

**ORDINANCE NO. 1731**

**AN ORDINANCE MODIFYING INTERIM URGENCY ORDINANCE NUMBER 1729  
IMPOSING A TEMPORARY MORATORIUM ON THE CULTIVATION AND  
PROCESSING OF INDUSTRIAL HEMP WITHIN THE UNINCORPORATED AREAS  
OF SUTTER COUNTY BY ANY PERSONS OR ENTITY**

THE BOARD OF SUPERVISORS OF THE COUNTY OF SUTTER ORDAINS AS FOLLOWS:

**SECTION 1:** The Board of Supervisors of the County of Sutter, by at least four-fifths vote, hereby finds and declares the following:

1. On December 17, 2024, the Board of Supervisors, in accordance with Government Code section 65858, adopted Interim Urgency Ordinance Number 1728, amending the Sutter County Ordinance Code to repeal and replace Chapter 412 to impose a temporary moratorium on the Cultivation of Industrial Hemp within the unincorporated areas of Sutter County by any Persons or entity. That ordinance took effect immediately upon adoption.

2. On January 28, 2025, the Board of Supervisors, in accordance with Government Code section 65858, adopted Interim Urgency Ordinance Number 1729, extending Interim Urgency Ordinance Number 1728 imposing a temporary moratorium on the Cultivation and Processing of Industrial Hemp within the unincorporated areas of Sutter County by any Persons or entity. That ordinance took effect immediately upon adoption and will expire on December 16, 2025, unless extended as provided by law.

3. The findings and declarations in Interim Urgency Ordinances 1728 and 1729 apply to both the Cultivation and Processing of Industrial Hemp, and the moratorium applies to both activities.

4. The Board of Supervisors believes that more time is needed to fully study and consider whether and to what extent the County's General Plan, zoning and land use regulations, and health and safety regulations should be modified to accommodate and/or address the impacts of Industrial Hemp to best protect the health, safety, and welfare of County residents and visitors. However, based on the research conducted to date, the Board of Supervisors believes that there exists a feasible alternative that will satisfactorily mitigate and avoid some of the previously identified impacts to the public safety, health and welfare with a less burdensome or restrictive effect.

5. Accordingly, the Board of Supervisors believes that modifying Interim Urgency Ordinance Number 1729 to allow the limited Cultivation and Processing of Industrial Hemp in strict compliance with these new standards would be a feasible alternative that would sufficiently protect the public safety, health and welfare of County residents and visitors while continuing to allow the County sufficient time to ensure the effective implementation of the County's land use objectives and policies.

6. On April 29, 2025, at a special meeting, the Board of Supervisors held a public hearing, heard and considered public comment, oral and written, on the proposed modification of Ordinance Number 1729.

**SECTION 2:** The Board of Supervisors finds that all the facts, findings, and conclusions set forth in Interim Urgency Ordinance Number 1729 and this Ordinance to modify Interim Urgency Ordinance Number 1729, and upon the information presented at the Board of Supervisors' regular meetings held on December 17, 2024, January 14, 2025, January 28, 2025, and special meeting on April 29, 2025, are true and correct and incorporated herein by this reference.

**SECTION 3:** To protect the public safety, health and welfare of the residents of Sutter County from a current and immediate threat, Ordinance Number 1729 is hereby modified in accordance with Government Code section 65858.

**SECTION 4:** Effective until December 16, 2025, the Sutter County Ordinance Code is hereby amended by amending Chapter 412 to read, in its entirety, as follows:

## **Chapter 412**

### **INDUSTRIAL HEMP CULTIVATION AND PROCESSING**

#### **Sections:**

- 412-010 Purpose and Authority**
- 412-020 Findings and Declarations**
- 412-030 Declaration of Urgency**
- 412-040 Effective Date**
- 412-050 Definitions**
- 412-060 Administration**
- 412-070 Public Nuisance**
- 412-080 Moratorium on Enclosed and Containerized Cultivation**
- 412-090 License Required**
- 412-100 License Requirements - Cultivation**
- 412-110 License Requirements - Processing**
- 412-120 Cultivation Standards**
- 412-130 Processing Standards**
- 412-140 Destruction of Non-Compliant Hemp Crops**
- 412-150 Fees and Cost Recovery**
- 412-160 Enforcement**
- 412-170 Violations and Remedies**
- 412-180 No Duty to Enforce**
- 412-190 Limitation of County's Liability**
- 412-200 Right to Farm Not Applicable**

