

ORDINANCE NO. 2021-\_\_**DRAFT**

INDUSTRIAL HEMP PERMITS AND CULTIVATION

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

**SECTION I. SUMMARY.** This ordinance adds Chapter 512-4 to the County Ordinance Code to require all persons desiring to engage in industrial hemp cultivation in the unincorporated areas of Contra Costa County to obtain a permit from the Contra Costa County Agricultural Commissioner in addition to all other required County and State permits and registrations, and to establish standards for cultivating industrial hemp.

**SECTION II.** Chapter 512-4 is added to the County Ordinance Code, to read:

**Chapter 512-4**  
**INDUSTRIAL HEMP PERMITS AND CULTIVATION**

**Article 512-4.2**  
**General Provisions**

**512-4.202 Purpose.** The purpose of this chapter is to regulate industrial hemp cultivation by requiring all persons engaged in industrial hemp cultivation to obtain a permit from the Contra Costa County Agricultural Commissioner in addition to all other licenses, permits, authorizations, and registrations required by the County and the State. (Ord. 2021-\_\_, § 2.)

**512-4.204 Definitions.** For purposes of this chapter, the following terms have the following meanings:

- (a) “Cultivation” includes any activity involving the propagation, planting, growing, breeding, harvesting, drying, curing, grading, trimming, other development of industrial hemp plants or propagative plant material, and includes cultivation for research purposes.
- (b) “Established agricultural research institution” has the meaning set forth in Food and Agricultural Code section 81000(a)(4).
- (c) “Greenhouse” means a structure that is used for the indoor propagation of plants; has permanent structural elements, such as footings or foundations; is constructed with a translucent roof or walls; and is served by utilities such as electrical, natural gas, or plumbing. The term “greenhouse” includes structures commonly known as “hothouses.”
- (d) “Hoop structure” means a structure consisting of a lightweight metal, plastic, or wooden frame, or a series of hoops, that is covered by an impermeable, removable layer of plastic or polyethylene film used to protect plants grown in the soil or in containers upon the soil. A hoop structure has no permanent structural elements, such as footings, foundations, plumbing, or electrical wiring. The term “hoop structure” includes structures commonly known as “berry hoops” or “hoop houses.”

- (e) “Industrial hemp” or “hemp” has the meaning set forth in Food and Agricultural Code section 81000(a)(6).
- (f) “Male industrial hemp plant” means an industrial hemp plant that has male staminate flowers or is otherwise capable of producing pollen.
- (g) “Nursery stock” has the meaning set forth in Food and Agricultural Code section 5005. (Ord. 2021- \_\_, § 2.)

**Article 512-4.4  
Industrial Hemp Permits**

**512-4.402 Permit requirement.**

- (a) It is unlawful for any person to engage in industrial hemp cultivation without obtaining and maintaining an industrial hemp permit from the Agricultural Commissioner pursuant to this chapter.
- (b) The requirements of this chapter are in addition to all other applicable requirements of this code and all applicable state laws and regulations. Nothing in this chapter eliminates the requirement for a person engaged in industrial hemp cultivation to comply with all applicable county, state, and federal laws and regulations, and to obtain all other permits, approvals, registrations, and authorizations required by this code and by state and federal agencies. (Ord. 2021- \_\_, § 2.)

**512-4.404 Permit applications.** An application for an industrial hemp permit shall be submitted to the Agricultural Commissioner on a form available from the Agricultural Commissioner and shall contain the following information:

- (a) Identifying information for applicant. The name, address, and telephone number for the applicant. If the applicant is an entity and not an individual, the term “applicant” means each person participating in the direction, control, or management of the entity.
- (b) Description of premises. The address and assessor’s parcel number(s) of the property upon which the proposed industrial hemp activity will be located.
- (c) Proof of ownership of premises. Proof of the applicant’s ownership of the premises on which the industrial hemp cultivation is to occur, or if the premises is rented or leased, written permission from the property owner containing the property owner’s notarized signature that authorizes the tenant or lessee to engage in industrial hemp cultivation at the site.
- (d) State industrial hemp registration. The applicant must satisfy the registration requirements in Food and Agricultural Code sections 81003, 81004, and 81004.5, as applicable.

- (e) Consent to inspections. The applicant must consent to inspections, sampling, and testing that may be conducted at the discretion of the Agricultural Commissioner.
- (f) Land use permit. A copy of the land use permit issued pursuant to Chapter 88-34 of this code authorizing the proposed industrial hemp cultivation, and all applications and materials submitted in support of issuance of the land use permit.
- (g) Certification. Certification, under penalty of perjury, that all the information contained in the application is true and correct. (Ord. 2021-\_\_, § 2.)

