

## Chapter 6.50 - INDUSTRIAL HEMP CULTIVATION PILOT PROJECT

### 6.50.010 - Title.

This chapter shall be called the "Industrial Hemp Cultivation Pilot Project".

( Ord. No. 2101, § 3, 1-5-2021)

### 6.50.020 - Definitions.

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

- A. "Agricultural commissioner" shall mean the agricultural commissioner of Tehama County and designated representatives.
- B. "Cultivation" and derivatives of that word shall refer to any activity involving the propagation, planting, growing, harvesting, drying, processing, curing, grading, storing, or trimming of hemp.
- C. "Destruction" and derivatives of that word shall refer to the action or process of causing so much damage to something that it no longer exists or cannot be repaired.
- D. "Established agricultural research institution" is an institution of higher education, as defined in Section 101 of the federal Higher Education Act of 1965 (20 U.S.C Sec. 1001), that grows or cultivates industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research in accordance with Section 7606 of the federal Agricultural Act of 2014 (7 U.S.C. Sec. 5940) or is otherwise approved by the California Secretary of Food and Agriculture.
- E. "Greenhouse" shall mean a fully enclosed structure with at least seventy-five percent of the roof and walls constructed of translucent to transparent material, designed to allow for the regulation of the effects of sunlight, temperature, and humidity on the cultivation that is completely detached from any structure used or intended for human occupancy. The structure shall be approved by the Tehama County Building Official.
- F. "Hemp" shall have the same meaning as "industrial hemp" set forth below.
- G. "Indoor cultivation" shall mean cultivation that is conducted within a fully enclosed, secure structure not intended for human occupancy and conforming to the following standards:
  - 1.

The structure shall be a building completely detached from any residence or other structure used or intended for human occupancy. The structure shall comply with Title 15 of the Tehama County Code, and have a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments. The structure shall be secure against unauthorized entry, and accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two-inch by four-inch or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

2. The structure, regardless of square footage, constructed, altered or used for indoor industrial hemp cultivation must obtain a building permit from the building official. The intended use of the structure for industrial hemp cultivation shall be disclosed in the application for a building permit, and the structure shall be inspected for compliance with this chapter prior to the commencement of any cultivation. The conversion of any existing accessory structure, or portion thereof, for indoor industrial hemp cultivation shall be subject to these same permit requirements and must be inspected by the building official for compliance with this chapter prior to the commencement of any cultivation. Cultivation within any structure may not commence without final approval of the building official.
  3. Except for temporary use in the case of emergency power loss, generators are prohibited for use on an industrial hemp cultivation unless they are used in a lawful fashion to supply power directly to a permitted circuit-breaker panel.
  4. Light systems utilized in connection with an indoor industrial hemp cultivation shall comply with all applicable provisions of Title 15 of the Tehama County Code.
  5. The structure shall be equipped with odor control filtration and ventilation adequate to prevent industrial hemp odors from exiting the interior of the structure.
  6. The structure shall have locking doors and a working security system.
- H. "Industrial hemp" has the same meaning as that term is defined in section 11018.5 of the Health and Safety Code.
- I. "Outdoor cultivation" shall mean cultivation that is not conducted within a fully enclosed structure other than a greenhouse.
- J. "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.

K. "Transplant" means a cultivated hemp plant grown from seed or cutting in soil or individual containers for less than eight weeks.

( Ord. No. 2101, § 3, 1-5-2021)

6.50.030 - Permit required.

- A. Within the unincorporated area of Tehama County, no person shall cultivate industrial hemp, including cultivation for research purposes, without first obtaining a permit from the agricultural commissioner as provided in this chapter.
- B. Any cultivation of industrial hemp within the unincorporated area of Tehama County without a lawfully issued Tehama County Industrial Hemp Production Permit from the Tehama County Agricultural Commissioner shall be controlled by Tehama County Code Chapter 9.06 and enforced by the Tehama County Office of Code Enforcement.
- C. A Tehama County Industrial Hemp Production Permit may be issued to an established agricultural research institution only if it meets the definition of an established agricultural research institution as stated in Tehama County section 6.50.020.

( Ord. No. 2101, § 3, 1-5-2021)

6.50.040 - Permit application.

