

1 BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

2 ORDINANCE NO. _____

3 AN ORDINANCE ADDING ARTICLE VII TO CHAPTER 3 OF THE LAKE COUNTY
4 CODE TO ESTABLISH AGRICULTURAL REGULATIONS AND STANDARDS FOR
5 THE CULTIVATION OF INDUSTRIAL HEMP

6 WHEREAS, the California Industrial Hemp Farming Act became effective January 1
7 of 2017, authorizing the commercial production of industrial hemp and provided for the
8 registration of growers; and

9 WHEREAS, in December of 2018, the Agricultural Improvement Act of 2018
10 (commonly known as the "Farm Bill") was signed into law, removing hemp, defined as
11 cannabis (*Cannabis sativa* L.) and derivatives of cannabis with extremely low concentrations
12 of the psychoactive compound delta_9_tetrahydrocannabinol (THC) (no more than 0.3
13 percent THC on a dry weight basis), from the definition of marijuana in the Controlled
14 Substances Act; and

15 WHEREAS, California Senate Bill 1409, which went into effect on January 1, 2019,
16 established that "industrial hemp" would no longer be defined in the California Uniform
17 Controlled Substances Act as a fiber or oilseed crop and further expanded provisions for
18 industrial hemp cultivation; and

19 WHEREAS, two members of the Board of Supervisors and staff have engaged in a
20 series of meetings and workshops designed to culminate in the adoption of an Ordinance
21 regulating the cultivation of industrial hemp

22 NOW THEREFORE, the Board of Supervisors of the County of Lake hereby ordains
23 as follows:

24 Section One: Findings. The Board hereby adopts and incorporates by reference the
25 foregoing recitals.

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27 _____
28 An Ordinance Adding Article VII to Chapter 3 of the Lake County Code

1 Section Two: Article VII is hereby added to Chapter 3 of the Lake County Code to
2 read as follows:

3 **“Article VII. Agricultural Regulations and Standards for the Cultivation of**
4 **Industrial Hemp in the Unincorporated Areas of the County of Lake**

5 **Section 3-62. Purpose.** The purpose of this Ordinance is to establish agricultural
6 regulations and standards for the cultivation of industrial hemp in the unincorporated
7 areas of the County of Lake.

8 **Section 3-63. Industrial Hemp Permits - Application Requirements.**

9 All commercial growers of industrial hemp must register with the county agricultural
10 commissioner prior to cultivation and complete an application for an Industrial Hemp
11 Permit. Every applicant for an Industrial Hemp Permit from the County of Lake
12 must adhere to the requirements described in this Article.

13 **Sec. 3-64. Definitions.**

14 3-64.1. The following definitions apply:

15 a. "Applicant" means a person who is registered to cultivate industrial hemp under
16 this ordinance.

17 b. "Industrial hemp" or "hemp" has the same meaning as that term is defined in
18 California Food and Agriculture Code Section 81000.

19 c. "Female propagative plant material" means propagative plant material that is bred,
20 grown, or otherwise developed to become a female industrial hemp plant.

21 d. "Key Participants" means any person in the entity producing industrial hemp who
22 is: (1) a sole proprietor, a land owner, a partner in partnership, or a person with
23 executive managerial control in a corporation producing industrial hemp, or (2) a
24 person with executive managerial control over the entity producing industrial hemp,
25 including persons such as a chief executive officer, chief operating officer and chief
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1 financial officer. This definition does not include a person in a management position
2 with no executive managerial control over the entity producing industrial hemp, such
3 as farm, field, or shift managers.

4 e. "Pollen" means the fine powdery substance discharged from a pollen producing
5 plant that is capable of causing a female plant, or female part of a plant, to produce
6 seeds.

7 f. "Propagative plant material" includes live plants, seeds, seedlings, clones,
8 cuttings, transplants, or other propagules used to establish plants for planting.

9 g. "THC" means the crystalline compound tetrahydrocannabinol that is the main
10 psychoactive ingredient in cannabis.

11 h. "Volunteer" for purposes of this Article means a plant that grows on its own,
12 rather than being deliberately planted by a farmer or gardener.

13 **Section 3-65. Background Checks.**

14 3-65.1. Every applicant for an Industrial Hemp Permit and every key participant, as
15 that term is defined herein, of the industrial hemp cultivation site subject to said
16 Permit, must submit to and pass a background check as described in this Section.

