

ORDINANCE NO. 1741

AN ORDINANCE OF THE COUNTY OF SUTTER AMENDING THE SUTTER COUNTY ORDINANCE CODE BY AMENDING CHAPTER 412 RELATING TO INDUSTRIAL HEMP CULTIVATION

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

SECTION 1. The Board of Supervisors of the County of Sutter hereby finds and declares the following:

1. Pursuant to Article XI, Section 7, of the California Constitution, Sutter County ("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. 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.

3. 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.

4. 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 regulation of the production of Hemp. California submitted such a plan to the Secretary of Agriculture on December 20, 2021, which USDA approved, effective January 1, 2022.

5. "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."

6. "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."

7. 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 Safety Code section 11032.

8. 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.

9. 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.

10. 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 person or entity. That ordinance took effect immediately upon adoption.

11. 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 person or entity. That ordinance took effect immediately upon adoption and was to expire on December 16, 2025, unless extended as provided by law.

12. On April 29, 2025, the Board of Supervisors, in accordance with Government Code section 65858, adopted Interim Urgency Ordinance Number 1731, which modified Interim Urgency Ordinance Number 1729 to allow the limited cultivation and processing of Industrial Hemp in strict compliance with new standards. That ordinance took effect immediately upon adoption and will expire on December 16, 2025, unless extended as provided by law.

13. Industrial Hemp cultivation and processing under Ordinance 1682 resulted in negative impacts to the public safety, health and welfare of the Sutter County community. The Sutter County Sheriff documented nearly 200 service calls related to Industrial Hemp since the County began studying its cultivation and processing in 2019. The Agricultural Commissioner 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 issued several code enforcement notices for farming activity inconsistent with the County Ordinance Code. Additionally, the Agricultural Commissioner and California Department of Pesticide Regulation identified improper use of pesticides on cultivated crops.

14. Industrial Hemp cultivation and processing under Ordinance 1731, which allowed the limited cultivation and processing of Industrial Hemp in strict compliance with new standards, has likewise resulted

in negative impacts on the public safety, health and welfare of the Sutter County community. Since April 29, 2025, two cultivation licenses have been issued, and both of those licensees have since been subject to criminal law enforcement actions. One instance resulted in the seizure and destruction of approximately 40,000 pounds of cannabis and/or cannabis products and the other resulted in the seizure and destruction of approximately 14,000 cannabis plants.

15. The County has a compelling interest in protecting the public safety, health, and welfare of its residents and businesses and in ensuring the effective implementation of the County's land use objectives and policies. 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 businesses within the County.

SECTION 2. 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** ***Authority***
- 412-020** ***Purpose and Intent***
- 412-030** ***Definitions***
- 412-040** ***Administration***
- 412-050** ***Industrial Hemp Cultivation Prohibited***
- 412-060** ***Public Nuisance***
- 412-070** ***Violations and Penalties***

412-010 Authority

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.

412-020 Purpose and Intent

It is the purpose and intent of this Chapter to prohibit the Cultivation of Industrial Hemp in the unincorporated area of Sutter County to protect the public peace, health, safety and general welfare of the residents and property owners of, and visitors to, the County.

412-030 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. "Cultivation" or "Cultivate" means any activity involving the planting, growing, harvesting, drying, curing, processing or storage of Industrial Hemp in any location, indoor or outdoor, including within a fully enclosed and secure structure.

B. "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.

C. "Hemp" shall have the same meaning as "Industrial Hemp" set forth herein.

D. "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 as those sections may be amended from time to time.

E. "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.

412-040 Administration

A. The Agricultural Commissioner is prohibited from issuing registrations for Industrial Hemp Cultivation.

B. 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.

412-050 Industrial Hemp Cultivation Prohibited

A. Cultivation of Industrial Hemp by any Person or entity for any purpose is expressly prohibited within the unincorporated area of the County. Additionally, "Established Agricultural Research Institutions" are similarly prohibited from Cultivating Industrial Hemp for agricultural or academic research purposes.

B. Acceptance of any application for, or issuance of, a registration, permit or entitlement, or approval of any type, that authorizes the establishment, operation, maintenance, development or construction of any facility or use for the purpose of the Cultivation of Industrial Hemp is expressly prohibited within the unincorporated area of the County.

412-060 Public Nuisance

Any violation of this Chapter is hereby declared to be a public nuisance.

412-070 Violations and Enforcement

Any violation of this Chapter shall be subject to abatement and the imposition of administrative penalties as provided in Chapters 87 and 410 of this code, or any successor chapters thereto, or any other available remedy provided by this code, other law, or court order. Each violation of this Chapter shall constitute a separate violation.

SECTION 3: The Board of Supervisors finds that all the facts, findings, and conclusions set forth herein and upon the information presented by County staff at the Board of Supervisors' meetings held on December 17, 2024, January 14, 2025, January 28, 2025, April 29, 2025, and December 16, 2025, are true and correct and incorporated herein by this reference.

SECTION 4: 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 5: The Board of Supervisors hereby finds that this ordinance to prohibit the cultivation of Industrial Hemp in all zones is not subject to review under the California Environmental Quality Act (CEQA) pursuant to Section 15061, subdivision(b)(3) as the activity is covered by the common sense exemption that CEQA only applies to projects which have the potential for causing a significant effect on the environment. The proposed Ordinance will mitigate or eliminate any potential impacts caused by the cultivation of industrial hemp and therefore will reduce impacts on the environment.

SECTION 6: This Ordinance shall take effect thirty (30) days after the date of its adoption and before the expiration of fifteen (15) days from the date of passage thereof shall be published at least once in the Appeal-Democrat, a newspaper of general circulation, printed and published in the County of Sutter, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

PASSED AND ADOPTED this 16th day of December 2025, by the Board of Supervisors of the County of Sutter, State of California, by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None




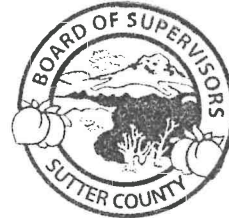
Dan Flores, Chair
Sutter County Board of Supervisors

ATTEST:



Donna Johnston, Clerk of the Board
County of Sutter, California

By: 
ASST. Clerk of the Board



APPROVED AS TO FORM:



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

FILED

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BOARD OF SUPERVISORS
DONNA M. JOHNSTON
Clerk of the Board

By:  Deputy