

ORDINANCE NO. _____

AN ORDINANCE ADDING ARTICLE 7 TO CHAPTER 3
OF THE LAKE COUNTY CODE RELATING TO INDUSTRIAL HEMP

WHEREAS, several recent changes in state and federal law legalized the cultivation, manufacture and sale of industrial hemp and industrial hemp products, subject to state and local regulation; and

WHEREAS, since registration opened May 1, 2019, more than 80 industrial hemp sites encompassing more than 430 acres have been registered with the Lake County Agricultural Commissioner; and

WHEREAS, the unregulated cultivation of industrial hemp in Lake County can adversely affect the health, safety, and well-being of the County, its residents and environment. Comprehensive civil regulation of premises used for industrial hemp cultivation is proper and necessary to avoid the risks of illicit cannabis cultivation; degradation of the natural environment; malodorous smells; undesired impacts to neighboring communities and parcels, including those containing commercial and/or personal-use cannabis cultivation sites; and that are especially significant if the gender and amount of industrial hemp cultivated on a single premises are not regulated; and

WHEREAS, industrial hemp and cannabis are relatives of the same plant species with similar growth, reproductive and odor characteristics that preclude easy field identification of cannabis and industrial hemp plants by growers, County workers, lay people and law enforcement. According to agricultural and law enforcement officials, the amount of cannabis and industrial hemp cultivated in Lake County has increased significantly with each growing season and is increasingly occurring in residential areas, in close proximity to residences, and on vacant, unsupervised and unsecured properties; and

WHEREAS, the unregulated use of pesticides and fertilizers has the potential to contaminate or otherwise damage adjacent property and waterways. This poses a threat not only to the growers of the industrial hemp, but to neighbors and agricultural crops grown in proximity to industrial hemp; and

WHEREAS, the unregulated cultivation of male industrial hemp plants, and industrial hemp plants grown from “feminized” seed, has the potential to release pollen that is known to damage female cannabis plants and/or female industrial hemp plants grown for cannabinoid extraction; and

WHEREAS, in 2016 and 2018 Lake County voters enacted commercial cannabis taxes as new sources of County tax revenues. Developing and supporting the state-licensed cannabis industry is necessary to uphold the voters’ intent to allow such industry to help relieve the County’s fiscal emergency; and

WHEREAS, the proposed addition is consistent with applicable provisions of the Lake County General Plan and the Lake County Code; and

WHEREAS, the proposed addition is necessary to protect and buffer adjacent landowners; prevent incompatible land uses; and protect the health, safety and welfare of Lake County residents; and

WHEREAS, the proposed addition supports the goals of the County by supporting established and emerging agricultural activities and businesses, and by preventing adverse agricultural impacts; and

WHEREAS, the proposed addition is designed to protect the environment and existing land uses, and thus the project is categorically exempt under the California Environmental Quality Act.

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

Section 1: Article VII is hereby added to Chapter 3 of the Lake County Code to read as follows:

ARTICLE VII. - INDUSTRIAL HEMP

Sec. 7.1. - Definitions.

