

ORDINANCE NO. 806

AN ORDINANCE OF THE COLUSA COUNTY BOARD OF SUPERVISORS AMENDING CHAPTER 11 OF THE COLUSA COUNTY CODE REGARDING CANNABIS AND INDUSTRIAL HEMP CULTIVATION, PROCESSING, RELATED POSSESSION, AND SALES

The Board of Supervisors for the County of Colusa ordains as follows:

SECTION 1

Chapter 11 of the Colusa County Code is amended to read as shown in Exhibit "A" to this ordinance, which is incorporated by reference.

SECTION 2

This ordinance is exempt from the California Environmental Quality Act (CEQA) because it is not a project under CEQA. Additionally, if it were deemed a project it would be categorically exempt under California Code of Regulations Title 14, Division 6, Chapter 3 section 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, section 15308 because this ordinance will assure the protection of the environment, and 15321 because it amounts to an action by an agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency.

SECTION 3

The provisions of Chapter 11 are severable and if any provision of Chapter 11 or its application in a particular circumstance is held invalid, the remainder of the Chapter, including the application of such part or provision in another circumstance, will not be affected and will continue in full force. The Board of Supervisors declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase in Chapter 11 irrespective of the fact that any one, or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

SECTION 4

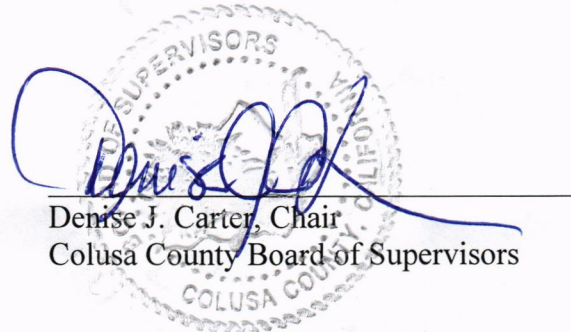
This ordinance shall become effective thirty (30) days after its passage. It shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Colusa, State of California, within fifteen (15) days after its passage.

Introduced at a regular meeting of the Board of Supervisors held on the 7th day of January, 2020, and passed and adopted by the Board of Supervisors of the County of Colusa, State of California, on the 21st day of January, 2020, by the following roll call vote:

AYES: Supervisors Kent S. Boes, John D. Loudon, J. Merced Corona, Gary J. Evans, and Denise J. Carter.

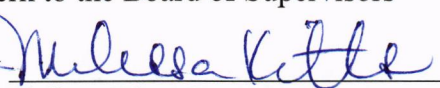
NOES: None.

ABSENT: None.



Denise J. Carter, Chair
Colusa County Board of Supervisors

ATTEST: Wendy G Tyler
Clerk to the Board of Supervisors

By 
Melissa Kitts, Deputy

APPROVED AS TO FORM:

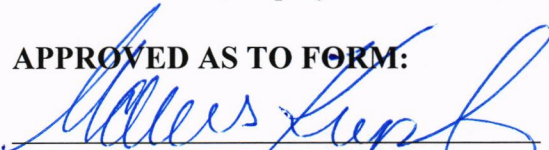

Marcos A. Kropf, County Counsel

EXHIBIT “A”

Chapter 11

CANNABIS AND INDUSTRIAL HEMP CULTIVATION, PROCESSING, RELATED POSSESSION, AND SALES

Sections:

- 11-1. Authority and title.
- 11-2. Findings and purpose.
- 11-3. Definitions.
- 11-4. Application.
- 11-5. Sales, dispensaries and delivery.
- 11-6. Personal Use Cannabis Cultivation
- 11-7. Commercial Cannabis Operations
- 11-8. Industrial Hemp Operations
- 11-9. Public nuisance.
- 11-10. Notice to abate unlawful cannabis or industrial hemp activities.
- 11-11. Contents of notice to abate unlawful cannabis or industrial hemp activities.
- 11-12. Service of notice to abate unlawful cannabis or industrial hemp activities.
- 11-13. Appeal hearing.
- 11-14. Administrative penalties.
- 11-15. Costs.
- 11-16. Special assessments and liens.
- 11-17. Summary abatement.

11-1 Authority and title.

The board of supervisors for the county of Colusa enacts this chapter under the authority granted to the county by Article XI, Section 7 of the California Constitution, Health and Safety Code Section 11362.83, Government Code Section 25845, Sections 19315 and 19316 of the Medical Marijuana Regulation and Safety Act (AB 266) the Adult Use of Marijuana Act (Proposition 64), California Food and Agriculture Code sections 81000 et. seq. and the federal Agricultural Improvement Act of 2018..

11-2 Findings and purpose.

