of any school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter.

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

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

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

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

(a) The name of each person, owning, leasing, occupying, or having charge or possession of the premises;

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

(c) A copy of the current valid medical recommendation (or a verified statement that an oral recommendation has been issued by an identified doctor) or State-issued medical marijuana card for each qualified patient identified as required above, and for each qualified patient for whom any person identified as required above is the primary caregiver;

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

(e) Such other information and documentation as the Development Services Department determines is necessary to ensure compliance with State law and this Chapter.

This information and documentation shall be received in confidence, and shall be used or disclosed only for purposes of administration or enforcement of this Chapter or State law, or as otherwise required by law. This information shall not be voluntarily shared with any other governmental agencies unless compelled by law.

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

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

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

(4) Each building or outdoor area in which the marijuana is cultivated shall be set back from the boundaries of the premises as follows:

(a) If the premises is one (1) acre in size or less, each cultivation area shall be set back at least 100 feet from all boundaries of the premises, unless the enforcing officer or the Board of Supervisors reduces or waives this requirement based upon a finding that alternative mitigation methods to be employed by the applicant will eliminate any nuisance to neighboring parties. The 100 foot setback requirement contained in this section shall not apply to a cultivation which occurs in a detached, fully-enclosed and secure structure which, at all times, utilizes a ventilation and filtration system which prevents marijuana plant odors from exiting the interior of the structure.

(b) If the premises is greater than one (1) acre in size but less than one hundred and sixty (160) acres in size, each cultivation building or area shall be set back at least 500 feet from all boundaries of the premises, unless the enforcing officer or the Board of Supervisors reduces or waives this requirement based upon a finding that alternative mitigation methods to be employed by the applicant will eliminate any nuisance to neighboring parties. The 500 foot setback requirement contained in this section shall not apply to a cultivation which occurs in a detached, fully-enclosed and secure structure which, at all times, utilizes a ventilation and filtration system which prevents marijuana plant odors from exiting the interior of the structure. .

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

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

(C) 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.

410-045 CHANGE IN LAND USE

The County shall encourage any person proposing to construct or operate a new or relocated school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility to consider whether the proposed location of such use is within two thousand (2,000) feet of a registered premises upon which marijuana is cultivated. Upon request, the Sutter County Department of Development Services shall inform any person proposing to construct or operate a new or relocated school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility regarding whether there is a registered premises upon which marijuana is cultivated within two thousand (2,000) feet of the proposed location of such use, and, if so, shall also inform the person, owning, leasing, occupying, or having charge or possession of the registered premises that such a use is being proposed within (2,000) feet of the premises.

410-050 NOTICE TO ABATE UNLAWFUL MARIJUANA CULTIVATION

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

410-060 CONTENTS OF NOTICE

The Notice set forth in section 410-050 shall be in writing and shall:

(A) Identify the owner(s) of the property upon which the nuisance exists, as named in the records of the county assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.

(B) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.

(C) Identify such property by reference to the assessor's parcel number.

(D) Contain a statement that unlawful marijuana cultivation exists on the premises and that it has been determined by the enforcing officer to be a public nuisance described in this Chapter.

(E) Describe the unlawful marijuana cultivation that exists and the actions required to abate it.

(F) Contain a statement that the owner or occupant is required to abate the unlawful marijuana cultivation within five (5) calendar days after the date that said Notice was served.

(G) Contain a statement that the owner or occupant may, within five (5) calendar days after the date that said Notice was served, make a request in writing to the Clerk of the Board of Supervisors for a hearing to appeal the determination of the enforcing officer that the conditions existing constitute a public nuisance, or to show other cause why those conditions should not be abated in accordance with the provisions of this Chapter.

