ORDINANCE NO. SCC 2020-02

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SHASTA AMENDING TITLE 17, ZONING PLAN, OF THE SHASTA COUNTY CODE TO REGULATE INDUSTRIAL HEMP

The Board of Supervisors of the County of Shasta ordains as follows:

SECTION I.

Section 17.88.330 is added to the Shasta County Code as follows:

17.88.330 INDUSTRIAL HEMP

A. Purpose and Authority

1. Pursuant to Article XI, section 7, of the California Constitution, the County of Shasta ("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. It is the purpose and intent of this Section to establish standards, requirements, and regulations governing industrial hemp cultivation, including commercial and research industrial hemp activities.

2. Further, it is the purpose and intent of this Section to impose reasonable land use regulations to protect the County's residents, neighborhoods, businesses, and the environment from disproportionately negative impacts caused by industrial hemp cultivation, processing, and manufacturing 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 commercial and/or research industrial hemp cultivation, processing, and manufacturing shall be the minimum standards applicable within the unincorporated areas of the County.

3. The provisions of this Section 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 permits, licenses, registrations, and approval required under federal, state, County, or other law.

B. Definitions

For the purposes of this Section, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not defined in this Section, 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.

1. "Cultivation" means any activity involving the planting, growing, or harvesting of one or more hemp plants or any part thereof.

2. "Established agricultural research institution" has the same meaning as that term is defined in section 81000 of the Food and Agricultural Code.

3. "Hemp" shall have the same meaning as "industrial hemp" set forth below.

4. "Industrial hemp" has the same meaning as that term is defined in section 81000 of the Food and Agricultural Code.

5. "Manufacturing" means the making of products by hand or machine from industrial hemp, either exclusively or in combination with other raw materials. Manufacturing does not include any activity defined as "agricultural processing" pursuant to this Section.

6. "Micro-greens" refers to hemp harvested as tiny seedlings when they are seven to fourteen days old and one to three inches tall.

7. "Nursery stock" shall have the meaning set forth in Food and Agricultural Code section 5005.

8. "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.

9. "Processing" has the same meaning as "agricultural processing" in Section 17.02.057 of the Shasta County Code. "Processing" includes storage.

10. "Volatile solvent" means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Volatile solvent does not include carbon dioxide used for extraction or ethanol used for extraction and post-extraction processing.

C. Nuisance Declared; Enforcement

1. It is unlawful and is hereby declared to be a public nuisance for any person to engage in any industrial hemp cultivation, processing, or manufacturing for commercial and/or research purposes within the County without complying with all applicable federal, state, and local laws and regulations pertaining to such activities, including the provisions of this Section and the duty to register with the County Agricultural Commissioner. Such activities may be abated in accordance with Chapter 8.28 (Nuisances) of the Shasta County Code, Shasta County Code Section 17.94.060, and by any other means available by law. The provisions of Chapter 17.90 (Nonconforming Uses) of the Shasta County Code shall not apply to the cultivation, processing, and manufacturing of industrial hemp hereby declared to be a public nuisance.
2. The Sheriff, the Agricultural Commissioner, and the Director of Resource Management, and their respective designees, are charged with the responsibility of administering and exercising the authority conferred under this Section.

3. In the performance of their functions, the enforcing officers are authorized to enter upon and inspect private properties to ensure compliance with the provisions of this Section 17.88.330 of the Shasta County Code. Any such entry and inspection remains subject to all requirements

established by the United States Constitution, the California Constitution, and any other applicable state and federal law.

4. Each and every violation of this Section shall constitute a separate violation. All violations of this Section are subject to punishment and enforcement measures authorized under federal or state laws and regulations, and Shasta County Code.

5. Such violations of County Code, federal and state laws or regulations, and failure to pay fees or penalties assessed as a result of industrial hemp activities in the County shall be cause to revoke any permits or registrations issued for industrial hemp activities. Failure to pay fees or penalties shall also be cause for non-renewal of a registration or permit until such time as said fees or penalties have been paid in full.

D. Agricultural Commissioner Registration for Cultivation or Processing

No person shall cultivate or process industrial hemp in the unincorporated areas of Shasta County without first obtaining a registration issued by the Agricultural Commissioner as required by state law.

E. Cultivation and Processing Requirements

The following standards shall apply to the cultivation and processing of industrial hemp for commercial and research purposes.