1.1 As used in this article, the following words and phrases shall have the following meanings:

- (a) “Agricultural Commissioner” or “Commissioner”: Means the agricultural commissioner of the County of Lake, or any other employee or agent of the County authorized to act as his/her designee.
- (b) “Cannabis”: Has the same meaning as Section 11018 of the Health and Safety Code or Section 26001(f) of the Business and Professions Code, as may be amended. For the purpose of this article, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code or Section 8100(d) of the Food and Agricultural Code.
- (c) “Cultivator”: A registrant authorized by the California Department of Food and Agriculture to cultivate industrial hemp in accordance with applicable federal, state and local laws.
- (d) “Female hemp plant”: A mature hemp plant with observable female characteristics that may include, but are not limited to, plant size, flower structure, flower placement and absence of pollen sacs, as determined by the Commissioner.
- (e) “Feminized hemp plant”: A hemp plant germinated or grown from any seed cultivar or seed stock that has been treated to germinate predominately female plants. For purposes of this article, any cutting or clone taken from a hemp plant grown from feminized seed is a feminized hemp plant.
- (f) “Fence”: A wall or a barrier connected by boards, masonry, rails, panels, wire or any other materials approved by the Community Development Department for the purpose of enclosing space or separating parcels of land. The term “fence” does not include retaining walls, plastic, tarp, bamboo coverings, corrugated metal, or other materials not designed or manufactured for use as a fence.
- (g) “Hemp cultivation site”: A location where industrial hemp is planted, grown, harvested, dried, cured, graded, packaged, stored, or trimmed, or that does all or any combination of those activities.
- (h) “Hemp Producer Permit”: An annual permit issued by the County Agricultural Commissioner to an industrial hemp registrant pursuant to the provisions of this article.
- (i) “Hoop-house”: An unheated outdoor enclosure used for the purpose of growing and/or for protecting seedlings and plants from cold weather but not containing any mechanical or electrical systems or storage of any items. Typically, a hoop-house is of semi-circular design made of, but not limited to, piping or other material covered with translucent material.
- (j) “Indoor”: Within a fully enclosed and secure structure that complies with the California Building Standards Code (Title 24 California Code of Regulations), as adopted by the County of Lake, or if exempt from the permit requirements of the California Building Standards Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation,

slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry and constructed of solid materials that cannot easily be broken through.

(k) “Industrial hemp” or “hemp” has the same meaning as Section 11018.5 of the California Health and Safety Code or Section 8100(d) of the Food and Agricultural Code, as may be amended. For the purpose of this article, “industrial hemp” or “hemp” does not mean “cannabis” as defined by Section 11018 of the Health and Safety Code or Section 26001(f) of the Business and Professions Code.

(l) “Industrial hemp activity”: Includes the cultivation, drying, pollination, processing, seed breeding, laboratory testing, manufacture, packaging, possession, storage, transportation, delivery, distribution, or sale of industrial hemp and industrial hemp products for commercial purposes.

(m) “Male hemp plant”: A mature hemp plant with observable male characteristics that may include, but are not limited to, plant size, flower structure, flower placement and pollen sacs, as determined by the Agricultural Commissioner. For purposes of this article, any feminized or hermaphroditic hemp plant with observable male flowers or pollen sacs on any portion of the plant is a male hemp plant.

(n) “Mature hemp plant”: An industrial hemp plant that is flowering on any portion of the plant.

(o) “Outdoor”: Any location within the unincorporated County that is not indoor within a fully enclosed and secure structure that is equipped with an air filtration system designed to prevent fine particulate matter, including industrial hemp pollen, from entering or escaping the structure.

(p) “Permittee”: A registrant issued a Hemp Production Permit pursuant to this article.

(q) “Person”: An individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and includes the plural as well as the singular.

(r) “Registrant”: A person who has filed a state registration form to cultivate industrial hemp in the unincorporated County that has been deemed complete by the Commissioner.

(s) “Seed breeder”: A registrant authorized by the California Department of Food and Agriculture to breed approved hemp seed cultivars in accordance with applicable federal, state and local laws.

Sec. 7.2. - Industrial Hemp Production.

2.1 State Industrial Hemp Registrations.

1.1. Prior to the commencement of any cultivation, any person proposing to grow industrial hemp shall register with the Agricultural Commissioner as required by the California Department of Food and Agriculture in accordance with the provisions of Division 24 (commencing with Section 81000) of the Food and Agricultural Code, inclusive.

1.2. No action shall be taken on the state registration until all fees are paid and sufficient information is provided for the Commissioner to deem the registration complete.

1.3 Issuance or renewal of an annual state hemp registration creates no vested right or land-use entitlement of any kind.

2.2 Hemp Producer Permits.

2.1. No person shall conduct any industrial hemp activity in the County without first obtaining from the Lake County Agricultural Commissioner a Hemp Producer Permit.

2.2 The Agricultural Commissioner shall have the primary authority to create, issue, deny, renew, suspend or revoke Hemp Producer Permits for any commercial hemp activity in the County. The Commissioner may create such forms, policies and procedures deemed necessary to enforce the provisions of this article. The Board of Supervisors may delegate or distribute certain hemp-related activities, including permit processing and enforcement, to other County departments by resolution.

