

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF YOLO  
MOVING CHAPTER 20 OF TITLE 5 TO CHAPTER 4 OF TITLE 12  
OF THE YOLO COUNTY CODE AND MAKING AMENDMENTS TO THE COUNTY CODE  
REGARDING LICENSING OF COMMERCIAL CANNABIS ACTIVITIES**

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

**SECTION 1.** The purpose of this Ordinance is to amend the Yolo County Code to update the existing cannabis licensing ordinance to conform its provisions with the Cannabis Land Use Ordinance (“CLUO”), adopted on September 14, 2021. This Ordinance continues the existing cannabis cultivation regulatory program that pre-dated adoption of the CLUO and retains all of the substantive provisions and requirements of that program, with limited additional requirements and minor revisions as needed. This Ordinance also moves the existing cultivation ordinance from Chapter 20 of Title 5, to Chapter 4 of Title 12, and revises the title from “Marijuana Cultivation” to “Cannabis Licensing Ordinance.”

**SECTION 2.** Chapter 20 of Title 5 of the Yolo County Code shall be moved to Chapter 4 of Title 12, which shall read as revised and reflected in Exhibit A.

**Title 12 Business Licenses**

**Chapter 4 CANNABIS LICENSING ORDINANCE.**

**Section 12-04.01 Authority, title, purpose and intent**

- A. Pursuant to its authority granted by Article XI Section 7 of the California Constitution, Sections 65850 et. seq., 25845 and 53069.4 of the California Government Code, Section 11362.83 of the California Health and Safety Code, and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) (California Business & Professions Code Section 26000 et. seq.), the Board of Supervisors does enact this chapter.
- B. This chapter is known and may be cited as the Cannabis Licensing Ordinance.
- C. It is the purpose and intent of this chapter to regulate commercial cannabis activities in a manner that preserves the public peace, health, safety, and general welfare of the citizens of Yolo County and the environment.
- D. It is also the purpose and intent of this chapter to provide commercial cannabis operators who are compliant with the State regulations, as well as compliant with the Cannabis Land Use Ordinance enacted by Yolo County, an opportunity to apply for a commercial cannabis license under this chapter.
- E. It is also the purpose and intent of this chapter to develop reasonable regulations for personal use cannabis cultivation protected under state law in order to preserve the public peace, health, safety, and general welfare of the citizens of Yolo County and the environment.
- F. Any ambiguity in this chapter should be construed in whatever manner best effectuates this intent.

### **Section 12-04.02 Relationship to other laws**

- A. Except as otherwise specifically provided in this chapter, this chapter incorporates the requirements and procedures set forth in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). In the event of any conflict between the provisions of this chapter and the provisions of MAUCRSA or any other applicable state or local law, the more restrictive provision shall control.
- B. All cannabis uses and operations under this chapter shall also be fully compliant with the Cannabis Land Use Ordinance in Article 14 of Chapter 2 of Title 8 of the Yolo County Code.
- C. Pursuant to the Cannabis Land Use Ordinance, and subject to exceptions expressly set forth therein, a Cannabis License cannot be issued until a Cannabis Use Permit is obtained in accordance with the requirements thereof and thereafter maintained in good standing.
- D. Except as expressly stated in this chapter, Cannabis Operations (as defined below) must comply with all other County codes and regulations. Nothing in this chapter shall be construed as permitting a Cannabis Operation to operate at any time in a manner that is in violation of other applicable state and local laws.
- E. The license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.
- F. It is intended that the provisions of this chapter will supersede any other provisions of the Yolo County Code found to be in conflict and shall apply regardless of whether the activities existed or occurred prior to the adoption of the Marijuana Cultivation Ordinance, initially codified at Chapter 20 of Title 5 of the Yolo County Code, effective August 23, 2018.

### **Section 12-04.03 Definitions.**

As used in this ordinance the following definitions shall apply:

- A. General. Unless otherwise defined in this chapter, the County adopts the State definitions of various terms related to cannabis and cannabis activities as used in this chapter. Other applicable definitions shall be as provided in State law and other sections of County Code, as amended. Future changes to applicable definitions in State law shall take effect locally 90 days after the change takes effect at the State level.
- B. "Abatement Costs" means and includes all costs, expenses, fines, and fees, such as administrative expenses, administrative fines, civil fines, penalties, staff time, variable costs, fixed costs, inspection costs, investigation costs, enforcement costs, abatement costs, litigation fees, litigation costs, hearing costs, attorneys' fees and costs, and all other costs and expenses related to, arising out of, or incurred by the County relating to any nuisance enforcement or abatement action to the fullest extent permitted by law.
- C. "Applicant" means a person or entity applying for a License pursuant to this chapter.
- D. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified,

obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

- E. "Cannabis Good or Cannabis Goods" means Cannabis, including dried flower, and products containing Cannabis, as defined in Section 15000 of Title 4, Div 19 of the California Code of Regulations.
- F. "Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. For purposes of this division, "cannabis concentrate" includes, but is not limited to, the separated resinous trichomes of cannabis, tinctures, capsules, suppositories, extracts, vape cartridges, inhaled products (e.g., dab, shatter, and wax), and tablets, as defined in subsection (RR).
- G. "Cannabis Operation" means any activity that requires a license issued by Yolo County pursuant to this chapter and the State of California pursuant to the MAUCRSA.
- H. "Cannabis Use Permit" means a conditional use permit issued pursuant to the Cannabis Land Use Ordinance.
- I. "Canopy" means the aggregate area(s) of mature plants at a licensed Premises, except nurseries and processors, that contain mature plants at any given time as follows:
  - 1. Canopy shall be calculated in square feet, as measured by the outermost perimeter of each separate and discrete area(s) of cannabis cultivation at the drip line of the canopy expected at full maturity.
  - 2. Canopy shall not exceed the allowed maximum pursuant to the CLUO and/or any use permit and license issued for the site.
- J. "Discrete area(s) of cultivation" means designated cultivation area(s) identified on a premise map for a licensed premises, which may be noncontiguous and may contain cannabis cultivation at any point in time that includes but is not limited to, interior walls, shelves, greenhouse walls, hoop house walls, garden benches, garden tables, hedgerows, fencing, garden beds or garden plots.
  - 1. Each discrete area(s) of cultivation shall be identified by a physical boundary that includes but is not limited to, interior walls, shelves, greenhouse walls, hoop houses walls, garden benches, shelf or table surface area, hedgerow, fencing, garden beds, garden plots or stakes delineating the perimeter: and
  - 2. If mature plants are being cultivated using a shelving system the surface area of each level shall be included in the total canopy calculation.
- K. "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis or cannabis products as provided for in this chapter.
- L. "Courtesy Notice" means an inspection report or letter of non-compliance that notes the observation of non-compliance and a deadline to correct the non-compliance.

- M. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, storing, trimming of cannabis.
- N. "Cultivation Site" means a location where commercial cannabis is legally planted, grown, harvested, dried, cured, graded, trimmed, or stored, or a location where any combinations of those activities occur.
- O. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.
- P. "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- Q. "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.
- R. "Entity" means any firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group, entity or combination acting as a unit, and the plural as well as the singular.
- S. "Extraction" means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.
- T. "Final form" refers to cannabis and cannabis products that are packaged and labeled as they will be sold at retail to a consumer.
- U. "Flowering" means that a cannabis plant has formed a mass of pistils measuring greater than one half inch wide at its widest point.
- V. "Greenhouse" means a structure or thermally isolated area of a building that maintains a specialized sunlit environment used for and essential to the cultivation, protection, or maintenance of plants. For the purposes of this chapter, cultivation in a greenhouse (including mixed light) is considered an indoor use.
- W. "Hoop house" means a shade cloth structure that is readily removable and temporary in nature, without any equipment or utilities. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently. For the purposes of this chapter, cultivation in a hoop house is considered an outdoor use.
- X. "Immature plant" or "immature" means a cannabis plant that has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.
- Y. "Immature plant area" also known as the "vegging area" is the area designated by the licensee to keep immature plants in order to promote vegetative growth prior to flowering and shall be separate and distinct from the canopy area and on-site nursery. All immature plants housed in the immature plant area shall be no more than 24 inches in height and not flowering at any time they are located in the immature plant area. If immature plants begin to flower while in the immature plant area, they shall be immediately removed from the immature plant area and placed in the canopy area.
- Z. "Infusion" means a process by which cannabis, cannabinoids, or cannabis concentrates are directly incorporated into a product formulation to produce a cannabis product.

- AA. "Ingredient" means any substance that is used in the manufacture of a cannabis product and that is intended to be present in the finished cannabis product.
- BB. "Kief" means the resinous trichomes of cannabis that have been separated from the cannabis plant.
- CC. "Labeling" means any label or other written, printed, or graphic matter upon cannabis or a cannabis product, upon its container or wrapper, or that accompanies any cannabis or cannabis product.
- DD. "License" means a license issued by the County of Yolo pursuant to this chapter to engage in a Cannabis Operation(s) in the unincorporated areas of Yolo County.
- EE. "Licensee" means any person or business entity holding a License under this chapter to engage in Cannabis Operations.
- FF. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
- (1) The term "manufacture" includes the following processes:
- (A) Extraction;
  - (B) Infusion;
  - (C) Packaging or repackaging of cannabis products;
  - (D) Labeling or relabeling the packages of cannabis products;
  - (E) Post-processing refinement of cannabis extract ("post-processing"); and
  - (F) Remediation of failed harvest batches or cannabis product batches, other than relabeling to correct cannabinoid content.
- GG. "Manufacturing" or "manufacturing operation" means all aspects of the extraction process, infusion process, post-processing, remediation, and packaging and labeling processes, including processing, preparing, holding, and storing of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.
- HH. "Mature plant" or "mature" means a cannabis plant that is flowering.
- II. "Microbusiness" means a licensee that is authorized to engage in Cannabis Operations defined in subdivision (aj) of Section 26001 of the Business and Professions Code.
- JJ. "Mother plant" means a cannabis plant that is grown or maintained for the purpose of generating clones, and that will not be used to produce plant material for sale to a processor or dispensary.
- KK. "Nonmanufactured cannabis good" means final form items that contain only cannabis.
- LL. "Nursery" means a facility or area on a cultivation site that produces only clones, Immature plants, seeds and other agricultural products used specifically for the propagation and cultivation of cannabis.
- MM. "Owner" means any of the following:
1. Any person with an aggregate ownership interest of 20 percent or more in the Person applying for a license, or the Licensee, unless the interest is solely a security, lien, or encumbrance;
  2. The chief executive officer of an entity;
  3. A member of the board of directors of a corporation; and/or

4. An individual who will be participating in the direction, control, or management of the Cannabis Operation.

NN. "Person" means an individual.

OO. "Premises" means the designated structure or structures and land specified in the License application that is owned, leased, or otherwise held under the control of the Applicant or Licensee where the commercial cannabis activity will be or is conducted. The Premises shall be a contiguous area and shall only be occupied by one Licensee.

PP. "Processing" means the trimming, drying, curing, grading, storing, packaging, and labeling of non-manufactured cannabis.

QQ. "Retail area" means a building, room, or other area that is open to the public, upon the licensed retailer or licensed microbusiness premises authorized to engage in retail sales in which cannabis goods are sold or displayed.

RR. "State License" means a license issued by the State under MAUCRSA, or subsequent legislation.

SS. "Tablet" means a solid preparation containing a single serving of THC or other cannabinoid that is intended to be swallowed whole, not formulated to be chewable, dispersible, effervescent, orally disintegrating, used as a suspension, or consumed in a manner other than swallowed whole, and does not contain any added natural or artificial flavor or sweetener.