#### **412-010 Purpose and Authority**

- A. Pursuant to Article XI, section 7, of the California Constitution, the County of Sutter ("County") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public safety, health and welfare of its citizens. It is the purpose and intent of this Chapter to establish standards, requirements, and regulations governing Industrial Hemp Cultivation and Processing.
- B. Further, it is the purpose and intent of this Chapter 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 and Processing, and to enforce rules and regulations consistent with state and federal law.
- C. The provisions of this Chapter 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.
- D. This ordinance, as adopted on April 29, 2025, imposes a temporary moratorium on the Cultivation of Industrial Hemp: (1) In moveable pots or similar containers; (2) Within enclosures such as greenhouses and "hoop houses"; (3) The use of outdoor grow lights between the hours of 10:00 p.m. and 6:00 a.m. unless the glare is not visible from any neighboring property; and, (4) Sets the allowable locations for the Cultivation and Processing of Industrial Hemp; so that County staff may determine the impact of such Cultivation and Processing to mitigate negative impacts of such. This Ordinance is adopted pursuant to California Constitution Article 11, Section 7, Government Code sections 65800, et seq., particularly section 65858, and other applicable law.

#### **412-020 Findings and Declarations**

The Board of Supervisors of the County of Sutter makes the following findings in support of the immediate adoption and application of this interim Ordinance:

- A. The California Industrial Hemp Farming Act, codified at Food and Agriculture Code section 81000 et. seq., was signed into law in 2013 to authorize the commercial production of Industrial Hemp in California and became effective on January 1, 2017. On September 30, 2018, former California Governor Brown signed Senate Bill (SB) 1409 into law, which amended the California Industrial Hemp Farming Act and set forth legal guidelines for a state registration process, which was to allow for the Cultivation and Processing of Industrial Hemp beginning on January 1, 2019.

- B. On December 20, 2018, the Agricultural Improvement Act of 2018, also known as the 2018 Farm Bill, was signed into law by President Donald Trump which amended the Agricultural Marketing Act of 1946 (7 USC. 1621 et seq.) to add Industrial Hemp to the list of approved crops, allowing states that desire to have primary regulatory authority over the production of Industrial Hemp to submit a plan under which the State monitors and regulates that production.
- C. On January 19, 2021, the federal government, through the United States Department of Agriculture (USDA), published the final rule, effective March 22, 2021, that outlines the provisions for USDA to approve plans submitted by states for production of Hemp. California submitted such a plan to the Secretary of Agriculture on December 20, 2021, which USDA approved, effective January 1, 2022.
- D. "Industrial Hemp" is defined in Food & Agricultural Code section 81000(a)(7) and Health & Safety Code section 11018.5(a) as "an agricultural product, whether growing or not, that is limited to types of the plant Cannabis sativa L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis."
- E. "Cannabis" is defined under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), codified at Business & Professions Code section 26001, as "all parts of the plant 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' does not mean 'Industrial Hemp' as defined by section 11018.5 of the Health & Safety Code."
- F. The County of Sutter has banned the Cultivation and Processing of commercial Cannabis in Chapter 410 of the Sutter County Ordinance Code. Usage of the term Marijuana in Chapter 410 is considered one and the same as the term Cannabis used in this Chapter, consistent with Health and Welfare Code section 11032.
- G. On April 13, 2021, the Sutter County Board of Supervisors adopted Ordinance 1682 which authorized the limited Cultivation and Processing of Industrial Hemp (as specifically defined in section 11018.5(a) of the Health and Safety Code) with licenses that must be renewed on an annual basis. Pursuant to section 11018.5(a) of the Health and Safety Code and Ordinance 1682, Industrial Hemp is defined as an "agricultural product" which is not covered by the right to farm doctrine codified in California Civil Code section 3482.5(e) which applies to "agricultural commodities" only.