2.3 The Commissioner shall charge fees for Hemp Producer Permit processing, site inspections, laboratory testing, pest management, and other hemp-related activities. Fees to be charged to administer this article shall be as authorized by law and set by the Board of Supervisors.

2.4 A Hemp Producer Permit application is required for each parcel or lot where commercial hemp activities are proposed. The Commissioner, in his/her discretion, may issue a single Hemp Producer Permit to a registrant that proposes multiple contiguous production sites on a single parcel or lot.

2.5 The number of Hemp Producer Permits that may be held by any registrant is limited to four (4) within Lake County. Permits may not be transferred, sold or assigned to any other person.

2.6 Issuance or renewal of an annual Hemp Producer Permit creates no vested right or land-use entitlement of any kind.

2.7 Renewals. The following is required for Hemp Producer Permit renewal:

(a) An application for renewal shall be submitted to the Agricultural Commissioner's office at least 120 days prior to the annual anniversary. Failure to submit an application for renewal by that date may result in the suspension or expiration of the permit.

(b) Applications: Applicants shall complete an application form as prescribed by the Commissioner and pay all fees as established by resolution by the Board of Supervisors.

(c) The following documentation in electronic format is required for application for renewal:

1. A copy of all licenses, permits, and conditions of such licenses or permits related to the project from state agencies as appropriate including, but not limited to the California Department of Food and Agriculture, Department of Pesticide Regulation, Department of Fish and Wildlife, State Water Resources Control Board, Board of Forestry and Fire Protection, Central Valley or North Coast Regional Water Quality Control Board, and the Department of Public Health.
2. For any applicant that does not own the subject property, valid renewal of owner authorization.
3. Documentation that the applicant is still qualified to be an applicant.
4. Any proposed changes to the permit or how the site will be operated.
5. Payment of all fees as established by resolution by the Board of Supervisors.

(d) The Hemp Producer Permit may be renewed if:

1. The original permit's terms and conditions as approved are still valid.
2. There are no violations of the permit conditions or of state licenses, permits or registrations.
3. The applicant is qualified to apply for such a permit.

(e) The Hemp Producer Permit may be renewed with changes or modifications if:

1. Such changes do not change the original permit's terms and conditions as approved.
2. There are no violations of the permit conditions or of state licenses or permits.
3. The applicant is qualified to apply for such a permit.

2.8 Permit revocation. The Agricultural Commissioner, after giving ten (10) days notice of and conducting a hearing, may revoke any Hemp Producer Permit issued under the provisions of the article when it has been found that a permittee or employee of a permittee has:

(a) Violated any section of this article (or rules and regulations promulgated thereunder) which relates to the permit.

(b) Been convicted of a felony.

(c) Been convicted of a misdemeanor involving moral turpitude.

(d) Been convicted of any offense relating to the use, sale, possession, or transportation of narcotics, habit-forming drugs or any other controlled substance, including unlicensed cannabis activities.

2.9 Permit suspension. The Agricultural Commissioner may temporarily and immediately suspend any permit issued under this article when it makes written findings of the fact requiring such action to protect the public health, safety and welfare. The Commissioner shall immediately notify the permittee of the suspension and the permittee shall then have a right to a hearing before the Department which shall be held within five (5) business days following permit suspension. A written decision shall be issued within five (5) business days after the completion of the hearing. The basis for permit suspension shall be Section 2.8 of this article. Appeal procedures for emergency actions of the Commissioner are the same as those defined in Section 2.10 of this article.

2.10 Appeal procedure. If the renewal of a permit is denied by the Agricultural Commissioner, or if the Commissioner suspends or revokes a permit, the permittee shall have the right to demand an appeal hearing before the Board of Supervisors ("Board"). A request for an appeal hearing shall be made in writing to the Clerk of the Board within fifteen (15) business days following the denial of a renewal, suspension, or revocation of the permit. Such request shall include a written statement setting forth the basis upon which the Commissioner's decision is challenged. Upon receipt of the written request, the Clerk of the Board shall set the matter for a hearing on a date not more than sixty (60) days following receipt of the written request. The Clerk shall give notice to both the appellant and the Commissioner of the date set for the hearing. At the hearing, the Board shall hear the appellant, the Commissioner and any other interested person, who may present evidence relative to the decision of the Commissioner. Within thirty (30) days following the conclusion of the hearing, the Board shall issue a written decision in determination of the appeal. The determination of the Board shall be final.

