



OFFICE OF THE
AGRICULTURAL COMMISSIONER
SEALER OF WEIGHTS & MEASURES

Lisa D. Herbert
Agricultural Commissioner
Sealer of Weights & Measures

December 18, 2024

Industrial Hemp registrants/licensees:

On December 17, 2024, the Sutter County Board of Supervisors adopted an Interim Ordinance imposing a temporary moratorium on the cultivation of industrial hemp within the unincorporated areas of Sutter County.

This moratorium takes effect immediately and remains in effect for 45 days or until extended by subsequent Board action.

Current annual Industrial Hemp cultivation licenses will remain in effect, but no additional license or renewal applications will be accepted or granted during the term of the moratorium.

If you have any questions, please contact our office.

Regards,

A handwritten signature in blue ink, appearing to read "Lisa D. Herbert", with a long horizontal flourish extending to the right.

Lisa D. Herbert
Agricultural Commissioner/Sealer

Attachment: Interim urgency ordinance

ORDINANCE NO. ____

**AN INTERIM URGENCY ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE
CULTIVATION OF INDUSTRIAL HEMP WITHIN THE UNINCORPORATED AREAS OF SUTTER
COUNTY BY ANY PERSONS OR ENTITY**

THE BOARD OF SUPERVISORS FOR THE COUNTY OF SUTTER ORDAINS AS FOLLOWS:

SECTION 1: The Sutter County Code of Ordinances is hereby amended by repealing Chapter 412 and replacing it to read, in its entirety, as follows:

**Chapter 412
INDUSTRIAL HEMP CULTIVATION AND PROCESSING**

Sections:

- 412-010** *Purpose and Authority*
- 412-011** *Findings and Declarations*
- 412-012** *Declaration of Urgency*
- 412-013** *Moratorium*
- 412-014** *Enforcement*
- 412-015** *Effective Date*

412-010 Purpose and Authority

The purpose of this ordinance is to establish a temporary moratorium on the cultivation of Industrial Hemp while County staff determines the impact of such cultivation under the previously effective ordinance to mitigate negative impacts of such. This ordinance is adopted pursuant to California Constitution Article 11, Section 7, Government Code sections 65800, et seq., particularly section 65858, and other applicable law.

412-011 Findings and Declarations

The Board of Supervisors of the County of Sutter make the following findings in support of the immediate adoption and application of this interim ordinance:

- A. The California Industrial Hemp Farming Act, codified at Food and Agriculture Code section 81000 et. seq., was signed into law in 2013 to authorize the commercial production of Industrial Hemp in California and became effective on January 1, 2017. On September 30, 2018, former California Governor Brown signed Senate Bill (SB) 1409 into law, which amended the California Industrial Hemp Farming Act and set forth legal guidelines for a state permitting process, which was to allow for the cultivation of Industrial Hemp beginning on January 1, 2019.
- B. On December 20, 2018 the Agricultural Improvement Act of 2018, also known as the 2018 Farm Bill, was signed into law by President Donald Trump which amended the Agricultural Marketing Act of 1946 (7 USC. 1621 et seq.) to add Industrial Hemp to the list of approved crops, allowing states that desire to have primary regulatory authority over the production of Industrial Hemp to submit a plan under which the State monitors and regulates that production.

- C. On January 19, 2021, the federal government, through the United States Department of Agriculture (USDA), published the final rule, effective March 22, 2021 that outlines the provisions for USDA to approve plans submitted by states for production of hemp.
- D. California submitted such a plan to the Secretary of Agriculture on December 20, 2021, which USDA approved, effective January 1, 2022.
- E. Industrial Hemp is defined under Food & Agricultural Code section 81000 and Health & Safety Code section 11018.5 as "a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent (.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 seeds or resin produced therefrom.
- F. "Cannabis" is defined under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), codified at Business & Professions Code section 26001, as "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' does not mean 'Industrial Hemp' as defined by section 11018.5 of the Health & Safety Code."
- G. Due to the fact that Industrial Hemp and Cannabis are derivatives of the same plant, *Cannabis sativa* L., the physical appearance of Industrial Hemp and Cannabis are virtually indistinguishable. Absent a laboratory performed chemical analysis for tetrahydrocannabinol (THC) content, the two plants cannot be readily distinguished.
- H. The County of Sutter has banned the cultivation of commercial Cannabis in Sutter County Code Chapter 410. Usage of the term Marijuana in Chapter 410 is considered one and the same as the term Cannabis used in this Chapter, consistent with Health and Welfare Code section 11032.
- I. The Sutter County Board of Supervisors adopted Ordinance 1682 on April 13, 2021, allowing for the cultivation of Industrial Hemp with a permit that must be renewed on an annual basis.
- J. Due to the fact that Industrial Hemp and Cannabis are indistinguishable, the cultivation of Industrial Hemp poses similar threats to the public health, safety, or welfare as the cultivation of Cannabis.
- K. Pursuant to Article XI, Section 7 of the California Constitution, the 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 citizens.
- L. The County of Sutter has a compelling interest in protecting the public health, safety, and welfare of its residents and business, in preventing the establishment of nuisances, and preserving the peace and integrity of neighborhoods within the unincorporated area. Without sufficient regulations,

standards, procedures, and thresholds for Industrial Hemp cultivation which are enforceable pursuant to an adopted ordinance, there is a current and immediate threat to the public health, safety and welfare from the unregulated cultivation of Industrial Hemp.