- A. Applications for permits shall be made to the agricultural commissioner on forms approved by the agricultural commissioner and shall contain all of the information and have all of the same accompanying documentation that is required for an application for registration of industrial hemp cultivation under Division 24 of the Food and Agricultural Code and Article 1 of Chapter 8 of Division 4 of Title 3 of the California Code of Regulations.
- B. Applicant shall meet the requirements of all Federal, State and local agencies.
- C. The agricultural commissioner may deny an application for a permit if the applicant or any key participants as defined in Article 1 of Chapter 8 of Division 4 of Title 3 of the California Code of Regulations have been involved in a cultivation of industrial hemp for which the permit was revoked in any of the three previous years.
- D. A permit issued under this chapter by the agricultural commissioner does not grant any entitlement, interest in real property, or create any interest of value and does not run with the land. The permit is non-transferable. A person that has obtained a permit from the agricultural commissioner shall not transfer ownership or control of the permit to another person. Any attempt to do so shall cause the permit to be automatically revoked.
- E. Receipt of a permit for industrial hemp cultivation from the agricultural commissioner does not guarantee that a registration for the cultivation of industrial hemp will be approved under Division 24 of the Food and Agriculture Code.

- F. If after having issued a permit, the agricultural commissioner discovers that any application for a permit contained false information or documentation, the agricultural commissioner shall have the discretion to revoke the permit after allowing the person to whom the permit was issued a reasonable opportunity to provide an explanation or correction.
- G. If the agricultural commissioner discovers that a person with a permit to cultivate industrial hemp is in violation of Federal Regulatory or California Statutory or Regulatory law including but not limited to Chapter 8 of Division 4 of Title 3 of the California Code of Regulations, the agricultural commissioner shall have the discretion to suspend the permit until the violations have been resolved to the agricultural commissioner's satisfaction.
- H. Permits issued pursuant to this chapter shall be valid for one year from the date of issuance. A new permit must be applied for each year. Notwithstanding this subdivision, all permits shall become void with the repeal of this chapter pursuant to Tehama County Code Section 6.50.160.
- I. Permits that have been suspended are no longer deemed valid and any cultivation previously authorized by the suspended permit may be subject to Chapter 9.06 at the discretion of the agricultural commissioner. Once the agricultural commissioner has elected to refer a suspended violation for enforcement through Chapter 9.06, discretion of enforcement shall be held by the code enforcement officer.
- J. Permits that have been revoked are no longer deemed valid and any cultivation previously authorized by the revoked permit shall be subject to Chapter 9.06.

( Ord. No. 2101, § 3, 1-5-2021)

#### 6.50.050 - Cultivation requirements.

Cultivation of industrial hemp is exempt from Tehama County Code Chapter 9.06 if it meets all of the following standards:

- A. The cultivation has a current and valid Tehama County Industrial Hemp Production Permit properly issued by the agricultural commissioner pursuant to this chapter.
- B. The cultivation of industrial hemp is conducted in the following zoning districts: AG-1, AG-2, AG-3 and AG-4. Cultivation of industrial hemp is prohibited in all other zoning districts.
- C. An outdoor cultivation shall be no closer than within three hundred feet of any residence not in common ownership with the parcel on which the cultivation is conducted. All other zoning setbacks also apply.
- D. Structures used for indoor cultivation shall be setback one hundred feet from any property line of any parcel not in common ownership with the parcel on which the cultivation is conducted. All other zoning setbacks also apply.
- E.

No industrial hemp cultivation shall be conducted within one thousand feet of any school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility.

1. Except as provided in E.2. such distance shall be measured in a straight line from the property line of the premises in question to the property line on which the school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is located.
  2. If the premises is twenty acres or greater in size, then such distance shall be measured in a straight line from the boundary of the cultivation as proposed in the registration application to the property line on which the school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is located.
  3. The distance shall only affect compliance at the time of review of the application for a permit to cultivate industrial hemp with the agricultural commissioner.
- F. At the time of application for a permit to cultivate industrial hemp with the agricultural commissioner, the applicant may submit a written request that the agricultural commissioner waive the application of any provision of subdivisions (C), (D), and (E). The waiver request shall not be unreasonably denied. The agricultural commissioner shall grant or deny each waiver request in writing and may impose reasonable conditions on any waiver granted. If granted the waiver shall only remain valid until the expiration of the permit, at which time the waiver shall also expire. The waiver may be applied for again with a new permit application.
- G. Indoor cultivation shall be conducted in structures that comply with applicable building codes and be permitted by the Tehama County Building Department as required by Tehama County Code and be limited to the cultivation of hemp transplants in a structure dedicated solely to the cultivation of nursery stock.
- H. Outdoor cultivation shall be limited to cultivation for seed, oil, flower, or fiber.
1. All other outdoor cultivation is prohibited except if the cultivation is located inside a greenhouse and the following conditions are met:
    - i. The greenhouse must be approved by the building official.
    - ii. Except for temporary use in the case of emergency power loss, generators are prohibited for use on an industrial hemp cultivation unless they are used in a lawful fashion to supply power directly to a permitted circuit-breaker panel.
    - iii. Light systems utilized in connection with an indoor industrial hemp cultivation shall comply with all applicable provisions of Title 15 of the Tehama County Code.
- I. No flowering plants shall be cultivated in any pots, bags, or any type of movable container. Any question whether a container is movable shall be up to the discretion of the agricultural commissioner.
- J.

All parcels used for the cultivation of industrial hemp shall have onsite signage indicating that hemp is being cultivated on site. The signs shall:

1. 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 feet; and
  2. Use letters and symbols that are of a color that sharply contrasts with their immediate background; and
  3. Be posted 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 six hundred feet along the parcel's border with the right-of-way.
- K. A person cultivating industrial hemp shall comply with all provisions of federal and state law, as well as all associated regulations therewith, as applicable to the cultivation of industrial hemp, including, but not limited to, requirements for registration, cultivation, sampling, laboratory testing, harvesting, and crop destruction.
- L. If the pre-harvest THC testing of an industrial hemp cultivation pursuant to Article 1 of Chapter 8 of Division 4 of Title 3 of the California Code of Regulations, indicates a percentage content of THC that is greater than three-tenths of one percent and does not exceed one percent, the industrial hemp cultivation shall not be in violation of Chapter 9.06 until additional samples have been retested pursuant to that same article and found to be greater than three-tenths of one percent.
- M. The cultivation of industrial hemp by an established agricultural research institution for research or educational purposes shall be subject to the state registration requirements imposed by the California Department of Food and Agriculture, and be conducted in accordance with Section 7606 of the Federal Agricultural Act of 2014 (7 U.S.C. Sec. 5940).
- N. Hemp cultivation by an established agricultural research institution for research or educational purposes shall be limited to a maximum of one acre per permit holder within the County of Tehama.

( Ord. No. 2101, § 3, 1-5-2021)

#### 6.50.060 - Security.

- A. Prior to the issuance of an industrial hemp cultivation permit pursuant to this chapter, the person seeking an industrial hemp cultivation permit shall obtain a surety bond executed in favor of the county, in the amount equal to the sum of two thousand five hundred dollars per acre of land area for which the person seeks to have registered for industrial hemp cultivation with the agricultural commissioner.
- 1.

Such performance bond will be to ensure satisfactory destruction of the industrial hemp cultivation in the event that such destruction is required by this chapter, by Chapter 9.06 of this Code, or by the Food and Agricultural Code section 81006 and Article 3 of Chapter 8 of Division 4 of Title 3 of the California Code of Regulations.

