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ORDINANCE NO. 5168

AN ORDINANCE ADOPTING A PILOT PROGRAM REGARDING CULTIVATION OF INDUSTRIAL HEMP

THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:

Section 1. The Board of Supervisors finds and determines that amendments to Title 130 are necessary to update the El Dorado County Ordinance Code to amend the Matrix of Allowed Uses in Article 2 (Zones, Allowed Uses, and Zoning Standards) to identify the zones where the cultivation of industrial hemp is allowed, subject to an Industrial Hemp license issued under Chapter 130.43 of this Title.

Section 2. Table 130.21.020 "Agricultural, Rural, and Resource Zone Districts Use Matrix" of Title 130 (Zoning) is hereby amended to read:

USE TYPE	LA	PA	AG	RL	FR	TPZ	Specific Use Reg.
LA: Limited Agricultural	P	Allowed use					
PA: Planned Agricultural	A	Administrative permit required (130.52.010)					
AG: Agricultural Grazing	TUP	Temporary use permit required (130.52.060)					
RL: Rural Lands	CUP	Conditional use permit required(130.52.021)					
FR: Forest Resource	MUP	Minor use permit required (130.52.020)					
TPZ: Timber Production Zone	TMA	Temporary mobile home permit (130.52.050)					
	—	Use not allowed in zone					
Agricultural							
Animal Raising and Keeping	P	P	P	P	P	P	130.40.080
Accessory Structures	P	P	P	P	P	P	130.40.030
Crop Production	P	P	P	P	P	—	
Dairy	P	P	P	P	P	—	
Grazing	P	P	P	P	P	P	
Livestock, high density	CUP	CUP	CUP	CUP	—	—	
Nursery, Plants: Production and Wholesale	P	P	P	P	CUP	CUP	

Orchards and Vineyards	P	P	P	P	P	—		
Processing of Agricultural products	P	P	P	CUP	CUP	CUP		
Produce Sales: Sale of Produce Grown On-site	P	P	P	P	P	—	130.40.240	
Sale of Produce Grown Off-site	A	A	A	A	A	—		
Timber	P	P	P	P ¹	P ¹	P ¹		
Hemp Cultivation	P ⁷	P ⁷	P ⁷	P ⁷	—	—		
Agricultural Support Services								
Packing of On-site and Off-site Agricultural Products	P	P	P	P	P	P		
Slaughterhouse or Rendering Plant	—	CUP	CUP	—	—	—		
Agriculture, Value-added Processing	P	P	P	P	P	—		
Custom Farm Services	CUP	CUP	CUP	CUP	CUP	—		
Animal, Domestic Farm: Sales	P	P	P	P	P	—		
Farm Machinery & Equipment; Sales and Maintenance	CUP	CUP	CUP	CUP	CUP	—		
Feed and Farm Supply Store	CUP	CUP	CUP	CUP	CUP	—		
Nursery, Plant Production Plus	CUP	A	A	CUP	CUP	—		
Ranch Marketing	See Table 130.40.260.1 (Ranch Marketing Use Matrix)							130.40.260
Wholesale Storage and Distribution (Agricultural Products)	CUP	CUP	CUP	CUP	CUP	—		
Wineries	See Table 130.40.400.1 (Wineries Allowed Uses Matrix)							130.40.400
Residential								
Child Day Care Home: Small Family Day Care Home	P	P	P	P	P	—	130.40.110	
Large Family Day Care Home	CUP	A	A	A	A	—		
Community Care Facility: Small (serving 6 or fewer)	—	—	—	P	—	—		
Large (serving 7 or more)	—	—	—	CUP	—	—		
Dwelling: Single-unit, Detached	P	P	P	P	P	CUP	130.40.350	
Temporary During Construction	P	P	P	P	P	TUP	130.40.190	