- H. Industrial Hemp and Cannabis are derivatives of the same plant, Cannabis sativa L., and therefore the physical appearance of Industrial Hemp and Cannabis are virtually indistinguishable. Absent a laboratory performed chemical analysis for tetrahydrocannabinol (THC) content, the two plants cannot be readily distinguished. For this reason, the Cultivation and Processing of Industrial Hemp poses similar threats to the public health, safety, or welfare as the Cultivation and Processing of Cannabis.
- I. Pursuant to Article XI, Section 7 of the California Constitution, the County may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public safety, health and welfare of its citizens.
- J. The County of Sutter has a compelling interest in protecting the public safety, health and welfare of its residents and business, in preventing the establishment of nuisances, and preserving the peace and integrity of neighborhoods within the unincorporated area. Without sufficient regulations, standards, procedures, and thresholds for Industrial Hemp Cultivation and Processing which are enforceable pursuant to an adopted ordinance, there is a current and immediate threat to the public safety, health and welfare from the unregulated Cultivation and Processing of Industrial Hemp.
- K. Industrial Hemp Cultivation and Processing under Ordinance 1682 has resulted in negative impacts to the public safety, health and welfare of the Sutter County community. The Sutter County Sheriff has documented nearly 200 service calls related to Industrial Hemp since the County began studying its Cultivation and Processing in 2019. The Agricultural Commissioner has documented more than 500 acres and 30 greenhouses of cultivated crop that either had excessive THC levels, was destroyed, or disappeared in violation of the ordinance. The County has issued several code enforcement notices for farming activity inconsistent with the County Ordinance Code. Additionally, the Agricultural Commissioner and California Department of Pesticide Regulation have identified improper use of pesticides on cultivated crops.
- L. At this time, the County urgently needs to study whether and to what extent the County's General Plan, zoning and land use regulations and health and safety regulations should be modified to accommodate and/or address the impacts of Industrial Hemp to best protect the health, safety, and welfare of County residents and visitors. The uses prohibited by this Ordinance may conflict with a contemplated general plan, specific plan, or zoning proposal that the Board of Supervisors and County agencies and departments intend to study within a reasonable time.
- M. Based on the findings above, and upon the information presented at the Board of Supervisors' regular meetings held on December 17, 2024, January 14, 2025, January 28, 2025, and special meeting on April 29, 2025, the Board of Supervisors

finds that the immediate preservation of the public safety, health and welfare requires that this Ordinance be enacted as an interim ordinance pursuant to Government Code section 65858, and also as an urgency ordinance pursuant to Government Code sections 25123 and 25131. This Ordinance complies with State law and imposes reasonable regulations that the Board of Supervisors concludes are necessary to protect the public safety, health, and welfare of residents and business within the County.

- N. As required by Government Code section 65858, subdivision (d), the Board of Supervisors issued a written report on January 14, 2025, describing the measures taken to alleviate the condition which led to the adoption of Interim Urgency Ordinance Number 1728. A conclusion of that report is that more time was needed to fully study whether and to what extent the County's General Plan, zoning and land use regulations, and health and safety regulations should be modified to accommodate and/or address the impacts of Industrial Hemp to best protect the health, safety, and welfare of County residents and visitors.
- O. At the Board of Supervisors' regular meeting held on January 28, 2025, the Board adopted Interim Urgency Ordinance Number 1729 that modified and extended Interim Urgency Ordinance Number 1728 for the immediate preservation of the public safety, health and welfare.
- P. The Board of Supervisors continues to believe that more time is needed to fully study and consider whether and to what extent the County's General Plan, zoning and land use regulations, and health and safety regulations should be modified to accommodate and/or address the impacts of Industrial Hemp to best protect the health, safety, and welfare of County residents and visitors. However, based on the research conducted to date, the Board of Supervisors believes that there exists a feasible alternative that will satisfactorily mitigate and avoid some of the previously identified impacts to the public safety, health and welfare with a less burdensome or restrictive effect.
- Q. Accordingly, the Board of Supervisors believes that modifying Interim Urgency Ordinance Number 1729 to allow the limited Cultivation and Processing of Industrial Hemp in strict compliance with these new standards would be a feasible alternative that would sufficiently protect the public safety, health and welfare of County residents and visitors while continuing to allow the County sufficient time to ensure the effective implementation of the County's land use objectives and policies.
- R. Based on the findings above, and upon the information presented at the Board of Supervisors' special meeting held on April 29, 2025, the Board of Supervisors finds that the immediate preservation of the public safety, health and welfare requires that Interim Urgency Ordinance Number 1729 be modified in accordance with Government Code section 65858. This ordinance complies with State law and

imposes reasonable regulations that the Board of Supervisors concludes are necessary to protect the public safety, health, and welfare of residents and business within the County.

#### **412-030 Declaration of Urgency**

- A. Based on the findings set forth above, the Board finds and declares that there is a current and immediate threat to the public safety, health and welfare arising from the absence of reasonable regulations in the County Ordinance Code governing the Cultivation of Industrial Hemp in moveable pots or similar containers; the Cultivation Industrial Hemp within enclosures such as greenhouses and “hoop houses”; the use of outdoor grow lights between the hours of 10:00 p.m. and 6:00 a.m.; and, the Cultivation and Processing of Industrial Hemp in the unincorporated areas of the County.
- B. Based on the findings above, the Board of Supervisors determines that this interim ordinance is needed because there exists a feasible alternative to the requirements set forth in Interim Urgency Ordinance 1729 that will satisfactorily mitigate and avoid some of the previously identified impacts to the public safety, health and welfare with a less burdensome or restrictive effect.
- C. Based on the findings above, the Board of Supervisors determines that the modification of Interim Urgency Ordinance Number 1729 is needed to preserve the public safety, health and welfare by providing the County with additional time to prepare the studies and reports required to consider the comprehensive regulation of Industrial Hemp Cultivation and Processing in the unincorporated areas of Sutter County, which may consist of a general plan, specific plan, or zoning proposal.

#### **412-040 Effective Date**

This interim urgency ordinance became effective on December 17, 2024, was modified and extended on January 28, 2025, and was again modified on April 29, 2025. This interim urgency ordinance shall remain in effect until December 16, 2025, unless extended under Government Code section 65858.

#### **412-050 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 state law shall refer to the act, statute, or regulations as may be amended from time to time.

- A. “Child Care Center” means any county or state-licensed childcare center, daycare center, or childcare home, or any preschool.

- B. "Church" means a structure or leased portion of a structure, which is currently being used primarily for religious worship and related religious activities.
- C. "Cultivation" means any activity involving the propagation, planting, growing, harvesting, of Industrial Hemp.
- D. "Dwelling Units" includes a building or portion of a building containing one or more dwelling units used or designed for occupancy by one family for living and sleeping purposes.
- E. "Established Agricultural Research Institution" means 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.
- F. "Hemp" shall have the same meaning as "Industrial Hemp" set forth herein.
- G. "Industrial Hemp" shall have the same meaning as that term is defined in section 11018.5 of the Health and Safety Code and section 81000(a)(7) of the Food and Agriculture Code. Those sections define industrial hemp as "an agricultural product, whether growing or not, that is limited to types of the plant *Cannabis sativa* L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis."
- H. "Nursery Stock" shall have the meaning set forth in Food and Agricultural Code section 5005.
- I. "Legal Parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with section 66410) of Title 7 of the Government Code).
- J. "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, activity 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. "Processing" means any activity involving the drying, curing, grading, trimming, extraction from, handling, packaging, sorting, processing, storing and shipping of Industrial Hemp and any other activities which are performed for the purpose of preparing Industrial Hemp for market or marketing. This definition shall include use of outdoor areas around Processing facilities for activities described above where odor could result.
- L. "Sensitive Receptor" is a facility or land use that serves or attracts members of a population who are particularly sensitive to the effects of air pollutants or strong odors, such as children, the elderly, and people with illnesses. Sensitive Receptors include, but are not limited to, hospitals, convalescent facilities providing 24-hour care, senior living facilities (excluding small residential care homes), places of worship, child daycare centers, private and public k-12 Schools, Youth-Oriented Facilities, afterschool programs, parks, sports complexes, etc.
- M. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a home school, vocational or professional institution of higher education, including a community or junior college, college, or university.
- N. "Youth-Oriented Facility" means any facility that caters to or provides services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

#### **412-060 Administration**

- A. The Agricultural Commissioner, Sheriff, Development Services Director, or their respective designees, are charged with the responsibility of administering, and exercising the authority conferred under, this Chapter.
- B. The Agricultural Commissioner and the Development Services Director, or their respective designees, are authorized to establish additional rules, regulations, or standards governing the issuance or denial of Industrial Hemp Cultivation and/or Processing licenses, the ongoing operation of Industrial Hemp Cultivation, and the county's monitoring and inspection activities if the rule, regulation, or standard is necessary to carry out the purposes of this Chapter.
- C. Regulations issued by the Agricultural Commissioner and/or the Development Services Director shall be published on the county's website. A copy of the regulations established shall be filed with the Clerk of the Board.

- D. Regulations promulgated by the Agricultural Commissioner and/or the Development Services Director, or their designees, shall become effective upon the date of publication.

#### **412-070 Public Nuisance**

The Cultivation and/or Processing of Industrial Hemp in violation of State law, State regulation, this Chapter, or any other local regulation is hereby declared to be a public nuisance subject to abatement and the imposition of administrative penalties under Chapter 87 of the Sutter County Ordinance Code or, subject to the limitations set forth in section 81006(e)(9) of the California Food and Agriculture Code, may be treated as Cannabis and may be subject to the provisions set forth in Chapter 410 of the Sutter County Ordinance Code.