2.3 Hemp Producer Permit Application Requirements.

3.1 Any person proposing to grow industrial hemp in the County shall complete and sign, under penalty of perjury, a Hemp Producer Permit application in the form set forth by the Agricultural Commissioner, and pay any applicable fees.

3.2 At a minimum, the application shall require the applicant to acknowledge and affirm that the Agricultural Commissioner has the authority to:

- (a) Conduct cultivation site inspections with reasonable notice to the registrant to ensure compliance with all applicable state and County laws and standards.
- (b) Seek a civil inspection warrant for any property that cannot be timely inspected for compliance.
- (c) Test industrial hemp plants for THC content in accordance with applicable state regulations set forth in Title 3, California Code of Regulations, Division 4, Chapter 8, Article 2, as may be amended.
- (d) Issue a notice of violation ordering the registrant to destroy some or all of its hemp crop if:
 - i. it is planted prior to issuance of a state registration and Hemp Producer Permit; or
 - ii. the state registration or Hemp Producer Permit is suspended or revoked; or
 - iii. any portion of the crop exceeds the maximum THC content set by law; or
 - iv. it creates a public nuisance affecting a substantial number of people as determined by the Agricultural Commissioner, Community Development Department, County Sheriff, state Department of Food and Agriculture, or by any other state or County agency or district.
- (e) Issue a notice of abatement to any registrant who does not voluntarily destroy an industrial hemp crop within seven (7) days of being issued a notice of violation.
- (f) Seek reimbursement from the permittee and/or property owner for any and all abatement costs that may be incurred by the County.

3.3 The following additional information also shall be provided by the applicant:

- (a) The full legal name or legal business name of the applicant entity;
- (b) A list of all the industrial hemp registration types, including the registration numbers of valid registrations, that the applicant already holds in the County;
- (c) The physical address of the proposed site of commercial hemp activity;
- (d) The mailing address of the applicant;
- (e) A designated responsible party, who shall have legal authority to bind the applicant entity, and the primary contact for the application. The following information shall be provided for the designated responsible party: full legal name, title, mailing address, primary contact phone number, email address, and a copy of the owner's government-issued photo identification. Acceptable forms of identification are a document issued by a federal, state, county, or municipal government, including, but not limited to, a driver's license or passport.
- (f) An individual or entity serving as agent for service of process for the applicant. The following information shall be provided for the agent for service of process: full legal name, mailing address, primary contact phone number, and email address.

(g) The Agricultural Commissioner may request any additional information deemed necessary to assist review and processing of the application, including:

- (1) Any existing or proposed commercial cannabis activity at the same location.
- (2) Any proposal to accept shipments of hemp plants or seed from out-of-county suppliers.
- (3) Any proposed non-operation of the registration site during the registration year.

3.4 If the property where the commercial hemp activity is to be located is not owned by the applicant, written approval shall be obtained from the property owner(s), containing the notarized signature(s) of the property owner(s) on a written statement, contract or lease that:

- (a) contains the full legal name, mailing address, primary contact phone number, and email address of each property owner; and
- (b) expressly authorizes the applicant to legally occupy and use the proposed location to produce industrial hemp; and
- (c) acknowledges the property owner and applicant are jointly and severally liable for any County costs should any County abatement of industrial hemp occur on the property.

No action shall be taken to approve a Hemp Producer Permit unless and until the applicant provides suitable evidence of property owner approval, or written verification that the applicant is the property owner. Written verification may include grant deeds, property tax bills or certified voter registrations.

3.5 No action shall be taken to approve a Hemp Producer Permit unless and until the applicant provides evidence of enrollment in the Irrigated Lands Regulatory Program, or other applicable water quality protection program, with the applicable Regional Water Quality Control Board or State Water Resources Control Board, or the appropriate board's verification that enrollment is not necessary.