The Colusa County board of supervisors finds and declares the following:

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- (a) The purpose and intent of this chapter is to regulate cannabis cultivation in a manner consistent with state and federal law; promote the health, safety and general welfare of the residents in the unincorporated territory of Colusa County; and prevent potential adverse impacts from cannabis cultivation.
- (b) In 1996 California voters approved Proposition 215, the Compassionate Use Act of 1996 (CUA), codified as California Health and Safety Code Section 11362.5. The CUA is limited in scope. It only provides a limited immunity and defense from criminal prosecution for certain crimes related to the possession and cultivation of cannabis by qualified patients and their primary caregivers. The CUA does not supersede legislation prohibiting persons from engaging in conduct that endangers or affects others. Additionally, the CUA does not create an affirmative right to possess or cultivate cannabis.
- (c) In 2004 the Legislature enacted Senate Bill 420, the Medical Marijuana Program (MMP), codified as California Health and Safety Code Section 11362.7 et seq. The MMP was meant to clarify the scope of the CUA and provide qualifying patients and primary caregivers, who collectively or cooperatively cultivate cannabis for medical purposes, a limited defense to certain state criminal statutes. The MMP does not create an affirmative right to possess or cultivate cannabis.
- (d) On October 9, 2015, the Governor signed into law AB 266, the Medical Marijuana Regulation and Safety Act (MMRSA). Generally, the MMRSA provides for the licensure and regulation of medical cannabis. It also establishes the Bureau of Medical Marijuana Regulation. The MMRSA does not create an affirmative right to possess or cultivate cannabis.
- (e) Effective November 9, 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA legalizes specified personal use and cultivation of cannabis for adults twenty-one years of age or older under state law. AUMA authorizes the county to enact and enforce reasonable regulations regarding the possession and cultivation of cannabis within the county.
- (f) Neither the CUA, MMP, MMRSA, or AUMA gives anyone the right to cultivate cannabis anywhere they choose or free of local regulation. Health and Safety Code Section 11362.5(b)(2) specifically provides that the CUA does not supersede any legislation intended to prohibit conduct that endangers others. Further, Health and Safety Code Section 11362.83 expressly allows counties to adopt and enforce ordinances that are consistent with the MMP. Additionally, Section 19315 of the MMRSA specifically provides that the MMRSA shall not be interpreted to supersede or limit local ordinances. Similarly, Section 19316 of the MMRSA affirms the right of the county to adopt ordinances regulating cannabis cultivation. Health and Safety Code Section 11362.2 also provides that the county may enact and enforce reasonable regulations regarding the possession or cultivation of cannabis.
- (g) Regardless of state law, the possession and cultivation of cannabis, whether used for medical purposes or not, is unlawful under the Federal Controlled Substances Act (21 U.S.C. Section 801 et seq.). Cannabis is classified as a Schedule I drug. As a Schedule I drug, cannabis is deemed under the law to have a high potential for abuse, no currently accepted medical use, and it has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful for any person to cultivate, manufacture, distribute, or dispense cannabis. The Federal Controlled Substances Act does not exempt the cultivation, manufacture, distribution, dispensation, transportation, or possession of cannabis for medical or any other purpose.

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- (h) As recognized by the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, the cultivation of cannabis in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime. Nothing in the Guidelines or any other provision of law mandates local governments, such as Colusa County, to allow, sanction or permit the establishment or operation of facilities cultivating or dispensing cannabis within their jurisdiction whether for medical or any other purpose.
- (i) The unregulated cultivation of cannabis in the unincorporated area of Colusa County can adversely affect the health, safety, and well-being of its residents. The regulation of cannabis cultivation in Colusa County is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and to preserve the use of limited water resources.
- (j) The cultivation of cannabis increases the risk of trespassing, burglary, and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes at locations where it is cultivated. Similarly, locations where cultivation is taking place are also more prone to be attractive nuisances and interfere with the quiet enjoyment by other property owners in the area, due to offensive odors and increased growing activities at various times of the year.
- (k) Cultivation of cannabis is often associated with violations of local, state and federal environmental laws and pesticide regulations. These violations threaten harm to local waterways, groundwater quality, and endanger the public health and safety.
- (l) Indoor cannabis cultivation presents potential health and safety risks to those living within a structure where cannabis is grown, especially children. These risks include, but are not limited to, potential property crimes, increased risk of fires from grow light systems, and exposure to fertilizers, pesticides, and anti-fungus agents.
- (m) The United States Bureau of Reclamation, which controls a significant portion of the water used by the residents of Colusa County, prohibits the use of any federally controlled water for the cultivation of cannabis crops.
- (n) Water for cannabis cultivation may be illegally diverted from local creeks, streams, and rivers. These diversions unreasonably deprive downstream users of beneficial water sources. Such diversions may also impact water supplies, harm ecosystems, and negatively affect threatened or endangered species.
- (o) There are no fertilizers or pesticides approved for use in cannabis cultivation. The unapproved use of such fertilizers and pesticides may unreasonably increase the concentration of such chemicals in storm water runoff, impacting local creeks, streams and rivers.
- (p) The limited immunity from certain state cannabis laws does not confer the right to create or maintain a public nuisance. Similarly, a limited immunity does not abrogate the right and duty of the county to regulate cannabis cultivation in the unincorporated portions of the county. Through the adoption of this chapter, the county aims to prevent the adverse effects caused by the unregulated cultivation of cannabis in the county.
- (q) In December 2018 the federal Agricultural Improvement Act of 2018 (“Act”) otherwise known as the “2018 Farm Bill” was signed into law. The Act removes cannabis having a THC content of .3 percent or less otherwise referred to as “Hemp” from the list of prohibited Schedule I drugs under the federal Controlled Substances Act.