#### **412-080 Moratorium on Enclosed and Containerized Cultivation**

To protect the public safety, health and welfare during the term of this ordinance, including any extensions hereto, a moratorium is hereby placed on the Cultivation and Processing of Industrial Hemp as follows:

- A. The Cultivation of Industrial Hemp for any purpose by any Person or entity, on all land use zones in the unincorporated areas of Sutter County, shall only be permitted when plants are grown in the ground and in open air. Cultivation within enclosures such as greenhouses and "hoop houses" and/or in moveable pots or similar containers shall not be permitted.
- B. The Cultivation and/or Processing of Industrial Hemp for any purpose by any Person or entity, on all land use zones in the unincorporated areas of Sutter County, shall not occur within 2.5 miles (13200 feet) of any incorporated city limit line, Sensitive Receptor, or from the boundaries of the Sutter Pointe Specific Plan.
- C. The Cultivation of Industrial Hemp for any purpose by any Person or entity, on all land use zones in the unincorporated areas of Sutter County, shall not occur within .25 miles (1320 feet) of any offsite Dwelling Unit not owned or leased by the licensee without the express, written, consent of the owner of that Dwelling Unit. Any consent given pursuant to this provision shall expire with the license and shall be valid for one (1) year only.

#### **412-090 License Required**

- A. No Person shall Cultivate or Process Industrial Hemp in the unincorporated area of Sutter County without first obtaining an annual license as provided for in this Chapter. A license for Cultivation may be issued to an Established Agricultural Research Institution only if it meets the definition of Established Agricultural Research Institution stated in section 412-050(E) of this Chapter.

- B. A license issued by the Agricultural Commissioner or Development Services Director under this Chapter does not grant any entitlement or interest in real property; provide any entitlement under the right to farm doctrine codified in California Civil Code sections 3482.5 or 3482.6; nor does it create any interest of value; and it does not run with the land. A person that has obtained a license from the Agricultural Commissioner or Development Services Director shall not transfer ownership or control of the license to another Person as the license is non-transferable and automatically terminates upon transfer of ownership. Any attempt to transfer ownership shall cause the license to be automatically revoked.
- C. Nothing in this Chapter, including the issuance of a license, relieves a Person from responsibility for damage to other persons or property, or imposes liability upon the County, its officers, agents, or employees, for damage to persons or property.
- D. Receipt of a license from the Agricultural Commissioner or Development Services Director does not obviate the California Department of Food and Agriculture's registration requirements for the Cultivation of Industrial Hemp. Further, nothing in this Chapter eliminates the need for a person undertaking Industrial Hemp C ultivation and/or Processing to comply with local, state, and federal law, and to obtain other permits, approvals, or authorizations required by this Ordinance Code and any state or federal agencies.

#### **412-100 License Requirements - Cultivation**

A license for the Cultivation of Industrial Hemp shall be required and may be issued only if each of the following requirements are met. The Agricultural Commissioner, in their sole discretion, may require and consider additional information to determine whether a license should be issued. Said information may include, but is not limited to, neighbor notification responses, odor management plan, safety plan, and mitigation plan.

- A. Applicants shall submit applications to the Agricultural Commissioner's Office in accordance with the application process established by the Agricultural Commissioner and pay a deposit in the amount of fifteen thousand (\$15,000) dollars. The deposit shall be collected with the intent to recover actual costs related to the review, issuance, administration, and enforcement of the license, at the direct charge rates approved annually by the Sutter County Auditor-Controller. If it is determined that the initial deposit is insufficient to recover actual costs, the Agricultural Commissioner will scope the work remaining on the license and calculate an additional subsequent deposit(s). Subsequent deposits shall be paid and collected within fourteen (14) calendar days of the request. The Agricultural Commissioner may discontinue license processing and/or revoke the license based on the applicant/licensee's failure to timely pay the subsequent deposit. Upon expiration of the license, the difference between the deposited amount and the actual cost shall be refunded to the applicant within ninety (90) days.

- B. An applicant shall be the deed holder of the land upon which Industrial 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 Legal Parcel(s).
- C. The proposed Cultivation is consistent with the provisions of Section 412-120 of this Chapter.
- D. 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 (100%) percent of the estimated cost to abate a crop of Industrial Hemp that does not meet requirements for legal harvest under applicable laws and regulations. The financial security provided shall be released to the applicant after the Agricultural Commissioner determines the security is no longer needed to secure the abatement of a non-compliant Industrial Hemp crop.
- E. An applicant shall fully satisfy the registration requirements stated in Food and Agricultural Code Division 24 and California Code of Regulations Title 3, Division 4, Chapter 8.
- F. All Legal Parcels used for the Cultivation of Industrial Hemp shall have onsite signage indicating that Industrial Hemp is being cultivated on site. Signage shall comply with the following standards:
  - 1. Signs shall be sized a minimum of four (4) feet tall by four (4) feet wide and shall not exceed four (4) feet tall by eight (8) feet wide and shall be mounted on four (4) inch by four (4) inch posts and shall not be illuminated.
  - 2. Signs shall be established at the license area point of entry adjacent to each public right-of-way street frontage the Cultivation abuts in a manner that does not create sight distance obstructions within the public right-of-way. Signs shall be posted at intervals not exceeding six hundred (600) feet along the license areas border with the right-of-way.
  - 3. If a Cultivation occurs on Legal Parcel(s) that do not have public road frontage, signs shall be established at the property point of entry and at the corners of the Legal Parcel(s) covered under the license.
  - 4. Text shall be sized using colors that sharply contrasts with their immediate background and is readable to a Person with normal vision from a distance of twenty-five (25) feet.
- G. Applicants shall obtain an Operator Identification Number or Restricted Materials permit, as may be applicable, from the Agricultural Commissioner.

