

ORDINANCE NO. _____
AN ORDINANCE OF THE COUNTY OF MODOC REQUIRING LICENSING FOR
INDUSTRIAL HEMP CULTIVATION
THE BOARD OF SUPERVISORS OF THE COUNTY OF MODOC ORDINANCE

SECTION 1. Findings and Declarations.

The Board of Supervisors makes the following findings in support of enactment of this ordinance:

1. Pursuant to Article XI, Section 7 of the California Constitution, the County of Modoc is authorized to 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, including, but not limited to, those which establish standards, requirements and regulations related to industrial hemp cultivation and research industrial hemp activities. 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 activities shall be the minimum standards applicable within the unincorporated area of the County of Modoc.
2. It is the further purpose and intent of this Ordinance to require all industrial hemp cultivation and operators to annually register with the County of Modoc.
3. Further, it is the purpose and intent of this Ordinance to impose reasonable land use regulations to protect the County's residents, neighborhoods, businesses, and the environment from disproportionately negative impacts caused by industrial and/or research industrial hemp activities, and to enforce rules and regulations consistent with state and federal law.
4. The provisions of this Ordinance 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 and approval required under state, County, or other law.

SECTION 2: Definitions.

When used in this Ordinance, the following words shall have the meanings 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 regulatory provision.

- A. "Approved seed cultivar" means a variety of hemp approved to be grown by a commercial hemp entity and shall include cultivars certified by all the following:

1. Member organizations of the Association of Official Seed Certifying Agencies, including, but not limited to, the Canadian Seed Growers' Association;
 2. Organization of Economic Cooperation and Development;
 3. A seed-certifying agency pursuant to Article 6.5 (commencing with Section 52401) of Chapter 2 of Division 18.
- B. "Cannabis" means all parts of the 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" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, "cannabis" does not mean "industrial hemp" as defined by this Chapter and by Section 11018.5 of the Health and Safety Code.
- C. "County of Modoc" or "County" means the County of Modoc, as a political subdivision of the State of California or entity, and/or as related to the land or jurisdiction to which this Chapter applies, means the unincorporated area of the County of Modoc.
- D. "Cultivation" means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of hemp.
- E. "Enforcing officer" means the Modoc County Administrative Officer, Health Officer, Planning Director, Resources Director, Sheriff, or Agricultural Commissioner, or their authorized deputy(ies) or designee(s), or any person employed by the County of Modoc, each of whom is independently authorized to enforce this Ordinance. Nothing in this provision shall be construed to limit the authority provided to the Modoc County Sheriff by state or federal law.
- F. "Established agricultural research institution" or "research hemp entity" means a person that is either:
1. A public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or
 2. An institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research.
- G. "Hemp" or "industrial hemp" means a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent (0.3%) 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.

- H. “Hemp Cultivation License” means the annual registration with the County Agricultural Commissioner required under this Ordinance, state, and/or federal law.
- I. “Manufacture” means to produce, prepare, propagate, or compound, or otherwise blend, extract, or infuse hemp and/or a hemp product either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- J. “Licensee” means an owner applying for a hemp cultivation license pursuant to this Ordinance.
- K. “Registering authority” means the County Agricultural Commissioner who is responsible for the issuance, renewal, or reinstatement of the hemp cultivation license, and authorized to take disciplinary action against any licensee.
- L. “Parcel” means a lot in single ownership or under single control.
“Premises” means the designated structure(s) and land of a legal parcel specified in the application that is owned, leased, used, possessed, or otherwise held under the control of the licensee. The premises shall be a contiguous area.
- M. “Seed cultivar” means a variety of hemp.

SECTION 3: Hemp Cultivation License:

Except as authorized in this chapter, no person shall cultivate hemp in the unincorporated area of Modoc County, without first obtaining a license to cultivate as provided in this chapter. No person shall engage in hemp cultivation within the County unless the person has, at a minimum, complied with all applicable state, federal, and local laws and regulations pertaining to industrial hemp cultivation. All entities/persons shall have the duty to complete all of the following:

1. Complete the industrial hemp cultivation license with the County Agricultural Commissioner;
2. Pay the required registration or renewal fee; and
3. Provide the Global Positioning System coordinates of the planned cultivation premises to the County Agricultural Commissioner.
4. Provide the name, physical address, and mailing address of the applicant.
5. Provide the seed cultivar to be grown, including the state or county of origin.
6. Indemnification waiver

SECTION 4: Prohibitions; Nuisance declared.

It is unlawful and shall constitute a public nuisance for anyone to engage in any industrial hemp cultivation and/or research hemp activity within the County without complying with all applicable state, federal, and local laws and regulations pertaining to hemp cultivation and licensing, including the duty to register with the County Agricultural Commissioner.

Any person owning, leasing, occupying or having charge or possession of any parcel of land within the unincorporated area of the county who causes or allows such parcel of land to be used for cultivation of industrial hemp in violation of the provisions contained herein shall be in violation of this code and subject to chapter 8.20 (nuisance abatement) and/or chapter 18.158 (enforcement) of the Modoc County Municipal Code.

SECTION 5: Limited Term.

All licenses for industrial hemp cultivation shall be limited-term, and shall be issued for a period of one year and shall contain the following provision: "This license is a limited-term license and shall expire one year after the date of issuance." In addition, this license shall be subject to revocation or modification following a public hearing if the approving body finds that there has been a violation or noncompliance with this ordinance, or if the use for which this license is hereby granted constitutes a nuisance. The license for industrial hemp cultivation must be renewed annually at least sixty (60) days prior to the date of expiration.