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(r) The Act allows the legal cultivation of Hemp subject to an approved state regulatory scheme and local control. To that end, the State of California enacted California Industrial Hemp Law as codified under section 81000 et seq. of the California Food and Agriculture Code.

11-3 Definitions.

- (a) “Accessory structure” means a structure legally permitted under the Colusa County Code that is located on a parcel of property that includes a legally established and inhabited residence. Any accessory structure used for cannabis cultivation under this chapter must have properly permitted power and water sources, must be secured against unauthorized entry and be accessible only through one or more lockable doors, must be constructed of solid opaque, nontranslucent materials that cannot easily be broken through (such as two-inch by four-inch or thicker studs overlain with three-eighths-inch or thicker plywood or equivalent materials), and must have a complete roof enclosure. Plastic sheeting, regardless of gauge, or similar products do not satisfy this solid material requirement and greenhouses are not permitted under this definition of an accessory structure.
- (b) “Cannabis” means all parts of the plant genus *Cannabis*, including its different species or strains, excluding Industrial Hemp as defined in this Chapter, whether growing or not, the resin, or any substance extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, resin, or any substance extracted from the plant and shall include but is not limited to marijuana as defined in California Health and Safety Code Section 11018.
- (c) “Cannabis Cultivation” means the planting, growing, harvesting, drying, processing, trimming, or storage of cannabis, in any amount, at any location, in any structure or vehicle, whether indoor or outdoor.
- (d) “County” means the county of Colusa, or the unincorporated area of the county of Colusa as required by the context.
- (e) “Enforcing Officer” means the Sheriff, the Agricultural Commissioner, or the Community Development Director, and their respective designees.
- (f) “Industrial Hemp” means a plant that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1% (.3%) tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or resin.
- (g) “Industrial Hemp Cultivation” means the tilling, growing, raising, harvesting, and other cultivation practices of industrial hemp, including cultivation of industrial hemp by a seed breeder or an established agricultural research institution.
- (h) “Industrial Hemp Processing” means the storage, including the storage in a vehicle, trailer, or other container waiting transport, refinement, treatment, removal of flowers, or conversion of industrial hemp where a physical, chemical or similar change of the industrial hemp plant occurs. Examples of hemp processing include but are not limited to cooling, freezing, dehydrating, extracting oil, separating the plant into its component parts, or the sorting, cleaning, packing, and storing of products preparatory to sale or shipment.
- (i) “Residence” means a private parcel of land with a habitable and properly permitted structure, not a vehicle or

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trailer, that complies with all state and county residency requirements, and is occupied by a full-time permanent resident age twenty-one or older.

11-4 Application.

The provisions of this chapter shall apply to activities and property in the unincorporated territory of Colusa County.

11-5 Sales, dispensaries and delivery.

The following activities are prohibited and deemed a public nuisance, unless otherwise specifically allowed under this Chapter:

- (a) The sale of cannabis in any amount;
- (b) The operation or establishment of a dispensary or storefront type facility, business, or operation, to distribute or dispense cannabis; and
- (c) The delivery of cannabis through a delivery service such as a mobile delivery service or other means.

11-6 Personal Use Cannabis Cultivation.

Personal use cannabis cultivation in the county is allowed only under the following conditions:

- (a) Cultivation for personal use is limited to individuals age twenty-one or older. The individual must be a full-time permanent resident of the residence at which the cultivation takes place. Cultivation for any other purpose is prohibited except as provided for in section 11-6.1.
- (b) Personal use cultivation is only allowed in a secured, permitted accessory structure, not an inhabited dwelling, located on the same legal parcel as the residence.
- (c) Accessory structures must be legally permitted through the Colusa County planning and building department. Legally permitted means constructed pursuant to all required permits including but not limited to a building, electrical, and/or plumbing permit and building, electrical and/or plumbing permit final from the county building unit. Should the accessory structure not require a building permit because the total area of the structure as determined by the roofline is equal to or less than one hundred twenty square feet, all other required permits including but not limited to an electrical and/or plumbing permit and an electrical and/or plumbing permit final from the county building unit must still be obtained. An accessory structure for personal use cultivation must also meet other requirements including but are not limited to odor control filtration, ventilation systems, a water source and other utility and support systems that the county deems in its sole discretion to be required pursuant to state and county codes.
- (d) Accessory structures used for personal use cultivation must be permitted and inspected prior to any cultivation.
- (e) The accessory structure cannot be located in any front yard setback area and cannot be located between the residence on the parcel and the front yard property line, and must be set back from the side and rear property

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line at least ten feet.

- (f) The accessory structure must be locked and secured to the extent necessary to prevent unauthorized access or access to anyone under the age of twenty-one.
- (g) Personal use plants or products must not be visible from the street or neighboring properties.
- (h) Personal use cultivation and possession is limited to no more than six plants per residence, no matter the number of occupants at a residence.
- (i) Personal use in excess of twenty-eight and one-half grams must be kept in an accessory structure.

11-7 Commercial Cannabis Operations

In addition to limited personal use cannabis cultivation allowed under section 11-6 and industrial hemp operations allowed under section 11-8, and subject to the requirements of this Chapter and the issuance by the County of a commercial cannabis cultivation license, the following commercial cannabis operations, including industrial hemp operations, are allowed in certain areas of the County:

- (a) Industrial Hemp cultivation, nurseries, and processing.
- (b) State licensed Commercial Cannabis Operations holding one or more of the following State license classifications under California Business and Professions Code section 26050(a):
 - (1) Type 1A – Cultivation; Specialty indoor; Small.
 - (2) Type 2A – Cultivation; Indoor; Small.
 - (3) Type 3(A)- Cultivation; Indoor; Medium.
 - (4) Type 4 – Cultivation; Nursery.
 - (5) Type 5A – Cultivation; Indoor; Large.
 - (6) Type 6 – Manufacturer 1.
 - (7) Type 7 – Manufacturer 2.
 - (8) Type 8 – Testing.
 - (9) Type 11 – Distributor.
 - (10) Type 12 – Microbusiness.

11-7.1 Limited Areas for Commercial Cannabis Operations

Commercial Cannabis Operations may only be operated in the following areas within the County:

- (a) Industrial Hemp cultivation, nurseries, and processing may be conducted at the same locations and under the same requirements allowed for State licensed Commercial Cannabis Operations.

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(b) State licensed Commercial Cannabis Operations, other than Industrial Hemp cultivation, may only be conducted in a M-2 Heavy Industrial zoning district, with an existing Regional Water Quality Control Board approved wastewater permit, within the Sphere of Influence of the City of Colusa for which a City annexation application has been filed with the Colusa Local Agency Formation Commission and only on parcels which as of January 7, 2019 have the following County Assessor Parcel Numbers:

017-030-054

017-030-055

017-030-078

017-030-082 through 017-034-084

017-030-094 through 017-034-096

017-130-005 through 017-130-008

017-130-011 through 017-130-012

017-130-025

017-130-028

017-130-029

017-130-031

017-130-035

017-130-037 through 017-130-040

017-130-043

017-130-068

017-130-075

017-130-084

017-130-085

017-140-001 through 017-140-011

(c) Commercial Cannabis Operations are not allowed in any area less than 600 feet from an existing school, church or park, or residence.

(d) Commercial Cannabis Operations involving the distribution of Cannabis are not allowed to distribute or deliver Cannabis, any Cannabis product, or any product derived from Cannabis to any location in the unincorporated portion of the County.

11-7.2 County Commercial Cannabis License

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(a) All Commercial Cannabis Operations in the County are prohibited unless operating under a County Commercial Cannabis License issued by the County Community Development Director or his designee.

(b) A County Commercial Cannabis License may only be issued after the Community Development Director has found the following requirements have been met:

(1) Submittal of a complete license application to the Community Development Department on a form provided by the Department. License applications shall include the following:

A. A site plan, floor plans, and a general description of the nature, square- footage, and type of proposed cannabis operation.

B. An Odor Management Plan. The Plan must detail how the contemplated use will be properly ventilated and exhaust air filtered to neutralize the odor from cannabis so it is not detected by a person with a normal sense of smell outside of the business premises or on an adjoining property.

C. A security plan describing physical and operational security measures sufficient to deter theft, eliminate diversion, mitigate other potential crime, and appropriately secure cannabis and cannabis derived products. The plan shall provide for a video surveillance system that effectively and clearly records images of the area under surveillance at all times. It will also provide for permanently mounted electronic surveillance cameras in fixed locations placed in such a manner to record activity occurring within 20 feet of all points of entry and exit, areas where cannabis goods are weighed, packed, stored, loaded and unloaded for transportation, prepared or moved in the facility, security rooms, and areas storing the surveillance-system storage device. Camera resolution shall be sufficient to allow for the identification of any person and activities in all areas under surveillance. Furthermore, the surveillance system and Plan shall provide for the retention of recorded video images for at least 90 days. The security plan shall be subject to review and approval by the County Sheriff in addition to the Community Development Director.

D. A safety plan including a hazardous materials business plan to the extent required by the County Certified Unified Program Agency.

E. A waste management plan.

F. Documentation, including copies of title documents, leases, or similar agreements, showing that the person or entity seeking the license owns the real property where the Commercial Cannabis Operation will take place or has permission from the real property owner to engage in a Commercial Cannabis Operation at the proposed site.

G. Any additional information the Community Development Director in his sole discretion deems necessary to evaluate the Proposed Commercial Cannabis Operation.

(2) Payment of a minimum \$5,000 deposit, or higher, as determined by the Community Development Director depending on the scope of the proposed Commercial Cannabis Operations. The deposit shall be used to reimburse the County's cost for applicable staff time, any consultant time, and all other related expenses to process

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the license application, including any required investigation and inspections. The County shall provide an itemized accounting for all costs charged against the deposit on a monthly basis. In the event that the amount of money in the deposit account is less than fifty (50) percent of the initial determined deposit, the applicant shall deposit additional money into the deposit account to return the balance to the initial determined deposit within fourteen (14) days of notice from the County. Should the license be granted, the license processing account shall be automatically converted to a monitoring and inspection account.

(3) Satisfaction of any mitigation measures identified by the Community Development Director to address potential impacts the Commercial Cannabis Operations may have on the community.

(4) Compliance with all County Code requirements, including applicable zoning provisions, any other permitting requirements or authorizations required by law including any permits or authorizations required by the Colusa County Air Pollution Control District, and state law and regulations including whatever temporary, interim or urgency regulations that may be in effect pending the State's consideration and adoption of permanent regulations. Notwithstanding this provision the Community Development Director may issue a temporary or conditional Commercial Cannabis Operations license prior to an applicant obtaining a final state license.

11-7.3 County Commercial Cannabis Operations License Conditions

A Commercial Cannabis Operations License will include the following requirements and conditions in addition to any additional requirements the Community Development Director determines in his discretion to be necessary to protect the health, safety, and welfare of the community:

(a) Licensee will comply with all statutes, regulations, and rules governing the disposal of solid and hazardous wastes, including but not limited to those in Public Resource Code § 40000 et seq.

(b) Licensee shall comply with all state and local laws and regulations.

(c) Licensee shall permit inspections of Licensee's facilities and Commercial Cannabis Activities, on quarterly basis or more frequently as may be needed, by the Community Development Director or his designee following 24 hours' notice to licensee. Licensee shall make available for review, retained video surveillance recordings at the time of inspection or upon demand by the Community Development Director. Inspections will be used to verify compliance with this Chapter and license requirements and conditions. Inspection costs, including County staff time, shall be funded by licensee. Licensee will maintain an account with the Community Development Department of at least \$5,000 to satisfy any County inspection costs as they are incurred for the duration of the license. The County shall provide an itemized accounting for all costs charged against the deposit on a quarterly basis or more frequently dependent upon the inspection schedule. In the event that the amount of money in the deposit account is less than fifty (50) percent of the initial determined deposit, the applicant shall deposit additional money into the deposit account to return the balance to the initial determined deposit within fourteen (14) days of notice from the County.

11-7.4 County Commercial Cannabis Operations License Term, Revocation, and Renewal

(a) Subject to the right of the Community Development Director to revoke a County Commercial Cannabis

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Operations license as provided for in this section, the license will have a maximum term of 2 years.

(b) The Community Development Director may revoke a County Commercial Cannabis Operations license at any time as follows:

1. Immediately without notice in accordance with section 11-15; or
2. Following completion of applicable notice and appeal procedures provided for in this Chapter for the abatement of unlawful cannabis cultivation.

(c) The Community Development Director may renew a License for subsequent one year terms or less, if the licensee is not in violation of its License terms or this Chapter.

11-7.5 Violations Are a Public Nuisance

Commercial Cannabis Operations failing to comply with the County Code, any state law or regulation, or the terms and conditions of a County Commercial Cannabis License, constitute a public nuisance subject to abatement as provided for in this Chapter.

11-7.6 No Property Right or Entitlement to Commercial Cannabis Operations

Issuance of a Commercial Cannabis Operations License by the County is not an entitlement or property right. Furthermore, it does not provide immunity or exempt a licensee from any other requirement or restriction under state or federal law.

11-7.7 Expiration of Provisions Allowing Commercial Cannabis Operations

All Code sections and provisions in this Chapter allowing Commercial Cannabis Operations, with the exception of Industrial Hemp cultivation, will automatically end and no longer be in effect on February 22, 2021 or until the City of Colusa completes its annexation of the area provided for in section 11-6.1.1(b), whichever comes first. Upon termination of the provisions, any licenses issued under this Chapter, with the exception of those licenses allowing Industrial Hemp cultivation, will automatically be revoked and all unlicensed Commercial Cannabis Operations will be prohibited from operating and constitute a public nuisance subject to abatement under this Chapter.

11-8 Industrial Hemp Operations

In addition to limited personal use cannabis cultivation under section 11-6 and commercial cannabis and industrial hemp operations under section 11-7, industrial hemp operations are allowed in specific limited areas of the County, under certain conditions as provided for in this section.

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11-8.1 Limited Areas for Industrial Hemp Cultivation, Nursery and Processing

(a) Industrial Hemp Cultivation, including seed production, may only occur on properties zoned Foothill Agriculture (F-A) and Exclusive Agriculture (E-A) that are a minimum of one and one-half miles (1.5) away from the following boundaries:

1. The City of Colusa;
2. The City of Williams excluding that area within the city south of Abel Road and south of a direct line extending from the western terminus of Abel Road westerly from Abel Road's southern right-of-way line to this line's projected intersection with 7th Street;
3. Property that is zoned Residential Single-Family (R-1) within the communities of Arbuckle, College City, Grimes, Maxwell, and Princeton as shown on the County's zoning area maps; and
4. Property that is zoned Rural Residential (RR) within the community of Stonyford-Lodoga as shown on the County's zoning area map.

(b) Industrial Hemp Processing shall only be allowed in the same locations and under the same conditions as other Agricultural Processing uses in the Zoning Code, to the extent the Processing does not meet the Industrial Hemp Cultivation community separation and/or residential setback requirements of this section an odor management plan that details how any resulting odor will be neutralized so it is not detected by a person with a normal sense of smell outside of the business premises or on an adjoining property shall be developed. The odor management plan must be submitted and approved by the Community Development Director before any Industrial Hemp Processing can occur.

(c) Industrial Hemp Nurseries shall only be allowed in the same locations and under the same conditions as other Nursery uses in the Zoning Code subject to the following conditions and exceptions:

1. Nursery plants shall not exceed the greater of thirty inches in height or three months old and in no case shall be allowed to flower on site.
2. Nursery plants, including plants that are grown for research and plant development by an established agricultural research institution, that would exceed the height, age, and flower status shall be grown pursuant to the Industrial Hemp Cultivation License requirements, including the community separation and residential setback requirements.
3. A nursery that is producing genetic clones that would meet the height and age requirements of this section with the exception of the mother-plants may be allowed subject to the approval by the Planning Director of an odor management plan that details how the odor will be neutralized so it is not detected by a person with a normal sense of smell outside of the business premises or on an adjoining property prior to the earlier of a building permit issuance or the use commencing.
4. The Agricultural Commissioner has determined that the requirements of section 11-8.2(b)2 have been met to his/her satisfaction and that the State mandated nursery license requirements for industrial hemp have been met.

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(d) Notwithstanding the 1.5 mile community setback requirement detailed in this section, there shall also be a residential setback from an existing off-site residence owned and/or occupied by an inhabitant that is not associated with the cultivation operation as follows:

1. 500 foot setback for less than 10 acres of cultivated area;
2. 750 foot setback for 10 acres to less than 20 acres of cultivated area; and
3. 1,000 foot setback for 20 acres or more of cultivated area.

11-8.2 Industrial Hemp Cultivation License

(a) Industrial Hemp Cultivation operations, including an Established Agricultural Research Institution as defined by Section 81000 of the California Food and Agricultural Code, in the County are prohibited unless operating under a County Industrial Hemp Cultivation License issued by the Colusa County Community Development Director or his/her designee.