2. The surety issuing such performance bond shall be a corporation duly authorized by the laws of the State of California to execute such bonds.
  3. The condition of said bond shall be that applicant, as principal thereof, will, truly and faithfully perform all duties and obligations required of him/her by said sections of this chapter and such terms, conditions, orders and directions as the agricultural commissioner may deem necessary.
- B. In lieu of a permit bond, the sum of two thousand five hundred per acre of land area for which the person seeks to have registered for industrial hemp cultivation with the agricultural commissioner can be provided as a deposit.
1. The full amount of funds declared in the personal bond shall be deposited in a liability account in the county treasurer and tracked by the auditor.
  2. The depositor shall submit an agreement in writing that the applicant for the permit shall truly and faithfully perform all duties and obligations required of him/her by said sections of this chapter and such terms, conditions, orders and directions as the agricultural commissioner may deem necessary.
  3. The depositor shall forfeit out of the deposit any costs incurred or anticipated by the county to take corrective action on any failure to comply pursuant to the agreement in B.2. The balance of the deposit remaining after deducting any costs can either be returned to the permit holder or applied toward a subsequent deposit pursuant to this subdivision only if the agricultural commissioner has determined that the industrial hemp cultivation associated with a particular permit has either been lawfully harvested or destroyed.
- C. Before any permit shall be issued, the office of county counsel shall examine and approve any such bond posted or agreement executed under this chapter.

( Ord. No. 2101, § 3, 1-5-2021)

#### 6.50.070 - Destruction of non-compliant industrial hemp crops.

- A. It shall be the responsibility of the persons cultivating 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 agricultural commissioner. Nothing in this chapter shall be construed as authorizing any actions that violate federal, state, or local law regarding the cultivation of industrial hemp.

B. An industrial hemp crop that does not comply with the provisions of this chapter 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 Article 3 of Chapter 8 of Division 4 of Title 3 of the California Code of Regulations. The person growing industrial hemp in violation of the law, shall submit a destruction plan to the agricultural commissioner at least twenty-four hours prior to the start of the destruction. The agricultural commissioner shall either approve the method of destruction or refer the cultivation to Code Enforcement.

C. The county is authorized to pursue any and all proceedings or remedies provided by law.

( Ord. No. 2101, § 3, 1-5-2021)

#### 6.50.080 - Fees.

Pursuant to Section 81005 of the California Food and Agriculture Code the board of supervisors may, by resolution, establish a fee for a permit issued under this chapter.

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, certificates, licenses, or other forms or documents, or to defray the costs of enforcement required to be carried out by the county.

In accordance with such authority the agricultural commissioner will establish fees for its implementation, administration, and enforcement of federal, state, and local laws. Such fees shall cover the actual costs associated with services that may include, but are not limited to, processing of permits, inspections, sampling and testing.

Failure to pay all fees attributable to county costs incurred due to a person's activities in the permitting or cultivation of industrial hemp shall be cause for revocation or non-renewal of a person's permit until all outstanding fees are paid in full.

No new permits or renewals shall be issued without payment of fees for services previously rendered.

( Ord. No. 2101, § 3, 1-5-2021)

#### 6.50.090 - No duty to enforce.

Nothing in the chapter shall be construed as imposing on the County of Tehama of any of its employees any duty to take any action with regard to any violation of this chapter. Neither the County of Tehama nor any of its employees shall be held liable for failure to take any action with regard to any violation of this chapter.

( Ord. No. 2101, § 3, 1-5-2021)



#### 6.50.100 - Violations.

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

Violations of County Code, federal and state laws or regulations, failure to pay any fees assessed by the agricultural commissioner for Chapter 6.50, or penalties assessed pursuant to Chapter 9.06 shall be cause to suspend or revoke a permit at the discretion of the agricultural commissioner. Failure to pay fees or penalties shall also be cause for non-renewal of a permit until such time as said fees or penalties have been paid in full.

( Ord. No. 2101, § 3, 1-5-2021)

#### 6.50.120 - Enforcement.

Enforcement of industrial hemp cultivations that do not meet the standards set forth in this chapter at any time will be achieved pursuant to Tehama County Code Chapter 9.06.

( Ord. No. 2101, § 3, 1-5-2021)

#### 6.50.130 - Cost recovery.

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

( Ord. No. 2101, § 3, 1-5-2021)

#### 6.50.140 - Remedies cumulative.

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

( Ord. No. 2101, § 3, 1-5-2021)

#### 6.50.150 - Limitation of county's liability.

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

( Ord. No. 2101, § 3, 1-5-2021)

#### 6.50.160 - Term.

This chapter shall remain in effect until December 31, 2023, and as of that date is repealed, unless a later enacted ordinance, that is enacted before December 31, 2023 deletes this section or extends that date.

( Ord. No. 2101, § 3, 1-5-2021)