- H. Each license issued under this Chapter shall expire one year from the date of its issuance.
- I. The Agricultural Commissioner has the sole discretion to deny, suspend or revoke a license pursuant to this Chapter for any of the following reasons:
  - 1. The application was based on inaccurate or incomplete information.
  - 2. Applicants have operated in violation of the County Ordinance Code, County Zoning Code, or any of the licensing requirements of this Chapter.
  - 3. Applicant has failed to pay fees, deposits, or penalties imposed upon the Licensee/Applicant.
  - 4. Applicant has been the subject of a nuisance finding by the County or its designated officer.

#### **412-110 License Requirements - Processing**

A license for the Processing of Industrial Hemp shall be required for each Legal Parcel upon which Processing may occur and may be issued only if each of the following requirements are met. The Development Services Director, in his/her sole discretion, may require and consider additional information to determine whether a license should be issued. Said information may include, but is not limited to, neighbor notification responses, odor management plan, safety plan, and mitigation plan.

- A. Applicants shall submit applications to the Development Services Department in accordance with the application process established by the Development Services Director and pay an initial deposit of fifteen thousand (\$15,000) dollars. The deposit shall be collected with the intent to recover actual costs related to the review, issuance, administration, and enforcement of the license at the direct charge rates approved annually by the Sutter County Auditor-Controller. If it is determined that the initial deposit is insufficient to recover actual costs, the Development Services Director will scope the work remaining on the license and calculate an additional subsequent deposit(s). Subsequent deposits shall be paid and collected within fourteen (14) calendar days of the request. The Development Services Director may discontinue license processing and/or revoke the license based on the applicant/licensee's failure to timely pay the subsequent deposit. Upon expiration of the license, the difference between the deposited amount and the actual cost shall be refunded to the applicant within ninety (90) days.
- B. An applicant shall be the deed holder of the Legal Parcel upon which Industrial Hemp is to be Processed or provide written consent in a form acceptable to the

Development Services Director, from the deed holder granting permission for the Processing of Industrial Hemp on the specified Legal Parcel.

- C. The proposed Processing is consistent with the provisions of Section 412-130 of this Chapter.
- D. Each license issued under this Chapter shall expire one year from the date of its issuance.
- E. The Processing facility shall be, and remain, in compliance with all applicable California Building Code and Fire Code standards.
- F. The Development Services Director has the sole discretion to deny, suspend or revoke a license issued pursuant to this Chapter in the event any of the following occur:
  - 1. Application was based on inaccurate or incomplete information.
  - 2. Applicant has operated in violation of the County Ordinance Code, County Zoning Code, or any of the licensing requirements of this Chapter.
  - 3. Applicant has failed to pay fees, deposits, or penalties imposed upon the applicant.
  - 4. Applicant has been the subject of a nuisance finding by the County or its designated officer.

#### **412-120 Cultivation Standards**

The Cultivation of Industrial Hemp shall comply with the following standards.

- A. The Cultivation of Industrial Hemp shall only occur on land zoned Agriculture (AG), Food Processing, Agricultural and Recreation Combining District (FPARC) or General Industrial (M-2). The Cultivation of Industrial Hemp is prohibited in all other zone districts.
- B. The Cultivation of Industrial Hemp shall maintain the following minimum setbacks, measured from the exterior boundary of the Cultivation area.
  - 1. 2.5 miles (13200 feet) from any incorporated city limit line, Sensitive Receptor or from the boundaries of the Sutter Pointe Specific Plan.
  - 2. .25 miles (1320 feet) from any offsite Dwelling Unit not owned or leased by the licensee without the express, written, consent of the owner of that Dwelling Unit. Any consent given pursuant to this provision shall expire with

the license and shall be valid for one (1) year only. Nothing in this section shall be deemed to entitle Licensee to continue Cultivation operations in violation of this provision without the express, written consent of the owner of the Dwelling Unit.