17 3-65.2. Each applicant and/or key participant shall electronically submit to the
18 Department of Justice fingerprint images and related information required by the
19 Department of Justice for the purpose of obtaining information as to the existence
20 and content of a record of state or federal convictions and arrests, and information as
21 to the existence and content of a record of state or federal convictions and arrests for
22 which the Department of Justice establishes that the person is free on bail or on his or
23 her own recognizance, pending trial or appeal.

24 a. California Food and Agriculture Division 24 Section 81013 states: "Any
25 person convicted of a felony relating to a controlled substance under state or
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1 federal law before, on, or after January 1, 2020, shall be ineligible, during the
2 10-year period following the date of the conviction, to participate in the
3 industrial hemp program."

4 3-65.3. The Sheriff's Office shall request from the Department of Justice subsequent
5 notification service, as provided pursuant to Section 11105.2 of the Penal Code, for
6 applicants and key participants.

7 3-65.4. The applicant will be responsible to pay the Department of Justice charges
8 and fees and the reasonable costs of processing the requests described in this
9 paragraph.

10 3-65.5. The Lake County Agriculture Department shall obtain the pass or fail status
11 of each applicant and/or key participant from the Lake County Sheriff's Office based
12 upon the information received from the Department of Justice.

13 **3-66. Applicant and Site Violations Review.**

14 An applicant or property owner who has been found to be in violation of any federal,
15 state, or local law relating to land use or agricultural activities will not receive a
16 permit until violations have been remedied.

17 **3-67. Proof of Ownership/Lease Agreement.**

18 An applicant must show proof of ownership or a lease agreement to show they have
19 the present ability to cultivate on the property subject to the permit.

20 **3-68. Commercial Cannabis Site License or Application Check.**

21 3-68.1. The Lake County Agriculture Department will confirm that cannabis
22 cultivation is legally occurring on the same property that is on the application to
23 cultivate industrial hemp.

24 3-68.2. Industrial hemp shall not be eligible to be cultivated on the same premises as
25 cannabis.

1 3-68.3. Any illegal cannabis of six (6) or more plants grown on the same premises as
2 the site for which an industrial hemp permit is applied for shall be immediately
3 abated as a condition of obtaining the industrial hemp permit.

4 **3-69. Identification of Legal Water Source.**

5 Prior to obtaining an industrial hemp permit, the applicant must identify all water
6 sources used for cultivation activities and the estimated volume of water used on a
7 monthly basis.

8 **3-70. Zoning Permit.**

9 An applicant for an industrial hemp permit must obtain a zoning permit from the
10 Community Development Department Zoning Permit. The zoning permit will
11 address the need for grading and building permits, as applicable.

12 **3-71. Water Board Permits.**

13 3-71.1. State licensure and permits as required must be obtained. A person or entity
14 shall not engage in the commercial cultivation of Industrial Hemp without first
15 obtaining a permit from the Central Valley Regional Water Quality Control Board
16 Irrigated Lands Regulatory Program. Said Permit shall be obtained no later than
17 October 31, 2020.

18 3-71.2. Annual review and good standing in program will be required to renew
19 registration.

20 **3-72. GPS Coordinates.**

21 Applicant shall submit a GPS coordinate with a minimum of four (4) points of
22 perimeter of proposed growing area with clearly identified semi-permanent markers.

23 **3-73. Cultivation Plan.**

24 3-73.1. An applicant shall submit a cultivation plan for approval prior to any new
25 plantings on a current registration site.

1 3-73.2. A plant count shall be submitted for each site at the beginning of any new
2 cultivation.

3 **3-74. Pollen Management Plan.**

4 Applicant must submit a pollen management plan which includes the procedures to
5 be employed to mitigate cross pollination of other cannabis and industrial hemp
6 cultivation sites. The plan should include details on the process for pollinating their
7 plants.

8 **3-75. Pre-Permit Issuance Site Inspection.**

9 Applicant shall allow for a pre-site inspection prior to permit issuance.

10 **3-76. Operator Identification Number.**

11 Applicant shall obtain a Pesticide Applicator Operator Identification (ID).

12 **3-77. Destruction Plan.**

13 An applicant must submit a destruction plan for their hemp crop. A hemp crop may
14 be subject to destruction for any violation of this Article. Destruction shall occur
15 pursuant to the requirements of Section 3-86 of this Article.