(b) An Industrial Hemp license may only be issued after the Community Development Director has found that the following requirements have been met:

1. The Community Development Department has determined that:
 - A. The proposed location of the Industrial Hemp operation meets the location and separation requirements of this section;
 - B. The Licensee is either the owner in fee of the land upon which the Industrial Hemp operations would occur or that a written authorization form approved by the Community Development Director from the owner has been submitted;
 - C. A security plan has been submitted and approved by the County Sheriff detailing how security will be provided to prevent theft once the crop has begun to flower. The security plan shall detail the signage which identifies that the crop is Industrial Hemp and other security measures that will be used which may include night-time private security patrols.
 - D. The license applicant had made a \$2,500 deposit to the Community Development Department to reimburse the County's cost for the applicable staff time and cost to process the Industrial Hemp License and any Sheriff Department costs to respond to calls for service. The County shall provide an itemized accounting for all costs charged against the deposit on a periodic basis. In the event that the amount of money in the deposit account is less than fifty (50) percent of the initial determined deposit, the applicant shall deposit additional money into the deposit account to return the balance to the initial determined deposit within fourteen (14) days of notice from the County. Upon expiration of the license, all remaining funds shall be returned to the applicant.
2. The Colusa County Agricultural Commissioner has determined that:
 - A. A complete California Department of Food & Agriculture Industrial Hemp Registration Application form, or other registration form approved by the Colusa County Agricultural

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Commissioner, has been submitted and is ready for approval;

B. A complete California Department of Food & Agriculture Destruction Plan form, or other destruction plan form approved by the Colusa County Agricultural Commissioner, detailing how the crop would be destroyed should it fail to meet the THC limits specified by the Food and Agriculture Code Section 81006(d) et seq. has been submitted and is ready for approval;

C. The State registration fee amount has been submitted to the Colusa County Department of Agriculture; and

D. A of a minimum \$2,500 deposit, or higher as determined by the Agricultural Commissioner depending on the scope of the proposed Industrial Hemp Operations, has been paid to the Colusa County Department of Agriculture. The deposit shall be used to reimburse the County for all unreimbursed costs for all applicable staff time, any consultant time, and all other related expenses to process the license application, including any required investigation and inspections. The County shall provide an itemized accounting for all costs charged against the deposit on a periodic basis. In the event that the amount of money in the deposit account is less than fifty (50) percent of the initial determined deposit, the applicant shall deposit additional money into the deposit account to return the balance to the initial determined deposit within fourteen (14) days of notice from the County. Should the license be granted, the license processing account shall be automatically converted to a monitoring and inspection account.

11-8.3 Industrial Hemp Conditions

All Industrial Hemp operations shall comply with the following requirements in addition to any additional license conditions that the Community Development Director and/or Agricultural Commissioner determine in their discretion to be necessary to protect the health, safety, and welfare of the community:

- (a) The operator shall comply with all State law and regulatory requirements including whatever temporary, interim or urgency regulations that may be in effect pending the State’s consideration and adoption of permanent Industrial Hemp regulations.
- (b) The operator shall comply with all County Code provisions, zoning requirements, and any other permitting requirements detailed in this chapter.
- (c) The operator shall permit inspections of Licensee’s facilities and Industrial Hemp operations, on an as-needed basis, by the Community Development or Agriculture Departments.

11-8.4 Industrial Hemp License Term, Revocation, and Renewal

- (a) Subject to the right of the Community Development Director to revoke a County Industrial Hemp license as provided for in this section, the license will have a maximum term of 1 year.
- (b) The Community Development Director may revoke a County Industrial Hemp license at any time as follows:

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1. Immediately without notice in accordance with section 11-15; or
2. Following completion of applicable notice and appeal procedures provided for in this Chapter for the abatement of unlawful Industrial Hemp operation.

11-8.5 Violations Are a Public Nuisance

Industrial Hemp operations failing to comply with the County Code, any state law or regulation, or the terms and conditions of an Industrial Hemp License, constitute a public nuisance subject to abatement as provided for in this Chapter or Chapter 42 of the County Code.

11-8.6 No Property Right or Entitlement for Industrial Hemp

Issuance of an Industrial Hemp license by the County is not an entitlement or property right. Furthermore, it does not provide immunity or exempt a licensee from any other requirement or restriction under state or federal law.

11-8.7 Limitation on the Number of Industrial Hemp Licenses

A maximum of twenty (20) Industrial Hemp licenses or licenses totaling no more than three-thousand (3,000) acres shall be issued in any calendar year. The Community Development Director and Agricultural Commissioner shall develop the application submittal process to ensure that the number of applicants and the proposed cultivated acreage for and calendar year is not exceeded. Should there be more than twenty (20) applications and/or more than three-thousand (3,000) acres proposed to be cultivated in any calendar year, the Community Development Director and the Agricultural Commissioner shall develop the applicant selection process and the manner in which the acreage will be distributed among the applicants.

11-9 Public nuisance.