**512-4.408 Review of application.**

- (a) The Agricultural Commissioner will review each application for an industrial hemp permit. The Agricultural Commissioner will deem the application incomplete if it does not contain all required information and documents, or if any required application fees have not been paid.
- (b) After reviewing a complete application for an industrial hemp permit, the Agricultural Commissioner will approve the application unless any of the following grounds for denial exist:
  - (1) The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
  - (2) The proposed industrial hemp cultivation will not comply with the provisions of this chapter.
  - (3) The proposed industrial hemp cultivation will not comply with all State and local laws and regulations.
  - (4) The applicant has not obtained all required State registrations and local permits.
- (c) The decision of the Agricultural Commissioner to approve or deny a permit application is final. If the Agricultural Commissioner denies the application, the Agricultural Commissioner will specify in writing the reasons for denial of the application and notify the applicant of the decision. (Ord. 2021-\_\_, § 2.)

**512-4.410 Permit renewal.**

- (a) A permit issued under this chapter expires one year from the date of its issuance.
- (b) An application for renewal must be filed with the Agricultural Commissioner at least seven calendar days before the permit expires. If any of the documentation or information supplied by the applicant pursuant to Section 512-4.404 has changed since the permit was issued, the applicant must submit updated information and documentation with the application for renewal. The Agricultural Commissioner will deem the application incomplete if it does not contain all required information and documents.

- (c) After reviewing a renewal application, the Agricultural Commissioner will approve the renewal application unless any of the following grounds for denial exist:
  - (1) Any of the grounds for denial under Section 512-4.408.
  - (2) The application is filed less than seven calendar days before the permit expires.
  - (3) The permit is revoked at the time of application.
- (d) The decision of the Agricultural Commissioner to approve or deny a permit renewal application is final. If the Agricultural Commissioner denies the application for renewal, the Agricultural Commissioner will specify in writing the reasons for denial of the application for renewal and notify the applicant of the decision.
- (e) If a renewal application is denied, an applicant may file a new permit application pursuant to Section 512-4.404. (Ord. 2021-\_\_, § 2.)

**512-4.412 Fees.** An industrial hemp permit or a renewed industrial hemp permit will not be issued until all required fees are paid. (Ord. 2021-\_\_, § 2.)

**512-4.414 Permit nontransferable.** An industrial hemp permit is not transferable and automatically terminates upon transfer of ownership. (Ord. 2021-\_\_, § 2.)

## **Article 512-4.6 Cultivation Standards**

### **512-4.602 Cultivation**

- (a) An outdoor cultivation area may only be planted with female propagative plant material.
- (b) A permittee must conduct regular inspections of an outdoor cultivation area to ensure no male industrial hemp plants are growing outdoors. If a male industrial hemp plant is growing outdoors, the permittee must remove and destroy the male industrial hemp plant within 72 hours after the permittee knew of the occurrence and in accordance with California Code of Regulations, Title 3, Section 4950.1.
- (c) Cultivation of male industrial hemp plants may only occur in a permanent building or a greenhouse. Cultivation of male industrial hemp plants in a hoop structure is prohibited.
- (d) The sale or transfer of nursery stock is prohibited.
- (e) Signs. All premises used for the cultivation of industrial hemp must have signs indicating that it is an industrial hemp cultivation site. The signs shall:
  - (1) be placed at all premises entry points, including each road, trail, footpath, walkway, and aisle;

- (2) be posted at all premises corners;
  - (3) have minimum dimensions of three feet by three feet;
  - (4) contain words that are clearly visible and readable to a person with normal vision from a distance of 25 feet;
  - (5) use letters and symbols that are of a color that sharply contrasts with their immediate background; and
  - (6) when a premises is adjacent to a public right-of-way, be posted at intervals not exceeding 600 feet along the border of the premises with the public right-of-way.
- (g) If industrial hemp is to be removed from a premises before harvest for any purpose, the permittee must notify the Agricultural Commissioner of the proposed removal a minimum of three calendar days before the removal. The notification must identify the number of hemp plants to be removed and the proposed destination of the hemp to be removed, and must include any additional information required by the Agricultural Commissioner. No industrial hemp may be removed from a premises before the required notification to the Agricultural Commissioner is made. (Ord. 2021-\_\_, § 2.)