- C. Industrial Hemp shall be grown in the open air and in ground only.
- D. Industrial Hemp shall not be grown in moveable pots or similar containers except when received as Nursery Stock for transplanting. Industrial Hemp Nursery Stock must be compliant with California Code of Regulations 4936 and must be planted directly in the ground as soon as practicable.
- E. Industrial Hemp shall not be grown in enclosures such as greenhouses and/or "hoop houses".
- F. No usage of outdoor grow lights shall be permitted between the hours of 10:00 p.m. and 6:00 a.m. unless the glare is not visible from any neighboring property.
- G. The Cultivation of Industrial Hemp shall comply with all provisions of California State law, and associated regulations, applicable to the Cultivation of Industrial Hemp, including, but not limited to, requirements for cultivation, sampling, laboratory testing, harvesting, and crop destruction.

#### **412-130 Processing Standards**

The Processing of Industrial Hemp shall comply with the following standards.

- A. The Processing of Industrial Hemp shall only occur on land zoned Agriculture (AG), Food Processing, Agricultural and Recreation Combining District (FPARC) or General Industrial (M-2). The Processing of Industrial Hemp is prohibited in all other zone districts.
- B. The Processing of Industrial Hemp shall maintain the following minimum setbacks, measured from the exterior boundary of the Processing area.
  - 1. 2.5 miles (13200 feet) from any incorporated city limit line, Sensitive Receptor or from the boundaries of the Sutter Pointe Specific Plan.
  - 2. If the Processing area is located within .25 miles (1320 feet) from any offsite Dwelling Unit not owned or leased by the licensee, Licensee shall conduct all Processing operations within a detached fully enclosed secure accessory structure that shall be equipped with odor control filtration and ventilation system(s) adequate to prevent Industrial Hemp plant odors from exiting the interior of the structure. Processing operations in violation of this provision are hereby declared to be a public nuisance. Notwithstanding

the foregoing, the Development Services Director may waive this requirement only if the Licensee receives the express, written, consent of the owner of that Dwelling Unit. Any consent given pursuant to this section shall expire with the license and shall be valid for one (1) year only. Nothing in this section shall be deemed to entitle Licensee to continue Processing operations in violation of this provision without the express, written consent of the owner of the Dwelling Unit.

- C. The Processing of Industrial Hemp shall comply with all provisions of California State law, and associated regulations, applicable to the Processing of Industrial Hemp, including, but not limited to, requirements for sampling and laboratory testing.

#### **412-140 Destruction of Non-Compliant Industrial Hemp Crops**

- A. An Industrial Hemp cultivation that does not comply with the provisions of this Chapter and/or all applicable provisions of California State law, and associated regulations, shall be destroyed. 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, Division 4, Chapter 8. The cultivator 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. A cultivator who fails to destroy an Industrial Hemp cultivation as required shall forfeit the financial security provided and the County shall proceed to destroy the non-compliant cultivation.
- B. Subject to the limitations set forth in section 81006(e)(9) of the California Food and Agriculture Code, any Industrial Hemp cultivation that does not comply with the provisions of this Chapter and all applicable provisions of California State law, and associated regulations, may be treated as Cannabis and may be subject to the provisions set forth in Chapter 410 of the Sutter County Ordinance Code, including but not limited to, the imposition of Administrative Penalties.
- C. The Licensee and the property owner, if different, shall be jointly and severally liable for any costs to abate an Industrial Hemp cultivation beyond the cost of the financial security provided and the County may enforce this provision using all remedies provided by law including the application of Administrative Penalties and the recordation of a lien on the property where the Cultivation or Processing of Industrial Hemp is occurring.

#### **412-150 Fees and Cost Recovery**

- A. The Board of Supervisors may, by resolution, establish fees to implement the provisions of this Chapter in addition to the direct charge amounts approved by the Sutter County Auditor-Controller. It is the intent that the County shall be

reimbursed for all time, services, and materials required to implement, administer, and enforce this Chapter and state law associated with the Cultivation and Processing of Industrial Hemp and that such fees shall be drawn against a deposit paid in advance to the County.

- B. Failure to pay any fee, deposit, penalty, or cost required by this Chapter, or imposed by the County or its designated officer pursuant to this Chapter or any other Chapter of the Sutter County Ordinance Code, shall constitute cause to deny, suspend or revoke a license until such time as all outstanding obligations have been paid in full.

#### **412-160 Enforcement**

Any violation of this Chapter may be enforced and abated under Chapters 87, 410, or 412 of the Sutter County Ordinance Code, or through any other available remedy provided by the Sutter County Code or other law.

