

**TOWN OF NUCLA
STATE OF COLORADO
2021-002**

**AN ORDINANCE PROHIBITING THE COMMERCIAL
CULTIVATION, MANUFACTURE, PROCESSES, SALES, AND TESTING OF
UNREGULATED HEMP PRODUCTS IN THE MUNICIPALITY OF NUCLA, COLORADO**

Whereas The Farm Bill 2014 legalized the industrial hemp industry in all fifty states, making it legal for anyone over the age of eighteen to purchase CBD products, as long as the products remain below the federal limit for THC content >0.3%. CBD products which exceed this limit are marijuana products and can only be purchased under the state's regulatory framework for adult-use or medical marijuana.

Whereas, Colorado enacted House Bill 18-1295 ("HB 18-1295"), codified in part in C.R.S. 25-5-426, which establishes that the manufacturing of an "industrial hemp" or "hemp product" must comply with Colorado's Food and Drug Act. HB 18-1295 defines an "industrial hemp product" as "a finished product containing industrial hemp that":

- Is a cosmetic, food, food additive, or herb;
- Is for human use or consumption;
- Contains any part of the hemp plant, including naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, resins, derivatives; and
- Contains a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent.

Whereas, Manufacturers of industrial hemp products must register with the Colorado Department of Public Health and Environment ("CDPHE"). Colorado imposes certain labeling requirements on hemp products:

- An identity statement, which indicates what the product is (not a brand name).
- A net weight statement.
- A list of all ingredients.
- The company name with an address

Whereas, Colorado Department of Public Health and Environment's Hemp Program regulates and inspects all hemp manufacturing operations in Colorado and all businesses, prior to manufacturing, packaging, or distributing of an industrial hemp product or unfinished industrial hemp product must be registered with that department. 6 CCR 1010-21.7. The Colorado Department of Agriculture regulates growing, and cultivation of hemp and it is unlawful for any person to cultivate hemp without having a valid registration from the Department of Agriculture. § 35-61-111(1)(a), C.R.S. While farms are licensed and regulated by the Colorado Department of Agriculture, once the crop leaves the farm it is Colorado Department of Public Health and Environment's responsibility to oversee the manufacturing, packaging, testing and distribution of all hemp products. This includes extraction, any additional processing, and the relabeling of all industrial hemp containing food, supplement, and cosmetic products. However, the Colorado Department of Public Health and Environment does not regulate smokable items such as HEMP cigarettes, or vape pens, etc. and they are not aware of an agency within the state of Colorado that does.

**NOW, THEREFORE, BE IT ORDAINED BY THE NUCLA TOWN BOARD OF NUCLA
COLORADO:**

Section I PURPOSE:

The purpose of this Ordinance is to promote the general public, health, safety, and welfare by prohibiting the unregulated commercial cultivation, manufacture, sale, and testing of hemp products throughout the Municipality of Nucla, Colorado.

Section II DEFINITIONS:

Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colorado Constitution. These definitions include, but are not limited to, the following:

- (1) "INDUSTRIAL HEMP" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Industrial hemp" or "marihuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with industrial hemp to prepare topical or oral administrations, food, drink, or other product.
- (2) "UNREGULATED INDUSTRIAL HEMP" means any process, preparation and/or packaging of HEMP which is not regulated by the Colorado Department of Public Health and Environment
- (3) "INDUSTRIAL HEMP CULTIVATION FACILITY" means an entity licensed to cultivate, prepare, and package industrial hemp and sell industrial hemp
- (4) "INDUSTRIAL HEMP ESTABLISHMENT" means an industrial hemp cultivation facility, industrial hemp testing facility, an industrial hemp product manufacturing facility
- (5) "INDUSTRIAL HEMP PRODUCT MANUFACTURING FACILITY" means an entity licensed to purchase industrial hemp; manufacture, prepare, and package industrial hemp products; and sell industrial hemp and industrial hemp products to other industrial hemp product manufacturing facilities and to retail industrial hemp stores, but not to consumers.
- (6) "INDUSTRIAL HEMP PRODUCTS" means concentrated industrial hemp products and industrial hemp products that are comprised of industrial hemp and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
- (7) "INDUSTRIAL HEMP TESTING FACILITY" means an entity licensed to analyze and certify the safety and potency of industrial hemp.