TT. "Transport" means the physical movement of cannabis or cannabis products from one licensed premises to another licensed premises.

#### **Section 12-04.04 Personal Cultivation and Use**

- A. The personal cultivation of cannabis is limited to no more than six live cannabis plants, regardless of the following:
  1. Whether the cannabis is medical or non-medical;
  2. Whether the cannabis is grown inside the private residence or in an accessory structure thereto or outdoors on the grounds of a residence;
  3. The size or maturity of the plant(s); or
  4. The number of non-medical users, medical users, or primary caregivers residing together in the private residence.
- B. Personal cultivation must comply with section 8-2.1408(CC) and (DD) of the CLUO.
- C. Personal use of cannabis is permitted as described in Sections 113621.1 and 113621.2 of the Health and Safety Code and section 8-2.1408(GG) of the CLUO.
- D. Indoor personal cannabis cultivation sites shall be in full compliance with all other applicable requirements of the County Code, California Building Standards Code, and applicable state laws and local fire district ordinances.
- E. No cultivation is permitted within the common areas of a multi-family dwelling, residential development, mobile home park, or similar residential arrangement. Personal cultivation may only

occur in or on a lot containing a legal residential unit, with landlord's permission pursuant to Section 8-2.1406(F), Personal Use Exemption, of the CLUO.

- F. The cannabis plants and any cannabis produced by the plants shall be kept in a space fully enclosed by security fencing or a structure, and securely locked, using a child resistant lock, in a manner designed to reasonably prevent access to the cannabis by trespassers and children. The plants shall not be visible by normal unaided vision from a public place, as required by Health & Safety Code section 11362.2.
- G. There shall be at least one dwelling on any parcel on which personal cannabis is cultivated. Each person cultivating personal cannabis shall maintain their principal place of residence in a dwelling on the parcel on which the cultivation occurs.
- H. Personal cultivation is restricted to medicinal and adult recreational use only. Sales and non-cultivation activities are prohibited.

#### **Section 12-04.05 Eligibility for County Cannabis License**

- A. It shall be unlawful for any Person to engage in any Cannabis Operation in the unincorporated areas of Yolo County without possessing a valid and current License for such business.
- B. Applicants must also possess a valid State License.
- C. Applicants must have a valid Cannabis Use Permit pursuant to the CLUO and the regulatory transition periods set forth therein. If the Applicant is not the Permittee, the Applicant must have a notarized written consent of the Permittee to apply for a License for the Premises.

#### **Section 12-04.06 License Application requirements**

- A. An Applicant shall do all of the following:
  - 1. Complete any application forms prescribed by the County and pay fees as established by resolution and adopted by the Board of Supervisors, as amended from time to time.
  - 2. Provide a complete copy, including attachments, of the application submitted to the State for the comparable license type.
  - 3. Provide a street address capable of receiving mail and designate that address and a contact for receipt of service of process for notices served pursuant to this chapter.
  - 4. Provide an emergency contact who can be reached on a 24/7 basis and who can provide access to the premises in the event of an emergency.
  - 5. If the Applicant or property owner is an entity, adequate evidence that the individual submitting an application and signing any related County forms or documents has authority to bind the entity.
  - 6. Provide a statement, signed by the Applicant under penalty of perjury, that the information provided in the application is complete, true, and accurate.
  - 7. Provide a complete list of all Owners and, to the extent not included in the list of Owners, every

other Person with a financial interest in the Cannabis Operation and all employees.

8. Each Owner and the Persons owning the property on which the Cannabis Operation will be located must sign a written consent to on-site compliance inspections of the Premises and of all records and documents related to the Cannabis Operation activities by the County pursuant to §12-04.12
9. Each Owner and the Persons owning the property on which the Cannabis Operation will be located must 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 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 cannabis in a form prescribed by the County. 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 arising in connection with cannabis-related activity on the property.
10. Agree to reimburse the County for any court costs and attorneys' fees that the County may be required to pay as a result of any legal challenge related to the County's approval of a License. The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the Licensee of its obligation hereunder.
11. Each Owner must sign a statement under penalty of perjury in a form prescribed by the County certifying that they will abide by the requirements of this chapter and applicable state law.
12. Each Owner must electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on their own recognizance, pending trial or appeal.
13. Provide a surety bond in the amount of ten thousand dollars furnished by a corporate surety authorized to do business in the State. Such bond shall be in favor of the County and shall be approved by the County Counsel. Such bond shall be conditioned upon full and faithful performance by the Licensee of all obligations under this chapter and any License issued hereunder and shall be kept in full force and effect by the Licensee throughout the life of the License and all renewals thereof. The Board of Supervisors may from time to time by resolution establish additional bond requirements as it deems necessary.

In the event that a Licensee violates any of the provisions of this chapter or any County rules or orders, such violation shall permit the County at its option to resort to the bond to cover any Abatement Costs or Administrative Penalties assessed. The bond may also be used to cover costs of site restoration, if required, and not paid by the Licensee.

14. The Applicant must not be delinquent in paying any County taxes, fees, or penalties due on any commercial cannabis activity within the County.
15. Provide a detailed description of the Applicant's security protocols, including compliance with

section 8-2.1408(LL) of the CLUO (following use permit approval) and subdivision (j) of Section 26070 of the California Business and Professions Code, which must be reasonably designed to prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products from the premises. If security guards are proposed in the security protocols, such individuals shall be licensed and registered with the Bureau of Security and Investigative Services (BSIS). These security measures shall be submitted to the County for review and approval prior to the approval of the application.

B. An Applicant shall meet one of the following requirements:

1. Own the property where the Cannabis Operation will operate; or
2. Have entered into a written agreement with the record owner of the property and have obtained the written permission (including notarized signatures) of the record owner(s) consenting to the Cannabis Operation operating on the property.

Evidence of lawful possession of the property consists of properly executed deeds of trust, leases, evidence of ownership of the licensed property, or other written documents acceptable to the County.

The use for which the cannabis license is requested must be approved in the Cannabis Use Permit. A cannabis license shall not be issued for any activity or use not explicitly authorized in the Cannabis Use Permit.

C. Child Support Obligations.

1. Prior to the issuance of a License under this chapter, and at all times while holding a License, all Owners and employees shall be current with their monthly child support obligations. If an Owner or employee has an account with past due child support arrears, that Person must have that balance at zero or have verification from the Department of Child Support Services that they have been in and remain in compliance with a court ordered payment plan in order to remain eligible for a License.
2. Licensees shall provide the Department of Child Support Services a quarterly list of all employees employed by Licensee at any time during the quarter. Reports are due by the 15<sup>th</sup> of the month following the end of the quarter. (March, June, September, and December). The list shall include names, addresses, phone numbers and social security numbers for all employees.
3. If Licensee uses a payroll withholding process, Licensee must comply with any income withholding order for child support for any employee in Licensee's employ. In addition, if the income withholding order is for an owner or part-owner of the business, the business shall also comply with the income withholding order and provide necessary tax information if self-employed for purposes of determining accurate child support orders.

#### **Section 12-04.07 Denial of license**

- A. The County need not accept nor process an application that is incomplete or for which the requisite fees have not been paid.
- B. The County shall deny an application if either the Applicant, or the Premises for which a License is applied, do not qualify for licensure under this chapter.

- C. The County may deny an application for a Licensure or issue a conditional License as provided in §12-04.15.

**Section 12-04.08 License limitations**

- A. Canopy shall not exceed the maximum square footage allowed by the Cannabis Use Permit, or the maximum square footage allowed by the License, whichever is less.
- B. Licensees shall not sublet any portion of the Premises for any purpose.
- C. Licensees shall not commingle cannabis from other Licensees, from unlicensed cultivators, from the Licensee's other Premises, or transfer or receive any cannabis or non-manufactured cannabis products to or from other Licensees, unlicensed cultivators or Licensee's other Premises. Notwithstanding the foregoing, Licensees are allowed to receive Immature plants or seeds from licensed nurseries and to transfer cannabis and non-manufactured cannabis products to licensed processors and distributors, or self-distribute pursuant to Subsection D, below.
- D. Self-Distribution of Cannabis
  - 1. A person or entity who receives a license from the County for self-distribution under this chapter, and who also receives a state self-distribution license as described in 4 C.C.R. §15315, may engage in the activities allowed under the self-distribution license as issued by the County, so long as these activities involve only that cannabis lawfully cultivated pursuant to the licensee's cultivation license.
  - 2. The premises for which the state self-distribution license is obtained shall be located on the same parcel for which a county license has been issued.
  - 3. A licensee engaging in self-distribution activities as provided in this subsection shall provide to the county all transport vehicle information to the full extent that it must be provided to the state under 4 C.C.R. §15312.
  - 4. A licensee engaging in self-distribution activities as provided in this subsection shall comply with all transport personnel requirements of 4 C.C.R. §15313 and with all shipping manifest requirements of 4 C.C.R. §15314.
- E. A License constitutes a revocable privilege. Applicants and Licensees have the burden of proving its qualifications for a License at all times.
- F. An annual License shall be valid for one calendar year, or part thereof, beginning April 1<sup>st</sup> of the year in which it is issued and shall expire on March 31<sup>st</sup> of the following year. A seasonal License shall only be valid upon issuance until December 15<sup>th</sup> of the year in which it was issued.
- G. A License is issued to and covers only the Licensee identified on the License with respect to the Premises identified in the application. The License may be transferred to a successor-in-interest pursuant to section 12.04-10, and does not run with the land.

- H. The provisions of this chapter shall apply after the expiration or revocation of a License until such time as no cannabis in excess of the amount allowed pursuant to Health & Safety Code section 11362.1 (Possession of cannabis by persons 21 years of age or older) or 11362.2 (Personal cultivation) remains on the property. Upon expiration or revocation of a County license, all cannabis and cannabis goods must be removed from the property immediately, including, but not limited to, cannabis being stored on the property unless the County, in its sole discretion and upon a showing of good cause, administratively allows limited storage and related activities pursuant to a written agreement to ensure an orderly wind-down of a Cannabis Operation following revocation. Absent the County choosing to exercise such discretion, no cannabis or cannabis goods shall remain on the property following the expiration or revocation of a County license.
- I. No Person owning, leasing, occupying, or having charge or possession of any property within the County shall cause, or allow such property to be used for a Cannabis Operation or a cannabis related activity prohibited under State law or 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.
- J. Premises for each Cannabis Operation is defined at the time the License is issued. Licensees are not authorized to amend, reconfigure or change in any way what constitutes the Premises under the License without first filing a change of location or modification of the License and obtaining approval from the County.

**Section 12-04.09 License requirements**

- A. Licensees shall enroll in and comply with all requirements of any track and trace system required by the County to track the production and disposition of cannabis. Licensees shall obtain and use unique identifiers from an approved source, maintain them in a readable state, comply with all data entry requirements, provide the County with access to its track and trace account and pay any required track and trace fees.
- B. Licensee shall post a copy of the License at the Premises where it can be viewed by County staff.
- C. Licensee shall provide updated employee lists to the County within 10 business days of any change in personnel.
- D. The Director of Yolo County Community Services, or designee, is authorized to establish procedures and guidelines to implement the licensing program contemplated by this chapter.
- E. Licensees shall comply with applicable requirements of the California Cannabis Authority, as requested by County.

**Section 12-04.10 Change in Ownership**

Licenses are non-transferable. Any and all new owners involved in a transfer in ownership of the Cannabis Operation shall apply for a new license as per Section 12-04.06. This requirement does not apply to other changes (e.g., addition of a new partner in an LLC) that do not result in a transfer of Cannabis Operation ownership.

