

SCC NO. _____

**AN ORDINANCE OF THE SACRAMENTO COUNTY CODE RELATING TO
REGULATIONS FOR THE CULTIVATION OF INDUSTRIAL HEMP**

The Board of Supervisors of the County of Sacramento, State of California,
ordains as follows:

SECTION 1. Chapter 6.87, Title 6, of the Sacramento County Code is added to
read as follows:

CHAPTER 6.87 INDUSTRIAL HEMP CULTIVATION

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6.87.010 Purpose and Authority.

Pursuant to Article XI, Section 7, of the California Constitution, the County of Sacramento (“County”) may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its residents. It is the purpose and intent of this Ordinance to establish standards, requirements, and regulations governing industrial hemp cultivation, including cultivation for commercial and research purposes, and non-volatile industrial hemp processing.

Further, it is the purpose and intent of this Chapter to impose reasonable land use regulations to protect the County’s residents, neighborhoods, businesses, and the environment from negative impacts caused by industrial hemp cultivation and processing, and to enforce rules and regulations consistent with state and federal law. Any standards, requirements and regulations established by the State of California, or any of its departments or divisions, regarding the cultivation or processing of industrial hemp for commercial and/or research purposes shall be the minimum standards applicable within the unincorporated areas of the County.

The County of Sacramento Board of Supervisors (“Board”) hereby adopts this Chapter pursuant to its police power for the purpose of preserving the health, safety and

public welfare of the residents of the County. The Board finds that agriculture is extremely important to the County's economy and that ensuring the continuance of agricultural commodities is essential to the health and well-being of County residents. The Board determines that the enforcement of this Chapter is essential.

The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the County, and are in addition to any other entitlements and approvals required under federal, state, County, or other law.

6.87.020 Definitions.

For the purposes of this Chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not defined in this Chapter, the common and ordinary meaning of the word shall apply. All citations to federal or state law shall refer to the act, statute, or regulations as may be amended from time to time.

A. **"Cultivation"** includes any activity involving the propagation, planting, growing, breeding, harvesting, drying, curing, grading, trimming or other development of industrial hemp plants or propagative plant material.

B. **"Established Agricultural Research Institution"** has the same meaning as that term is defined in Section 81000 of the California Food and Agriculture Code.

C. **"Hemp"** shall have the same meaning as "industrial hemp" as defined in Section 81000 of the California Food and Agriculture Code and set forth below.

D. **"Hemp Breeder"** is an individual or public or private institution or organization that is registered with the Agricultural Commissioner to develop seed cultivars intended for sale or research.

E. **"Incidental activities"** includes harvesting, drying, curing, grading, trimming, wholesale packaging, and similar preparation of industrial hemp, but not including agricultural processing.

F. **"Industrial hemp"** has the same meaning as that term is defined in Section 81000 of the California Food and Agriculture Code. That section defines industrial hemp as "an agricultural product, whether growing or not, that is limited to types of the plant *Cannabis sativa* L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis."

G. **"Institution of higher education"** has the same meaning as that term is defined in the federal Higher Education Act of 1965 Section 101 (20 U.S.C. Sect 1001).

H. **"Nursery stock"** has the same meaning as that term is defined in California Food and Agricultural Code Section 5005.

I. **"Outdoor(s)"** means not within an enclosed structure; or within a structure that is not fully enclosed, such as a greenhouse or hoop house.

J. **"Person"** includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business, business trust, receiver, syndicate, collective, cooperative, institution, including an established agricultural research institution, or any other group or entity, or combination acting as a unit. Except where otherwise indicated by context, the singular shall include the plural, and vice versa.

K. “**Sensitive receptor**” is a facility or land use that serves or attracts members of a population who are particularly sensitive to the effects of air pollutants or strong odors, such as children, the elderly, and people with illnesses. Sensitive receptors include, but are not limited to, hospitals, convalescent facilities providing 24 hour care, senior living facilities (excluding small residential care homes), places of worship, child daycare centers, private and public k-12 schools, youth-oriented facilities, afterschool programs, parks, sports complexes, etc.

