SISKIYOU COUNTY
PLANNING COMMISSION STAFF REPORT
February 19, 2020

INDUSTRIAL HEMP ZONING TEXT AMENDMENT (Z1910)

SUBJECT: The project is a proposed zoning text amendment to add Chapter 16 to Title 10 (Planning and Zoning) of the Siskiyou County Code (SCC). More specifically, the project would establish Chapter 16 to allow and regulate cultivation of industrial hemp within AG-1 (Prime Agricultural) and AG-2 (Non-Prime Agricultural) zoning districts on parcels 40 acres and larger, including certain setback and signage requirements. Under the regulations, indoor cultivation of industrial hemp will be prohibited, except for the cultivation of hemp transplants or seed production, and subject to setback requirements. The ordinance would also limit hemp cultivation of Established Agricultural Research Institutions to a total area of one acre. The draft ordinance defines the term "Cultivation" to include any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, trimming or limited mechanical separation and sorting of hemp.

GENERAL PLAN: All

SCOTT VALLEY AREA PLAN: All

ZONING: Non-Prime Agricultural (AG2), Prime Agricultural (AG1)

LOCATION: Countywide

EXHIBITS:

A. Resolution PC-2020-002, A Resolution of the Planning Commission of the County of Siskiyou, State of California, Recommending the Board of Supervisors Adopt the Proposed Amendments to Title 10 of the Siskiyou County Code, establishing Chapter 16 (Z1910)

A1. Draft Ordinance adding Chapter 16 to Title 10 of the Siskiyou County Code Regarding Industrial Hemp Cultivation

BACKGROUND

I. Industrial Hemp: Federal and State Regulatory Framework

Federal, state, and local regulations form the legal framework for Industrial Hemp cultivation in California's counties. The California Industrial Hemp Farming Act 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 SB 1409 into law, setting forth legal

guidelines for a state permitting process, which was to allow for the cultivation of industrial hemp beginning on January 1, 2019.

In December 2018, the President signed into law the 2018 Farm Bill,[1] removing hemp from Schedule I of the federal Controlled Substances Act effective January 1, 2019. The 2018 Farm Bill also authorized the U.S. Department of Agriculture (USDA) to create quality control standards for commercial hemp production and gave states that desired to have primary regulatory authority over the production of hemp the ability to adopt their own state plans, subject to federal approval. The 2018 Farm Bill outlined seven components that would need to be addressed in these state plans.[2]

In January 2019, California found itself unable to meet SB 1409's registration start deadline, and it was not until April 30, 2019, that the California Department of Food and Agriculture (CDFA) announced adoption of a registration regulation to start the registration process in jurisdictions that did not have temporary moratoriums. Unfortunately, the suite of regulations necessary to regulate industrial hemp cultivation did not accompany the initial registration regulation, which meant producers and local governments would initiate registration without understanding testing and sampling protocols. In June 2019, CDFA adopted emergency regulations for sampling and testing of industrial hemp.

In October 2019, the Governor signed into law SB 153, a bill intended to conform California's hemp laws to the federal requirements for a state plan under the 2018 Farm Bill. SB 153 now requires the California Secretary of the Department of Food and Agriculture, in consultation with the Governor and the Attorney General, to develop and submit a state plan to the United States Secretary of Agriculture, on or before May 1, 2020. Submission of a state plan is significant because until California has a federally approved plan, legal hemp cultivation is technically limited to that which is consistent with the 2014 Farm Bill, which only allows for established agricultural research institutions.

On October 29, 2019, the federal government, through USDA, published an interim final rule that outlines the provisions for USDA to approve plans submitted by states for production of hemp. It also establishes a Federal plan for producers in states that do not have their own USDA-approved plan. The interim final rule includes provisions for maintaining information on the land where hemp is produced, testing the levels of delta-9 tetrahydrocannabinol, disposing of plants not meeting necessary requirements, licensing requirements, and ensuring compliance with the requirements of the new part.

Staff understands that representatives of CDFA and USDA are communicating about the implications of this interim final rule on California's planned program and for California to get clarification on testing protocols and resulting uncertainties.