#### **512-4.604 Destruction**

- (a) A destruction plan must contain all information required by State industrial hemp laws and regulations, and all other information required by the Agricultural Commissioner, to ensure compliance with this chapter and this code.
- (b) No industrial hemp plant may be destroyed before the Agricultural Commissioner's review and approval of the destruction plan. The Agricultural Commissioner may require one or more inspections before and after destruction, and may require other methods of verifying compliance with an approved destruction plan. (Ord. 2021-\_\_, § 2.)

#### **512-4.606 Cultivation of industrial hemp for research**

- (a) An established agricultural research institution wishing to grow industrial hemp for research purposes in the County must have a permit issued by the Agricultural Commissioner.
- (b) The cultivation of industrial hemp by an established agricultural research institution for research or educational purposes is:
  - (1) Subject to the registration requirements imposed by the California Department of Food and Agriculture; and
  - (2) Limited to a total of one acre per permit holder within the County. (Ord. 2021-\_\_, § 2.)

**Article 512-4.8  
Administration**

**512-4.802 Fees**

- (a) The Board of Supervisors may establish a schedule of fees for services provided under this chapter.
- (b) The Board of Supervisors may establish fees to cover the costs of implementing, administering, and enforcing State industrial hemp laws, except for costs that are otherwise reimbursed by the State, pursuant to Food and Agricultural Code section 81005. (Ord. 2021-\_\_, § 2.)

**512-4.804 Records.** A permittee, upon request, shall provide the Agricultural Commissioner with copies of records that the Agricultural Commissioner requires to verify the permittee's compliance with this chapter and other applicable requirements of this code, as well as federal and State laws and regulations. (Ord. 2021-\_\_, § 2.)

**512-4.806 Report of theft and vandalism.** A permittee must report any theft, vandalism, or other criminal or potentially criminal activity occurring on a parcel on which the permittee is cultivating industrial hemp to the Contra Costa County Sheriff within 24 hours after the permittee's knowledge of the incident, and must report the incident to the Agricultural Commissioner within five days after the permittee's knowledge of the incident. (Ord. 2021- , §2.)

**Article 512-4.10  
Permit Enforcement**

**512-4.1002 Enforcement.** The County may enforce this chapter by any remedy allowed under this code, including permit revocation and administrative fines pursuant to Chapter 14-12 of this code, and any other remedy allowed by law. (Ord. 2021-\_\_, § 2.)

**512-4.1004 Permit revocation.**

- (a) Grounds for revocation. An industrial hemp permit may be revoked on any of the following grounds:
  - (1) One or more of the grounds for denial of an industrial hemp permit under Section 512-4.408 existed either when the permit application was made or before the industrial hemp permit was issued.
  - (2) Any violation of this chapter.
  - (3) Any violation of State or local laws or regulations.
  - (4) The industrial hemp permit was transferred in violation of Section 512-4.414.
- (b) Notice of revocation hearing. If any grounds for revocation exist, the Agricultural Commissioner may issue a notice of revocation hearing. A written notice of revocation

hearing will be served on the permittee by either personal service or regular United States mail and will include all of the following information:

- (1) The date of the violation.
  - (2) The address or other description of the location where the violation occurred.
  - (3) The grounds for revocation.
  - (4) The date of the revocation hearing before the Agricultural Commissioner.
- (c) Revocation hearing. An industrial hemp permit may be revoked by the Agricultural Commissioner after a revocation hearing. At the hearing, the permittee will be given the opportunity to testify and to present evidence concerning the notice of revocation hearing. After considering the testimony and evidence submitted at the hearing, the Agricultural Commissioner will issue a written decision to revoke or not revoke the industrial hemp permit and will list in the decision the reason or reasons for the decision. The written decision will be served by either personal service or regular United States mail.
- (d) Revocation appeal. The decision of the Agricultural Commissioner to revoke an industrial hemp permit is appealable to the board of supervisors under Chapter 14-4.
- (e) Final order. The industrial hemp permit revocation becomes a final administrative order at one of the following times:
- (1) On the date of the revocation hearing, if the permittee fails to appear at a scheduled revocation hearing.
  - (2) On the date the Agricultural Commissioner's decision is served, if the permittee fails to file a written appeal to the board of supervisors within the time specified.
  - (3) On the date of the appeal hearing, if the permittee fails to appear at a scheduled appeal hearing before the board of supervisors.
  - (4) On the date of the decision by the board of supervisors, if the permittee appears at a scheduled appeal hearing before the board of supervisors.
- (f) If a permit is revoked under this section, the permittee may file a new permit application pursuant to Section 512-4.404, after remedying the grounds upon which the permit was revoked. (Ord. 2021-\_\_, § 2.)