**Section 12-04.11 Notification of loss or diversion**

Licenses shall notify the County and law enforcement authorities within one business day upon discovery of any diversion, theft, loss of, or criminal activity related to Licensee's cannabis.

### **Section 12-04.12 Inspections, investigations and audits**

- A. All Licensees, Applicants, and Permittees shall be subject to inspection, investigation and audit of their Premises and records by the County to determine compliance with applicable laws and regulations, including any license or use permit issued in connection with the Premises.
- B. The County may conduct an inspection, investigation, examination, or audit for any of the following purposes:
  - 1. To determine accuracy and completeness of the application prior to issuing a License;
  - 2. To determine compliance with the License or legal requirements;
  - 3. To respond to a complaint(s) received by the County regarding the Cannabis Operation or License;
  - 4. To inspect incoming or outgoing shipments of cannabis and nonmanufactured cannabis products; or
  - 5. As otherwise may deemed necessary by the County.
- C. Upon request by County, Licensees shall allow County representative(s) to be present during harvests and to observe all harvest activities and associated recordkeeping.
- D. Inspections, investigations, examinations, and audits of Premises occurring pursuant to this chapter shall be conducted at any time between 8:00 a.m. and 8:00 p.m., or as otherwise agreed to by the County and the Licensee or its agents, employees, or representatives. Prior notice of inspection, investigation, or examination is not required and the Owner, occupant, or person in charge of the Premises shall permit the entry and inspection.
- E. No Applicant, Licensee, Permittee or any agent or employee shall interfere with, obstruct, or impede the County's inspection, investigation, or audit. This includes, but is not limited to, the following actions:
  - 1. Denying the County access to the Premises or any locked structures or enclosures on the Premises;
  - 2. Providing false or misleading statements;
  - 3. Providing false, falsified, fraudulent, or misleading documents and records; and
  - 4. Failing to provide records, reports, and other supporting documents.

### **Section 12-04.13 Public nuisance**

A violation of or non-compliance with any provision of this chapter shall be deemed to be a public nuisance. Any Applicant, Licensee, Permittee, or agent thereof, or any other person who causes, whether with or without knowledge or intent, any condition on any premises to violate any provision of this chapter, or permits such violation to continue or remain on the premises, is in violation of this chapter and such violation shall constitute a public nuisance.

#### **Section 12-04.14 Enforcement remedies**

- A. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- B. It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter shall be guilty of a misdemeanor, except to the extent state law may deem it a felony. No proof of knowledge, intent, or other mental state is required to establish a violation.
- C. The County or the District Attorney, on behalf of the people of the State of California, may, in their 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.
- D. The County or the District Attorney, on behalf of the people of the State of California, may also abate a violation of this chapter through the abatement process established by Government Code section 25845, Chapter 5 of Title 1 (Code Enforcement) of the Count Code, or as set forth in this chapter.
- E. Any violation of this chapter is declared to be a misdemeanor except to the extent state law may deem it a felony. 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 civilly, except such prosecution may be either civil or criminal or both where the violation is determined to be a criminal violation.
- F. Any Person that violates this chapter shall be guilty of a separate offense for each and every day, or portion thereof, on which any violation of any provision of this chapter is committed, continued or permitted by any such Person.
- G. Nothing in this chapter shall be construed as imposing on the Enforcing Officer or the County any duty to issue any notice hereunder, or to abate any unlawful cannabis activity, or to take any other action with regards to any unlawful cannabis activity, and neither the Enforcing Officer nor the County shall be held liable for failure to issue any notice hereunder, or for failure to abate any unlawful cannabis activity, or for failure to take any other action with regard to unlawful cannabis activity.

#### **Section 12-04.15 Grounds for disciplinary action**

The County may impose Administrative Penalties, deny a License application, issue a conditional License, suspend, revoke, place on probation with terms and conditions, or otherwise discipline Licensees and Permittees (collectively referred to as "disciplinary action"), for any of the following reasons:

- A. Failure or inability to comply with one or more provisions of this chapter or any rule or regulation adopted pursuant to this chapter.
- B. Failure or inability to comply with any requirement of the Yolo County Code.
- C. Failure to comply with conditions or provisions of the applicable Cannabis Use Permit.

- D. Failure to comply with any state or local law, ordinance, or regulation including, but not limited to, the payment of taxes.
- E. Failure to provide information required by County.
- F. Failure to conduct past or current Cannabis Operation(s) in a manner that ensures the security of the cannabis and safeguards against diversion for illegal purposes.
- G. Previous violation by an Applicant, Licensee or Owner, or previous violation at the proposed Cultivation Site, of any provision of the Yolo County Code or state law related to a cannabis related activity.
- H. Creating or maintaining a public nuisance where the Licensee or Permittee has failed to comply with reasonable conditions to abate the nuisance.
- I. Failure to allow unannounced inspections of the Premises by County staff or law enforcement at any reasonable time, as required under this chapter, without notice.
- J. Discovery of untrue statement(s) or an omission of a material statement in a License application.
- K. Failure to comply with any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a Licensee.
- L. Failure to maintain safe conditions for inspection by the County.
- M. Failure to enter information or the entry of false, misrepresented or incomplete data or information into the track and trace system.
- N. Failure to enter or the entry of false, misrepresented or incomplete data or information as required to be submitted to the California Cannabis Authority.
- O. Failure to comply with any other requirement specified in law.
- P. Except as otherwise expressly provided in state law, conviction of an Owner or employee of an offense that is substantially related to the qualifications, functions, or duties of a Cannabis Operation. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the County shall include, but not be limited to, the following:
  - 1. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
  - 2. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
  - 3. A felony conviction involving fraud, deceit, or embezzlement.
  - 4. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
  - 5. A felony conviction for drug trafficking.

- Q. Except as provided in subsections (4) and (5) directly above, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.
- R. If any of the disqualifying convictions apply to an employee who is not an Owner, the conviction will not constitute a basis for disciplinary action if the Licensee promptly terminates the employment relationship.
- S. An Owner has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
- T. An Owner has been sanctioned by a licensing authority or a city, county, or city and county for illegal cannabis activities or unauthorized commercial cannabis activities, or has had a cannabis operations license suspended or revoked in any jurisdiction in California in the three years immediately preceding the date the application is filed with the County.
- U. Failure to hold the applicable cannabis license issued by the State of California, or denial, suspension, lapse or revocation of the applicable license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the County, until the State of California, or its respective department or division, reinstates or issues a State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall also revoke or terminate the ability of a cannabis business to operate within the County of Yolo.
- V. The County may recover the costs of investigation and enforcement of disciplinary action following the procedures set forth in this chapter.
- W. The County may take disciplinary action against a Licensee when the violation was committed by an Owner, the Licensee's officers, directors, agents, independent contractors or employees while acting on behalf of the Licensee or engaged in cannabis-related activity.
- X. Upon the occurrence of three (3) final and conclusive notices of violation ("Notice" or "NOV") of any provision of this chapter within a two (2) year period, all Licenses held by the Licensee or Owner shall be automatically deemed terminated and revoked. For purposes of this section, a NOV is deemed final and conclusive upon the expiration of the time period set forth to appeal the notice in Section 12-04.19 or upon a hearing officer's determination of a violation.
- Y. Upon termination, or revocation of a License, the Licensee shall remain ineligible for a License for a minimum of two (2) years. The County, in its discretion, may extend the ineligibility time period up to, but not in excess of ten (10) years, depending on the egregious nature of the violation(s).

#### **Section 12-04.16 Violations**

All violations observed during an inspection shall be written on a Courtesy Notice and a copy of the notice shall be supplied to the licensee. The violations in subsections A-C are considered to be more serious in nature and may require additional steps of enforcement.

#### A. Canopy

1. In the event Canopy exceeds the maximum square footage allowed by the License, the Enforcing Officer may issue a Courtesy Notice. If the Licensee fails to abate the over canopy amount identified in a Courtesy Notice within the deadline provided to correct the violation, a NOV may be issued for the violation pursuant to Section 12-04.19, below.
2. The Courtesy Notice shall identify the Licensee, the Premises, the allowed or licensed maximum Canopy, the actual Canopy as measured by the Enforcing Officer, the date the courtesy notice was provided and the Administrative Penalty the Licensee is subject to, as outlined in §12-04-25(A).
3. Issuance of a warning shall not be a requirement prior to enforcement of this section.
4. The Licensee may request the Director of Environmental Health to review the Courtesy Notice. The Director of Environmental Health may conduct an inspection as part of the review. The determination of the Director of Environmental health is final and is not subject to appeal.
5. Depending on the severity or repetition of the violation, the Enforcing Officer has discretion to enforce a canopy violation with a Courtesy Notice or with the Notice of Violation enforcement procedures set forth in Section 12-04.19. A Licensee, Permittee or any other person is not entitled to a Courtesy Notice prior to a notice of violation being issued.

B. Odor. In the event odor has been determined to be a public nuisance, as outlined in Section 8-2.1408(CC)(1-3) of the CLUO, the enforcement officer shall follow Section 8-2.1408(CC) (4-6) as it pertains to disciplinary actions.

C. Track and Trace. If a pattern or history of repeated non-compliances for Track and Trace are observed, the following disciplinary actions may be taken by the enforcing officer:

- a. Upon the occurrence of three repeated violations with Track and Trace within a 12-month period, the Enforcing Officer may note on the Courtesy Notice a final warning is being given and upon the occurrence of a 4th non-compliance of Track and Trace within a 12-month period a Notice of Violation may be issued to the licensee.
- b. If the violation is corrected pursuant to the most recent Courtesy Notice but the same conduct is committed within 60 days of the correction, the violation will be deemed continuing and a Notice of Violation may be issued to the licensee.

### **Section 12-04.17 Enforcement Procedures**

#### A. Notice of Violation

1. In addition to the enforcement provisions provided for in section 12.04-16, above, the County may issue a Notice of Violation (“Notice” or “NOV”) to any Person that is in violation of any provision of this chapter or other applicable statutes or regulations.
2. A Notice of Violation shall be in writing and include the following:

- a. Licensee and the property owner(s), as listed on the application for the cannabis operation license;
- b. If applicable, name(s) listed as designated recipients for Service of Process, as identified on the application and, if different, as named on the Secretary of State Statement of Information;
- c. The address of the violation if known, otherwise the approximate location;
- d. A general description of the violation;
- e. A statement of whether the violation is correctable and, if so, that the violation shall be corrected within 3 calendar days of the date of the Notice of Violation;
- f. The amount of the Administrative Penalty pursuant to section 12-04.25 and, if the violation is correctable, notice that the Administrative Penalty will accrue for each day that the violation continues to exist after the expiration of the three-day time frame in which to correct the violation;
- g. The date of the Notice;
- h. A statement that the violation determination may, within five calendar days after the date the Notice was deemed served pursuant to §12-04.18(A)(3), be appealed by providing the Clerk of the Board of Supervisors with a request in writing for a hearing to appeal the determination of the Enforcing Officer, setting forth the detailed factual and/or legal basis, as applicable, for the appeal, with payment of any applicable appeal fee; and
- i. A statement that unless an appeal hearing is requested within the time prescribed in the Notice, the Enforcing Officer can abate or otherwise correct the nuisance at the expense of the property owner and/or the Licensee. It shall also state that the Abatement Costs and the Administrative Penalty may be made a special assessment added to the county assessment roll and become a lien on the real property where the violation has occurred, on the real property owned by those persons violating this chapter, or be placed on the unsecured roll.