Industrial hemp production includes cultivation of cannabis sativa plants, the same species of plant cultivated for the still federally illegal cannabis market. The legal distinction between industrial hemp and

[1] The 2018 Farm Bill was entitled "The Agriculture Improvement Act of 2018".
[2] The seven components that the state industrial hemp plan will need to meet under the 2018 Farm Bill are:

1. Maintain relevant information regarding land on which hemp is produced;
2. THC testing procedure;
3. Disposal of non-compliant plants and products;
4. Enforcement procedures: negligent violations, other violations, prior felony conviction, false statements;
5. Annual inspections, including at least a random sample of hemp producers;
6. Submitting information to USDA;
7. Certification of sufficient resources and staffing to carry out State Plan.

other cannabis varieties is based on the amount of tetrahydrocannabinol ("THC") present in the flowering tops. If the plant has no more than 0.3% THC, it is defined under the law as hemp.

II. Industrial Hemp: Local Regulation

In December 2018, the Siskiyou County Agricultural Commissioner appeared before the Board of Supervisors to present a PowerPoint presentation on the state of Industrial Hemp regulation and to seek direction from the Board on potential paths forward at the local level. Under the County's zoning code, any use not identified in the code as being permitted is prohibited and the County's zoning code had no provision that permitted Industrial Hemp cultivation in any zone.

On January 8, 2019, the Agricultural Commissioner returned to the Board with the Assistant County Counsel to bring forward a temporary 45-day moratorium on the cultivation of Industrial Hemp by "Established Agricultural Research Institutions" and others in all zones, which would allow County staff time to study and make recommendations on reasonable regulation of Industrial Hemp cultivation in Siskiyou County. The Board adopted the temporary moratorium on that same day. On February 5, 2019, following a public hearing, the Board of Supervisors voted to extend the temporary moratorium to January 6, 2020.

On November 12th, 2019, the Agricultural Commissioner, the Assistant County Counsel, the Planning Department and Sheriff returned to the Board to continue the public discussion on potential paths forward for regulation of industrial hemp at the local level. Staff had surveyed the industrial hemp ordinances of other counties to capitalize on the good work of other jurisdictions and recommended to the Board that the County use the County of San Joaquin's Industrial Hemp Cultivation Ordinance as a template, which staff found to be comprehensive and well thought through.

On December 10th, following a public hearing, the Board extended the existing moratorium prohibiting the cultivation of industrial hemp in all zones with direction to staff to bring its draft ordinance to the Planning Commission in January 2020, with a goal of bringing the ordinance to the Board in February 2020, and having a permanent ordinance in place within the first quarter of 2020. The Board provided direction that it would like to see the cultivation of Industrial Hemp limited to the AG-1 and AG-2 zoning districts on parcels 40-acres or greater, subject to reasonable regulation to mitigate for any impact factors.

PROPOSED AMENDMENTS ESTABLISHING CHAPTER 16 OF TITLE 10 OF THE SISKIYOU COUNTY CODE REGARDING INDUSTRIAL HEMP CULTIVATION

The draft provisions of the proposed Chapter 16 of Title 10 of the Siskiyou County Code are set forth in Exhibit A1.

The Planning Commission will be making a recommendation to the Board on the zoning regulations in this proposed ordinance, which largely appear in proposed sections 10-16.60 and 10-16.70.

The stated purpose and intent of proposed Chapter 16 is to establish standards, requirements, and regulations governing industrial hemp cultivation, and through such regulations, to protect the County's residents, neighborhoods, businesses, and the environment from disproportionately negative impacts caused by industrial hemp cultivation, and to enforce rules and regulations consistent with state and federal law.

The proposed provisions include a series of definitions and define "Industrial Hemp", consistent with state law, 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*".

The definitions section would define "Cultivation" to include light processing as follows:

> *"Cultivation" shall include any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, trimming or the limited mechanical separation and sorting of hemp.*

The definition section also defines "Sensitive Receptor", a term which is pertinent for purposes of the setback requirements, as

> "*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. Examples of sensitive receptors include: churches, child daycares, schools, youth-oriented facilities, and property in any residential zone*."

The proposed provisions would confine the cultivation of industrial hemp to AG-1 and AG-2 zones, subject to a 40-acre minimum parcel size. Cultivation of industrial hemp would otherwise be prohibited in all zoning districts.[3]

The draft ordinance imposes the following setback requirements on the outdoor cultivation of hemp:

i. 100 feet from any boundary line of the parcel, unless the boundary line is adjacent to the boundary line of a parcel that is either owned, managed, or otherwise under the control of the person who obtained the license for the cultivation of industrial hemp;

ii. 1000 feet from any parcel containing a sensitive receptor;

iii. 200 feet from any residential uses; and

iv. 200 feet from any off parcel permitted residence in any zone.