3.6 No action shall be taken to approve a Hemp Producer Permit on any parcel or lot that is not determined to be in compliance with Chapters 5, 13, 21, 23, 26, 29 or 30 of the Lake County Code unless the application includes a correction plan approved by the appropriate County agency.

2.4 Hemp Production Site Standards.

4.1 Any site where an industrial hemp activity is permitted shall have access to a public road or a recorded easement that allows for, but not limited to, delivery trucks, sheriff and other law enforcement officers, and County employees who are responsible for inspection or enforcement actions including the Agricultural Commissioner. Driveway encroachments onto County-maintained roadways shall be constructed to current County standards and shall be constructed with an encroachment permit obtained from the Department of Public Works.

4.2 The design of all access to and driveways providing access to the site where the industrial hemp activity that is permitted shall be sufficient to be used by all emergency vehicles and shall be approved by the applicable fire district.

4.3 Permit applicants shall obtain an Authority to Construct permit pursuant to Lake County Air Quality Management District rules and regulations, if applicable, to operate any article, machine, equipment or other contrivance which causes or may cause the issuance of an air contaminant.

4.4 Legal water source required. All industrial hemp activities shall have a legal water source on the premises, and have all local, state, and federal permits required to utilize the water source. If the permitted activity utilizes a shared source of water from another site, such source shall be a legal source, have all local, state, and federal permit required to utilize the water source, and have a written agreement between the property owner of the site where the source is located and the permitted activity agreeing to the use of the water source and all terms and conditions of that use.

4.5 Setbacks. Outdoor industrial hemp activities are prohibited:

- (a) Within 20 feet of any property line.
- (b) Within 200 feet of any off-site residence.
- (c) The Agricultural Commissioner may consider and approve or deny exceptions to the setbacks imposed by this section on a case-by-case basis because of special circumstances applicable to the subject property, including size, shape, topography, location or common ownership of adjacent parcels.

4.6 Fences. Any industrial hemp activity site shall be enclosed by a fence designed to prevent entry by youths or other unauthorized persons. The applicant will seek and obtain any applicable fence permit from the Community Development Department before construction.

(a) The fence shall include, at a minimum, the following: Posts set into the ground. The posts may be steel tubing, timber or concrete and may be driven into the ground or set in concrete. End, corner or gate posts, commonly referred to as “terminal posts,” must be set in concrete footing or otherwise anchored to prevent leaning under the tension of a stretched fence. Posts set between the terminal posts shall be set at intervals not to exceed 10 feet. A top horizontal rail is required between all posts. The fence shall be attached to the posts and top horizontal rail.

(b) No barbed wire, razor wire or similar wire shall be used. No plastic sheeting or tubing shall be used.

(c) Industrial hemp activity shall not be visible from public rights-of-way to the extent practical. Screening methods may include, but is not limited to, setbacks, topographic barriers, plantings of tree crops or native vegetation, or commercially available materials designed for use as fence screening.

4.7 The Commissioner shall inquire about, and applicants shall fully disclose, all details pertinent to the development, construction and day-to-day operation of the proposed industrial hemp production site. Applicants shall obtain any applicable County building permit, environmental review, fence permit, grading permit, use permit and/or well permit for an industrial hemp activity site before clearing any land or constructing or modifying any buildings, fences, ponds, wells, rainwater catchment, solar power systems, storage containers or other accessory structures. Failure to obtain all necessary state and local permits and land entitlements shall be grounds for denial or revocation of a Hemp Producer Permit.

2.5 Hemp Production Standards.

5.1 Hemp Producer Permit applicants shall prepare and submit an odor response program that includes (but is not limited to):

- (a) Designating an individual(s) who is/are responsible for responding to odor complaints 24 hours per day/seven (7) days a week, including holidays.
- (b) Providing property owners and residents of property within a 1,000-foot radius of any outdoor industrial hemp cultivation site with the contact information of the individual responsible for responding to odor complaints.

(c) Policies and procedures describing the actions to be taken when an odor complaint is received.