(H) Contain a statement that, unless the owner or occupant abates the unlawful marijuana cultivation, or requests a hearing before the Administrative Hearing Officer, within the time prescribed in the Notice, the enforcing officer will abate the nuisance. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

410-070 SERVICE OF NOTICE

(A) The Notice set forth in section 410-050 shall be served by delivering it personally to the owner and to the occupant, or by mailing it by regular United States mail, together with a certificate of mailing, to the occupant of the property at the address thereof, and to any non-occupying owner at his or her address as it appears on the last equalized assessment roll, except that:

(1) If the records of the county assessor show that the ownership has changed since the last equalized assessment roll was completed, the Notice shall also be mailed to the new owner at his or her address as it appears in said records; or

(2) In the event that, after reasonable effort, the enforcing officer is unable to serve the Notice as set forth above, service shall be accomplished by posting a copy of the Notice on the real property upon which the nuisance exists as follows: Copies of the Notice shall be posted along the frontage of the subject property and at such other locations on the property reasonably likely to provide notice to the owner. In no event shall fewer than two (2) copies of the Order be posted on a property pursuant to this section.

(B) The date of service is deemed to be the date of deposit in the mail, personal delivery, or posting, as applicable.

410-080 ADMINISTRATIVE REVIEW

(A) Any person upon whom a Notice to Abate Unlawful Marijuana Cultivation has been served may appeal the determination of the enforcing officer that the conditions set forth in the Notice constitute a public nuisance to the Administrative Hearing Officer, or may show cause before the Administrative Hearing Officer why those conditions should not be abated in accordance with the provisions of this Chapter. Any such administrative review shall be commenced by filing a written request for a hearing with the clerk of the Board of Supervisors within five (5) calendar days after the date that said Notice was served. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived. In the absence of a timely filed written request that complies fully with the requirements of this Section, the findings of the enforcing officer contained in the Notice shall become final and conclusive on the sixth day following service of the Notice.

(B) Upon timely receipt of a written request for hearing which complies with the requirements of this Section, the clerk of the Board of Supervisors shall set a hearing date not less than five (5) days nor more than fifteen (15) days from the date the request was filed. The clerk shall send written notice of the hearing date to the requesting party, to any other parties upon whom the Notice was served, and to the enforcing officer.

(C) Any hearing conducted pursuant to this chapter need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The Administrative 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.

(D) The Administrative Hearing Officer may continue the administrative hearing from time to time.

(E) The Administrative Hearing Officer shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the Notice to Abate Unlawful Marijuana Cultivation. The Administrative Hearing Officer shall issue a written decision which shall include findings relating to the existence or nonexistence of the alleged unlawful marijuana cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the Notice. The decision shall be submitted to the clerk of the Board of Supervisors who shall mail to, or personally serve upon, the party requesting the hearing, any other parties upon whom the Notice was served, and the enforcing officer.

(F) The decision of the Administrative Hearing Officer shall be final and conclusive.

410-090 LIABILITY FOR COSTS

(A) In any enforcement action brought pursuant to this Chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the unlawful marijuana cultivation to exist shall be liable for all costs incurred by the county, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this Chapter, whether those costs are incurred prior to, during, or following enactment of this Chapter;

(B) In any action by the enforcing officer to abate unlawful marijuana cultivation under this Chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the County elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding.

410-100 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.

410-110 ENFORCEMENT

Whenever the enforcing officer becomes aware that an owner or occupant has failed to abate any unlawful marijuana cultivation within five (5) days of the date of service of the Notice to Unlawful Marijuana Cultivation, unless timely appealed, or of the date of the decision of the Administrative Hearing Officer requiring such abatement, the enforcing officer may take one or more of the following actions:

(A) 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. 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

(B) Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance.

(C) Impose administrative penalties in accordance with the provisions of Chapter 87 of the Sutter County Ordinance Code.

410-120 ACCOUNTING

The enforcing officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the clerk of the Board of Supervisors showing the cost of abatement and the administrative costs for each parcel.