### 3. Service of notices

- a. A Notice issued by the Enforcing Officer shall be served upon the Licensee and the property owner (if different from Licensee) in one of the following manners:
  - i. By delivering it personally; and/or
  - ii. By first class mail, postage pre-paid, or overnight mail addressed to (i) the property owner at the address shown on the last equalized assessment roll or as otherwise known to the Enforcing Officer, and (ii) the street address designated by the Licensee in the application for receipt of service of process; and/or
- b. Date of service shall be deemed to be the date of personal service, or five days after notice is deposited in the United States mail, or one day after notice is delivered to a location or deposited in a box maintained by an overnight delivery service, as applicable.

- c. 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 such Notice conspicuously along the frontage of the real property subject to the Notice, or if the property has no frontage, upon any street, highway, or road then upon the portion of the property nearest to a street, highway, or road, or most likely to give actual notice to the Licensee and any person known by the Enforcing Officer to be in possession of the property. Service shall be deemed to have been completed upon posting.
- d. If the Notice is properly and timely served, the failure of any property owner or Licensee to receive such Notice shall not affect the validity of the proceedings conducted herein and shall not affect the validity of service or the validity of any Administrative Penalty imposed pursuant to this chapter upon any Person.

**B. Recordation of notices.**

1. The Enforcing Officer may record a Notice of Violation with the Yolo County Recorder on the property which is the subject of the Notice of Violation upon expiration of the time limit for compliance if the violation has not been cured within the time limit (if not required immediately) set for compliance, or the property owner and/or Licensee fail to provide sufficient evidence to establish reasonable doubt that a violation exists.
2. In those cases where the violation is related to a requirement to secure permits, the recorded notice shall identify the property and shall further set forth the fact that the building, structure or work does not have the required permit(s) and is in violation of County codes and that the property owner has been so notified. This may be done in addition to any other legal remedy that the County may employ.
3. If a notice is recorded, the Enforcing Officer shall serve and record a removal of Notice of Violation when the violation no longer exists or all required work to correct the violation has been completed. The removal of Notice of Violation need not be issued until outstanding Administrative Penalties have been paid or a lien for those administrative penalties has been recorded. A fee shall be paid by the property owner and/or Licensee for processing the removal of Notice of Violation.

**Section 12-04.18 Cannabis Goods After Termination of License.**

- A. In the event a license is terminated for any reason while cannabis goods remain on the premises, the following actions may be taken at the sole cost and expense of the Licensee:
  1. The cannabis goods may be destroyed by the Licensee;
  2. At the Licensee's request, the cannabis goods may be destroyed by the County; or
  3. The Licensee can arrange for the removal of all cannabis goods from the premise by a licensed distributor. The cannabis goods shall be removed from the premises within 14 calendar days of the termination of the license.

**Section 12-04.19 Appeals**

- A. A Notice of Violation may be appealed by providing the Clerk of the Board of Supervisors with a request in writing for a hearing to appeal the determination of the Enforcing Officer.

- B. The appeal must be filed within five calendar days after the date the Notice was deemed served pursuant to §12-04.18(A)(3).
- C. The appeal shall set forth the detailed factual and/or legal basis, as applicable, for the appeal, with payment of any applicable appeal fee. An appeal hearing shall not be granted without payment of an appeal fee.
- D. The County may deny an appeal hearing and summarily dismiss any appeal for failure to file an appeal in the time and manner required under this chapter, failure to provide detailed factual and/or legal basis for the appeal, or for the failure to attend the appeal hearing, and the Notice will become final and conclusive upon the summary dismissal.
- E. Absent timely appeal, the Notice shall be deemed final and conclusive and the Enforcing Officer may take the disciplinary action set forth in the Notice and/or 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, but need not, apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary in the sole discretion of the Enforcing Officer.

#### **Section 12-04.20 Appeal Hearing**

- A. In order to hear appeals or other hearings brought under this chapter, the Board of Supervisors authorizes the use of a hearing officer appointed pursuant to Yolo County Code §1-5.09.
- B. The hearing officer may continue the appeal hearing from time to time for good cause.
- C. The hearing officer shall consider the matter de novo.
- D. The appellant shall be given an opportunity at the hearing to present and elicit testimony (including by cross-examination) and other evidence regarding whether the violation(s) listed on the Notice constitute a violation of this chapter, and/or to contest the proposed amount of Administrative Penalty. Failure of the appellant to appear and present evidence at the hearing shall be deemed a withdrawal of the request for hearing and shall constitute a failure to exhaust administrative remedies.
- E. The appellant may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply, including rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- F. The standard of proof shall be by a preponderance of the evidence and the burden of proof to establish the existence of the violation shall be borne by the County. The burden of proof that the violation has been corrected shall be borne by the appellant.
- G. The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter, at its sole cost, who has been certified as an interpreter by either the State of California or the County of Yolo.

- H. After the hearing, the hearing officer shall render their written decision affirming, reversing or modifying the determination made by the Enforcing Officer about the alleged violation. If the violation is affirmed, the decision shall include a statement that the County is entitled to recover its Abatement 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 and/or the Licensee, correct the violation within the timeframe required by the hearing officer.
- I. A copy of the decision shall be served on the parties upon whom the Notice was served pursuant to §12-04.18(A)(3) or in the manner agreed upon by the parties. The decision shall be final and conclusive when signed by the hearing officer and served as provided by this subsection.
- J. Payment of Abatement Costs and an Administrative Penalty specified in the hearing officer's decision shall be made to the County within 20 calendar days of the decision, unless timely appealed to the Superior Court in accordance with Government Code section 53069.4, subdivision (b).

**Section 12-04.21 Enforcement of Order**

- A. Any property owner or Licensee may correct the violation or cause it to be corrected at any time prior to commencement of correction by, or at the direction of, the Enforcing Officer. A property owner or Licensee abating unlawful cannabis cultivation hereunder, or correcting some other violation hereunder, shall perform such correction in the presence of the Enforcing Officer unless the Enforcing Officer waives the right to be present. Abatement involving illegal cultivation and/or canopy overage shall not be deemed completed until the unlawful cannabis has been completely removed from the property and destroyed and approval of such has been provided by the Enforcing Officer. Such abatement by any property owner or occupant shall not impair the Enforcing Officer's ability to impose an Administrative Penalty accrued prior to such abatement.
- B. Notwithstanding the foregoing, whenever the Enforcing Officer becomes aware that a property owner or Licensee has failed to abate any unlawful cannabis cultivation and/or canopy overage within two calendar days of the date of service of the decision of the hearing officer requiring such abatement, the Enforcing Officer may enter upon the property and abate the nuisance by county personnel, or by private contractor under the direction of the Enforcing Officer. The Enforcing Officer may, but need not, apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary in their sole discretion.
- C. The property owner and/or Licensee shall be responsible for paying all of the County's Abatement Costs. Each department performing abatement activities shall, upon completion of the activity, report Abatement Costs to the Enforcing Officer.

**Section 12-04.22 Liability for Abatement Costs and/or Administrative Penalties; Interest**

- A. No person or entity owning, leasing, occupying or having charge or possession of any property within the unincorporated area of the County of Yolo shall cause, permit, maintain, conduct or otherwise suffer or allow a public nuisance as defined in this chapter to exist. It shall be the duty of every owner, occupant, and person that controls any land or interest therein within the unincorporated area of the County of Yolo to remove, abate, and prevent the reoccurrence of the public nuisance upon such land. Such duty of an owner shall exist regardless of whether the owner is in actual possession of their real property, and may include an obligation to take action to evict or otherwise remove an occupier who creates a public nuisance upon the owner's property. Nothing in this chapter shall be deemed to authorize or permit any activity that violates any provision of State or federal law.

- B. 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 nuisance to exist shall be personally liable for:
1. All costs incurred by the County, including, but not limited to, Abatement 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.
  2. Any Administrative Penalty imposed pursuant to this chapter. In the event that an Administrative Penalty is imposed on two or more persons for the same violation, all such persons shall be jointly and severally liable for the full amount of the Administrative Penalty imposed. Payment of Administrative Penalties does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the Notice. Payment of the administrative penalty does not bar the County from taking any other enforcement action regarding a violation that is not corrected.
- C. Interest shall accrue on all amounts due under this chapter, from the effective date of the decision to the date paid pursuant to the laws applicable to civil money judgments.
- D. At such time as the information becomes known, the Enforcing Officer shall make a demand for Abatement Costs and/or accrued Administrative Penalty by issuing an invoice to the Licensee and/or the owner of the property subject to enforcement action.
- E. Whenever the amount of Abatement Costs incurred by the County to abate the nuisance, or the amount of any Administrative Penalty imposed pursuant to this chapter has not been satisfied in full within ninety calendar days after service of the invoice, and/or 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 constitute a lien against the real property on which the violation occurred.
- F. In addition to any other remedy, including but not limited to recovering amounts due under this chapter from the bond required by Section 12-04.6, the County may prosecute a civil action through the Office of the County Counsel to collect any Abatement Costs and/or any Administrative Penalty imposed pursuant to this chapter.
- G. Issuance of a warning shall not be a requirement prior to enforcement of any provision of this chapter. Cultivation of cannabis in violation of this chapter and any code violation that exists to facilitate the cultivation of cannabis in violation of this chapter may be subject to the immediate imposition of penalties in accordance with §12-04.25(A). Citations for cannabis related code violations shall be served concurrently with citations for cannabis cultivation in accordance with §12-04.25 et seq. of the County Code.

### **Section 12-04.23 Lien Hearing**

At such time as Abatement Costs and/or Administrative Penalties due and owing have not timely been paid or recovered in full from the bond required by this chapter:

- A. The Enforcing Officer shall prepare and file a written report of Abatement Costs and/or

Administrative Penalties ("Report"), itemized by property, with the Clerk of the Board of Supervisors stating, as applicable:

1. For each abatement carried out, the amount of all accrued Abatement Costs, and/or
  2. For each accrued Administrative Penalty, the amount of delinquent Administrative Penalty.
- B. Upon receipt of the Report, the Clerk of the Board of Supervisors shall serve a written Notice of Hearing on Report of Abatement Costs and/or Administrative Penalties to the Licensee and property owner as listed on the license application.
- C. At the time and date set for the lien hearing, the Board of Supervisors shall review and consider the Report and any protests or objections to it.
- D. At the conclusion of the lien hearing, the Board of Supervisors shall make such modifications to the Report as it deems necessary and thereafter shall adopt a resolution confirming, modifying, or discharging the lien amount. As part of the resolution, the Board of Supervisors may order that all or any part of the Administrative Penalty and the cost to correct the violation pursuant to this chapter, including the Abatement Costs, as confirmed by the Board of Supervisors, 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 costs, including 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.
- E. The liens provided herein shall have no force and effect until recorded with the County Recorder. The Board of Supervisors may cause notices of abatement lien and/or notices of administrative penalty lien to be recorded against the respective parcels of real property pursuant to section 25845 of the Government Code. Upon recordation, the Clerk of the Board of Supervisors shall serve, in the manner set forth in §12-04.18(A)(3), a copy of the recorded notice(s).
- F. Within 30 calendar 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 Yolo County Recorder's Office.
- G. Once recorded, any costs or penalties not specially assessed by the Board of Supervisors pursuant to this section shall have the same 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.
- H. Interest shall accrue on the principal amount of any lien remaining unsatisfied at the rate set forth in Civil Code section 685.010.
- I. Once the County receives full payment for outstanding principal, penalties, and costs, the Clerk of the Board of Supervisors will record a notice of satisfaction. A fee shall be paid by the owner(s) and/or occupant(s) for processing the notice of satisfaction. This notice of satisfaction will cancel the County's lien under this section.
- J. 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.