Under the proposed ordinance, the indoor cultivation of hemp would be limited to the cultivation of hemp transplants[4] or seed production in a structure dedicated solely to the cultivation of nursery stock, or seed located within AG-1 or AG-2 districts. All other indoor cultivation of industrial hemp would be prohibited.

Structures used for transplants or seed production would need to meet applicable building codes and be permitted by the Community Development Department as required by County code. In addition, staff has added a condition that if indoor cultivation of hemp transplants or seed production occurs within a structure with transparent or translucent walls and/or roof materials, lighting shall be turned off by 10 p.m. to ensure that light glow or glare cannot be seen beyond the property boundary. This would ensure that there are no lighting impacts to the surrounding areas.

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[3] Prior to cultivation, the draft provisions would require a person to register with the state through the Agricultural Commissioner and obtain a separate license from the Agricultural Commissioner.

[4] The proposed ordinance defines "Transplant" as a cultivated hemp plant grown from seed or cutting in soil or individual containers for less than 8 weeks that does not exceed a height of eight (8) inches.

The draft ordinance imposes the following setback requirements for structures used for indoor cultivation:

i. 50 feet from any boundary line of the parcel adjacent to a parcel under different ownership;

ii. 1000 feet from any parcel containing a sensitive receptor;

iii. 100 feet from any residential uses; and

iv. 100 feet from any off parcel permitted residence in any zone.

The proposed ordinance also requires that all parcels used for the cultivation of industrial hemp have onsite signage indicating that hemp is being cultivated on site, which are to be posted at the corners of the parcel and at all usual points of entry, as well as at 600 foot intervals when a parcel is adjacent to a public right-of-way, such as a road, trail, or path.

State law provided a vague definition of an "Established Agricultural Research Institution," and further exempted such entities from many of the regulations imposed by Division 24 of the California Food and Agricultural Code. In addition, state law enabled such entities to cultivate or possess industrial hemp with a greater than 0.3% THC content, thereby resulting in "research" or "academic" plants constituting cannabis. Thus, it was foreseeable that individuals would exploit the loophole created by the inadequacies of the state law by attempting to cultivate industrial hemp under the guise of an "Established Agricultural Research Institution" with the intent of cultivating cannabis or industrial hemp for commercial purposes, ahead of the California Department of Food and Agriculture's ("CDFA") implementation of its requisite regulatory package. Therefore, staff is recommending the draft ordinance would limit hemp cultivation by an Established Agricultural Research Institution, as defined consistent with federal law, for research or educational purposes to a total of one (1) acre per license holder.

In addition, to the proposed land use regulations described above, the draft ordinance includes other provisions the Board will consider related to the establishment of a county licensing process for industrial hemp growers, license fees associated with same, and special enforcement and remedies provisions related to distinguishing between hemp cultivation and unpermitted cannabis cultivation.

ENVIRONMENTAL REVIEW

The proposed project is a zoning text amendment intended to limit the cultivation of industrial hemp to parcels 40-acres and larger in Siskiyou County's prime and non-prime agricultural zoning districts (AG1 and AG2). The ordinance imposes setback limitations and signage requirements to mitigate any odor effects and to protect and promote the public health, safety and welfare of Siskiyou County citizens.

Because there is no substantial evidence, in light of the whole record before the County, that the proposed text amendment may have a significant effect on the environment, staff is recommending the project be exempt from further environmental analysis under the "common sense exemption" in accordance with Section 15061(b)(3) of the CEQA Guidelines. Additionally, the ordinance is categorically exempt from review under CEQA Guidelines Section 15308 Class 8 (action by a regulatory agency for the protection of the environment).

As such, the Board of Supervisors would need to determine the project to be categorically exempt from CEQA prior to adopting the proposed amendments establishing Chapter 16 of Title 10 of the Siskiyou County Code (Z1910).

PLANNING DEPARTMENT'S RECOMMENDATION

- **Recommend** the Board of Supervisors determine the project to be categorically exempt from CEQA pursuant to Section 15061(b)(3) and Section 15308 of the CEQA Guidelines; and

- **Recommend** the Board of Supervisors adopt the proposed amendments establishing Chapter 16 to Title 10 of the Siskiyou County Code (Z1910).