410-130 NOTICE OF HEARING ON ACCOUNTING; WAIVER BY PAYMENT

Upon receipt of the account of the enforcing officer, the clerk of the Board of Supervisors shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than five (5) business days after the date of mailing of the notice, the Board of Supervisors will meet to review the account and that the owner may appear at said time and be heard. Such hearing shall occur during a regularly scheduled meeting of the Board of Supervisors and may be placed and acted upon as part of the consent agenda. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the enforcing officer

prior to the time set for the hearing by the Board of Supervisors. Unless otherwise expressly

stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable.

410-140 HEARING ON ACCOUNTING

(A) At the time fixed, the Board of Supervisors shall meet to review the report of the enforcing officer. An owner may appear at said time and be heard on the questions whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed.

(B) The report of the enforcing officer shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.

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

410-150 MODIFICATIONS

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

410-160 SPECIAL ASSESSMENT AND LIEN

The Board of Supervisors may order that the cost of abating nuisances pursuant to this Chapter and the administrative costs as confirmed by the Board of Supervisors be placed upon the County tax roll by the County Assessor 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.

410-170 ENFORCEMENT BY CIVIL ACTION

As an alternative to the procedures set forth in Sections 410-050 through 410-080, the

County may abate the violation of this Chapter by the prosecution of a civil action through the Office of the County Counsel, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Chapter or requiring compliance with other terms.

410-180 SUMMARY ABATEMENT

Notwithstanding any other provision of this Chapter, when any unlawful marijuana cultivation constitutes an immediate threat to public health or safety, and when the procedures set forth in Sections 410-050 through 410-080 would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer, in his or her sole discretion, may direct any officer or employee of the County to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified in Section 410-070, but the formal notice and hearing procedures set forth in this Chapter shall not apply. The County may nevertheless recover its costs for abating that nuisance in the manner set forth in Sections 410-120 through 410-160.

410-190 NO DUTY TO ENFORCE

Nothing in this Chapter shall be construed as imposing on the enforcing officer or the County of Sutter any duty to issue an Notice to Abate Unlawful Marijuana Cultivation, nor to abate any unlawful marijuana cultivation, nor to take any other action with regard to any unlawful marijuana cultivation, and neither the enforcing officer nor the County of Sutter shall be held liable for failure to issue an order to abate any unlawful marijuana cultivation, nor for failure to abate any unlawful marijuana cultivation, nor for failure to take any other action with regard to any unlawful marijuana cultivation.

410-200 REMEDIES CUMULATIVE

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

410-210 OTHER NUISANCE

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

410-210 COMPLIANCE WITH OTHER LAWS

As used in this Chapter, "permitted," "approved," "allowed," and similar terms shall mean only that the use or activity does not violate the Sutter County Code. No provision of this Chapter, nor any document issued hereunder, shall be construed to authorize, legalize, allow, approve, or condone any activity that violates any provision of State or Federal law or this Code. Nothing in this ordinance shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal under State or Federal law. No provision of this Chapter shall be deemed a defense or immunity to any action brought against any person by the Sutter County District Attorney, the Attorney General of the State of California, or the United States of America.

410-220 SEVERABILITY

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

SECTION 2: This ordinance shall take effect thirty (30) days after the date of its adoption and before the expiration of fifteen (15) days from the date of passage thereof, shall be published at least once in the Appeal-Democrat, a newspaper of general circulation, printed and published in the County of Sutter, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

PASSED AND ADOPTED this 22nd day of October, 2013, by the Sutter County Board of Supervisors, State of California, by the following vote:

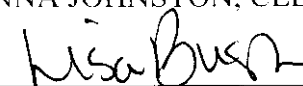
AYES: Supervisors Sullenger, Cleveland, Munger, Whiteaker and Gallagher

NOES: None

ABSENT: None


Chairman, Board of Supervisors

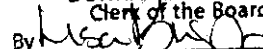
ATTEST:
DONNA JOHNSTON, CLERK

By: 
Deputy



FILED

OCT 23 2013

BOARD OF SUPERVISORS
DONNA M. JOHNSTON
Clerk of the Board
By:  Deputy

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October 22, 2013
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