

ORDINANCE NO. C.S. 1240

**AN INTERIM ORDINANCE REQUIRING LICENSING FOR
HEMP CULTIVATION**

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

SECTION 1. Findings and Declarations.

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

1. Pursuant to Article XI, section 7, of the California Constitution, the County of Stanislaus ("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.
2. [Reserved]
3. The Board of Supervisors finds that this ordinance is necessary for the preservation of the public peace, health and safety, based upon the following facts:
 - 3.1. In September 2018, SB 1409 was enacted, in which the definition of industrial hemp in Health and Safety Code § 11018.5 (a) was amended, deleting the reference to its being a crop for fiber or oilseed production. The Industrial Hemp Farming Act was also amended to its current form, including amendment of § 81006 to remove requirement for dense planting and restrictions against pruning, tending, or culling. SB 1409 includes the finding, "By removing limitations on the manner in which industrial hemp may be grown and the uses for which it may be grown, this act removes barriers to the growth of industrial hemp as an agricultural product, and for agricultural or academic research," however the bill does not address the product safety or testing requirements of other law regarding cannabis products. In § 81007, the California Department of Food and Agriculture (CDFA) is authorized to establish by regulation an agricultural pilot program pursuant to Section 7606 of the federal Agricultural Act of 2014, 7 U.S.C.A. § 5940. The Department has not yet adopted regulations to participate in, or promote, research projects recognized by federal law.
 - 3.2. In December 2018, the President signed into law the 2018 Federal Farm Bill, H.R. 2, P.L. 115-334, which removed industrial hemp from the federal list of controlled substances and authorizes the U.S. Department of Agriculture to create quality control standards for hemp production, further giving states that desire to have primary regulatory authority over the production of hemp the ability to adopt their own state plans. The state plan may include a reference to a law of the state regulating the production of hemp, to the extent consistent

with federal law.

- 3.3. Under California Food and Agriculture Code Section 81006 subdivisions (d)(3) and (5) the CDFA is required to establish regulations for sampling procedures and approved laboratories for sample testing of all hemp crops no more than 30 days before harvest.
- 3.4. In late May 2019, the CDFA proposed emergency regulations to establish timeframes, procedures, methods, and confirmation for industrial hemp sampling, laboratory testing, and destruction for industrial hemp cultivation. In its submission, the CDFA declared that the absence of hemp regulations constituted an emergency and immediate action was necessary to prevent serious harm to the general welfare of the citizens of California.
- 3.5. CDFA found a pressing need for the swift establishment of regulations to prevent delay of the first industrial hemp harvest, which could occur as early as June 2019. Based on its calculations, the absence of regulation could result in a potential direct loss of over \$43,000,000 to California farmers.
- 3.6. The CDFA proposed regulations are not currently operative. Until they are approved, the required sampling, testing, and destruction cannot take place absent the promulgation of local regulation.
- 3.7. Industrial hemp strains grown for its cannabidiol oil properties (CBD oil) are indistinguishable from the high THC cannabis strains used for medicinal and recreational purposes. Permitting industrial hemp cultivation without a limitation on the acreage and location of industrial hemp plants may lead to the same type of odor and public safety issues facing cannabis operations in the county.
- 3.8. Industrial hemp can serve as a host to mites and other insects. At this time, there are no pesticides registered for hemp that specifically address such mites or other insects. The pesticides that have been approved for hemp are not always effective, which allows for such insects to move into other nearby crops. The cultivation of industrial hemp prior to the adoption of reasonable regulations is harmful to the welfare of residents, creates a nuisance, and threatens the safety and crops of any nearby cannabis cultivators.

SECTION 2. Chapter 6.85, attached hereto and incorporated herein by reference, is added to the Stanislaus County Code.

SECTION 3. Chapter 6.85 shall remain in effect only until May 1, 2020, and as of that date is repealed.

SECTION 4. 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 18th day of June 2019, by the following-called votes:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Terrance Withrow, Chairman
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 _____
Pam Villarreal, Assistant Clerk

APPROVED AS TO FORM:

Thomas E. Boze
County Counsel

By 
Daniel Solish,
Deputy County Counsel

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

SECTIONS:

6.85.010	Purpose
6.85.020	Authority
6.85.030	Definitions
6.85.040	Hemp cultivation license required
6.85.050	Requirements for issuance of a license
6.85.060	Hemp cultivation license required
6.85.070	Establishment and promulgation of regulations
6.85.080	Limitation on the county's liability
6.85.090	Violations declared a public nuisance
6.85.100	Each violation a separate offense
6.85.110	Severability

6.85.010 Purpose.

It is the purpose and intent of this chapter to implement a pilot program regulating 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. The provisions of this chapter shall expire on May 1, 2020.

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 cultivation. 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 seed breeders. For the purposes of this chapter, hemp cultivation shall not include cultivation by an established agricultural research institution as defined in Section 81000 of the California Food and Agricultural Code.
- B. "Hemp" has the same meaning as in Section 11018.5 of the California Health and Safety Code.
- C. "Seed 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.

6.85.040 Hemp cultivation license required.

Except as authorized in this chapter, no person shall cultivate hemp in the unincorporated area of Stanislaus County, without first obtaining a license to cultivate 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 the cultivation of hemp in the unincorporated area of the county, the following requirements shall be met:

- A. Prior to the issuance of a license, applicants shall demonstrate that they meet the standards that are established in the application requirements or further amendments to the application process as established by the Agricultural Commissioner. A person may be issued only one hemp cultivation license.
- B. Each parcel upon which a license application is submitted must be a minimum of 10 acres in size, located in the A-2 (General Agricultural) zoning district but outside of a Local Agency Formation Commission (LAFCO) Sphere of Influence (SOI) or Urban Transition (UT) General Plan designation of a city.
- C. Each hemp cultivation license shall permit the cultivation of not more than a cumulative total of twelve acres of land.
- D. All applications for hemp cultivation licenses shall be submitted to the Agricultural Commissioner no later than close of business on July 18, 2019.
- E. Each license issued pursuant to this chapter shall expire on May 1, 2020.
- F. No license shall be issued until the Agricultural Commissioner issues the applicant a registration under Division 24 of the California Food & Agriculture Code.

6.85.060. Hemp cultivation.

Hemp cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.

6.85.070 Establishment and promulgation of regulations.

- A. In addition to any regulations adopted by the county 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 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.
- 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.

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.