**SECTION III.** Section 14-12.002 of the County Ordinance Code is amended to read:

**14-12.002 Applicability and Authorization.**

- (a) This chapter provides for administrative fines, enforcement, and collection remedies that the County may pursue to address any violation of the following provisions of the Contra Costa County Ordinance Code:
  - (1) Division 413 and Chapters 414-4, 414-6, 416-14, 418-2, 418-6, 418-12, 420-2, 420-6, and 450-6 (environmental health regulations).
  - (2) Division 445 (smoking and tobacco regulations).
  - (3) Title 7 (building regulations).
  - (4) Title 8 (zoning regulations).
  - (5) Chapter 512-4 (industrial hemp).
- (b) Remedies under this chapter are in addition to any other remedy allowed by this code or applicable law. The use of this chapter is at the sole discretion of the director.
- (c) This chapter is authorized by California Government Code section 53069.4. (Ords. 2021-\_\_\_ § 3, 2006-66 § 8, 2003-01 § 6, 2002-47 § 3, 2000-21 § 2.)

**SECTION IV.** Section 14-12.004 of the County Ordinance Code is amended to read:

**14-12.004 Definitions.** For purposes of this chapter, the following words and phrases have the following meanings:

- (a) “Director” includes the following officials and their designees:
  - (1) Director of Health Services.
  - (2) Director of Community Development.
  - (3) Director of Building Inspection (County Building Official).
  - (4) Agricultural Commissioner.
- (b) “Effective date” means the date by which a violation must be corrected, as specified in a notice of violation.
- (c) “Hearing Examiner” means the following officials:
  - (1) Director of Environmental Health.



- (2) Public Health Director.
  - (2) Director of Building Inspection.
  - (3) Zoning Administrator.
  - (4) Agricultural Commissioner.
- (d) “Owner” means the owner of property upon which a violation of this chapter exists, the occupant of that property, or any other party responsible for the violation.
- (e) “Service date” means the date a notice or decision is served in accordance with section 14-12.018. (Ords. 2021-\_\_\_ § 4, 2003-01 § 7, 2002-47 § 3, 2000-21 § 2.)

**SECTION V.** Section 14-12.008 of the County Ordinance Code is amended to read:

**14-12.008 Appeals.**

- (a) Any person upon whom an administrative fine is imposed by the director may appeal the fine pursuant to the procedures set forth in this section. The appellant must file a written appeal with the director within 15 calendar days of the service date of the notice of fine. The written appeal must contain:
- (1) A brief statement setting forth the interest the appealing party has in the matter relating to the imposition of the penalty; and
  - (2) A brief statement of the material facts that the appellant claims supports his or her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted.
- (b) Notice of the appeal hearing will be served as specified in section 14-12.018 and will set the appeal hearing no sooner than 20 days and no later than 45 days following the service date of the notice of appeal hearing.
- (c) An appeal of an administrative fine imposed for violations of this code will be heard by the following hearing examiners:
- (1) Director of Environmental Health for violations of Division 413 and Chapters 414-4, 414-6, 416-14, 418-2, 418-6, 418-12, 420-2, 420-6, and 450-6.
  - (2) Public Health Director for violations of Division 445.
  - (3) Director of Building Inspection for violations of Title 7.
  - (4) Zoning Administrator for violations of Title 8.
  - (5) Agricultural Commissioner for violations of Chapter 512-4.

- (d) At the hearing, the appellant will be given the opportunity to testify and to present evidence.
- (e) After considering the testimony and evidence submitted at the hearing, or after the appellant has failed to appear at the hearing, the hearing examiner will issue a written decision to uphold, modify, or cancel the administrative fine and will list in the decision the reason or reasons for that decision. The decision will be served as specified in section 14-12.018. (Ords. 2021-\_\_\_ § 5, 2006-66 § 8, 2003-01 § 8, 2002-47 § 3, 2000-21 § 2.)

**SECTION VI. EFFECTIVE DATE.** This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the East Bay Times, a newspaper published in this County.

PASSED ON \_\_\_\_\_, 2021, by the following vote:

AYES:  
 NOES:  
 ABSENT:  
 ABSTAIN:

ATTEST:	MONICA NINO, Clerk of the Board of Supervisors and County Administrator	_____ Board Chair
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By:	_____ Deputy	[SEAL]
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HMS: