

AN ORDINANCE REPEALING AND REPLACING CHAPTER 6.85 “HEMP CULTIVATION”

THE BOARD OF SUPERVISORS FOR THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION 1. Chapter 6.85 of the Stanislaus County Code is hereby amended by repealing in its entirety Chapter 6.85 and adopting a new Chapter 6.85, attached hereto and incorporated herein by reference to the Stanislaus County Code.

SECTION 2. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor _____, seconded by Supervisor _____, the foregoing Ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the _____ day of _____ 2020, by the following-called votes:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Kristen Olsen, Chairwoman
of the Board of Supervisors of the County of
Stanislaus, State of California

ATTEST:

ELIZABETH KING, Clerk of the
Board of Supervisors of the County of Stanislaus,
State of California

By _____
Kelly Rodriguez, Assistant Clerk

APPROVED AS TO FORM:

Thomas E. Boze
County Counsel

By

Daniel Solish,
Deputy County Counsel

DRAFT

**TITLE 6
BUSINESS LICENSES AND REGULATIONS CHAPTER 6.85
HEMP CULTIVATION**

SECTIONS:

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6.85.010 Purpose.

It is the purpose and intent of this chapter to regulate the cultivation of hemp in a responsible manner to protect the health, safety, and welfare of the residents of Stanislaus County and to enforce rules and regulations consistent with state law. It is the further purpose and intent of this chapter to require all persons cultivating hemp to obtain a license to operate within Stanislaus County. Nothing in this chapter is intended to authorize the cultivation of hemp for purposes that violate state or federal law. The provisions of this chapter are in addition to any other permits, licenses and approvals which may be required to conduct activity in the county.

6.85.020 Authority.

Pursuant to Section 7 of Article XI of the California Constitution, Stanislaus County is authorized to adopt ordinances that establish standards, requirements, and regulations for the licensing of hemp activities. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in Stanislaus County to all hemp cultivation.

6.85.030 Definitions.

When used in this chapter, the following words shall have the meaning ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regular provision.

- A. "Hemp cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of hemp, including activities carried out by hemp breeders. For the purposes of this chapter, hemp cultivation shall include cultivation by an established agricultural research institution (EARI) as defined in Section 81000 of the California Food and Agricultural Code.
- B. "Hemp" has the same meaning as in Section 81000 of the California Food and Agricultural Code.
- C. "Hemp breeder" has the same meaning as in Section 81000 of the California Food and Agricultural Code.
- D. "Established agricultural research institution" has the same meaning as in Section 81000 of the California Food and Agricultural Code.
- E. "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, activity trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

- F. "Hearing Officer" means the Hearing Officer established in Section 6.78.185 of the Stanislaus County Code.
- G. "Parcel" means any lot or portion of land which has been legally separated from another parcel or portion of land in accordance with the California Subdivision Map Act.

6.85.040 Hemp cultivation license required.

Except as authorized in this chapter, no person shall engage in hemp cultivation in the unincorporated area of Stanislaus County, without first obtaining a license as provided in this chapter. A license issued under this chapter does not grant any interest in real property or create any interest of value and is not transferable.

6.85.050 Requirements for issuance of a license.

Prior to engaging in hemp cultivation in the unincorporated area of the county, the following requirements shall be met:

- A. Applicants shall submit an application in accordance with the application process established by the Agricultural Commissioner.
- B. An applicant shall be the deed holder of the land upon which hemp is to be cultivated or provide written consent in a form acceptable to the Agricultural Commissioner from the deed holder granting permission for the cultivation of industrial hemp on the specified parcel(s).
- C. A person may be issued only one hemp cultivation license and no more than one license shall be issued per parcel.
- D. Each hemp cultivation license shall permit the outdoor cultivation of not more than a cumulative total of forty (40) acres of land.
- E. Each license issued pursuant to this chapter shall expire one year from the date of issuance.
- F. No license shall be issued until the Agricultural Commissioner issues the applicant a registration under Division 24 of the California Food & Agriculture Code.
- G. By submitting an application for a hemp cultivation license, applicants consent to all inspections and testing that may be conducted at any time at the discretion of the Agricultural Commissioner.
- H. By submitting an application for a hemp cultivation license, applicants consent to providing the Agricultural Commissioner a criminal history report.

- I. Before a license is issued under this chapter, the applicant shall submit a bond or other form of security acceptable to the Agricultural Commissioner in the amount of one hundred percent (100%) of the County's estimated costs due to a person's activities in the licensing or cultivation of hemp, including the costs to fully abate a crop of hemp that does not meet the requirements for legal harvest under applicable laws and regulations. The Agricultural Commissioner may require an increase in the bond or other form of security in the event the applicant increases the acres under cultivation after a license or registration is issued. The financial security provided shall be released to the applicant after the Agricultural Commissioner determines that the security is no longer needed to secure the abatement of a non-compliant hemp crop or payment of County fees.

6.85.060. Cultivation requirements.

The following standards shall apply to the cultivation of hemp.

- A. Each parcel upon which a license application is submitted shall be a minimum of ten acres in size and located in the A-2 (General Agricultural) zoning district but outside of a Local Agency Formation Commission (LAFCO) Sphere of Influence (SOI) of a city or Urban Transition (UT) General Plan designation of the County.
- B. All parcels used for the cultivation of hemp shall have onsite signage indicating that hemp is being cultivated on site. The signs shall:
 - i. Be of a size so that the wording on the sign is clearly visible and readable to a person with normal vision from a distance of twenty-five (25) feet; and
 - ii. Use letters and symbols that are of a color that sharply contrast with their immediate background; and
 - iii. Be posted, including each road, footpath, walkway, or aisle that enters the cultivation area. When a parcel is adjacent to a public right-of-way, such as a road, trail, or path, signs shall be posted at intervals not exceeding 600 feet along the parcel's border with the right-of-way.
- C. Any drying, curing, grading, trimming, or other activity involving hemp not grown on the licensed parcel is prohibited unless authorized by the County zoning ordinances.
- D. A person cultivating hemp shall comply with all federal, state, and local laws

and regulations, including, but not limited to, those promulgated by the Board of Supervisors and/or Agricultural Commissioner related to reporting, sampling, testing, and destruction.

6.85.070 Establishment and promulgation of regulations.

- A. In addition to any regulations adopted by the Board of Supervisors, by resolution, the Agricultural Commissioner, or his designee, is authorized to establish additional rules, regulations or standards governing the issuance or denial of hemp cultivation licenses, the ongoing operation of hemp cultivation, and the county's oversight, if the Agricultural Commissioner determines the rule, regulation or standard to be necessary to carry out the purposes of this chapter.
- B. Regulations issued by the Agricultural Commissioner shall be published on the county's website. A copy of the regulations established by the Agricultural Commissioner shall be filed with the Clerk of the Board of Supervisors.
- C. Regulations promulgated by the Agricultural Commissioner shall become effective upon the date of publication. Hemp cultivation shall be in compliance with all state and local laws and regulations, including, but not limited to, any rules, regulations or standards adopted by the Agricultural Commissioner.

6.85.080 Limitations on county's liability.

To the fullest extent permitted by the law, Stanislaus County shall not assume any liability whatsoever with respect to having issued a license to cultivate hemp pursuant to this chapter or otherwise approving the operation of any hemp cultivation.

6.85.090 Violations declared a public nuisance.

Each and every violation of the provisions of this chapter is hereby deemed unlawful and a public nuisance subject to abatement and the imposition of administrative penalties under Chapter 2.92 of the Stanislaus County Code.

6.85.100 Each violation a separate offense.

Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Stanislaus County Code.