16 **3-78. Surety Bond.**

17 An applicant shall obtain and provide proof of a current surety bond prior to issuance
18 of permit.

19 3-78.1. Minimum requirement of \$5000 for cultivation less than ten (10) acres.

20 3-78.2. Minimum requirement of \$10,000 for cultivation of more than or equal to
21 (10) acres.

22 3-78.3. Additional \$1,000 per acre of surety bonds for cultivation sites equal to or
23 larger than twenty-five (25) acres.

24 **3-79. Authority to Inspect.**

25 3-79.1. Applicant shall sign an inspection form allowing authority to inspect the
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1 industrial hemp cultivation sites at reasonable times during the duration of a
2 registration.

3 3-79.2. By signing said inspection form, applicant also acknowledges that in addition
4 to Agriculture Office Staff, staff from the Sheriff or Community Development
5 Departments may also inspect property registered for Industrial Hemp cultivation at
6 reasonable hours or times without a search warrant.

7 **3-80. License Fees.**

8 State license fees must be paid in full prior to obtain a Lake County Industrial Hemp
9 permit.

10 **3-81. Agricultural Research and Cultivar Development Prohibited.**

11 3-81.1. It is prohibited to cultivate industrial hemp under an agriculture research
12 exemption.

13 3-81.2. All industrial hemp grown in Lake County must meet all county and state
14 inspection and testing requirements.

15 3-81.3. Applicants developing a new cultivar must do so under the discretion of the
16 Agriculture Commissioner

17 **3-82. Suspension, Denial or Revocation of Industrial Hemp Permit.**

18 3-82.1. Applicant shall comply with all provisions of state industrial hemp laws,
19 including, but not limited to, requirements for cultivation, sampling, laboratory
20 testing, harvesting, and crop destruction.

21 3-82.2. The Agricultural Commissioner may suspend, deny, or revoke any permit
22 pursuant to this chapter in the event of the following:

23 a. Registration was based on inaccurate or incomplete information.

24 California Department of Food and Agriculture Chapter 24 section 81014
25 states, "A person that materially falsifies any information contained in an
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1 application or registration under Section 81003 or 81004, or other application
2 to participate in the industrial hemp program, shall be ineligible to participate
3 in the industrial hemp program."

4 b. Applicant has not complied with the county codes or state law.

5 c. Applicant has failed to pay fees or penalties and/or has failed to comply with
6 federal, state, and county enforcement actions

7 d. Applicant and or landowner of property which is the subject of an industrial hemp
8 permit is discovered to be responsible for a current or post January 1, 2018
9 unpermitted commercial cannabis violation.

10 3-82.3. If the applicant is in the process to destroy their industrial hemp crop, the
11 applicant shall not amend their permit, get additional permits, or add new sites until
12 their crop destruction is completed.

13 3-82.4. Any pending requirements for registration compliance need to be completed
14 in order to obtain permits or amend permits.

15 3-82.5. If a request for inspections by the County of Lake within 24 hours has not
16 been approved, possible revocation of permit can occur.

17 **3-83. Appeal Process.**

18 The applicant has the right to appeal a suspension, denial, or revocation of their
19 Industrial Hemp permit.

20 3-83.1. The applicant shall file an appeal with the Ag Commissioner no more than
21 ten (10) days after receiving the suspension, denial, or revocation of their permit.

22 3-83.2. If an appeal or a request for a hearing by the applicant is filed at the
23 Agriculture Department pursuant to this Subsection, the Ag Commissioner shall
24 schedule an appeal hearing with the applicant.

25 3-83.3. The decision of the Ag Commissioner shall be final, conclusive and effective
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1 immediately, unless an appeal of that decision is filed with the Board of Supervisors
2 as provided herein.

3 3-83.4. Board of Supervisors Appeals. An applicant may file an appeal of the Ag
4 Commissioner's decision with the Clerk of the Board of Supervisors within seven (7)
5 calendar days of the issuance of the decision of the Ag Commissioner.

6 a. Required documents: An appeal shall be accompanied by a written statement
7 setting forth the grounds upon which the applicant asserts there was an error or abuse
8 of discretion by the Ag Commissioner.

9 b. Effect of filing the appeal: An appeal shall stay the proceedings and effective date
10 of the decision of the Ag Commissioner until such time as the appeal has been acted
11 on as hereinafter set forth.