(d) The description of potential mitigation methods to be implemented for reducing odors, including setbacks, planting of buffer vegetation, early harvesting and/or selection of less odorous hemp strains for future plantings.

(e) The permittee shall record the date and substance of any odor complaints and also any response or corrective action taken by the permittee or designated responsible party. Records of hemp-related odor complaints and their resolution shall be kept on-site and made available for inspection on request by the Agricultural Commissioner. The Commissioner may forward hemp-related odor complaints of unusual frequency, persistence or intensity to the Lake County Air Quality Management District for investigation and possible enforcement action.

5.2 Applicants are responsible for the proper use, storage and disposal of all pesticides and fertilizers.

(a) All pesticide applications must fully comply with the California Food and Agriculture Code, Division 6 Pest Control Operations and Division 7 Agriculture Chemical; Chapter 1 – 3.6 and California Code of Regulations, Division 6 Pest Control Operations.

(b) Pesticides and fertilizers shall be stored in a secure building or shed.

(c) Pesticide and fertilizer spills shall be immediately contained and cleaned up.

(d) Permittees shall take all reasonable steps to prevent pesticides and fertilizers from reaching surface water, groundwater, or adjacent properties, residences, gardens or crops.

(e) Pesticides and fertilizers shall not be used or stored within 100 feet of any spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool. For purposes of determining the edge of Clear Lake, the setback shall be measured from the full lake level of 7.79 feet on the Rumsey Gauge.

(f) Qualified applicator permits must be obtained from the Agricultural Commissioner's office to purchase and apply any registered pesticides.

(g) Permittees shall prepare and maintain at the cultivation site an easily accessible binder containing Material Safety Data Sheets (MSDS) for each pesticide and fertilizer used or stored at the site.

5.4 All permittees shall comply with the State of California Weights and Measures requirements found in the California Food and Agriculture Code, California Code of Regulations, and the California Business and Professions Code.

(a) The applicant shall obtain and maintain a valid weighmaster license from the California Department of Food and Agriculture.

(b) Any scale used to weigh industrial hemp or industrial hemp products at a permitted production site must be certified by the County Agricultural Commissioner.

2.6 Outdoor Hemp Production Exclusion Areas.

6.1 Outdoor cultivation of industrial hemp is prohibited:

(a) Within any of the following areas in existence at the time the permit is issued:

(1) Community Growth Boundary as described in the Lake County General Plan.

(2) Public lands.

(3) Any parcel or lot within a water service area or sphere of influence with an active tie-in/access to that water service.

(4) An incorporated city sphere of influence.

(5) Any public or private school, grades 1 through 12.

- (6) A developed public park containing playground equipment.
- (7) A licensed child care facility or nursery school.
- (8) Any parcel encompassing an area of less than five (5) acres.
- (9) Any parcel or lot not designated for agricultural activities in the Lake County General Plan or the Lake County Zoning Ordinance.

(b) Within 600 feet of any of the following areas in existence at the time the permit is issued:

- (1) Community Growth Boundary as described in the Lake County General Plan.
- (2) Any public or private school, grades 1 through 12.
- (3) A developed public park containing playground equipment.
- (4) A licensed child care facility or nursery school.
- (5) A licensed outdoor cannabis cultivation site.

The distance specified in this section shall be the horizontal distance measured in a straight line from a Community Growth Boundary or the closest boundary of a parcel containing a sensitive land use as described above, to the closest boundary of the parcel where the commercial hemp activity is located.

Sec. 7.3. - Enforcement.

3.1 Enforcement.

It shall be the duty of the County Agricultural Commissioner to enforce the provisions of this article.

3.2 Outdoor Male Hemp Plants and Outdoor Hemp Pollen Prohibited.

2.1 The Board of Supervisors finds and declares the outdoor cultivation of male industrial hemp plants, and the outdoor dissemination of hemp pollen by natural or artificial methods, is incompatible with existing cannabis agricultural uses in the County and may adversely impact agricultural operations.

2.2 The Board further finds and declares the outdoor cultivation of male industrial hemp plants, and the outdoor dissemination of hemp pollen by natural or artificial methods, is incompatible with the lawful cultivation of adult-use or medicinal cannabis for personal use by County residents.