Section III PROHIBITIONS:

1. Unregulated Industrial Hemp is prohibited in the Municipality of Nucla, Colorado. No building, structure, or property shall be used for the manufacture, sale, or testing of unregulated industrial hemp products and no land, building structure, or property shall be used for acts associated with the unregulated cultivation, manufacture, or sale of industrial hemp products.
2. All businesses, persons, and associations engaged in the industrial hemp industry must be registered with either the Colorado Department of Public Health and Environment or the Colorado Department of Agriculture, as appropriate, before operating an industrial hemp facility within the Municipality of Nucla, Colorado.
3. This Ordinance shall not apply to individual possession or use of industrial hemp, industrial hemp products, or industrial hemp accessories

Section IV ENFORCEMENT:

- I. The Nucla Town Board may seek an injunction or other equitable relief in a court of appropriate jurisdiction to enjoin any violation of this Ordinance by any of the uses or acts prohibited in Section III above and may recover costs of any such action.
- 2 The Nucla Town Board hereby designates the Town Attorney or his/her designee as the Town's legal representative in the enforcement of the provisions of this Ordinance in a court of applicable jurisdiction.
- 3 This Ordinance shall apply within the Municipality of Nucla, Colorado. This ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto.
- 4 The Town of Nucla may seek such criminal or other civil penalties for the violation of this Ordinance as are authorized by Colorado law and the Montrose County Sheriff shall enforce any criminal penalties as may be authorized under Colorado law and the District Attorney of the Seventh Judicial District shall prosecute any criminal penalties as may be authorized under Colorado law.

Section V ADDITIONAL REMEDIES:

The remedies provided in this Ordinance shall be cumulative and in addition to any other remedies which may be available to the Town of Nucla under Colorado law. Nothing contained herein shall be construed to preclude the Town from seeking such other remedies in addition to, or in lieu of, the legal remedies herein granted.

Section VI SEVERANCE PROVISION:

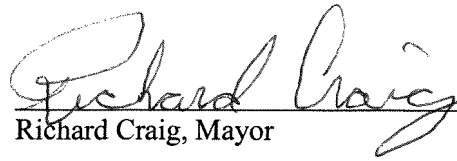
Should any one or more Sections or provisions of this Ordinance be judicially determined to be invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining Sections or provisions of this Ordinance, it being the intent of the Town Board that such invalid or unenforceable Section or provisions are severable.

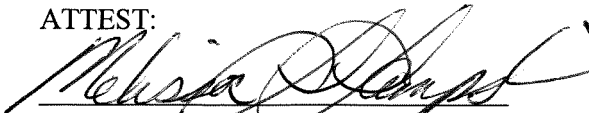
BE IT FURTHER ORDAINED, that the Town Board of Nucla, Colorado, does hereby adopt the foregoing Ordinance prohibiting the commercial cultivation, manufacture, sale, and testing of unregulated industrial hemp products in the Municipality of Nucla, Colorado.

BE IT FURTHER ORDAINED, that the Town Board of Nucla hereby finds, determines, and declares that this Ordinance is necessary for the immediate preservation of the public health, safety, and welfare of the residents of Nucla, Colorado.

BE IT FURTHER ORDAINED, this Ordinance shall become effective upon adoption and shall remain in effect until repealed.

INTRODUCED on first reading to the Board of Trustees of the Town of Nucla on the 10th day of March 2021, published by title only in the San Miguel Basin Forum March 18, and 25, 2021, and set for hearing before interested parties to be held on the 14th day of April 2021, with such hearing to begin at 7:00p.m. Second reading and adoption is scheduled for April 14, 2021, effective date of the ordinance will be 30 days after adoption.


Richard Craig, Mayor

ATTEST:

Melissa L. Lampshire, Town Clerk