12 c. Hearing and notice: Following the filing of an appeal, the Board of Supervisors
13 shall hold a public hearing on the matter scheduled and noticed as required by law.
14 The Board shall proceed to hear the testimony of the Ag Commissioner, his/her
15 assistants or deputies, the testimony of the applicant or his/her representatives, and
16 the testimony of other competent persons concerning the conditions upon which the
17 Ag Commissioner's decision was based, other matters which the Board may deem
18 pertinent. The hearing may be continued from time to time.

19 d. Decision. Within forty-five (45) days after the close of the hearing, the Board of
20 Supervisors may sustain or overturn a decision of the Ag Commissioner. Notice of
21 the decision of the Board together with a copy of any findings adopted by the Board
22 shall be mailed to the applicant within fifteen (15) calendar days.

23 e. Finality and effective date: The decision of the Board of Supervisors shall be final,
24 conclusive, and effective immediately.

25 f. Appeals pursuant to this Section shall be accompanied by a fee as established by
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the Board of Supervisors

3-84. Pollen Mitigation and Pollen-Producing Plants.

3-84.1. Propagative Material for Outdoor Cultivation. An outdoor cultivation area may only be planted with female propagative plant material.

3-84.2. Pollen producing industrial hemp plants must be managed as follows and in accordance with the required best management practices:

3-84.3. Indoor Cultivation for pollen producing plants. Cultivation of pollen producing industrial hemp plants may only occur in fully enclosed structures equipped with effective filtration devices to prevent pollen from escaping the structure.

3-84.4. Inspections and Removal. A registrant must conduct regular inspections of an outdoor cultivation area to ensure no pollen producing industrial hemp plants are growing outdoors. If a pollen producing industrial hemp plant is growing outdoors, the registrant must remove the male industrial hemp plant and submit a destruction plan to the Agricultural Commissioner within 24 hours of when the registrant knew or should have known of such occurrence.

3-84.5. Violation. A pollen producing industrial hemp plant growing outdoors may be considered a violation of this ordinance and a public nuisance.

3-85. Testing.

3-85.1. In addition to the state regulations, the applicant shall allow for the Ag Department to randomly test the THC levels of their crop at any given time during a registration year.

3-85.2. Upon failing the test, above 1% THC, the applicant shall be responsible for the cost of the test.

3-85.3. Crops at any age in development that test above the 1% THC threshold shall be destroyed.

1 **3-86. Destruction**

2 3-86.1. Destruction of any plant in a hemp registration must be submitted to the
3 County Agriculture Commissioner for approval prior to removal.

4 3-86.2. The destruction plan must be provided to the county Agriculture
5 Commissioner at least 24 hours prior to the anticipated destruction start date. No
6 destruction can occur prior to submission and approval by Agriculture Commissioner.

7 3-86.3. Any industrial hemp plant or crop that does not meet the standard of Division
8 24 of the California Food and Agriculture Code must be destroyed in a manner
9 approved by the Agriculture Commissioner.

10 3-86.4. Burning is not an approved method of destruction. No destruction plan
11 submitted for burning shall be approved. Burning of any Cannabis plants violates the
12 California Clean Air Act.

13 **3-87. Reporting.**

14 3-87.1. During vegetative growing, the applicant shall report to the Ag Commissioner
15 the date and process used to remove rouging males within 24 hours of removal.

16 3-87.2. Submit a report about stolen plants within 24 hours to the Ag Commissioner
17 and law enforcement. This will be followed up with a site inspection.

18 3-87.3. After flower production starts, the applicant shall submit a report prior to
19 destruction of their crop and wait for Agriculture Commissioner approval and/or
20 inspection.

21 **3-88. Abandoned Cultivation Sites.**

22 3-88.1. Failure to remove and destroy plants, including abandoned and/or volunteer
23 industrial hemp plants, in a timely manner will be subject to abatement by the County
24 Ag Commissioner.

25 3-88.2. Applicant and/or landowner will be responsible for all costs associated with
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Section Five: This ordinance shall take effect on the ____ day of ____, 2020 and before the expiration of fifteen days after its passage, it shall be published at least once in a newspaper of general circulation printed and published in the County of Lake.

1 ATTEST: CAROL J. HUCHINGSON
2 Clerk of the Board of Supervisors
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4 APPROVED AS TO FORM:
5 ANITA L. GRANT

6 By: _____
7 Deputy

By: _____