6.87.030 Administration and Enforcement.

The Agricultural Commissioner, Sheriff, Planning Director, and/or Director of Development and Code Services, or their respective designees, are charged with the responsibility of administering, enforcing and exercising the authority conferred under this Chapter.

6.87.040 License.

No person shall cultivate industrial hemp, including cultivation for research purposes, or prepare a site for cultivation in the unincorporated areas of Sacramento County without first obtaining a license from the Agricultural Commissioner as provided in this Chapter. Licensees must comply with all standards required by this Chapter.

A license for cultivation may only be issued to an Established Agricultural Research Institution if the Institution meets the criteria set forth in Section 6.87.020, subdivision B, of this Chapter.

A license issued by the Agricultural Commissioner under this Chapter does not grant any entitlement or interest in real property, nor does it create any interest of value, and it does not run with the land. A Person that has obtained a license from the Agricultural Commissioner shall not transfer ownership or control of the license to another Person as the license is non-transferable and automatically terminates upon transfer of ownership. Any attempt to transfer ownership shall cause the license to be automatically revoked.

Nothing in this Chapter, including the issuance of a license, relieves a Person from responsibility for damage to other persons or property, or imposes liability upon the County, its officers, agents, or employees, for damage to persons or property.

Receipt of a license from the Agricultural Commissioner does not obviate the California Department of Food and Agriculture’s registration requirements for the cultivation of industrial hemp. Further, nothing in this Chapter eliminates the need for a person undertaking industrial hemp cultivation to comply with local, state, and federal law, and to obtain other permits, approvals, or authorizations required by this Code and any state or federal agencies.

6.87.050 License Requirements.

A license for the cultivation of industrial hemp for commercial and research purposes may be issued only if each of the following requirements are met:

A. Applicants shall submit an application in accordance with the application process established by the Agricultural Commissioner. A single license may be issued for multiple parcels.

B. An applicant shall be the property owner of the land upon which the hemp is to be cultivated, or must provide written authorization in a form acceptable to the Agricultural Commissioner, from the property owner, granting permission for the cultivation of industrial hemp on the specified parcel(s).

C. Applicants for propagative plant material cultivation must have a license to sell nursery stock as required under California Food and Agricultural Code Section 6721 et seq.

D. Before a license is issued under this Chapter, the applicant shall satisfy the state registration requirements set forth in California Food and Agricultural Code Section 81003.

E. Before a license is issued under this Chapter, the applicant shall submit a bond acceptable to the Agricultural Commissioner in the amount of one hundred percent (100%) of the estimated cost to fully abate a crop of industrial hemp that does not meet requirements for legal harvest under applicable laws and regulations. The bond provided shall be released to the applicant after the Agricultural Commissioner determines that it is no longer needed to secure the abatement of a non-compliant hemp crop.

F. Before a license is issued under this Chapter, the applicant shall submit a Site Security Plan to the Agricultural Commissioner. The Site Security Plan shall include detailed information regarding fencing, cameras, bonded security personnel, locking gates, access by law enforcement and first responders, and any other security measures as required by the Agricultural Commissioner.

G. Before a license is issued under this Chapter, applicants must consent to inspections and testing which may be conducted at any time, with or without prior notice, at the discretion of the Agricultural Commissioner. A fee may be established to cover the costs of such inspections and testing.

H. Each parcel for which a license is issued shall meet the minimum standards set forth in the Sacramento County Zoning Code.

I. Each license issued under this Chapter shall expire one year from the date of its issuance.

J. A license renewal application shall be submitted in accordance with the process established by the Agricultural Commissioner.

K. The Agricultural Commissioner has the sole discretion to suspend or revoke a license issued pursuant to this Chapter in the event any of the following occur:

- i. Application was based on inaccurate or incomplete information;
- ii. Applicant has operated in violation of the County Code, County Zoning Code, or licensing requirements;
- iii. Applicant has failed to pay fees or penalties; or
- iv. Applicant has been the subject of a nuisance finding for unauthorized cannabis activity.

6.87.060 Cultivation Requirements.

The following standards shall apply to the cultivation of industrial hemp:

A. It shall be the responsibility of the Persons cultivating industrial hemp to ensure that they are, at all times, operating in a manner compliant with all applicable federal, state, and local laws, and/or regulatory, requirements, and any additional

specific operating procedures or requirements which may be imposed by the County. This includes, but is not limited to, requirements for cultivation, sampling, laboratory testing, harvesting, and crop destruction. Nothing in this Chapter shall be construed as authorizing any actions that violate federal, state, or local law regarding the cultivation of industrial hemp.

B. The outdoor cultivation of industrial hemp, along with incidental activities as defined herein, is permitted in Agricultural Zones with a minimum parcel size of 40 acres (AG-160, AG-80, AG-40, and AG-20). Outdoor cultivation of industrial hemp is prohibited in all other zoning districts. Indoor cultivation of industrial hemp is permitted in Industrial Zones (M-1 and M-2).

C. Outdoor industrial hemp cultivation in Sacramento County shall meet the following setback requirements:

- i. 200 feet from property lines, unless the property line is adjacent to the property line of a parcel that is either owned, managed, or otherwise under the control of the Person who is cultivating industrial hemp;
- ii. 600 feet from any residential structure (including Accessory Dwelling Units) on neighboring parcels zoned Agricultural (AG) and measured from the residential structure to the closest portion of the industrial hemp crop;
- iii. 1,320 feet from any parcel containing a sensitive receptor measured from the property line of the sensitive receptor site to the closest portion of the industrial hemp crop;
- iv. 1,320 feet from any property that is not zoned General Agricultural (AG). Measured from the property line of the adjacent parcel to the closest portion of the industrial hemp crop;
- v. 1,320 feet from any adjacent incorporated city boundary or adjacent county boundary, measured from the adjacent property line to the closest portion of the industrial hemp crop.

D. A Person cultivating industrial hemp shall design the parcel to be used for cultivation in a manner that minimizes impacts to surrounding areas.

- i. No usage of outdoor grow lights is permitted between the hours of 10:00 PM and 6:00 AM unless the glare is not visible from any neighboring property or the lights are within an enclosed structure with:
 1. Fully or partially shielded directional lighting preventing visibility of glare from any neighboring property; or
 2. Fitted with blackout screening for walls and roof, preventing visibility of glare from any neighboring property.

E. Any structure(s) containing facilities used for the processing of industrial hemp must have all permits required under state law, Building Codes, and Sacramento County Code.

F. All fields used for the outdoor cultivation of industrial hemp shall have onsite signage indicating that "Industrial Hemp" is being cultivated on site. The signs shall:

- i. Measure at least three feet wide by three feet high and say "**INDUSTRIAL HEMP - NO TRESPASSING**" in English and Spanish; and
- ii. Use letters and symbols not less than three inches in height; and

- iii. Use letters and symbols that are of a color that sharply contrasts with their immediate background; and
- iv. Be posted at the corners of the field(s) and at all points of entry to the field, including each road, trail, footpath, walkway, or aisle that enters the cultivation area. When a field is adjacent to a public right-of-way, such as a road, trail or path, signs shall be posted at intervals not exceeding three hundred (300) feet along the field's border with the right-of-way, where the cultivation of industrial hemp is taking place.

G. Indoor industrial hemp cultivation and processing, including incidental activities related thereto, is allowed within the Industrial zones (M-1 and M-2). Structures in these zones must comply with applicable building codes and be permitted by the Office of Planning and Environmental Review as required by County Code, County Zoning Code, and state Building Codes. All methods of processing shall be non-volatile. All odor shall be mitigated so as not to be detected from outside the building structure.

6.87.070 Industrial Hemp for Research.

A. The cultivation of industrial hemp by an Established Agricultural Research Institution for research or educational purposes shall be subject to all State requirements imposed by the California Department of Food and Agriculture.

B. Hemp cultivation by an Established Agricultural Research Institution for research or educational purposes shall be limited to a maximum cultivation area of one acre and shall be subject to the minimum zoning, parcel size, and setback requirements set forth in Section 6.87.060 above.

6.87.080 Destruction of Non-Compliant Industrial Hemp Crops.

An industrial hemp crop that does not comply with this Chapter, all applicable provisions of federal and state law, and all associated rules and regulations, shall be destroyed. When an industrial hemp crop or plant is removed or destroyed prior to harvest for any purpose, the cultivator must submit a destruction plan to the Agricultural Commissioner.

Crop destruction shall proceed as provided for in all applicable laws and regulations. The crop destruction plan must include all information required under state law and information required by the Agricultural Commissioner to ensure compliance with this Chapter, including, but not limited to, photographs, test results, reports, etc. No industrial hemp plant may be removed prior to the Agricultural Commissioner's review and approval of the destruction plan. An inspection prior to and/or following removal and/or destruction, or other verification of compliance with an approved destruction plan, may be required at the discretion of the Agricultural Commissioner.

A destruction plan is not required for industrial hemp removal or destruction at an Established Agricultural Research Institution's registered site.

Any violations of this section are also subject to abatement under Title 16, Chapter 16.18 of the Sacramento County Code. Industrial hemp removal or destruction in violation of this Chapter may also be subject to enforcement in the same manner as unauthorized cannabis cultivation set forth in Title 6, Chapter 6.88 of Sacramento County Code.

6.87.090 Fees.

Pursuant to Section 81005 of the California Food and Agriculture Code, the Board of Supervisors may, by resolution, establish a schedule of fees, in an amount necessary to cover the costs of the Agricultural Commissioner and the County in implementing, administering, and enforcing the provisions of federal, state, and local laws, regulations and ordinances pertaining to industrial hemp. Such fees may include, but are not limited to, costs for licensing, inspections, monitoring, sampling, testing, enforcement, and abatement/destruction. Said fees may be updated by resolution of the Board of Supervisors.

Failure to pay all fees attributable to County costs incurred as a result of the cultivation or processing of industrial hemp shall serve as a basis for revocation or non-renewal of license with the County Agricultural Commissioner until all outstanding fees are paid in full.

6.87.100 Violations Public Nuisance.

The cultivation of industrial hemp in violation of federal, state, and local laws and/or rules and regulations, including the duty to register with the state, obtain a license from the County Agricultural Commissioner, and to comply with requirements for cultivation, sampling, laboratory testing, harvesting, and crop destruction, constitutes a public nuisance. A violation of any provision of this Chapter is hereby deemed an unlawful public nuisance subject to citation, abatement, and/or the imposition of administrative penalties under the authority of the Agricultural Commissioner and under Title 16, Chapter 16.18 of the Sacramento County Code. Each and every day a violation of this Chapter exists constitutes a separate and distinct violation and shall be subject to all remedies and enforcement measures authorized by the County. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, disgorgement and payment to the County for any monies unlawfully obtained, costs of abatement/destruction, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity.

Unlicensed industrial hemp cultivation may also be subject to enforcement in the same manner as unauthorized cannabis cultivation set forth in Title 6, Chapter 6.88 of the Sacramento County Code.

6.87.110 CEQA.

The Board hereby finds that this ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment from the adoption of these regulations for industrial hemp. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

6.87.120 Validity.

If any section, subsection, sentence, clause, word, or phrase of this ordinance is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The Board of Supervisors hereby

declares that they would have passed this ordinance, and each section, subsection, sentence, clause, word or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases may be declared invalid or unconstitutional.

SECTION 2. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors on _____, and on _____, further reading was waived by the unanimous vote of the Supervisors present.

This ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Supervisors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Supervisor _____, seconded by Supervisor _____, the foregoing ordinance was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, this 17th day of November 2020, by the following vote:

AYES: Supervisors,

NOES: Supervisors,

ABSENT: Supervisors,

ABSTAIN: Supervisors,

RECUSAL: Supervisors,
(PER POLITICAL REFORM ACT (§ 18702.5.))

Chair of the Board of Supervisors
of Sacramento County, California

(SEAL)

ATTEST: _____
Clerk, Board of Supervisors