2.3 Outdoor cultivation of male hemp or cannabis plants prohibited. It shall be unlawful for any person to cultivate, or cause to be cultivated, any male hemp or cannabis plant, or any feminized hemp or cannabis plant determined to be capable of releasing pollen, outdoor within the County of Lake.

2.4 Outdoor application of hemp or cannabis pollen prohibited. It shall be unlawful for any person to apply, or cause to be applied, to any hemp or cannabis plant grown outdoor within the County of Lake, any industrial hemp or cannabis pollen, which originates either from within or outside the County.

2.5 Outdoor cultivation of hemp by seed breeder prohibited. It shall be unlawful for any seed breeder registrant to grow or pollinate industrial hemp plants outdoor within the County of Lake.

2.6 Declaration of public nuisance. The outdoor cultivation of male hemp and cannabis plants, or of any feminized hemp or cannabis plant determined to be capable of releasing pollen, and the outdoor dissemination of hemp or cannabis pollen by natural or artificial methods, may create adverse agricultural impacts in the County, and on that basis such activities are declared to be a nuisance.

2.7 Removal required. It shall be the duty of any person, upon finding any male industrial hemp plant, or any other source or container of hemp pollen, outdoor within the County, to immediately remove it indoor for destruction or abatement in a manner satisfactory to the Agricultural Commissioner.

2.8 Notwithstanding the general penalty for violations described in Sec. 3.3 of this article, any person who violates any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by confinement in the county jail for a period of not to exceed six (6) months, or by a fine not to exceed one thousand dollars (\$1,000.00), or by both such fine and imprisonment. Each separate day or any portion thereof on which any violation occurs shall be deemed to constitute a separate offense punishable as herein provided.

3.3 Other Prohibited Activities.

3.1 Outdoor hemp cultivation, including any topsoil, pesticide or fertilizers used for the production of industrial hemp, shall not be located within 100 feet of any spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool. For purposes of determining the edge of Clear Lake, the setback shall be measured from the full lake level of 7.79 feet on the Rumsey Gauge.

3.2 Unlawful water diversion. The utilization of water that has been or is illegally diverted from any lake, spring, wetland, stream, creek, vernal pool, or river is prohibited.

3.3 Tree removal. The removal of any commercial tree species as defined by the California Code of Regulations section 895.1, Commercial Species for the Coast Forest District and Northern Forest District, and the removal of any true oak species (*Quercus* species) or Tan Oak (*Notholithocarpus* species.) for the purpose of establishing or expanding industrial hemp activities should be avoided and minimized. This shall not include the pruning of any such tree species for the health of the tree or the removal of such trees if necessary for safety or disease concerns.

3.4 Nuisance odors. Industrial hemp activities shall not propagate objectionable odors which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public.

3.5 Hoop-houses. Cultivation of mature hemp plants in hoop-houses is prohibited in all zone districts.

3.6 Portable generators. Industrial hemp activities shall not rely on a personal gasoline, diesel, propane, or similar fuels, powered generator as a primary source of power for well operation, lighting, heating, drying, cooling, or any for other purpose. Generators shall only be allowed for temporary use in the event of a power outage or emergency that is beyond the permittee's control.

3.7 Pesticides. The use any pesticide that has been banned for use in the state is prohibited. Improper storage, application or disposal of pesticides in violation of this article or other state and federal laws may result in immediate suspension of any Hemp Producer Permit; summary abatement of any plants, containers or waterways contaminated by pesticides; or any other remedy provided by law.

3.8 Irrigation and stormwater discharge. Illicit discharges of irrigation or storm water from any industrial hemp cultivation site, as defined in Title 40 of the Code of Federal Regulations, Section 122.26, which could result in degradation of water quality of any water body is prohibited.

3.9 Hazardous materials. Pursuant to the California Health and Safety Code, the use of hazardous materials shall be prohibited except for limited quantities of hazardous materials that are below State threshold levels of 55 gallons of liquid, 500 pounds of solid, or 200 cubic feet of compressed gas. The production of any Hazardous Waste as part of the industrial hemp production process is prohibited.