1. The indoor cultivation and processing of industrial hemp is permitted in the Exclusive Agricultural (EA), Limited Agriculture (A-1), and Unclassified (U) districts if a use permit is issued in accordance with the provisions of Section 17.92.020. Indoor cultivation and processing of industrial hemp is prohibited in all other districts. The indoor cultivation and processing of industrial hemp is limited to nursery stock and micro-greens.

2. Outdoor cultivation and processing of industrial hemp is prohibited in all districts.

3. Indoor cultivation or processing of industrial hemp may be proposed on a parcel of any size.

4. Any structure(s) containing facilities used for the cultivation or processing of industrial hemp must have all permits required under state law and Shasta County Code.
5. Processing of industrial hemp shall not be accomplished by use of volatile solvents.

6. Notwithstanding anything to the contrary in this code, all parcels used for the cultivation or processing of industrial hemp shall have onsite signage indicating that hemp is being cultivated or processed on site. The signs shall:

    a. 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

    b. Use letters and symbols that are of a color that sharply contrasts with their immediate background; and

c. Be posted at the corners of the parcel and at all usual points of entry to the parcel, 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.

7. A person cultivating or processing industrial hemp shall comply with all provisions of federal and state law, as well as all associated regulations therewith, as applicable to the cultivation or processing of industrial hemp, including, but not limited to, requirements for registration, cultivation, sampling, laboratory testing, harvesting, and crop destruction.

8. A registration issued by the Agricultural Commissioner shall be obtained prior to the cultivation or processing of industrial hemp for any purpose in the unincorporated areas of the County.

F. Financial Assurances for Cultivation

As a condition for issuance of a use permit, a person cultivating industrial hemp shall provide financial assurances to be applied against County costs for inspection, abatement, and destruction of non-compliant industrial hemp crops as follows:

1. Financial assurances may take the form of surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurance, which the Director of Resource Management determines is adequate to secure recovery of the aforementioned County costs.

2. The financial assurances shall remain in effect for the duration of the cultivation activities.

3. The amount of financial assurances shall be in an amount not less than one hundred percent (100%) of the total estimated cost to the County for inspection, abatement, and destruction of non-compliant industrial hemp crops.

4. The financial assurances shall be made payable to the County or otherwise available to County upon any event, in County's sole discretion, where County must incur costs for inspection, abatement, and destruction of non-compliant industrial hemp crops.

5. Financial assurances shall no longer be required of an operation for cultivating industrial hemp and shall be released upon written confirmation by the County that the operations have ceased and such financial assurances are no longer needed. If an operation for cultivating industrial hemp is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the County until new financial assurances are secured from the new owner and have been approved by the Director of Resource Management.

6. The decision to approve financial assurances, both with respect to the form and amount thereof, shall be made by the Director of Resource Management. The decision of the Director

of Resource Management may be appealed to the Board of Supervisors within ten calendar days of the decision.

7. A person cultivating industrial hemp shall remain responsible for reimbursing the County for all costs for inspection, abatement and destruction of non-compliant hemp crops. The provision of financial assurances shall not relieve any person of such responsibility. Nothing in this paragraph shall limit the County's ability to utilize all available remedies to recover such costs.

G. Manufacturing Requirements

The following standards shall apply to the manufacturing of industrial hemp products.

1. The manufacturing of industrial hemp products is permitted in a fully enclosed building in the General Industrial (M) and Light Industrial (M-L) districts if a zoning permit is issued in accordance with the provisions of Section 17.92.060. Manufacturing of industrial hemp products is prohibited in all other districts and is prohibited outdoors in all districts.

2. A person manufacturing industrial hemp products shall design the structure(s) to be used for manufacturing in a manner that minimizes impacts, which may include, but are not limited to odor and pollen drift, to surrounding areas.

3. Structures utilized for the manufacturing of industrial hemp products must comply with applicable building codes and be permitted by the Resource Management Department as required by law.

4. Manufacture of industrial hemp products shall not be accomplished by use of volatile solvents.

H. Destruction of Non-Compliant Industrial Hemp Crops

1. The County of Shasta Board of Supervisors ("Board") adopts this Section 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 insuring the continued agricultural commodities is essential to the health and well-being of County residents. The Board determines that the enforcement of this Section is essential.

2. Each and every violation of the provisions of this Section is hereby deemed unlawful and a public nuisance.

3. It shall be the responsibility of the persons cultivating, processing, or manufacturing 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, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed by the County. Nothing in this Chapter shall be construed as authorizing any

actions that violate federal, state, or local law regarding the cultivating, processing or manufacturing of industrial hemp.

4. Each and every violation of this Section shall constitute a separate violation and shall be subject to all remedies, penalties, and enforcement measures authorized by the County. The County may pursue any and all remedies and actions available under state and local laws for any violations committed by persons related to, or associated with, the unlawful cultivation, processing, or manufacturing of industrial hemp.

5. An industrial hemp crop that does not comply with the provisions of this Section and all applicable provisions of federal and state law, and associated rules and regulations, shall be destroyed. Crop destruction shall proceed as provided for in all applicable laws and regulations, which includes Food and Agricultural Code section 81006 and California Code of Regulations, title 3, sections 4950 and 4950.1. Any violations of this section are subject to abatement under the Shasta County Code. The person growing industrial hemp in violation of the law, shall submit a destruction plan to the Agricultural Commissioner at least twenty-four (24) hours prior to the start of the destruction. The Agricultural Commissioner shall approve the method of destruction.6. 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.

I. Fees

1. The Board of Supervisors may establish reasonable fees, in an amount necessary to cover the actual costs of implementing, administering, and enforcing this Section and the provisions of state law related to industrial hemp. Payment of such fees shall be a condition of issuance of any registration or permit provided for in this Section.

2. The amount of the fees adopted pursuant to this section shall not exceed the amount reasonably required to inspect, administer or process the required permits, registrations, or other forms or documents, or to defray the costs of enforcement required to be carried out by the County. Such costs shall include, but not be limited to, charges for time and mileage. Such fees shall cover the reasonable costs associated with services that may include, but are not limited to, processing of registrations and permits, inspections, sampling and testing, and abatement/destruction. Such fees shall be in addition to any amounts covered by financial assurances set forth in Paragraph F of this Section.

3. Failure to pay all fees shall be cause for revocation or non-renewal of a person's registration and/or permit until all outstanding fees are paid in full.

4. No new registrations or permits shall be issued without payment of fees that are due.

J. Misdemeanor Penalty

As authorized by Government Code section 25132, and except as otherwise provided by state statute, any person or entity violating any provision of this Section 17.88.330 of the Shasta County Code shall be guilty of a misdemeanor.

K. Cost Recovery

The County shall be reimbursed for all time, services, and materials needed to implement, administer and enforce state law and this Section.

L. Remedies Cumulative

All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided in this Code and by law. Nothing in this Section shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

M. Limitation of County's Liability

To the fullest extent permitted by law, the County of Shasta shall not assume any liability whatsoever with respect to having registered or permitted any person pursuant to this Section.

SECTION II.

The County finds that this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15061(b)(3) based on the general rule that CEQA only applies to projects which have the potential for causing a significant impact on the environment. It can be seen with certainty that there is no possibility that the proposed regulations pertaining to the cultivation and processing of industrial hemp and the manufacturing of industrial hemp products may have a significant effect on the environment. There are no unusual circumstances under State CEQA Guidelines section 15300.2(c).

The County further finds that this ordinance is consistent with the County General Plan on the basis that the ordinance promotes an increase in the variety, type and scale of business, industrial, and manufacturing activities (Objective ED-2), guides development in a pattern that will minimize land use conflicts between adjacent land uses (Objective CO-4), and minimizes exposure of the public to noxious odors (Policy AQ-1c).

SECTION III.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION IV.

The adoption of this ordinance shall not in any manner affect any action or prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, be construed as a waiver of any license, fee, or penalty required by or resulting from any such ordinance, or affect the validity of any bond (or cash deposit in lieu thereof) required to be posted, filed, or deposited pursuant to such ordinance.

SECTION V.

This ordinance shall take effect and be in full force and effect 30 days after its passage. The Clerk shall cause this ordinance to be published as required by law.

DULY PASSED AND ADOPTED this 19th day of May, 2020, by the Board of Supervisors of the County of Shasta by the following vote:

AYES:	Supervisors Moty, Rickert, Morgan, Baugh, and Chimenti
NOES:	None
ABSENT:	None
ABSTAIN:	None
RECUSE:	None

Mary Rickert

MARY RICKERT, CHAIR
Board of Supervisors
County of Shasta
State of California

ATTEST:
MATTHEW P. PONTES
Clerk of the Board of Supervisors

By: _____
Deputy