SUGGESTED MOTIONS

I move that we adopt Resolution PC-2020-002, A Resolution of the Planning Commission of the County of Siskiyou, State of California, Recommending the Board of Supervisors Adopt the Proposed Zoning Text Amendments Adding Chapter 16 to Title 10 of the Siskiyou County Code (Z1910).

PREPARATION

Prepared by the Siskiyou County Planning Division.

For project specific information or to obtain copies for your review, please contact:

Kirk Skierski, Senior Planner
Siskiyou County Planning Division
806 S. Main Street
Yreka, California 96097

RESOLUTION PC 2020-002
A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF SISKIYOU, STATE OF CALIFORNIA, RECOMMENDING THE BOARD OF SUPERVISORS ADOPT THE PROPOSED AMENDMENTS TO TITLE 10 OF THE SISKIYOU COUNTY CODE ADDING CHAPTER 16 (Z1910)

WHEREAS, the Planning Division prepared a draft text amendment adding Chapter 16 to Title 10 of the Siskiyou County Code to allow cultivation of industrial hemp on prime agricultural and non-prime agriculturally zoned property (AG1 and AG2) with a 40-acre parcel minimum; and

WHEREAS, the proposed provisions establishing Chapter 16 of Title 10 of the Siskiyou County Code are set forth in Exhibit A-1 to this Resolution; and

WHEREAS, the County Counsel's Office and Planning Division presented an oral and written staff report on the proposed zoning text amendment at a regular meeting of the Planning Commission on February 19, 2020; and

WHEREAS, the proposed zoning text amendment was evaluated pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Division recommended that the project be determined exempt from CEQA under the "common sense rule" that CEQA only applies to projects with the potential to result in a significant impact on the environment (CEQA Guidelines Sec. 15061(b)(3)); and additionally, categorically exempt from review under CEQA Guidelines Section 15308 Class 8 (action by a regulatory agency for the protection of the environment); and

WHEREAS, the Planning Division recommended approval of the proposed amendment of Title 10 of the Siskiyou County Code, adding Chapter 16 regarding regulation of Industrial Hemp Cultivation (Z1910); and

WHEREAS, a Notice of Public Hearing was published in the Siskiyou Daily News on February 5, 2020; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed addition of Chapter 16 to Title 10 of the Siskiyou County Code (Z1910) on February 19, 2020; and

WHEREAS, on February 19, 2020, the Chair of the Planning Commission opened the duly noticed public hearing on the proposed zoning text amendment to receive testimony both oral and written, following which the Chair closed the public hearing and the Commission discussed the proposed zoning text amendment prior to reaching its decision.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends the Board of Supervisors determine the project to be categorically exempt from CEQA pursuant to Section15061(b)(3)) and Section 15308 of the CEQA Guidelines, and that the Board of Supervisors adopt the proposed amendment adding Chapter 16 to Title 10 of the Siskiyou

EXHIBIT A

County Code, as shown in Exhibit A-1 to this Resolution.

IT IS HEREBY CERTIFIED that the foregoing Resolution PC-2020-002 was duly adopted on a motion by Commissioner_____ and seconded by Commissioner _____, at a regular meeting of the Siskiyou County Planning Commission held on the 19th day of February, 2020, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

SISKIYOU COUNTY PLANNING COMMISSION

_____
Tony Melo, Chair

WITNESS, my hand and seal this 19th day of February, 2020.

_____
Rick Dean, Secretary of the Commission

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF SISKIYOU ADDING CHAPTER 16 OF TITLE 10 OF THE SISKIYOU COUNTY CODE FOR INDUSTRIAL HEMP CULTIVATION

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

SECTION I: Chapter 16, of Title 10 is hereby added to read as follows:

TITLE 10, CHAPTER 16: INDUSTRIAL HEMP CULTIVATION

Sections: 16.10 through 16.160

16.10 Purpose and authority
16.20 Definitions
16.30 Administration
16.40 License
16.50 License requirements
16.60 Cultivation requirements
16.70 Cultivation of industrial hemp for research
16.80 Destruction of non-compliant hemp crops
16.90 Fees
16.100 Public nuisance
16.110 Violations
16.120 Fine/Penalties for violation
16.130 Enforcement
16.140 Cost Recovery
16.150 Remedies Cumulative
16.160 Limitation of County's Liability

Sec. 10-16.10 Purpose and authority

Pursuant to Article XI, section 7, of the California Constitution, the County of Siskiyou ("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. It is the purpose and intent of this Ordinance to establish standards, requirements, and regulations governing industrial hemp cultivation, including commercial and research industrial hemp activities.

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

EXHIBIT A-1

environment from disproportionately negative impacts caused by industrial hemp cultivation, and to enforce rules and regulations consistent with state and federal law. Any standards, requirements and regulations established by the State of California, or any of its departments or divisions, regarding commercial and/or research industrial hemp cultivation shall be the minimum standards applicable within the unincorporated areas of the County.

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, registrations, and approval required under federal, state, County, or other law.

Sec. 10-16.20 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 federal or state law shall refer to the act, statute, or regulations as may be amended from time to time.

A. “Cultivation” shall include any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, trimming or the limited mechanical separation and sorting of hemp.
B. “Established agricultural research institution” is 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 below.
D. “Industrial hemp” means 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. “Nursery stock” shall have the meaning set forth in Food and Agricultural Code section 5005.
F. “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, 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.
G. “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. Examples of sensitive receptors include: churches, child daycares, schools, youth oriented facilities, and property in any residential zone.

H. “Transplant” is a cultivated hemp plant grown from seed or cutting in soil or individual containers for less than 8 weeks that does not exceed a height of eight (8 inches).

Sec. 10-16.30 Administration

It is unlawful and shall constitute a public nuisance for anyone to engage in any industrial hemp cultivation for commercial and/or research purposes within the County without complying with all applicable federal, state, and local laws and regulations pertaining to such cultivation, including the duty to register with the state and obtain a separate license from the County Agricultural Commissioner.

The Sheriff, the Agricultural Commissioner, and/or the Director of Community Development, or their respective designees, are charged with the responsibility of administering, and exercising the authority conferred under this Chapter.

Sec. 10-16.40 License

No person shall cultivate industrial hemp in the unincorporated areas of Siskiyou County without first obtaining a license issued by the Agricultural Commissioner to cultivate as provided in this Chapter, including cultivation for research purposes.

A license for cultivation may be issued to an Established agricultural research institution only if it meets the definition of an Established agricultural research institution as stated in section 10-16.20 of this Chapter.

A license issued under this Chapter by the Agricultural Commissioner does not grant any entitlement, interest in real property, or create any interest of value and does not run with the land. The license is non-transferable and automatically terminates upon transfer of ownership. A Person that has obtained a license from the Agricultural Commissioner shall not transfer ownership or control of the license to another Person. Any attempt to do so shall cause the license to be automatically revoked.

Receiving a license from the Agricultural Commissioner has no bearing on whether a person will be registered by the California Department of Food and Agriculture for the cultivation of industrial hemp.

Sec. 10-16.50 License requirements

A license for the cultivation of industrial hemp for commercial and research purposes may be issued only if each of the following requirements are met:

A. Applicants shall submit an application in accordance with the application process established by the Agricultural Commissioner. A single license may be issued for multiple parcels.
B. An applicant shall be the deed holder of the land upon which the 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 parcel(s).
C. Persons wishing to grow industrial hemp for research purposes in Siskiyou County shall be required to be licensed by the Agricultural Commissioner.
D. Each parcel for which a license is submitted must be of a minimum designation of AG-1 or AG-2 with a 40-acre parcel minimum.
E. An applicant shall fully satisfy the registration requirements stated in Food and Agricultural Code section 81003.
F. An applicant shall obtain an Operator Identification Number, or Restricted Materials permit, whichever is more appropriate, from the Agricultural Commissioner.
G. Each applicant shall declare the intended end use of the industrial hemp production that shall occur on the parcel: seed/fiber, oil, or nursery production.
H. An applicant for the cultivation of Transplants shall have a license to sell nursery stock as required under California Food and Agricultural Code section 6721 et seq.
I. Each license issued under this Chapter shall expire one year from the date of its issuance.
J. The license renewal application shall be submitted in accordance with the application process established by the Agricultural Commissioner.

Sec. 10-16.60 Cultivation requirements

The following standards shall apply to the cultivation of industrial hemp for commercial and research purposes.

A. The cultivation of industrial hemp is permitted in AG-1 and AG-2 zones, subject to a 40-acre minimum parcel size. Cultivation of industrial hemp is prohibited in all other zoning districts.

B. A Person cultivating industrial hemp shall design the parcel to be used for cultivation in a manner that minimizes impacts, which may include, but are not limited to odor and pollen drift to surrounding areas.

C. Outdoor industrial hemp cultivation in Siskiyou County shall meet the following setback requirements:
    i. 100 feet from any boundary line of the parcel, unless the boundary line is adjacent to the boundary line of a parcel that is either owned, managed, or otherwise under the control of the Person who obtained the license for the cultivation of industrial hemp;

ii. 1000 feet from any parcel containing a sensitive receptor;
iii. 200 feet from any residential uses; and
iv. 200 feet from any off-parcel permitted residence in any zone.

D. Any structure(s) containing facilities used for the light processing of industrial hemp that falls within the definition of “Cultivation” in Section 10-16.20 above, must have all permits required under state law and Siskiyou County Code.

E. The indoor cultivation of hemp is limited to the cultivation of hemp Transplants, or seed production in a structure dedicated solely to the cultivation of nursery stock, or seed located within AG-1 or AG-2 districts. All other indoor cultivation of industrial hemp is prohibited. Structures must comply with applicable building codes and be permitted by the Community Development Department as required by County code. If indoor cultivation of hemp transplants or seed production occurs within a structure with transparent or translucent walls and/or roof materials, lighting shall be turned off by 10 p.m. to ensure that light glow or glare cannot be seen beyond the property boundary.
   i. Structures used for indoor cultivation of hemp shall meet the following setbacks:
      a. 50 feet from any boundary line of the parcel adjacent to a parcel under different ownership;
      b. 1000 feet from any parcel containing a sensitive receptor;
      c. 100 feet from any residential uses; and
      d. 100 feet from any off-parcel permitted residence in any zone.

F. All parcels used for the cultivation of industrial hemp shall have onsite signage indicating that hemp is being cultivated on site. The signs shall:
   i. Be of a size so that the wording on the sign is clearly visible and readable to a person with normal vision from a distance of twenty-five (25) feet;
   ii. Use letters and symbols that are of a color that sharply contrasts with their immediate background; and
   iii. Be posted at the corners of the parcel and at all usual points of entry to the parcel, including each road, footpath, walkway, or aisle that enters the cultivation area. When a parcel is adjacent to a public right-of-way, such as a road, trail, or path, signs shall be posted at intervals not exceeding 600 feet along the parcel’s border with the right-of-way.

G. A Person cultivating industrial hemp shall comply with all provisions of federal and state law, as well as all associated regulations therewith, as applicable to the cultivation of industrial hemp, including, but not limited to, requirements for registration, cultivation, sampling, laboratory testing, harvesting, and crop destruction.

H. A Siskiyou County Industrial Hemp Production License issued by the Agricultural Commissioner shall be obtained prior to the cultivation of industrial hemp for any purpose in the unincorporated areas of the County.

I. The Agricultural Commissioner and/or his designees shall have the right to enter upon any premises subject to an Industrial Hemp Production License at all reasonable times to make at-will inspections and sampling for laboratory testing for the purpose of the enforcement and administration of this Chapter. If any such premises are occupied, he shall first present proper credentials and demand entry.

Sec. 10-16.70 Cultivation of industrial hemp for research

A. The cultivation of industrial hemp by an Established agricultural research institution for research or educational purposes shall be subject to the State registration requirements imposed by the California Department of Food and Agriculture, as well as the local licensing requirements identified above under Sections 10-16.40 and 10-16.50.

B. Hemp cultivation by an Established agricultural research institution for research or educational purposes shall be limited to a total of one (1) acre per license holder within the County of Siskiyou.

Sec. 10-16.80 Destruction of non-compliant industrial hemp crops

A. The County of Siskiyou Board of Supervisors (“Board”) adopts this Chapter pursuant to its police power for the purpose of preserving the health, safety and public welfare of the residents of the County. The Board finds that agriculture is extremely important to the County’s economy and that insuring the continued agricultural commodities is essential to the health and well-being of County residents. The Board determines that the enforcement of this Chapter is essential.

B. Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

C. It shall be the responsibility of the Persons cultivating industrial hemp to ensure that they are, at all times, operating in a manner compliant with all applicable federal, state, and local laws, and/or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed by the County. Nothing in this Chapter shall be construed as authorizing any actions that violate federal, state, or local law regarding the cultivation of industrial hemp.

D. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by

the County. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any license(s) issued pursuant to this Chapter being null and void, disgorgement and payment to the County for any monies unlawfully obtained, costs of abatement/destruction, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The County may also pursue any and all remedies and actions available under state and local laws for any violations committed by Persons related to, or associated with, the unlawful cultivation of industrial hemp.

E. An industrial hemp crop that does not comply with the provisions of this Chapter and all applicable provisions of federal and state law, and associated rules and regulations, shall be destroyed. Crop 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, sections 4950 and 4950.1. Any violations of this section are subject to abatement under Title 1, Chapter 5 of the Siskiyou County Code. The Person growing industrial hemp in violation of the law, 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.

F. The remedies provided herein are not to be construed as exclusive remedies. The County is authorized to pursue any proceedings or remedies provided by law.

Sec. 10-16.90 Fees

Pursuant to Section 81005 of the California Food and Agriculture Code, the Board of Supervisors may, by resolution, establish a fee for a license issued under this Chapter.

A. The amount of the fees adopted pursuant to this section shall not exceed the amount reasonably required to inspect, administer or process the required permits, certificates, licenses, or other forms or documents, or to defray the costs of enforcement required to be carried out by the County.

In accordance with such authority, the Agricultural Commissioner has established fees for its implementation, administration, and enforcement of federal, state, and local laws. Such fees shall cover the actual costs associated with services that may include, but are not limited to, processing of licenses, inspections, sampling and testing, and abatement/destruction.

Failure to pay all fees attributable to County costs incurred due to a Person's activities in the licensing or cultivation of industrial hemp shall be cause for revocation or non-renewal of a Person's license until all outstanding fees are paid in full.

No new licenses or renewals shall be issued without payment of fees for services rendered the previous season.

Sec. 10-16-100 Public nuisance

The cultivation of industrial hemp in violation of federal, state, and local laws and/or rules and regulation, including this Chapter, or other local regulation constitutes a public nuisance subject to abatement and the imposition of administrative penalties under Title 1, Chapter 5 of the Siskiyou County Code. Each and every day a violation of this chapter exists constitutes a separate and distinct violation.

Sec. 10-16. 110 Violations

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 or state laws and regulations, and Siskiyou County Code.

Such violations of County Code, federal and state laws or regulations, and failure to pay fees or penalties assessed as a result of cultivating industrial hemp in the County shall be cause to revoke a license. Failure to pay fees or penalties shall also be cause for non-renewal of a license until such time as said fees or penalties have been paid in full.

Sec. 10-16.120 Fine/Penalties for violation

A violation of this Chapter constitutes an unlawful violation of this Code.

A. Each violation of this Chapter and each day each violation continues shall constitute a separate violation and be subject to the maximum penalty and any other enforcement remedies available to the County under this Code and any applicable federal or state statute or pursuant to any other lawful power the County may possess.

Sec. 10-16.130 Enforcement

Enforcement of this Chapter will be done pursuant to Title 1, Chapter 5 of this Code.

Sec. 10-16.140 Cost Recovery

The County shall be reimbursed for all time, services, and materials needed to implement, administer and enforce state law and this Chapter.

Sec. 10-16.150 Remedies Cumulative

All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided in this Code and by law. Nothing in this

Chapter shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

Sec. 10-16.160 Limitation of County's liability

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

SECTION II: CEQA

The Board hereby finds that this ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment from the adoption of these regulations for industrial hemp. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Moreover, pursuant to CEQA Guidelines Section 15308 Class 8: Actions by Regulatory Agencies for Protection of the Environment consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment.

SECTION III: Validity

If any section, subsection, sentence, clause, word, or phrase of this ordinance is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The Board of Supervisors hereby declare that they would have passed this ordinance, and each section, subsection, sentence, clause, word or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases be declared invalid or unconstitutional.

SECTION IV: Effective Date

This ordinance shall become effective 30 days after its passage and shall, within 15 days of adoption, be published once in a newspaper of general circulation, printed and published in the County of Siskiyou.

PASSED AND ADOPTED this ___ day of _____, 2020 at a regular meeting of the Board of Supervisors by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Michael Kobseff, Chairman
Board of Supervisors

ATTEST:
LAURA BYNUM, CLERK,
Board of Supervisors

By _____
Deputy

EXHIBIT A-1