SECTION 6: Operating Requirements for issuance of a license.

All industrial hemp cultivation licensed under this ordinance shall have to meet the following operating requirements:

- A. Odor and Pollen Drift Mitigation. Each hemp cultivation shall design the land area used for cultivation in a manner that minimizes odors and pollen drift to surrounding areas.
- B. Minimum parcel Sizes. The minimum size parcel(s) upon which a hemp cultivation license will be issued is forty (40) acres. The forty (40) acres can be comprised of multiple contiguous parcels under the control of the applicant. For parcels that are leased, the owner of the property must consent to the growing of industrial hemp on their property in writing and provided a copy of the owner's written consent to the County. The minimum parcel size can be reduced to ten (10) acres with a Director's Use Permit within Allowed Zoning.
- C. Allowed Zoning. Each parcel upon which a license application is submitted must be located in the Agricultural Exclusive (AE) Zone, see Chapter 18.18 of the Modoc County Municipal Code or Agricultural General (AG) Zone, see Chapter 18.24 of the

Modoc County Municipal Code. All licenses for each zone will be issued upon inspection by, and approval of, the Agricultural Commissioner. Both zones will require a minimum 40 acre parcel(s).

- D. Setbacks. The cultivation of hemp must be no less than two-hundred (200) feet from any boundary line of the parcel. The setback can be waived if the neighbor and cultivator have a written agreement to have the entire 200-foot buffer on the neighbor's parcel. Such agreements are subject to approval and inspection by the Agricultural Commissioner.
- E. Laboratory Testing and Destruction. The cultivation of hemp shall comply with all applicable provisions of the California Food and Agricultural Code pertaining to hemp, including, but not limited to, cultivation, laboratory testing, and destruction.
- F. Signage. Each parcel licensed for hemp cultivation must display a County issued sign issued by the approving body at every point of ingress or egress, and each of the corners of the premises.
- G. Inspection. The County retains the right to inspect each premises licensed for industrial hemp cultivation at the expense of the licensee. Such expense will consist of the time for inspection and a base fee. An approved agent of the County shall be given access to the premises to inspect upon request.
- H. State Law. All industrial hemp cultivations must comply with the standards, requirements, and regulations established by the State of California, or any of its departments or divisions, regarding commercial and/or research industrial hemp activities.
- I. Greenhouse. If and when the County develops an Ordinance allowing the use of industrial greenhouses, industrial seed stock and seedlings can be grown in a properly licensed greenhouse with a Director's Use Permit.

SECTION 7: Establishment and Promulgation of Regulations.

In addition to any regulations adopted by the county board of supervisors, by resolution, the County Agricultural Commissioner, or his designees, is authorized to establish additional rules, regulations or standards governing the issuance or denial of industrial hemp cultivation licenses, the ongoing operation of hemp cultivation, and the county's oversight, if the County Agricultural Commissioner determines the rule, regulation or standard to be necessary to carry out the purposes of this chapter.

SECTION 8: Fees.

Application and renewal fees shall apply to licenses for industrial hemp cultivation that shall be adopted in accordance with section 18.162.010 of the Modoc County Municipal Code. Each licensee shall pay the fees established by state law and by resolution and/or ordinance of the Modoc County Board of Supervisors at the time of registration.

SECTION 9. California Environmental Quality Act (CEQA).

The Board of Supervisors hereby finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(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 following categorical exemptions apply: Sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard, or objective administered or adopted by the agency, including by direct referral to the county counsel as appropriate for judicial enforcement.)

SECTION 10. Enforceability; Inspection.

Violations of this ordinance shall constitute a public nuisance and may be enforced and abated through any available remedy provided by the Modoc County Code or other law. 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 Modoc County Municipal Code.

Furthermore, in the performance of his or her function, the County Agricultural Commissioner or his/her agent is authorized to request and inspect any evidence that serves to confirm compliance with any or all provisions of this Ordinance, including, but not limited to, the following: (1) original documents or other evidence establishing the hemp cultivation license; (2) documentation of seed cultivar used; (3) verification of the permissible THC levels in any hemp cultivation. Notwithstanding any other provision of this ordinance, a license for industrial hemp cultivation may be revoked or modified at any time following public hearing in accordance with Chapter 18.140 of the Modoc County Municipal Code.

SECTION 11. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or circumstance is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the remaining portions or other applications of the ordinance, and the provisions of this ordinance are declared to be severable.

SECTION 12. Effective Date.

This ordinance shall take effect thirty (30) days from the date of its adoption, and prior to the expiration of fifteen (15) days from the adoption thereof shall be published at least one time in a newspaper of general circulation in Modoc County, with the names of the Supervisors voting for or against the same.

In regular session of the Board of Supervisors of the county of Modoc, adopted this day of _____, 2019, on regular roll call of the members of said Board by the following vote:

AYES: Supervisor(s)

NOES: Supervisor(s)

ABSENT OR NOT VOTING:

Chair, Board of Supervisors

ATTEST:

Clerk of the Board

APPROVED AS TO LEGAL FORM:

Modoc County Counsel

By: _____
Clerk of the Board

By: _____
Margaret E. Long,
County Counsel