#### **412-170 Violations and Remedies**

- A. 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 and state law and the Sutter County Ordinance Code.
- B. The remedies provided for herein shall be cumulative and not exclusive. Upon a finding of violation or public nuisance pursuant to this Chapter, and after giving the property owner an opportunity to cure the violation or public nuisance, and determining that the violation or nuisance still exists, the County may assess administrative penalties under the provisions of Chapter 87 or Chapter 410 of the Sutter County Ordinance Code or may forward the matter to the District Attorney's office, who may impose any remedy available at law or in equity, which shall include, but is not limited to, any of the following or combination thereof:
  - 1. Ordering the cessation of the use in whole or in part.
  - 2. Imposing reasonable conditions upon any continued operation of the use, including those uses that constitute existing non-conforming uses.
  - 3. Requiring continuous compliance with any conditions so imposed.
  - 4. Requiring the user to guarantee future compliance with such conditions in all respects.
  - 5. Imposing additional conditions or ordering the cessation of the use in whole or in part upon a failure of the user to comply with any conditions so imposed.

6. Impose fees to cover staff time involved in investigating the violation.
7. Imposing fines and penalties as permitted by law.

#### **412-180 No Duty to Enforce**

Nothing in this Chapter shall be construed as imposing upon the County or any of its employees or designated officers, any duty to enforce the provisions of this Chapter, nor to abate any unlawful Processing or Cultivation of Industrial Hemp, nor to take any other action regarding any unlawful Processing or Cultivation of Industrial Hemp.

#### **412-190 Limitation of County's Liability**

To the fullest extent permitted by law, the County shall not assume any liability whatsoever with respect to having licensed any Person pursuant to this Chapter.

#### **412-200 Right to Farm Not Applicable**

This Chapter has been enacted pursuant to the authority set forth in California Food and Agriculture Code section 81000 et. seq. which identifies industrial hemp as an “agricultural product” and not an “agricultural commodity”. Accordingly, the provisions of California Civil Code section 3482.5 shall not apply to the cultivation of industrial hemp in Sutter County. Further, nothing in the Chapter shall be deemed to grant any entitlement under the right to farm doctrine codified in California Civil Code sections 3482.5 or 3482.6.

**SECTION 5:** If any section, subsection, sentence, clause, portion or phrase of this Ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion thereof. The Board of Supervisors hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, portion or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

**SECTION 6:** The Board of Supervisors hereby finds that this ordinance to temporarily prohibit certain Industrial Hemp Cultivation and the Processing in all zones is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations, sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision(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 Board of Supervisors further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption, 14 C.C.R. section 15308 (regulatory activity to assure protection of the environment).

**SECTION 7:** The Board of Supervisors finds and declares that there is a current and immediate threat to the public safety, health and welfare arising from the absence of reasonable regulations in the County Ordinance Code governing the Cultivation and Processing of Industrial Hemp in the unincorporated areas of the County and determines that a modification of Interim Urgency Ordinance 1729 is needed to preserve the public health, safety, and welfare by implementing a feasible alternative to the requirements set forth in Interim Urgency Ordinance 1729 that will satisfactorily mitigate and avoid some of the previously identified impacts to the public safety, health and welfare with a less burdensome or restrictive effect while providing the County with additional time to prepare the studies and reports required to consider the comprehensive regulation of Industrial Hemp Cultivation and Processing in the unincorporated areas of Sutter County, which may consist of a general plan, specific plan, or zoning proposal.

**SECTION 8:** This Ordinance is adopted by the Board of Supervisors pursuant to Government Code section 65858 by a four-fifths or greater vote, as a modification of an urgency measure to protect the public safety, health and welfare, and shall remain in effect until December 16, 2025, unless extended under Government Code section 65858. Before the expiration of 15 days after the adoption of this Ordinance, a summary hereof shall be published once, with the names of the members of this Board voting for or against the same, in a newspaper of general circulation in the County of Sutter.

***PASSED AND ADOPTED*** by the Board of Supervisors of Sutter County this 29<sup>th</sup> day of April 2025, by the following vote:

AYES: Supervisors Boone, Flores, Ziegenmeyer, Bains, and Stephens

NOES: None

ABSENT: None

ABSTAIN: None

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Dan Flores, Chair  
Sutter County Board of Supervisors

**ATTEST:**  
Donna Johnston, Clerk of the Board

By: \_\_\_\_\_  
Deputy

**APPROVED AS TO FORM:**

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William J. Vanasek, County Counsel  
County of Sutter, California