3.4 Penalties – General.

4.1 A violation of any provision of this article is punishable as an infraction by a fine of not more than one hundred dollars (\$100.00), or as a misdemeanor by a fine of not more than five hundred dollars (\$500.00), or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each separate day or any portion thereof on which any violation occurs shall be deemed to constitute a separate offense punishable as herein provided.

4.2 – 4.20 Reserved.

3.5. Abatement procedures.

5.1 A notice of violation ordering the permittee to destroy some portion or all of its industrial hemp plants or products within seven (7) calendar days may be issued if:

- i. the plants are planted prior to issuance of a state registration and Hemp Producer Permit; or
- ii. the state registration or Hemp Producer Permit for the site is suspended or revoked; or
- iii. any portion of a lab-tested plant or plants exceeds the maximum THC content set by law; or
- iv. the plants create a public nuisance affecting a substantial number of people as determined by the County Agricultural Commissioner, Community Development Department, Sheriff, state Department of Food and Agriculture, or by any other state or County agency or district.

5.2 For any industrial hemp activity that is not voluntarily abated by the registrant or property owner by the deadline set forth in the notice of violation, the Agricultural Commissioner may initiate the abatement procedures described in this section.

5.3 Any voluntary destruction or involuntary abatement of industrial hemp shall substantially comply with Sections 407 and 81006 of the Food and Agricultural Code and any additional rule or procedure for crop destruction that may be promulgated by the California Department of Food and Agriculture.

5.4 The Commissioner or his/her designee shall seek to recover any and all costs of abatement incurred by the County pursuant to Article VI of Chapter 13 of the Lake County Code, pertaining to nuisances.

5.5 The Commissioner shall immediately notify the California Department of Food and Agriculture of any crop destruction or other abatement of industrial hemp activity within the County.

Sec. 7-4. - Financial Security Requirements.

4.1 Before a Hemp Producer Permit is issued under this article, the applicant shall submit to the Agricultural Commissioner a surety bond, certificate of deposit, cash, or other form of financial security in the amount of not less than ten thousand dollars (\$10,000) to cover the costs of destruction of industrial hemp plants or products if necessitated by a violation of this article or other applicable laws and regulations.

4.2 The Commissioner, in his/her discretion, may require a larger amount of financial security, not to exceed fifty thousand dollars (\$50,000), from registrants who operate industrial hemp production site(s) exceeding ten (10) acres of industrial hemp total.

4.2 The financial security shall be deemed continuous in form and shall remain in full force and effect and shall run concurrently with the permit period for which the permit is granted and for each and every succeeding renewal period or periods, or until the financial security is canceled by the person or company that issued it.

4.3 Nothing in this section shall be construed to conflict with any state law or regulation pertaining to financial securities. Any statute, emergency regulation or permanent regulation that may be promulgated by the state Legislature or Department of Food and Agriculture establishing or modifying the financial security requirements for industrial hemp activities shall supersede this section.

Section 3: This action is taken to assure the maintenance, restoration, enhancement, or protection of the environment and contains procedures for protection of the environment. The Board of Supervisors finds this project is categorically exempt from CEQA review pursuant to CEQA Guidelines §15308. Further, this action is taken to regulate and limit certain agricultural activities on lands previously designated for agricultural activities in the Lake County General Plan and Zoning Ordinance. On that basis, the Board has determined there is no possibility this action will have a significant effect on the environment. The proposed action is exempt pursuant to CEQA Guidelines §15061, subd. (b)(3).

Section 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section 5: This Ordinance shall take effect thirty (30) days after its adoption, and within fifteen (15) days after adoption of the ordinance, the Clerk to the Board of Supervisors shall publish a summary of the Ordinance with the names of those supervisors voting for and against the ordinance and the Clerk shall post in the office of the Clerk to the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those supervisors voting for and against the Ordinance.

The Foregoing Ordinance was introduced before the Board of Supervisors on the _____ day of _____, 2019, and passed by the following vote on the ____ day of _____, 2019.

AYES:

NOES:

ABSENT OR NOT VOTING:

(Approval as to form, signatures, attestation, etc.)