

BOARD OF SUPERVISORS

Yolo County, California

Date: October 25, 2016

To: Ag ✓

35.

Waive second reading and consider adoption of an ordinance amending Chapter 20 to Title 5 of the Yolo County Code regulating the cultivation of medical marijuana in the unincorporated areas of Yolo County. (No general fund impact) (Young)

Clarissa Williams and Jackie McGowan addressed the Board on this item.

Minute Order No. 16-153: Approved recommended action by **Ordinance No. 1473**.

MOVED BY: Saylor / SECONDED BY: Chamberlain

AYES: Chamberlain, Villegas, Saylor, Rexroad, Provenza.

NOES: None.

ABSTAIN: None.

ABSENT: None.



# County of Yolo

www.yolocounty.org

To: Supervisor Jim Provenza, Chair  
and Members of the Board of Supervisors

## Regular-General Government # 35.

### Agriculture

### Board of Supervisors

**Meeting Date:** 10/25/2016

**Brief Title:** Second Reading of the amended Medicinal Marijuana Cultivation Ordinance

**From:** John Young, Agricultural Commissioner, Department of Agriculture

**Staff Contact:** Anna Louzon, Management Analyst, County Administrator's Office, x5776

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### Subject

Waive second reading and consider adoption of an ordinance amending Chapter 20 to Title 5 of the Yolo County Code regulating the cultivation of medical marijuana in the unincorporated areas of Yolo County. (No general fund impact) (Young)

### Recommended Action

Waive second reading and consider adoption of an ordinance amending Chapter 20 to Title 5 of the Yolo County Code regulating the cultivation of medical marijuana in the unincorporated areas of Yolo County.

### Strategic Plan Goal(s)

Operational Excellence  
Safe Communities  
Sustainable Environment  
Flourishing Agriculture

### Reason for Recommended Action/Background

#### Background

On March 22, 2016, in response to the Medical Marijuana Regulation and Safety Act (MMRSA) and to effect greater local control, the Board of Supervisors adopted Ordinance 1467, adding Chapter 20 to Title 5 of the Yolo County Code regulating medical marijuana cultivation in Yolo County. The Board requested the initial ordinance as an interim measure to address neighbor complaints and limit harmful environmental impacts while protecting patient access to medical marijuana, while state and county staff develop more comprehensive regulatory programs.

On October 11, 2016, Agricultural Commissioner John Young presented an update on the implementation of the interim ordinance and efforts of the task force newly formed to enforce its provisions. Through the course of its enforcement efforts, the task force identified provisions of the ordinance that require strengthening in order to best effectuate the intent of the ordinance. To that end, staff and the Agricultural Commissioner requested the Board adopt an amended interim ordinance to make the interim ordinance stronger and more effective. Changes to the

interim ordinance include:

1. Definitions for: abatement costs, administrative costs, cultivation site, enforcing officer, and youth oriented facility.
2. Revision of the patient cultivation exemption for consistency with state law.
3. Clarification of the number of patients who may grow per property.
4. Requirement that commercial cultivators: (a) participate in a track and trace program when instituted by the County, (b) provide written consent for compliance inspections and (c) sign an indemnification agreement protecting the County.
5. Prohibition on commercial cultivation by those with enumerated criminal convictions.
6. Residency requirements.
7. Requirement that cultivators register with the County.
8. Addition of a nuisance abatement process specific to marijuana with attendant full cost recovery.

The amended ordinance is attached as Attachment A to this staff report. Residency requirements in this ordinance require persons cultivating medical marijuana to either own the premises where cultivation is occurring or have entered into a written lease with the recorded property owner that includes the written permission of the property owner for the lessee to cultivate medical marijuana on the property. An additional residency requirement included in the initial version of the ordinance considered on October 11, 2016 (i.e., the two-year minimum residency requirement) has been deleted, as directed by the Board.

Staff recommends the Board waive the second reading and consider adoption of the ordinance amending Chapter 20 to Title 5 of the Yolo County Code regulating the cultivation of medical marijuana in the unincorporated areas of Yolo County. The interim prohibition is brought on a separate agenda item for the Board of Supervisors' consideration on October 25, 2016.

### **Collaborations (including Board advisory groups and external partner agencies)**

Department of Agriculture worked closely with County Counsel, the County Administrator's Office and the District Attorney's Office in developing the interim ordinance update, as well as in coordination with the Medical Marijuana Cultivation Task Force, comprised of representatives from the Department of Community Services, the Sheriff's Office, and Health and Human Services Agency. Regional and state agencies, such as the Central Valley Regional Water Control Board and the Yolo-Solano Air Quality Management District, as well as medical marijuana industry groups and businesses, and Yolo County residents and neighbors have been actively part of the iterative dialog in developing these changes to the interim ordinance.

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### **Fiscal Information**

No Fiscal Impact

#### Fiscal Impact of this Expenditure

Total cost of recommended action

Amount budgeted for expenditure

Additional expenditure authority needed

\$0

On-going commitment (annual cost)

#### Source of Funds for this Expenditure

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**Attachments**

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Att. A. Ordinance

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**Form Review**

<b>Inbox</b>	<b>Reviewed By</b>	<b>Date</b>
Patrick Blacklock	Patrick Blacklock	12/06/2015 11:30 AM
Patrick Blacklock	Patrick Blacklock	10/17/2016 04:21 PM
Carolyn West	Carolyn West	10/18/2016 05:08 PM
County Counsel	Hope Welton	10/19/2016 08:44 AM
Phil Pogledich	Phil Pogledich	10/19/2016 03:47 PM
Form Started By: Anna Louzon		Started On: 11/30/2015 11:03 AM
Final Approval Date: 10/19/2016		

OCT 31 2016

CLERK OF THE BOARD  
BY Julie Pachter  
DEPUTY

ORDINANCE NO. 1473

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF YOLO  
AMENDING CHAPTER 20 OF TITLE 5 OF THE YOLO COUNTY CODE REGARDING  
MEDICAL MARIJUANA CULTIVATION

The Board of Supervisors of the County of Yolo ordains as follows:

**SECTION 1. Purpose**

The purpose of this Ordinance is to amend Chapter 20 of Title 5 of the Yolo County Code regarding medical marijuana cultivation to do the following: add a nuisance abatement process specific to marijuana, provide clarity in definitions, remove the exemption to the qualified patient cultivation provision to be consistent with state law, add a release of liability and hold harmless provision, require that cultivators participate in any track and trace program implemented by the County and disqualify from commercial cultivation those who have been convicted of certain felonies.

**SECTION 2. Background and Findings**

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

B. The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and

C. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 et seq. and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows counties to adopt and enforce rules and regulations consistent with its provisions; and

D. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768). This law affirms that counties can adopt ordinances that restrict the location and establishment of medical marijuana collectives and cooperatives; and

E. On October 9, 2015 Governor Brown signed into law the Medical Marijuana Regulation and Safety Act (MMRSA). The MMRSA is a package of three separate bills (AB 243, AB 266 and SB 643), enacted by the legislature on September 11, 2015 that established a comprehensive regulatory framework for the cultivation, production, transportation, testing, sale and taxation of medical marijuana in California; and

F. Pursuant to California Business and Professions Code section 19315(a), nothing in the Medical Marijuana Regulation and Safety Act shall be interpreted to supersede or limit existing

local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and

G. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical Marijuana Regulation and Safety Act to protect the public health, safety, and welfare of Yolo County residents in relation to the cultivation of medical marijuana; and

H. Marijuana cultivation has been shown to involve avoidance of environmental laws and regulations and resulted in the pollution of waters and navigable waterways in the State of California. Unregulated marijuana cultivation can be harmful to the welfare of the surrounding community and its residents and constitute a public nuisance; and

I. Unregulated marijuana cultivation in the unincorporated areas of Yolo County can adversely affect the health, safety and well-being of the County, its residents and environment. The regulating of the cultivation of marijuana is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment and offensive odor that may result from unregulated medicinal marijuana cultivation; and

J. The rights of qualified patients 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 reduction in the harms caused or threatened by unregulated cultivation of marijuana in the unincorporated area of Yolo County; and

K. It is the purpose and intent of this Ordinance to implement state law by providing a means for regulating the cultivation of medicinal marijuana 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 area of Yolo County. This Ordinance is intended to prohibit the cultivation of marijuana by anyone for any purpose other than allowed within the strict compliance with local ordinances and applicable state law. This Chapter is not intended to prohibit persons from exercising any right otherwise granted by state law, including Proposition 215 and Senate Bill 420. Rather, the intent and purpose of this Chapter is to establish reasonable regulations upon the manner in which marijuana for medicinal purposes may be cultivated, in order to protect the public health, safety and environment in Yolo County; and

L. The County of Yolo intends to continue review and consideration of a more comprehensive medical marijuana licensing and regulatory program and to accordingly develop a revised ordinance that most effectively regulates and licenses all facets of medical marijuana activities; and

M. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 841 or to license any activity that is prohibited under said Act except as mandated by state law; and

N. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of marijuana for non-medical purposes; or (3) allow any activity relating to the cultivation, distribution, or consumption of marijuana that is illegal under state or federal law;

**SECTION 3.** Chapter 20 is amended as follows (any underlined language is new and is inserted, whereas any strike-through language is existing and is deleted):

## **"MEDICAL MARIJUANA CULTIVATION"**

### **Section 5-20.01 Purpose and Intent.**

It is the purpose and intent of this Chapter to regulate medical marijuana in a manner that is consistent with state law and which promotes the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Yolo by balancing: (1) the needs of medical patients and their caregivers for enhanced access to medical marijuana; (2) the needs of neighbors and communities to be protected from public safety and nuisance impacts; and (3) the need to limit harmful environmental impacts that are sometimes associated with marijuana cultivation. Nothing in this Chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance as defined in this Chapter; (2) allow the use or diversion of marijuana for nonmedical purposes; or (3) allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under California law.

### **Section 5-20.02 Relationship to Other Laws**

This Chapter is not intended to apply to, nor shall it be construed or given effect in a manner that causes it to apply to, any activity that is regulated by federal or state law to the extent that application of this Chapter would conflict with such law or would unduly interfere with the achievement of federal or state regulatory purposes. This Chapter shall be interpreted to be compatible and consistent with federal, state, and county enactments and in furtherance of the public purposes which those enactments express. The provisions of this Chapter will supersede any other provisions of this Code found to be in conflict.

### **Section 5-20.03 Definitions.**

As used in this ordinance the following definitions shall apply:

- A. "Abatement Costs" means any costs or expenses reasonably related to the abatement of conditions which violate the Yolo County Code, and shall include, but not be limited to, enforcement, investigation, collection and administrative costs, and the costs associated with the removal or correction of the violation.
- B. "Administrative Costs," shall include the cost of County staff time reasonably related to enforcement for items including, but not limited to, site inspections, travel time, investigations, telephone contacts and time spent preparing summaries, reports, notices,

correspondence, warrants and hearing packets. The time expended by all County staff to calculate the above costs and prepare itemized invoices, may also be recovered.

- C. "Caregiver" or "primary caregiver" shall have the same definition as set forth in California Health and Safety Code section 11362.7(d) as it now reads or as amended.
- D. "Cultivate" or "cultivation" shall have the same definition as set forth in California Business and Professions Code section 19300.5(l) as it now reads or as amended.
- E. "Cultivation site" shall have the same definition as set forth in California Business and Professions Code section 19300.5(k) as it now reads or as amended.
- F. "Enforcing officer" shall mean any County officer or employee, including his/her designee, with the authority to enforce this Code, its adopted codes or applicable State codes.
- G. "Garden canopy" means the net vegetative growth area measured by the combined diameters of individual marijuana plants.
- H. "Indoor" or "Indoors" means within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Yolo, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" x 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.
- I. "Marijuana" shall have the same definition as "cannabis" as set forth in California Business and Professions Code section 19300.5(f) as it now reads or as amended.
- J. "Medical marijuana" shall have the same definition as "medical cannabis" and "medical cannabis product" as set forth in California Business and Professions Code section 19300.5(ag) as it now reads or as amended.
- K. "Outdoor" or "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined in this Chapter.
- L. "Qualified patient" shall have the same definition as set forth in California Health and Safety Code section 11362.7(f) as it now reads or as amended.
- M. "Youth-oriented facility" means any facility that caters to or provides services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

## **Section 5-20.04 Prohibited Activities.**

A. The cultivation of medical marijuana, in any amount or quantity, upon any premises, is declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter, unless one of the following conditions is satisfied:

1. Patient Exemption

- a. Cultivation is by a qualified patient cultivating marijuana pursuant to Section 11362.5 of the Health & Safety Code if the area he or she uses to cultivate marijuana does not exceed 100 square feet, at full plant maturity, per legal parcel, and he or she cultivates marijuana for his or her personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity.
- b. The 100 square feet limitation is imposed regardless of the number of qualified patients residing on the property, participating directly or indirectly in or benefitting from the cultivation.
- c. For purposes of this subsection, the area used to cultivate marijuana shall be measured by the aggregate area of vegetative growth of live marijuana plants at full maturity on the premises.
- d. The qualified patient shall reside full-time in the residence where the medical marijuana cultivation occurs and may not participate in medical marijuana cultivation in any other residential location within the County of Yolo.

2. By Permit. Cultivation is in compliance with California Regional Water Quality Control Board Central Valley Region Order No. R5-2015-0113. All medical marijuana cultivation sites cultivating pursuant to this subsection shall provide to the Yolo County Department of Agriculture a copy of a submitted Notice of Intent to obtain regulatory coverage by the Central Valley Water Board as a Tier 1, 2 or 3 cultivator, Monitoring Self-Certification and other documents filed with the Central Valley Regional Water Quality Control Board demonstrating compliance with Order No. R5-2015-0113, or any substantially equivalent rule that may be subsequently adopted by the County of Yolo or other responsible agency. Notwithstanding the foregoing, the garden canopy must be between 1,000 square feet and 43,560 square feet; cultivation of medical marijuana of less than 1,000 square feet under this subsection is prohibited.

a. Persons cultivating medical marijuana by permit under this subsection shall:

- 1) Participate in any track and trace program required by the County, pay any associated fees and meet all associated requirements;
- 2) Sign a written consent to reasonable on-site compliance inspections of the cultivation area by law enforcement or other County personnel during reasonable hours; and

3) Execute an agreement to indemnify and hold harmless the County of Yolo and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the cultivation of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the cultivation of marijuana for medical use. The indemnification shall apply to any damages, costs of suit, attorneys' fees or other expenses awarded against the County, its agents, officers and employees in connection with any such action. In addition, the agreement shall release the County of Yolo, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution for cultivation in violation of state or federal laws.

B. Notwithstanding compliance with section 5-20.04(A) of this Chapter, cultivation of medical marijuana is prohibited if:

1. Cultivated in any amount or quantity, upon any premises, that discharges from any source whatsoever such quantities of air contaminants, odor or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons, to the environment or to the public or which endanger the comfort, repose, health, or safety of any such persons or the public or which cause to have a natural tendency to cause injury or damage to business or property.

C. Notwithstanding compliance with section 5-20.04(A)(2) of this Chapter, cultivation of medical marijuana by permit is prohibited if:

1. Any person owning, leasing, occupying, or having charge or possession of any property within the County who causes, or allows such property to be used for the cultivation of marijuana has been convicted in any jurisdiction of any of the following offenses:

a. A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

b. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code, or of any offense committed in another jurisdiction which includes all of the elements of any such violent felony.

c. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code, or of any offense committed in another jurisdiction which includes all of the elements of any such serious felony.

d. A felony conviction involving fraud, deceit, or embezzlement.

- D. No person owning, leasing, occupying, or having charge or possession of any parcel within the County shall cause, or allow such premises to be used for the cultivation of marijuana in violation of this Chapter. The property owner shall be responsible and jointly liable for all violations of this Chapter and applicable laws on the property.

**Section 5-20.05 Limitation on Location to Cultivate Marijuana.**

- A. The cultivation of medical marijuana, in any amount or quantity, shall not be allowed in the following areas:
  - 1. Within 1,000 feet of a youth-oriented facility, a school, a school-bus stop, a park or a church.
    - a. 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 youth-oriented facility, school, school bus stop, park, church or residential treatment facility is located.
  - 2. Outdoors within 75 feet of any occupied legal residential structure located on a separate parcel.
  - 3. In any location not fully enclosed by an opaque fence at least six feet in height. The fence must be adequately secured by a locked gate to prevent unauthorized entry. Evidence of cultivation shall not be visible from a public right-of-way or publicly traveled private roads.

**Section 5-20.06 Residency Requirements**

- A. Persons cultivating medical marijuana under this Chapter shall meet one of the following requirements:
  - 1. Own the premises where medical marijuana is cultivated; or
  - 2. Have entered into a written lease with the record owner of the property and have obtained the written permission (including notarized signatures) of the record owner(s) consenting to the cultivation of marijuana on the parcel.

**Section 5-20.07 Cultivation of Marijuana.**

- A. It is declared to be unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel of land within any unincorporated area of the County to cause or allow such parcel of land to be used for the cultivation of marijuana in violation of the requirements and limitations imposed by Section 5-20.04, in violation of the limitations on location imposed by Section 5-20.05 or without being in full compliance with all Yolo County Code requirements prior to cultivation.

- B. The use of light assistance for the outdoor cultivation of marijuana shall not exceed a maximum of 600 watts of lighting capacity per 100 square feet of growing area.
- C. All lights used for the cultivation of marijuana shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
- D. The cultivation of marijuana shall not utilize water that has been or is illegally diverted from any stream, creek, river, ditch or any other body or source of water.
- E. All buildings where marijuana is stored shall be properly secured to prevent unauthorized entry.
- F. Nothing in this Section shall be construed as a limitation on the County's authority to abate any violation of any applicable law, federal, state or local, which may exist from the cultivation of marijuana plants or any part thereof from any location, indoor or outdoor.
- G. Registration
  - 1. Within 60 days of adoption of this ordinance, or prior to the commencement of marijuana cultivation, any qualified patient or other entity cultivating marijuana within the unincorporated area of Yolo County shall register with the Yolo County Department of Agriculture.
  - 2. All registrations required pursuant to this Chapter shall be made upon current forms prescribed by the Yolo County Department of Agriculture. All registrations must include a completed registration form and fees as established by resolution and adopted by the board of supervisors as amended from time to time.

### **Section 5-20.08 Public Nuisance**

A violation of any provision of this Chapter shall be deemed to be a public nuisance.

### **Section 5-20.09 Enforcement**

- A. The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.
- B. The County may, in its discretion, enforce a violation of this Chapter by the prosecution of a civil action and/or civil penalties, including an action for injunctive relief without first going through the administrative procedures set forth in this Chapter.
- C. The County may also abate a violation of this Chapter through the abatement process established by Government Code section 25845.

- D. Any violation of this Chapter is declared to be a misdemeanor. Violations of this Chapter may, in the discretion of the district attorney, be prosecuted as infractions or misdemeanors. Any violations of this chapter may be prosecuted criminally and/or civilly.
- E. Any person that violates this Chapter shall be guilty of a separate offense for each and every day during any portion of which such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.
- F. In the enforcement of the provisions of this Chapter, any officer, employee, or designated agent of the County may enter upon any private or public property for the purpose of inspecting and determining whether or not there is compliance with or violation of this Chapter, and the owner, occupant, or person in charge of the property shall permit the entry and inspection.

### **Section 5-20.10 Abatement Procedure**

#### **A. Notice**

1. Whenever the enforcing officer determines that a public nuisance (as defined in this Chapter) exists, he or she may post a 72-Hour Notice of Violation and to Abate ("Notice") on the property where the public nuisance exists. If no person is occupying the property a copy of the Notice shall be mailed to the owners of the premises as their names and addresses appear upon the last equalized assessment roll. Service of the Notice, if mailed, shall be deemed served five days following deposit of the Notice in the U.S. mail.
2. A Notice shall be in writing and include the following:
  - a. If known, identify the person(s) violating this Chapter, or in the case of property where the violation is occurring, identify the owner(s) as named in the records of the county assessor, and identify the occupant(s) if other than the owner(s) if known;
  - b. The approximate location of the violation;
  - c. A general description of the violation;
  - d. A statement that the unlawful marijuana cultivation must be abated within 72 hours after the date that the Notice is served;
  - e. That an Administrative Penalty of \$1,000 per day will accrue for each day that the violation continues to exist;
  - f. The date of service;



7. Within five days after the hearing is closed, the hearing officer shall render his or her written decision affirming, reversing or modifying the determination made by the enforcing officer about the alleged public nuisance. If the violation is affirmed, the decision shall include a statement that the County is entitled to recover its Administrative Costs and Administrative Penalties. If the hearing officer determines that the violation continues to exist, the decision shall also order that the owner of the property, or persons known to be in possession of the property, abate the violation within a reasonable time, not to exceed five days from the date the decision is placed in the mail. A copy of the decision shall be mailed by certified mail, return receipt requested, to the person or persons shown on the last County tax roll to be the owners of the property which is the subject of the hearing and the occupant of such parcel, if any. All other persons noticed pursuant to this section shall be mailed a copy of the decision by first class mail, postage prepaid.
8. The decision of the hearing officer shall be final and conclusive when made.

#### C. Abatement

1. Notwithstanding any other provisions of this Chapter, if a final decision of the hearing officer finds that a violation exists and the public nuisance is not voluntarily abated within five days of the decision being placed in the mail by the hearing officer, the Agricultural Commissioner or his or her designee may abate the public nuisance by cutting and/or removing all marijuana plants from the property.
2. The owner of the property shall be responsible for paying all of the County's Abatement Costs and Administrative Costs. Each department performing abatement activities shall, upon completion of the activity, report Abatement Costs and Administrative Costs to the Agricultural Commissioner.

#### D. Cost Procedure

1. When abatement has been completed, the enforcing officer shall serve a demand for payment of Abatement Costs, Administrative Costs and Administrative Penalties, to the extent they remain unpaid, which includes an itemized statement of the costs. Within 30 days from the date of service of the demand, the owner and/or responsible person may submit a claim that: (a) one or more abatement activities was not actually performed, or (b) part or all the costs have been paid. The submission shall specify the ground(s) for the claim, and include all evidence on which the claim is based or it will not be considered.
2. If payment of costs is not made within 30 days, and no timely claim is submitted, the costs set forth in the payment demand shall be conclusively presumed correct.
3. If a claim is timely submitted, the hearing officer shall review the evidence submitted, make a determination on the issues raised, and serve a new demand for payment, revised as necessary.

4. The decision of the hearing officer may be recorded. In the event of such recordation, and in the further event that the violation is corrected and all costs and penalties are paid, a notice of such correction shall be recorded. The Agricultural Commissioner or his designee is authorized to prepare and record a notice of correction. Correction of the violation shall not excuse the property owner's liability for costs and penalties incurred during the administrative abatement process. In any action to foreclose on a lien issued pursuant to this Chapter, the County shall be entitled to an award of attorneys' fees.

#### **Section 5-20.11 Administrative Penalties**

- A. In addition to any other remedies provided by County Code or state law, there is imposed the following civil penalty for each violation of this Chapter: \$1,000 per day from the day ("Administrative Penalties") the Notice is served and continuing for each day that the violation continues to exist until the violation is abated by whatever means.
- B. At the nuisance abatement hearing, the hearing officer shall determine the total amount of Administrative Penalties that have accrued as of the time of the hearing, and that amount shall be reflected in the decision and awarded to the County. If at the time of the hearing the nuisance has yet to be abated, the decision shall state that Administrative Penalties shall continue to accrue at \$1,000 per day until the nuisance is abated.

#### **Section 5-20.12 Summary abatement**

- A. Notwithstanding any other provision in this Chapter, when any unlawful marijuana cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in sections 5-20.10(A)-(D) would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the County to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified in Section 5-20.10(A) but the formal notice and hearing procedures set forth in this Chapter shall not apply. The County may recover its costs for abating that nuisance in the manner set forth in this Chapter.
- B. Without limitation to any other unlawful marijuana cultivation constituting an immediate threat to the public health or safety under this Section, Marijuana cultivated in violation of Section 5-20.05(A)(1) of this Chapter is deemed an immediate threat to the public health or safety and may be summarily abated.

#### **Section 5-20.13 Special assessment procedure**

- A. If payment is not received within 30 days after service of the demand pursuant to subsection D of Section 5-20.10 of this Chapter, the County Counsel shall serve notice by certified mail to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The notice shall be given at the

time of imposing the assessment and shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

- B. The assessment may be collected at the same time and in the same manner as ordinary County taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary County taxes. All laws applicable to the levy, collection and enforcement of County taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.
- C. Subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code, the County may conduct a sale of vacant residential developed property for which the payment of that assessment is delinquent.
- D. Notices or instruments relating to the special assessment shall be entitled to recordation.

#### **Section 5-20.14 Non-exclusive remedy**

This Chapter is cumulative to all other remedies now or hereafter available to abate or otherwise regulate or prevent public nuisances.

#### **Section 5-20.15 Severability**

If any clause, sentence, paragraph, subdivision, section or part of this Chapter or the application thereof is for any reason held to be unconstitutional by any final court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter.

**SECTION 4.** The Board of Supervisors hereby finds that this Ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the Board of Supervisors further finds that the Ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment). The County Counsel is hereby directed to file a Notice of Exemption.

**SECTION 5.** The Clerk of the Board will publish the Ordinance codified in this Chapter as required by law. The Ordinance codified in this Chapter shall take effect 30 days after passage.

**PASSED AND ADOPTED** by the Yolo County Board of Supervisors at its regular meeting on October 25, 2016, by the following vote:

**AYES: Chamberlain, Villegas, Saylor, Rexroad, Provenza.**

**NOES: None.**

**ABSENT: None.**

**ABSTENTION: None.**



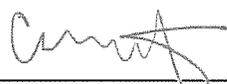
\_\_\_\_\_  
Jim Provenza, Chair  
Yolo County Board of Supervisors

Attest Julie Dachtler, Deputy Clerk  
Yolo County Board of Supervisors



\_\_\_\_\_  
Deputy (Seal)

Philip J. Pogledich, County Counsel

By:   
\_\_\_\_\_  
Carrie Scarlata, Asst. County Counsel



# COUNTY OF YOLO

## Board of Supervisors

District 1, **Oscar Villegas**  
District 2, **Don Saylor**  
District 3, **Matt Rexroad**  
District 4, **Jim Provenza**  
District 5, **Duane Chamberlain**

625 Court Street, Room 204 • Woodland, CA 95695  
(530) 666-8195 • FAX (530) 666-8193  
[www.yolocounty.org](http://www.yolocounty.org)

County Administrator, **Patrick S. Blacklock**  
Deputy Clerk of the Board, **Julie Dachtler**

### **PUBLIC NOTICE**

#### **ADOPTED ORDINANCE NO. 1473**

NOTICE is hereby given that at its regularly scheduled meeting of October 25, 2016 the Yolo County Board of Supervisors adopted Ordinance No. 1473 amending Chapter 20 to Title 5 of the Yolo County Code regulating outdoor medical marijuana cultivation in the unincorporated areas of Yolo County.

The Ordinance was adopted by the following vote:

AYES: Chamberlain, Villegas, Saylor, Rexroad, Provenza.

NOES: None.

ABSENT: None.

ABSTAIN: None.

Copies of the full text of the Ordinance are available at the Office of the Clerk of the Board of Supervisors, 625 Court Street, Room 204, Woodland, CA 95695.

Dated: November 6, 2016

Julie Dachtler, Deputy Clerk  
Yolo County Board of Supervisors

(2015.5 C.C.P.)

Filing Stamp

STATE OF CALIFORNIA  
County of Yolo

I am a citizen of the United States  
and a resident of the county aforesaid.  
I am over the age of eighteen years  
and not a party to or interested  
in the above-entitled matter.  
I am the principal clerk of the  
printer of

**FILED**

NOV 08 2016

BY Julie Dachtler  
DEPUTY CLERK OF THE BOARD

THE DAVIS ENTERPRISE  
315 G STREET

Proof of Publication  
DE207049  
NTE

printed and published Wednesday, Friday  
and Sunday in the city of Davis, County  
of Yolo, and which newspaper has  
been adjudged a newspaper of general  
circulation by the Superior Court  
of the County of Yolo, State of  
California, under the date of  
July 14, 1952, Case Number 12680.  
That the notice, of which the annexed  
is a printed copy (set in type not  
smaller than non-pareil), has been  
issue of said newspaper and not in  
any supplement thereof on the  
following dates to-wit:

November 6

All in the year(s) 2016

I certify (or declare) under penalty  
of perjury that the foregoing  
is true and correct.

Dated at Davis, California,  
This 3<sup>rd</sup> day of November, 2016.

Molly McMahon

Molly McMahon  
Legal Advertising Clerk

Public Notices	Public Notices	Public Notices	Public Notices
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 ABSENT: None.  
 ABSTAIN: None.

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Dated: November 6, 2016

Julie Dachtler, Deputy Clerk  
Yolo County Board of Supervisors

DE207049

November 6, 2016