- (a) Any activity involving cannabis or industrial hemp in Colusa County must comply with the requirements in this chapter and state law or it is deemed a public nuisance.
- (b) Any person owning, leasing, occupying, or having charge or possession of any real property within the county who causes, allows, or permits such property to be used for any activity involving cannabis or industrial hemp in violation of this chapter or state law is deemed to be maintaining a public nuisance.

11-10 Notice to abate unlawful cannabis or industrial hemp activities.

- (a) Whenever the enforcing officer determines that there exists a violation of this chapter, the enforcing officer is authorized to provide the person(s) who the enforcing officer believes is violating this chapter, including the property owner(s) and occupants of real property where a violation is occurring, with a notice to abate unlawful cannabis or industrial hemp activities.

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(b) Notwithstanding any other provision of this chapter or the Colusa County Code, the enforcing officer and the county are not precluded from taking any other enforcement action, without notice, consistent with and in response to violations of state law.

11-11 Contents of notice to abate unlawful cannabis or industrial hemp activities.

A notice to abate unlawful cannabis or industrial hemp activities shall be in writing and include the following:

- (a) The name of the property owner(s), as well as any known tenant, lessee, or occupant of the property;
- (b) The address or location of the violation;
- (c) A general description of the violation;
- (d) A statement that the unlawful activity must be abated within five calendar days after the date that the notice is served;
- (e) The date of service;
- (f) A statement that the violation determination may, within five calendar days after the date the notice was served, 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;
- (g) A statement that unless an appeal hearing is requested within the time prescribed in the notice, the enforcing officer will 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, including administration costs, 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.

11-12 Service of notice to abate unlawful cannabis or industrial hemp activities.

The notice to abate may be served in the following ways or in combination:

- (a) By certified mail to the property address and to any additional address on file with the county assessor's office.
- (b) By posting the notice on the property where the violation is occurring in a visible location, so long as the notice is also served by certified mail to the legal owner of the property as determined by the records of the county assessor.

11-13 Appeal hearing.

- (a) Any person served with a notice may appeal the determination of the enforcing officer.
- (b) An appeal under this section may be commenced by filing a written request for hearing with the clerk of the

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board of supervisors within five calendar days after the date the notice of violation was served. The five-day limitation is jurisdictional and may not be waived. The request shall include a statement of facts supporting the appeal.

(c) Upon timely receipt of a written request for hearing, the clerk shall set a hearing not less than five calendar days nor more than twenty (20) calendar days from the date the request was filed. Notice of the hearing shall be served via certified mail by the clerk and posted on the property by the enforcing officer.

(d) Hearings will be conducted by a hearing officer designated by the board of supervisors and need not be conducted according to the strict technical rules of evidence concerning witnesses and hearsay, although 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.

(e) The hearing officer may continue the appeal hearing upon a showing of good cause by the requesting party. Only one continuance may be granted.

(f) The hearing officer shall consider the matter de novo and may affirm, reverse or modify the determination made by the enforcement officer. The decision of the hearing officer shall be final and conclusive.

(g) The decision of the hearing officer shall be served by certified mail on all interested parties within seven calendar days of the hearing.

(h) The decision of the hearing officer shall be served by certified mail to the property address, any additional address of the property owner listed with the county assessor's office, counsel of record for any party, the sheriff, and the county counsel's office.

11-14 Administrative penalties.

In addition to any other remedies provided by the County Code or state law, the following civil penalties are imposed for each violation under this chapter: five hundred dollars per day from the date of the notice to abate the unlawful cannabis or industrial hemp cultivation is posted on the property, and continuing for each day that violation continues to exist. The property owner and any lessee, tenant, or occupant will be jointly and severally liable for any violations under this chapter.

11-15 Costs.

In any action brought to enforce this chapter, whether by administrative proceedings, judicial proceedings or summary abatement, each person who violates this chapter shall be liable to the county for all costs incurred by the county, including but not limited to administrative costs, enforcement costs, investigation costs, costs of abatement, costs to compel abatement, costs for appeal, and any collection costs. These costs shall include reasonable attorneys' fees to the prevailing party in those actions or proceedings in which the county elects, at the initiation of the action or proceeding, to seek recovery of its attorneys' fees.

11-16 Special assessments and liens.

The board of supervisors may order that costs incurred by the county as provided for in section 11-15 be placed

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upon the county tax roll by the county auditor as a special assessment against any respective real property, or placed on the unsecured roll.

11-17 Summary abatement.

Notwithstanding any other provision in this chapter, when any unlawful cannabis or industrial hemp cultivation is an immediate threat to the public health or safety, the enforcing officer may direct any officer or employee of the county to summarily abate the nuisance without notice.