- M. Industrial Hemp cultivation under the currently effective ordinance has resulted in negative impacts to the public health, safety, and welfare of the Sutter County community. The Sutter County Sheriff has documented nearly 200 service calls related to Industrial Hemp since the County began studying its cultivation in 2019. The Agricultural Commissioner has required more than 500 acres and 30 greenhouses of cultivated crop that either had excessive THC levels, was destroyed, or disappeared in violation of the ordinance. The County has issued several code enforcement notices for farming activity inconsistent with the County Code. Additionally, the Agricultural Commissioner and California Department of Pesticide Regulation have identified improper use of pesticides on cultivated crops.
- N. At this time, the County urgently needs to study whether and to what extent the County's General Plan, zoning and land use regulations and health and safety regulations should be modified to accommodate and/or address the impacts of Industrial Hemp to best protect the health, safety, and welfare of County residents and visitors. The uses prohibited by this ordinance may conflict with a contemplated general plan, specific plan, or zoning proposal that the Board of Supervisors and County agencies and departments intend to study within a reasonable time.
- O. Based on the findings above, and upon the information presented at the Board of Supervisors' regular meeting held on December 10, 2024, the Board of Supervisors finds that the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an interim ordinance pursuant to Government Code section 65858, and also as an urgency ordinance pursuant to Government Code sections 25123 and 25131. This ordinance complies with State law and imposes reasonable regulations that the Board of Supervisors concludes are necessary to protect the public safety, health, and welfare of residents and business within the County.

412-012 Declaration of Urgency

- A. Based on the findings set forth above, the Board finds and declares that there is a current and immediate threat to the public health, safety and welfare arising from the absence of reasonable regulations in the County Code governing the continued cultivation of Industrial Hemp in the unincorporated areas of the County.
- B. Based on the findings above, the Board of Supervisors determines that this interim ordinance is needed to preserve the public peace, health, safety, and welfare by providing the County with additional time to consider the comprehensive regulation of Industrial Hemp cultivation in the unincorporated areas of Sutter County, which may consist of a revised cultivation ordinance, general plan revision, specific plan, or zoning proposal.

412-013 Moratorium

In order to protect the public health, safety and welfare during the term of this ordinance, including any extensions hereto, a moratorium is hereby placed on the cultivation of Industrial Hemp as follows:

- A. The cultivation of Industrial Hemp for any purpose by any person or entity is expressly prohibited in all land use zones in the unincorporated areas of Sutter County.
- B. Acceptance of any application for or issuance of a license authorizing the establishment, operation, maintenance, development or construction of any facility or use for the purpose of the cultivation of Industrial Hemp in the unincorporated area of Sutter County is prohibited.
- C. Notwithstanding Paragraphs A and B, a currently effective Industrial Hemp cultivation license issued under the provisions of the previously effective Ordinance 1682 will remain in effect.

412-014 Enforcement

Violations of this ordinance shall constitute a public nuisance and may be enforced and abated under Chapter 87 of the Sutter County Code, or through any other available remedy provided by the Sutter County Code or other law.

412-015 Effective Date

This interim ordinance shall become effective on December ¹⁷~~10~~, 2024, and shall remain in effect for 45 days from that date unless extended under Government Code section 65858.

SECTION 2: If any section, subsection, sentence, clause, portion or phrase of this Ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion thereof. The Board of Supervisors hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, portion or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

SECTION 3: The Board of Supervisors hereby finds that this ordinance to temporarily prohibit Industrial Hemp cultivation in all zones is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations, sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision(b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the Board of Supervisors further finds, that the ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption, 14 C.C.R. section 15308 (regulatory activity to assure protection of the environment).

SECTION 4: The Board of Supervisors finds and declares that there is a current and immediate threat to the public health, safety and welfare arising from the absence of reasonable regulations in the County Code governing the continued cultivation of Industrial Hemp in the unincorporated areas of the County and determines that this interim urgency ordinance is needed to preserve the public peace, health, safety, and welfare by providing the County with additional time to consider the comprehensive regulation of Industrial Hemp cultivation in the unincorporated areas of Sutter County, which may consist of may consist of a revised cultivation ordinance, general plan revision, specific plan, or zoning proposal.

SECTION 5: This Ordinance is adopted by the Board of Supervisors pursuant to Government Code Section 65858 by a four-fifths or greater vote, as an urgency measure to protect the public health, safety and welfare, and shall take effect immediately upon adoption. This Ordinance shall expire and be of no further force or effect 45 days after its adoption, unless it is extended pursuant to said section 65858. Before the expiration of 15 days after the adoption of this Ordinance, a summary hereof shall be published once, with the names of the members of this Board voting for or against the same, in a newspaper of general circulation published in the County of Sutter.

PASSED AND ADOPTED by the Board of Supervisors of Sutter County this 13th day of December, 2024 by the following vote:

AYES:

NOES:

ABSENT OR ABSTAIN:

Mat Conant, Chair
Sutter County Board of Supervisors

ATTEST:

Donna Jonston, Clerk of the Board
County of Sutter, California

APPROVED AS TO FORM:

William J. Vanasek, County Counsel
County of Sutter, California