6.85.110 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

6.85.120 Enforcement.

It is unlawful for any person to violate any provision, or fail to comply with any of the requirements, of this chapter. The county and/or district attorney shall have the discretion to enforce the provisions of this chapter by administrative penalties, civil remedies, or criminal proceedings. The remedies provided herein are not to be construed as exclusive remedies. The county is authorized to pursue any proceedings or remedies provided by law or in equity.

6.85.130 Grounds for Suspension or Revocation.

Hemp cultivation licenses may be suspended or revoked by the Agricultural Commissioner for any violation of any law and/or any rule, regulation, condition of approval, and/or standard, including, but not limited to, any of the following, based on substantial evidence:

- (1) Failure to pay all fees or costs incurred due to a person's activities in the licensing or cultivation of hemp;
- (2) Failure to comply with the signage requirements provided in this Chapter;
- (3) Failure to submit a bond or other security acceptable to the Agricultural Commissioner in the amount required by the Agricultural Commissioner;
- (4) Failure to destroy crops in the time and manner specified by the Agricultural Commissioner;
- (5) Failure to timely submit all reports required by the Agricultural Commissioner;
- (6) Failure to obtain a laboratory test report indicating the THC levels as required by law, rule, or regulation prior to harvest;
- (7) Failure to comply with the maximum acreage limitations provided in this Chapter;
- (8) Failure to comply with one or more of the conditions of the hemp cultivation license or any County permits or land use conditions of approval, or any conditions placed on the County Registration;
- (9) Providing false material information, written or oral, given willfully or negligently by the applicant;
- (10) Any act or omission by a licensee that results in the violation of the provisions of this Chapter;

- (11) Any act or omission by a licensee that results in the denial, revocation or suspension of the licensee's County Registration;
- (12) Any act or omission by a licensee which constitutes a violation of State law or the Stanislaus County Code; or
- (13) The licensee allows any hemp cultivation to operate in a manner which constitutes a nuisance, where the licensee has failed to abate the nuisance after notice.

6.85.140 Notice of Suspension or Revocation.

- A. If the Agricultural Commissioner determines that grounds for suspension or revocation of the hemp cultivation license exist pursuant to this Chapter, the Agricultural Commissioner shall issue a written Notice of Intention to revoke or suspend the license, as the case may be. The Notice of Intention shall be served on the licensee at the address reported on the license issued pursuant to this Chapter. The Notice of Intention shall be served by either personal delivery or by certified U.S. Mail, postage prepaid, return receipt requested. The Notice of Intention shall:
 - (1) Identify the licensee;
 - (2) Describe the location of property;
 - (3) State the intention to revoke or suspend the license;
 - (4) Provide the grounds for revocation or suspension and the action necessary to abate the violation, if any;
 - (5) Notify the licensee of the right to request a hearing before a Hearing Officer to present evidence as to why the license should not be suspended or revoked; and
 - (6) Inform the licensee of the ten-day deadline to submit a written request for a hearing.
- B. The licensee shall have ten business days from the service of the Notice of Intention to submit a written request for a hearing to the Agricultural Commissioner, or designee, who shall immediately forward the request to the Hearing Officer for a hearing. Failure to submit the written request for a hearing shall be deemed a waiver of the right to challenge the suspension or revocation of the license and a failure to exhaust administrative remedies. If the hearing is not timely requested, the Agricultural Commissioner may suspend or revoke the license in accordance with the Notice of Intention.

C. A hearing before the Hearing Officer shall be held pursuant to the hearing procedures established in Section 6.78.185 of the Stanislaus County Code.

6.85.150 Fees.

The Board of Supervisors may, by resolution or ordinance, establish a schedule of fees for services provided under this chapter. Services subject to fees may include, but are not limited to, registration, licensing, sampling, testing, inspections, monitoring, and enforcement.

6.85.160 Fees deemed debt to Stanislaus County.

The amount of any fee, cost, or charge imposed pursuant to this chapter shall be deemed a debt to Stanislaus County that is recoverable via an authorized administrative process as set forth in the county code, or in any court of competent jurisdiction.

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