**Section 12-04.24 Alternative Hearing Procedure**

If a hearing officer has been appointed in accordance with §12-04.20 of this chapter, the hearing officer is authorized to conduct the lien hearing required under §12-04.23 and shall prepare a recommended decision and resolution for the Board of Supervisors pursuant to Government Code sections 25845 and 27721. The recommended decision and resolution shall include any proposed modifications to the Report. 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 of Supervisors sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of §12-04.23.

**Section 12-04.25 Administrative penalties**

A. In addition to any other remedies provided by County Code or state law, and all other costs, fees, penalties and expenses which may be assessed or imposed as a result of violation of this chapter, any person who violates any provision of this chapter, including the owner of the real property on which the Premises are located, shall be liable and responsible for, and shall pay to the County “Administrative Penalties,” as set forth below, determined by the Enforcing Officer.

Administrative Penalties Schedule

Violation	First Offense	Second Offense	Third Offense
Exceedance of Allowed or Licensed Cultivation Area	\$20 per square foot	\$30 per square foot	\$50 per square foot
Non-compliance with Standard or Requirement	\$1,000	\$2,500	\$10,000
Unlicensed Commercial Cannabis Activity	\$10,000	\$25,000	\$50,000

1. For cultivation in exceedance of the allowed or licensed canopy, no more than \$20.00 per square foot per day for the first violation; no more than \$30.00 per square foot per day for the second violation within two years; and no more than \$50.00 per square foot per day for the third violation within two years.
2. For each violation of a standard or condition of the license, use permit or County Code, no more than \$1,000 per day for the first violation; no more than \$2,500 per day for a second violation within two years; and no more than \$10,000 per day for each additional violation within two years.
3. For each unlicensed cannabis activity, no more than \$10,000 per day for the first violation; no more than \$25,000 per day for the second violation within two years; and no more than \$50,000 per day for the third violation within two years.
4. In the event that the use or structure in violation may be permitted with an appropriate permit, up to a maximum of 5 times the amount of the standard fee for each required application, approval, review, and permit.

- B. Each act, omission or condition may be cited as a separate violation and each violation that continues, exists or occurs on more than one day may constitute a separate violation on each day.
- C. Administrative Penalties shall begin accruing immediately if a courtesy notice is issued for a canopy violation, pursuant to Section 12-04.16. Administrative Penalties shall begin accruing after the expiration of the three days provided for correction in the Notice of Violation and continue for each day that the violation continues. For unlicensed commercial cultivation, Administrative Penalties shall begin accruing on the day the violation was observed.
- D. The Administrative Penalty may be imposed via the administrative process set forth in this chapter, 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.
- E. All Administrative Penalties collected pursuant to this section shall be deposited into a special account that shall be expended to fund the activities of the cannabis licensing program in enforcing this chapter.

**Section 12-04.26 Summary abatement**

Notwithstanding any other provision in this chapter, when any unlawful cannabis cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in §12-04.18 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 §12-04.18(A)(3) 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.

**Section 12-04.27 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 12-04.28 No vested or non-conforming rights**

Neither this chapter nor any other provision of this code, or action, failure to act, statement, representation, certificate, approval, or license issued by the County or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any personal or commercial cannabis activity.

**12-04.29 Limitations on County's liability**

- A. To the fullest extent permitted by law, the County shall not assume any liability whatsoever with respect to approving any License pursuant to this chapter or the operation of any Cannabis Operation approved pursuant to this chapter.
- B. Under no circumstances shall a cause of action for monetary damages be allowed against the County of Yolo or any County employee as a result of a denial or a revocation of a License, or any other disciplinary action.

**SECTION 3. 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 or otherwise invalid by any final court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter; provided that the County Board of Supervisors may, within 60 days of the final court decision affecting this Ordinance, elect to rescind the Code amendments in this Ordinance in their entirety, in which case the provision of the County Code shall revert to the form as they existed prior to the effective date of this Ordinance.

In the event that this ordinance or the CLUO, or any portion thereof, are invalidated for any reason, the cannabis operation licenses issued by the County shall remain in full force and effect pursuant to this Ordinance.

**SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”)**

As set forth in Section 1, this Ordinance conforms the County’s existing commercial cannabis licensing program with the CLUO by making various changes, mostly minor, while preserving all of the key elements of the existing licensing program. This Ordinance does not alter the ministerial nature of the program and will not have a significant effect on the environment and, consequently, it is exempt from CEQA pursuant to Section 15061 of the CEQA Guidelines (common sense exemption).

**SECTION 5.** This ordinance, or a summary thereof including the vote of each Board member, shall be published within fifteen days after the date hereof in a newspaper of general circulation printed and published in the County of Yolo, State of California, and shall become effective sixty days after the date hereof.

**PASSED AND ADOPTED** by the Yolo County Board of Supervisors at its regular meeting on November 22, 2022, by the following vote:

- AYES: **Villegas, Saylor, Sandy, Provenza, Barajas.**
- NOES: **None.**
- ABSENT: **None.**
- ABSTENTION: **None.**

  
 \_\_\_\_\_  
 Angel Barajas, Chair  
 Yolo County Board of Supervisors

Attest: Julie Dachtler, Senior Deputy Clerk  
Yolo County Board of Supervisors

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

Approved as to form:  
Philip J. Pogledich, County Counsel

By:  \_\_\_\_\_

## Exhibit A

### Chapter 20

## MARIJUANA CULTIVATION

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#### Sections:

- 5-20.01 Purpose and intent.
- 5-20.02 Relationship to other laws.
- 5-20.03 Definitions.
- 5-20.04 Prohibited activities.
- 5-20.05 Limitation on location to cultivate marijuana.
- 5-20.06 Residency requirements.
- 5-20.07 Cultivation of marijuana.
- 5-20.08 Testing.
- 5-20.09 Public nuisance.
- 5-20.10 Enforcement.
- 5-20.11 Enforcement procedure.
- 5-20.12 Administrative penalties.
- 5-20.13 Summary abatement.
- 5-20.14 Non-exclusive remedy.
- 5-20.15 No vested or non-conforming rights.
- 5-20.16 Nursery and processing facilities; distributor licenses.
- 5-20.17 Early implementation development agreements.
- 5-20.18 Severability.
- 5-20.19 Sunset provision.

#### **Sec. 5-20.01. Purpose and intent.**

A. It is the purpose and intent of this chapter to regulate marijuana in a manner that is consistent with state law and that 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 of marijuana cultivation and related activities; and (3) the need to limit harmful environmental impacts that are sometimes associated with marijuana cultivation and related activities.

B. Nothing in this chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) to conflict with state law as contained in

MAUCRSA; or (3) allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under California law.

C. Nothing in this chapter is intended, nor shall it be construed, to exempt the cultivation of marijuana and other commercial marijuana activities as allowed under this chapter from compliance with all other applicable provisions of the Yolo County Code or compliance with any applicable state laws. Further, nothing in this chapter is intended, nor shall it be construed, to exempt the cultivation of marijuana and other commercial marijuana activities as allowed under this chapter from any and all applicable local and state construction, grading, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

D. All persons operating facilities and conducting activities associated with commercial marijuana activities, as defined in this chapter, are subject to possible federal prosecution, regardless of the protections provided by state or local law.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 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.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 5-20.03. Definitions.**

As used in this ordinance the following definitions shall apply:

A. "Abatement" or "abate" means the removal and destruction of all marijuana plants or products creating the condition(s) constituting a violation of this chapter as identified in a notice of violation issued by the enforcing officer.

B. "Abatement costs" means any costs or expenses, including County staff time reasonably related to the abatement of a violation under this chapter, and shall include, but shall not be limited to, enforcement, investigation, summaries, reports, notices, telephonic contact, correspondence, mailing expense, title search costs, costs incurred in obtaining an administrative warrant, administrative costs, including the total direct and indirect costs of enforcement established by generally accepted accounting principles that are reasonably and necessarily incurred by the County to investigate, inspect, or cure any violation or monitor the recurrence of any violation that is the subject of a notice issued by the enforcing officer, including, but not limited to, scheduling and participation at hearings, hearing officer costs, expenses incurred by the County, and any other costs associated with the removal, abatement or correction of a violation.

C. "Applicant" means a person applying for a license pursuant to this chapter.

D. "Caregiver" or "primary caregiver" shall have the same definition as set forth in California Health and Safety Code section 11362.7 as it now reads or as amended.

E. "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

F. "Contiguous" means any two legal parcels which share a mutual boundary. Notwithstanding the foregoing, legal parcels shall be considered contiguous, even if they are separated by roads, streets, utility easements or railroad rights-of-way.

G. "Cultivate" or "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

H. "Cultivation site" means one or more locations or facilities on one legal parcel subject to a single approved license where marijuana is planted, grown, harvested, dried, cured, graded, trimmed, processed or packaged for transport. It shall only be the geographical area that is specifically and accurately described in executed documents verifying lawful possession of the premises and the area specified in the applicable Notice of Intent issued pursuant to Central Valley Regional Water Quality Control Board Order No. R5-2215-0113. One or more areas of marijuana cultivation may exist on the legal parcel used for that purpose.

I. "Distributor license" is a license issued by the County of Yolo pursuant to Section 5-20.16 of this chapter, California Business and Professions Code section 26070 and applicable state regulations, and includes either a Type 11 or a Type 13 license issued by the state.

J. "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.

K. "Flowering" means that a marijuana plant has formed a mass of pistils measuring greater than one half (1/2) inch wide at its widest point.

L. "Garden canopy" means the total aggregate area(s) of marijuana cultivation on a single legal parcel as measured around the outermost perimeter of each separate and discrete area of marijuana cultivation at the drip line of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, and the exterior dimensions of garden beds, garden plots and hoop houses.

M. "Greenhouse" means a completely enclosed structure whose structural members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place, and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.

N. "Hoop house" means a structure with structural members that are made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently.

O. "Immature plant" means a marijuana plant that is not yet flowering.

P. "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.

Q. "Indoor cultivation" means the cultivation of marijuana within a structure using artificial light, at a rate greater than twenty-five (25) watts per square foot.

R. "Legal parcel" or "parcel" means any parcel of real property for which one legal title exists 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). Where contiguous legal parcels are under

common ownership or control, such legal parcels shall be counted as a single “premises” for purposes of this chapter.

S. "License" means a license issued by the County of Yolo to cultivate medical marijuana for commercial purposes in the unincorporated areas of Yolo County pursuant to this chapter.

T. “Licensee” means any person holding a license under this chapter.

U. "Marijuana", or “cannabis”, shall have the same definition as “cannabis” as set forth in California Business and Professions Code section 26001 as it now reads or as amended.

V. "Medical marijuana" shall have the same definition as “medical cannabis” and “medical cannabis product” as set forth in California Business and Professions Code section 26001 as it now reads or as amended.

W. “Medical marijuana collective” means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by written agreement, or form a cooperative in accordance with Section 12300 of the Corporations Code within the unincorporated area of the County in order to collectively or cooperatively cultivate, store, and/or dispense marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775. The term collective shall include "cooperative" unless the context clearly indicates otherwise.

X. “Mixed-light cultivation” means the cultivation of marijuana using light deprivation and/or artificial lighting below a rate of twenty-five (25) watts per square foot.

Y. “Nursery” means a facility that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of marijuana.

Z. “Nursery license” is a license issued by the County of Yolo to operate a nursery for commercial purposes in the unincorporated areas of Yolo County pursuant to Section 5-20.16 of this chapter.

AA. "Outdoor" or "outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined in this chapter.

BB. “Outdoor cultivation” means the cultivation of marijuana without the use of light deprivation and/or artificial lighting in the canopy area.

CC. “Park” means an area of land used for community recreation owned or operated by a public entity or a private area of land recognized as a neighborhood park utilized by youth, County-owned campgrounds and the Yolo Bypass Wildlife Area headquarters. State or Federal designated parks and forestlands as recognized within the Yolo County General Plan are not included within this definition.

DD. “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group, entity or combination acting as a unit, and the plural as well as the singular.

EE. "Premises" shall mean a single, legal parcel of real property. In addition, 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.

FF. "Processing" means to harvest, dry, cure, grade, trim, or package for transport marijuana.

GG. "Processing facility" means a site that conducts only drying, curing, grading, trimming or packaging for transport of marijuana and non manufactured marijuana products.

HH. “Processing license” is a license issued by the County of Yolo to operate a processing facility for commercial purposes in the unincorporated areas of Yolo County pursuant to Section 5-20.16 of this chapter.

II. "Qualified patient" shall have the same definition as set forth in California Health and Safety Code section 11362.7 as it now reads or as amended.

JJ. "Residence" means a legal residential structure providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and having only one kitchen.

KK. "Residential treatment facility" means a state-licensed residential facility that provides treatment for drug and/or alcohol dependency.

LL. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any licensed child day care or preschool facility. 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 vocational or professional institution of higher education, including a community or junior college, college or university.

MM. "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.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 5-20.04. Prohibited activities.**

A. Except as provided for in the exemptions set forth in paragraphs (1) and (2) of this section, the cultivation of 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.

1. Personal.

a. Patient.

1) Not more than (6) six living plants may be planted, cultivated, harvested, dried or processed within a single private residence, or upon the premises of that private residence, where a qualified patient resides, provided that qualified patient cultivates marijuana for his or her sole personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity.

2) The plant number limitation is imposed regardless of the number of qualified patients residing on the premises, participating directly or indirectly in or benefitting from the cultivation.

3) The qualified patient shall reside full-time in the residence where the medical marijuana cultivation occurs and may not participate in medical marijuana cultivation at any other residential location within the County of Yolo.

b. Adult use. Subject to Health and Safety Code section 11362.2, not more than six (6) living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the premises of that private residence, at one time.

2. Commercial. Except as provided in paragraph (A)(1) of this section, commercial cultivation of marijuana shall be allowed only following the issuance of a license pursuant to the provisions of this chapter.

a. All licenses shall comply with the following requirements:

1) Cultivation shall be in compliance with California Regional Water Quality Control Board Central Valley Region Order No. R5-2015-0113 as it now reads or as it may be amended from time to time. To be eligible for a license, an applicant shall have submitted a Notice of Intent (NOI), which must be complete and have been received with full payment by the Central Valley Regional Water Quality

Control Board no later than 5:00 p.m. on October 11, 2016, to obtain regulatory coverage by the Central Valley Water Board as a Tier 1, 2 or 3 cultivator, monitoring self-certification. Applicants must be able to demonstrate 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 cultivation site garden canopy must be between one thousand (1,000) square feet and forty-three thousand five hundred sixty (43,560) square feet; cultivation of marijuana of less than one thousand (1,000) square feet under this paragraph is prohibited.

2) Applicants shall be currently leasing or, as of October 11, 2016, have been the record owner of or have a fully executed purchase and sale agreement for the purchase of, the real property on which they will cultivate marijuana and for which they have filed a Notice of Intent with the Central Valley Water Board by October 11, 2016.

3) Licensees are not authorized to sublet any portion of a cultivation site for any purpose.

4) Prior to the issuance of an initial or renewal license under this chapter, applicants shall:

i. Along with owners of the premises on which cultivation will occur, sign a written consent to reasonable on-site compliance inspections of both the cultivation site area and of all records and documents related to the marijuana activities occurring on the premises by law enforcement or other County personnel during reasonable hours, as specified in Section 5-20.10(F).

ii. Along with owners of the premises on which cultivation will occur, 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 marijuana 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 in a form prescribed by the County. 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 abatement, arrest or prosecution for cultivation in violation of state or federal laws.

iii. Sign a statement under penalty of perjury warranting that they will abide by the requirements of this chapter and applicable state law in a form prescribed by the County.

iv. Complete any application forms prescribed by the County and pay fees as established by resolution and adopted by the Board of Supervisors as amended from time to time.

v. Furnish the County a surety bond in the amount of ten thousand dollars (\$10,000) furnished by a corporate surety authorized to do business in the state. Such bond shall be in favor of the County and shall be approved by the County Counsel. Such bond shall be conditioned upon full and faithful performance by the licensee of all obligations under this chapter and any license issued hereunder and shall be kept in full force and effect by the licensee throughout the life of the license and all renewals thereof. The Board of Supervisors may from time to time by resolution establish additional bond requirements as it deems necessary.

In the event that the licensee violates any of the provisions of this chapter or any County rules or orders, such violation shall permit the County at its option to resort to the bond to cover any abatement costs or administrative penalties assessed.

5) Licensees are prohibited from commingling marijuana from other licensees, from unlicensed cultivators or from the licensee's other cultivation sites, and from transferring or receiving any marijuana or non-manufactured marijuana products to or from other licensees, unlicensed cultivators or licensee's other cultivation sites. Notwithstanding the foregoing, licensees are allowed to receive immature plants or seeds from licensed nurseries and to transfer marijuana and non-manufactured marijuana products to licensed processors.

6) Licensees shall participate in any track and trace program required by the County, pay any associated fees and meet all associated requirements.

Failure to fully comply with the County's track and trace program, as determined by the County, is unlawful and constitutes a violation of this chapter subject to disciplinary action pursuant to Section 5-20.04(A)(2)(c) and enforcement pursuant to Section 5-20.10 et seq.

7) Child support obligations.

i. Prior to the issuance of an initial or renewal license under this chapter, and at all times while holding a license, applicants and licensees shall be current with their monthly child support obligations. If the applicant or licensee has an account with past due child support arrears, he/she must have that balance at zero or have verification from the Department of Child Support Services that they have been in and remain in compliance with a court ordered payment plan in order to remain eligible for a license.

ii. Licensees shall provide the County a quarterly list of all employees employed by licensee at any time during the quarter. Reports are due by the 15th of the month following the end of the quarter (March, June, September, and December). The list shall include names, addresses, phone numbers and social security numbers for all employees.

iii. If licensee uses a payroll withholding process, licensee must comply with any income withholding order for child support for any employee in licensee's employ. In addition, if the income withholding order is for an owner or part-owner of the business, the business shall also comply with the income withholding order and provide necessary tax information if self-employed for purposes of determining accurate child support orders.

b. Marijuana cultivation license.

1) Other than pursuant to Section 5-20.04(A)(1), it is unlawful to cultivate marijuana in the County of Yolo without first having obtained a license under this chapter.

2) The County Administrator is authorized to establish procedures and guidelines to process license applications.

3) A license does not create any interest of value, is not transferable, and automatically terminates upon transfer.

4) A license issued by the County constitutes a revocable privilege. Applicants and licensees have the burden of proving its qualifications for a license at all times.

5) The license shall be valid for twelve months, or part thereof, beginning April 1st of the year in which it is issued. The license will expire on March 31st of the following year.

i. For year-round cultivation licenses issued in 2020, these licenses will be valid through March 31, 2021.

6) A license is issued to and covers only the licensee identified on the license with respect to the cultivation site identified on the license. The license does not run with the land.

7) The County shall not accept any applications for an initial license after 5:00 p.m. on December 31, 2017.

8) Notwithstanding any provision in this chapter to the contrary, a licensee with a currently valid license may relocate the licensee's cultivation site to a site pre-approved in writing by the County upon a determination that the proposed site will result in reduced community or environmental impacts. If relocating a cultivation site under this paragraph, the licensee may co-locate on the premises of another licensee provided the premises are no less than forty (40) acres in size. There shall not be more than two licenses located on a single premises.

9) The provisions of this chapter shall apply after the expiration or revocation of a license until such time as no marijuana in excess of the amount allowed pursuant to Section 5-20.04(A)(1) remains on the premises.

c. Renewal of license.

1) A licensee may apply for the renewal of a license no less than thirty (30) days prior to the license's expiration date. No activity related to marijuana cultivation may occur on the premises and the marijuana business shall cease operations after the expiration of a current license.

2) An application for renewal will only be accepted if it is accompanied by the requisite licensing fees.

3) Each application for renewal shall include updated information for any part of the application that has undergone a change in circumstance since the original application or last renewal filing.

4) All owners of the marijuana business and the owners of the property on which the business is located must be fingerprinted each year at renewal if required in the discretion of the County.

5) Unless administratively continued upon a showing of good cause and at the sole discretion of the County, a license is immediately invalid upon expiration and the marijuana business shall cease operations. If a license expires, the County may approve a renewal of the expired license at any time up to three (3) months from the expiration date of the license. After the license has been expired for three (3) months, the County may not renew the license, and the holder of the expired license must apply for and obtain a new license to resume operations.

B. *Additional prohibitions.*

1. Notwithstanding compliance with the provisions of this chapter, cultivation of marijuana is prohibited if 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.

2. No person owning, leasing, occupying, or having charge or possession of any property within the County shall cause, or allow such property 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.

3. Medical marijuana collectives shall not cultivate marijuana in excess of the amount allowed pursuant to Section 5-20.04(a)(1) above without a license and any other approval required under this chapter.

4. Except those activities expressly allowed pursuant to a license issued under this chapter, the establishment, maintenance, or operation of any commercial marijuana business or activity, including, but not limited to, cultivation, processing, manufacture, distribution (including delivery as defined in Business and Professions Code § 26001(h)), transportation, laboratory testing, and sale, which would require a state license to be issued pursuant to MAUCRSA, is prohibited within the unincorporated area of the County of Yolo.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019, and § 2, Ord. 1528, eff. November 19, 2020)

**Sec. 5-20.05. Limitation on location to cultivate marijuana.**

A. The cultivation of marijuana, in any amount or quantity, shall not be allowed in the following areas, if in existence at the time an initial license is issued:

1. Outdoors within one thousand (1,000) feet of a youth-oriented facility, a school, a school bus stop, a park, a church, a residential treatment facility or federal lands held in trust by the federal government, or that is the subject of a trust application, for a federally recognized tribal government. The setback from lands held in trust, or the subject of a trust application, for a federally recognized tribal government shall apply prospectively and not be applicable to those exempt under 5-20.04(A)(1) and (2).

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, residential treatment facility or tribal lands are located.

2. Outdoors within seventy- five (75) feet of any occupied residence located on a separate parcel. Notwith standing the foregoing, a proposed outdoor cultivation site that is the subject of an application for an initial license filed between October 24, 2017 and December 31, 2017 must be at least one thousand (1,000) feet from any occupied residence located on a separate parcel.

B. Licensees are not authorized to relocate the cultivation site to other areas or units within a structure or outdoors on licensed premises without first filing a change of location or modification of the license, and obtaining approval from the County.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 5-20.06. Residency requirements.**

A. Persons cultivating marijuana under this chapter shall meet one of the following requirements:

1. Own the premises where 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 premises.

B. Evidence of lawful possession consists of properly executed deeds of trust, leases, evidence of ownership of the licensed premises, or other written documents acceptable to the County.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 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 this chapter 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 six hundred (600) watts of lighting capacity per one hundred (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 premises 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. All licensees shall prominently display the license on the premises identified on the license. The license must be displayed where it can be viewed by the public and County staff.

G. 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.

H. At the discretion of the County, all marijuana grown in Yolo County is subject to the requirement that it be in a location fully enclosed by an aesthetically pleasing, opaque fence at least six (6) feet in height, adequately secured by a locked gate to prevent unauthorized entry. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

**Sec. 5-20.08. Testing.**

A. Marijuana shall not be sold or distributed pursuant to a license provided for under this chapter unless a representative sample of the marijuana has been tested by a licensed testing laboratory.

B. Marijuana shall be tested to determine whether the presence of contaminants exceeds the levels established by the California Bureau of Cannabis Control. Prior to distributing or selling any marijuana that contains more than the permissible levels of contaminants, the licensee shall mitigate for the contaminant and label all marijuana with the results of the test.

C. "Contaminants" shall have the same definition as set forth in Business and Professions Code section 26100, as it now reads or as it may be amended from time to time.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

**Sec. 5-20.09. Public nuisance.**

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

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

**Sec. 5-20.10. 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 or the District Attorney, on behalf of the people of the State of California, may, in their 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 or the District Attorney, on behalf of the people of the State of California, may also abate a violation of this chapter through the abatement process established by Government Code section 25845 or as set forth in this chapter.

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, or portion thereof, on which any violation of any provision of this chapter is committed, continued or permitted by any such person. Any violation which persists for more than one (1) day is deemed a continuing violation.

F. At any time between 8:00 a.m. and 8:00 p.m. and without notice, any officer, employee, or designated agent of the County may enter upon any private or public property for the purpose of

observing compliance of the cultivation site with the provisions of this chapter, including access to and inspection of the cultivation site's records, books, accounts, financial data, and any and all data relevant to its licensed activities for the purpose of conducting an audit or examination, and the owner, occupant, or person in charge of the premises shall permit the entry and inspection.

G. Nothing in this chapter shall be construed as imposing on the enforcing officer or the County of Yolo any duty to issue any notice hereunder, or to abate any unlawful marijuana cultivation, or to take any other action with regards to any unlawful marijuana cultivation, and neither the enforcing officer nor the County of Yolo shall be held liable for failure to issue any notice hereunder, or for failure to abate any unlawful marijuana cultivation, or for failure to take any other action with regard to unlawful marijuana cultivation.

H. The county may impose administrative penalties, deny an application for an initial or renewal license, revoke an original or renewal license, or may suspend, place on probation with terms and conditions, or otherwise discipline licensees (collectively referred to as "disciplinary action"), for any of the following reasons:

1. Failure to comply with one or more provisions of this chapter or any rule or regulation adopted pursuant to this chapter;
2. Failure to conduct cultivation operations in a manner that ensures the security of the crop and safeguards against diversion for illegal purposes;
3. Violation of any requirement of the Yolo County Code;
4. Previous violation by the applicant, or previous violation at the proposed cultivation site, of any provision of the Yolo County Code or state law related to the cultivation of marijuana;
5. The creation or maintenance of a public nuisance where the licensee has failed to comply with reasonable conditions to abate the nuisance;
6. Failure to allow unannounced inspections of the premises by County staff or law enforcement at any reasonable time, as specified in Section 5-20.10(F), without notice;
7. Discovery of untrue statement(s) or an omission of a material statement in a license application;
8. Failure to comply with any state or local law, ordinance, or regulation including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law;
9. Failure to comply with any applicable federal, state, or local environmental laws, regulations, or ordinances;
10. Failure to comply with any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee;
11. Failure to maintain safe conditions for inspection by the County;
12. Failure to pay applicable state or County taxes or fees on marijuana activity;
13. Entry of false, misrepresented or incomplete data or information into the track and trace system;
14. The applicant, owner, or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of marijuana cultivation. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the County shall include, but not be limited to, the following:
  - a. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

- b. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
- c. A felony conviction involving fraud, deceit, or embezzlement.
- d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
- e. A felony conviction for drug trafficking.

15. Except as provided in paragraphs (d) and (e) directly above, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license;

16. The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code;

17. The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial marijuana activities, or has had a marijuana operations license suspended or revoked in the three (3) years immediately preceding the date the application is filed with the County.

I. Under no circumstances shall a cause of action for monetary damages be allowed against the County of Yolo or any County employee as a result of a denial or a revocation of a license.

J. The County may take disciplinary action against a licensee when the violation was committed by the licensee's officers, directors, owners, agents, or employees while acting on behalf of the licensee or engaged in commercial marijuana activity.

K. Failure to hold the applicable cannabis license issued by the State of California, or denial, suspension, lapse or revocation of the applicable license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a marijuana business to operate within the county, until the State of California, or its respective department or division, reinstates or issues a state license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a marijuana business, such revocation or termination shall also revoke or terminate the ability of a marijuana business to operate within the County of Yolo.

L. The County may recover the costs of investigation and enforcement of disciplinary action following the procedures set forth in Section 5-20.11 of this Code.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

### **Sec. 5-20.11. Enforcement procedure.**

#### *A. Notice.*

1. Whenever the enforcing officer determines that a violation of this chapter exists, he or she may issue a notice of violation and order to abate or correct ("Notice").

2. A notice issued by the enforcing officer shall be served as follows by any one (1) of the following three (3) methods:

- a. Delivering it personally to the owner or the occupant; or

b. By first class mail, postage pre-paid, addressed to (i) the owner at the address shown on the last equalized assessment roll or as otherwise known to the enforcing officer, and (ii) the street address of the cultivation site, if the property is capable of receiving mail, and, if different, to (iii) the applicant's mailing address as provided on the most recent license application.

c. By overnight mail, addressed to (i) the owner at the address shown on the last equalized assessment roll or as otherwise known to the enforcing officer, and (ii) the street address of the cultivation site, if the property is capable of receiving mail, and, if different, to (iii) the applicant's mailing address as provided on the most recent license application.

3. Date of service shall be deemed to be the date of personal service, or five (5) days after notice is deposited in the United States mail, or one (1) day after notice is delivered to a location or deposited in a box maintained by an overnight delivery service.

4. 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 such notice conspicuously along the frontage of the real property subject to the notice, or if the property has no frontage, upon any street, highway, or road then upon the portion of the property nearest to a street, highway, or road, or most likely to give actual notice to the owner and any person known by the enforcing officer to be in possession of the property. Service shall be deemed to have been completed upon posting.

5. If the notice is properly and timely served, the failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings conducted herein and shall not affect the validity of service or the validity of any administrative penalties imposed pursuant to this chapter upon any other person.

6. The enforcing officer may record the notice.

7. 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 violation must be abated or corrected, as applicable, within three (3) calendar days after the date that the notice is served;

e. That an administrative penalty will accrue for each day that the violation continues to exist after the expiration of the three (3) day period;

f. The date of the notice;

g. A statement that the violation determination may, within five (5) calendar days after the date the notice was deemed served pursuant to Section 5-20.11(A)(3), be appealed by providing the Clerk of the Board of Supervisors with a request in writing for a hearing to appeal the determination of the enforcing officer, setting forth the factual and/or legal basis, as applicable, for the appeal, with payment of any applicable appeal fee;

h. A statement that, unless an appeal hearing is requested within the time prescribed in the notice, the enforcing officer can abate the nuisance at the expense of those determined by the enforcing officer to have violated this chapter. It shall also state that the abatement costs and the administrative penalty may be made a special assessment added to the county assessment roll and become a lien

on the real property where the violation has occurred, on the real property owned by those persons violating this chapter, or be placed on the unsecured roll.

8. At the time of filing, the appellant shall pay any designated appeal fee established by resolution of the Board of Supervisors from time to time.

9. Absent timely appeal, the notice shall be deemed final and conclusive and the enforcing officer may take the disciplinary action set forth in the notice and/or 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, but need not, apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary in the sole discretion of the enforcing officer.

10. If a violation is corrected pursuant to a notice and the same conduct is committed within forty-five (45) days of correction, the violation will be deemed continuing and immediate fines will be incurred dating back to the date of original notice.

11. Upon the occurrence of three (3) verified violations or hearing officer determinations of violation of any of the license requirements or standards issued to the owner or operator at any property or combination of properties of the same owner or operator within a two (2) year period, all licenses for marijuana cultivation held by said owner or operator shall be automatically deemed nullified, voided and revoked. Upon revocation, an application to reestablish a marijuana cultivation operation at the subject property shall not be accepted for a minimum of two (2) years.

B. *Administrative hearing.*

1. In order to hear cases brought by the enforcing officer under this chapter, the Board of Supervisors authorizes the use of a hearing officer appointed pursuant to Yolo County Code section 1-5.09.

2. Upon receipt of the written appeal, the matter shall be set for a hearing before the hearing officer.

3. The hearing officer shall hold an administrative hearing to determine whether the conditions existing on the property subject to the notice constitute a violation under this chapter.

4. The hearing officer may continue the appeal hearing from time to time for good cause.

5. The hearing officer shall consider the matter de novo and determine whether the conditions existing on the property subject to the notice constitute a violation under this chapter.

6. The owner(s) and/or occupant(s) of the property shall be given an opportunity at the hearing to present and elicit testimony (including by cross-examination) and other evidence regarding whether the conditions existing on the property constitute a violation of this chapter, and/or to contest the proposed amount of administrative penalty. Failure of the owner(s) and/or occupant(s) to appear and present evidence at the hearing shall be deemed a withdrawal of the request for hearing and shall constitute a failure to exhaust administrative remedies.

7. The appellant may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply, including rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

8. The standard of proof shall be by a preponderance of the evidence and the burden of proof to establish the existence of the nuisance shall be borne by the enforcing officer. The burden of proof

that the nuisance has been abated or the violation corrected shall be borne by the owner(s) and/or occupant(s).

9. The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter, at its sole cost, who has been certified as an interpreter by either the State of California or the County of Yolo.

10. After the hearing, the hearing officer shall render his or her written decision affirming, reversing or modifying the determination made by the enforcing officer about the alleged violation. If the violation is affirmed, the decision shall include a statement that the County is entitled to recover its abatement 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 two (2) calendar days of the date of service of the hearing officer requiring such abatement.

11. A copy of the decision shall be served on the parties upon whom the notice was served pursuant to Section 5-20.11(A)(2) and (3) or in the manner agreed upon by the parties. The decision shall be final and conclusive when signed by the hearing officer and served as provided by this paragraph.

12. Payment of abatement costs and an administrative penalty specified in the hearing officer's decision shall be made to the County within twenty (20) calendar days of the decision, unless timely appealed to the Superior Court in accordance with Government Code section 53069.45, subdivision (b).

*C. Enforcement of abatement order.*

1. Any owner or occupant may abate the nuisance 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. Abatement shall not be deemed completed until the unlawful marijuana has been completely removed from the premises and destroyed and notification of such has been provided as set forth in this section. Such abatement by any owner or occupant shall not impair the enforcing officer's ability to impose an administrative penalty accrued prior to such abatement.

2. Notwithstanding the foregoing, whenever the enforcing officer becomes aware that an owner or occupant has failed to abate any unlawful marijuana cultivation within two (2) calendar days of the date of service of the decision of the hearing officer requiring such abatement, the enforcing officer may enter upon the property and abate the nuisance by county personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may, but need not, apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary in his or her sole discretion.

3. If a violation is corrected pursuant to an abatement order, either by the owner, occupant, or the County, and the same conduct is committed within forty-five (45) days of correction, the violation will be deemed continuing and immediate fines will be incurred dating back to the date of original abatement order.

4. The owner and/or occupant of the property shall be responsible for paying all of the County's abatement costs. Each department performing abatement activities shall, upon completion of the activity, report abatement costs to the County.

*D. Liability for abatement costs and/or administrative penalties; interest.*

1. No person or entity owning, leasing, occupying or having charge or possession of any premises within the unincorporated area of the County of Yolo shall cause, permit, maintain, conduct or otherwise suffer or allow a public nuisance as defined in this chapter to exist. It shall be the duty of every owner, occupant, and person that controls any land or interest therein within the unincorporated

area of the County of Yolo to remove, abate, and prevent the reoccurrence of the public nuisance upon such land. Such duty of an owner shall exist regardless of whether the owner is in actual possession of his or her real property, and may include an obligation to take action to evict or otherwise remove an occupier who creates a public nuisance upon the owner's property. Nothing in this chapter shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

2. 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 nuisance to exist shall be personally liable for:

a. All costs incurred by the County, including, but not limited to, abatement 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. Any administrative penalty imposed pursuant to this chapter. In the event that an administrative penalty is imposed on two (2) or more persons for the same violation, all such persons shall be jointly and severally liable for the full amount of the administrative penalty imposed. Payment of administrative penalties does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the notice. Payment of the administrative penalty does not bar the County from taking any other enforcement action regarding a violation that is not corrected.

3. Interest shall accrue on all amounts due under this chapter, from the effective date of the decision to the date paid pursuant to the laws applicable to civil money judgments.

4. At such time as the information becomes known, the enforcing officer shall make a demand for abatement costs and/or accrued administrative penalty by issuing an invoice to the owner(s) and/or occupant(s) of the premises subject to enforcement action.

5. Whenever the amount of abatement costs incurred by the County to abate the nuisance, or the amount of any administrative penalty imposed pursuant to this chapter has not been satisfied in full within ninety (90) calendar days after service of the invoice, and/or 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 constitute a lien against the real property on which the violation occurred.

6. In addition to any other remedy, the County may prosecute a civil action through the Office of the County Counsel to collect any abatement costs and/or any administrative penalty imposed pursuant to this chapter.

E. *Lien hearing.* At such time as abatement costs and/or administrative penalties due and owing have not timely been paid:

1. The enforcing officer shall prepare and file a written report of abatement costs and/or administrative penalties ("report"), itemized by property, with the Clerk of the Board of Supervisors stating, as applicable:

- a. For each abatement carried out, the amount of all accrued abatement costs, and/or
- b. For each accrued administrative penalty, the amount of delinquent administrative penalty.

2. Upon receipt of the report, the Clerk of the Board of Supervisors shall serve a written Notice of Hearing on Report of Abatement Costs and/or Administrative Penalties.

3. At the time and date set for the lien hearing, the Board of Supervisors shall meet to review and consider the report and any protests or objections to it.

4. At the conclusion of the lien hearing, the Board of Supervisors shall make such modifications to the report as it deems necessary and thereafter shall adopt a resolution confirming, modifying, or discharging the lien amount. As part of the resolution, the Board of Supervisors may order that all or any part of the cost to abate the nuisance pursuant to this chapter, including the abatement costs, as confirmed by the Board of Supervisors 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 abatement costs, including 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.

5. The liens provided herein shall have no force and effect until recorded with the County Recorder. The Board of Supervisors may cause notices of abatement lien and/or notices of administrative penalty lien to be recorded against the respective parcels of real property pursuant to section 25845 of the Government Code. Upon recordation, the Clerk of the Board of Supervisors shall serve, in the manner set forth in Section 5-20.11(A)(2), a copy of the recorded notice(s).

6. Within thirty (30) calendar 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 Yolo County Recorder's Office.

7. Once recorded, any costs or penalties not specially assessed by the Board of Supervisors pursuant to this section shall have the same 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.

8. Interest shall accrue on the principal amount of any lien remaining unsatisfied at the rate set forth in Civil Code section 685.010.

9. Once the County receives full payment for outstanding principal, penalties, and costs, the Clerk of the Board of Supervisors will record a notice of satisfaction. A fee shall be paid by the owner(s) and/or occupant(s) for processing the notice of satisfaction. This notice of satisfaction will cancel the County's lien under this section.

10. 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.

F. *Alternative hearing procedure.* If a hearing officer has been appointed in accordance with Section 5-20.11(B)(1) of this chapter, the hearing officer is authorized to conduct the hearing required under paragraph (E) [Lien Hearing] above and shall prepare a recommended decision and resolution for the Board of Supervisors pursuant to Government Code sections 25845 and 27721. The recommended decision and resolution shall include any proposed modifications to the report. 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 of Supervisors sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of paragraph(E) [Lien Hearing] above.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 5-20.12. Administrative penalties.**

A. In addition to any other remedies provided by County Code or state law, and all other costs, fees, penalties and expenses which may be assessed or imposed as a result of violation of this chapter, any person who violates any provision of this chapter, including the owner of the premises, shall be liable and responsible for, and shall pay to the County "administrative penalties", as set forth below, determined by the enforcing officer.

Administrative Penalties Schedule

Violation	First Offense	Second Offense	Third Offense
Exceedance of Allowed or Licensed Cultivation Area	\$20 per square foot	\$30 per square foot	\$50 per square foot
Non-compliance with Standard or Requirement	\$1,000	\$2,500	\$10,000
Unlicensed Commercial Marijuana Activity Other than Cultivation Area	\$10,000	\$25,000	\$50,000

1. For cultivation in exceedance of the allowed or licensed cultivation area, no more than \$20.00 per square foot per day for the first violation; no more than \$30.00 per square foot per day for the second violation within two (2) years; and no more than \$50.00 per square foot per day for the third violation within two (2) years.

2. For each violation of a standard or condition of the license or county code, no more than \$1,000 per day for the first violation; no more than \$2,500 per day for a second violation within two (2) years; and no more than \$10,000 per day for each additional violation within two (2) years.

3. For each unlicensed marijuana use, no more than \$10,000 per day for the first violation; no more than \$25,000 per day for the second violation within two (2) years; and no more than \$50,000 per day for the third violation within two (2) years.

4. In the event that the use or structure in violation may be permitted with an appropriate permit, up to a maximum of fifty (50) times the amount of the standard fee for each required approval, review, and permit.

B. Each act, omission or condition may be cited as a separate violation and each violation that continues, exists or occurs on more than one (1) day may constitute a separate violation on each day, at the discretion of the enforcing officer.

C. Administrative penalties shall begin accruing three (3) days after date of service of a notice and continue for each day that the violation continues.

D. In determining the amount of the administrative penalty, the enforcing officer, or the hearing officer, if applicable, 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 administrative penalty may be imposed via the administrative process set forth in this chapter, 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.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

**Sec. 5-20.13. 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 Section 5-20.11 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 5-20.11(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.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 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.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 5-20.15. No vested or non-conforming rights.**

Neither this chapter nor any other provision of this code, or action, failure to act, statement, representation, certificate, approval, or license issued by the County or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any marijuana cultivation or other commercial marijuana activity.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 5-20.16. Nursery and processing facilities; distributor licenses.**

A. Notwithstanding any other provision of this chapter, the Board of Supervisors may approve a nursery license or a processing license. By resolution or minute order, the Board of Supervisors shall establish the maximum number of nursery licenses and processing licenses that may be approved pursuant to this section. The Board of Supervisors may increase or decrease the maximum number of such licenses from time to time in its sole discretion.

B. The Board of Supervisors may approve a nursery license or processing license upon determining as follows:

1. The applicant complied with all aspects of the competitive solicitation process undertaken by the County Administrator's Office in connection with nursery and processing facilities; and

2. Issuance of the proposed license would not result in an exceedance of the maximum number of authorized nursery or processing facilities; and

3. The proposed license complies with all provisions of this chapter relating to state and local agency approvals (excluding only the October 11, 2016 deadline for coverage under Regional Board Order No. R-5-2015-0113), location restrictions, and/or applicable testing requirements; and

4. Unless determined to be exempt, the application has been reviewed in conformance with the California Environmental Quality Act; and

5. All aspects of the proposed license are consistent with the protection of public health, safety and welfare.

6. If an applicant for a nursery license or processing license proposes a development agreement pursuant to Government Code Section 65864 et seq., all aspects of the content, review, and approval of the development agreement shall comply with applicable provisions of state law. Provisions of Title

8 of the Yolo County Code relating to development agreements, including but not limited to Chapter 5 thereof, shall not apply to development agreements proposed in connection with nursery and processing facilities.

a. The Board of Supervisors may approve a distributor license if an applicant for a nursery license or processing license proposes a development agreement that includes a request for a distributor license.

C. Outside the competitive solicitation process undertaken by the County Administrator's Office in connection with nursery and processing facilities, the County may approve a distributor license upon determining as follows:

1. The applicant currently holds a license pursuant to this chapter.
2. The distributor license shall solely support the business activities of that licensee (self-distribution) and not serve other licensees.
3. The proposed license complies with all applicable provisions of state and local agency approvals.
4. The application is accompanied by a complete copy, including attachments, of the Cannabis Distributor License Application submitted to the state.
5. All aspects of the proposed license are consistent with the protection of public health, safety and welfare.

D. Distributor licensees must comply with the following:

1. Other than transportation, distribution activities shall be confined to licensee's cultivation site.
2. Distributor licensees shall comply with all applicable provisions of the California Bureau of Cannabis Control regulations, California Code of Regulations, Title 16, Division 42.

E. Following issuance, unless otherwise specified in an approved development agreement, all matters relating to the expiration, administration, renewal, enforcement, and revocation of licenses under this chapter shall apply to a nursery license, processing license or distributor license.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 5-20.17. Early implementation development agreements.**

Notwithstanding any other provision of this chapter, the Board of Supervisors may approve a development agreement with a licensee to provide a long-term (in excess of one (1) year) right to engage in cultivation and/or other related activities. The application submission, review, and approval process and all other matters relating to development agreements authorized by this section are set forth in the "Early Implementation Development Agreements Policy" adopted by the Board of Supervisors on March 6, 2018, as may be amended from time to time. The Policy is incorporated herein by this reference.

(§3, Ord. 1509, eff. April 11, 2019)

#### **Sec. 5-20.18. 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 or otherwise invalid by any final court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)

**Sec. 5-20.19. Sunset provision.**

A. *Repeal.* This chapter shall be automatically repealed and be of no further force or effect as of December 31, 2018 unless the Board of Supervisors submits a County tax on commercial marijuana activity to the voters on the June 2018 ballot, the voters approve the tax, and the tax is certified by the County pursuant to Section 15372 of the California Elections Code. Further, this chapter shall be automatically repealed and be of no further force if such tax is thereafter successfully challenged and repealed or otherwise invalidated.

B. *Grace period.* Notwithstanding a repeal pursuant to paragraph (A) above, licensees may wind-down marijuana cultivation activities conducted pursuant to a license in effect and in good standing as of July 1, 2018, with no modifications to the nature, scope or location of the license, until the date specified below:

1. Outdoor cultivation – December 31, 2018.
2. Mixed-light cultivation – December 31, 2019.
3. Indoor cultivation – December 31, 2020.
4. Cultivation pursuant to a development or cultivation agreement approved by the Board of Supervisors - by the expiration date specified in the agreement.

(§ 3, Ord. 1502, eff. August 23, 2018, as amended by § 3, Ord. 1509, eff. April 11, 2019)