Outdoor Retail Sales: Garage Sales	P	P	P	P	P	—	130.40.220
Temporary Outdoor	A/TUP	A/TUP	A/TUP	A/TUP	—	—	
Permanent	CUP	CUP	CUP	CUP	CUP	CUP	
Industrial							
Industrial: General	—	—	—	—	CUP	—	
Mineral Exploration, and Mining	See Table 130.29.070.1 (Mineral Exploration and Mining)						
Storage Yard: Equipment and Material Permanent	P	P	P	P	P	P	130.40.320.C
Temporary	TUP	TUP	TUP	TUP	TUP	TUP	
Recreation and Open Space							
Campground	CUP	CUP	CUP	CUP	CUP	CUP	130.40.100
Golf Course	—	—	—	CUP	—	—	
Hiking and Equestrian Trail	P	P	P	P	P	P	
Hunting/Fishing Club or Farm	A	P	P	P	P	P	130.40.210.D
Hunting/Fishing Club or Farm Facility	CUP	CUP	CUP	CUP	CUP	CUP	130.40.170.B
Marina: Non-motorized Craft	—	CUP	CUP	CUP	CUP	CUP	
Off-Highway or Off-Road Vehicle Recreation Area	—	—	—	—	CUP	—	
Park, day use	—	—	—	CUP	CUP	—	130.40.210
Picnic Area	P	P	P	P	P	P	
Resource Protection and Restoration	P	P	P	P	P	P	
Ski Area	—	—	—	CUP	CUP	—	130.40.210
Snow Play Area	—	—	—	CUP	CUP	CUP	
Special Events, Temporary	TUP	TUP	TUP	TUP	TUP	TUP	
Stable: Commercial	CUP	CUP	CUP	CUP	CUP	CUP	130.40.210
Trail Head Parking or Staging Area	CUP	CUP	CUP	CUP	CUP	CUP	130.40.210
Civic Uses							
Cemetery	—	—	CUP	CUP	CUP	—	
Churches and Community Assembly	—	—	—	CUP	CUP	—	
Community Services: Intensive	CUP	CUP	CUP	CUP	CUP	—	
Minor	CUP	CUP	CUP	CUP	CUP	—	
Schools: College and University	—	—	—	CUP	—	—	130.40.230
Elementary and Secondary, Private	—	—	—	CUP	—	—	
Transportation							

Airports, Airstrips, and Heliports	CUP	CUP	CUP	CUP	CUP	CUP	
Utility and Communication							
Communication Facilities	A/CUP	A/CUP	A/CUP	A/CUP	A/CUP	CUP	130.40.130
Public Utility Service Facilities: Minor	—	CUP	CUP	CUP	CUP	CUP	130.40.250
Minor	P	P	P	P	P	P	
Wind Energy Conversion System	See Table 130.40.390.1 (WECS Use Matrix)						130.40.390
NOTES:							
¹ In FR and TPZ only, logging camps and sawmills may be allowed by CUP.							
² Dogs used for herding or guardian purposes in commercial ranching or browsing operations are allowed by right subject to licensing requirements of the County Animal Services Division in compliance with Title 6 (Animals).							
³ Subject to the issuance of an Administrative Permit, unless otherwise specified in Section 130.40.220 (Outdoor Retail Sales) in Article 4 (Specific Use Regulations) of this Title.							
⁴ Or as permitted in Section 130.40.400 (Wineries) or Section 130.40.260 (Ranch Marketing) in Article 4 (Specific Use Regulations) of this Title.							
⁵ Accessory to Off-highway or off road vehicle recreational uses.							
⁶ Accessory Dwelling Unit allowed by right with CUP for primary dwelling unit.							
⁷ Cultivation of industrial hemp allowed pursuant to a license issued under Chapter 130.43 of this Title.							

Section 3. Table 130.21.020 "Residential Zone Use Matrix" of Title 130 (Zoning) is hereby amended to read:

RM: Multi-unit Residential R1, R20K: Single-unit Residential R1A: One-acre Residential R2A: Two-acre Residential R3A: Three-acre Residential RE: Residential Estate	P PD A CUP MUP TMA TUP —	Allowed use Planned Development Permit required (130.52.040) Administrative Permit required (130.52.010) Conditional Use Permit (130.52.021) Minor use Permit required (130.52.020) Temporary Mobile Home Permit required (130.52.050) Temporary use permit required (130.52.060) Use not allowed in zone					
USE TYPE	RM	R1, R20K	R1A	R2A	R3A	RE	Specific Use Reg.
Residential							
Child Day Care Home: Small Family Day Care Home	P	P	P	P	P	P	130.40.110
Large Family Day Care Home	CUP	A	A	A	A	A	130.40.110

Community Care Facility: Small (serving 6 or fewer)	P	P	P	P	P	P	
Large (serving 7 or more)	CUP	CUP	CUP	CUP	CUP	CUP	
Dwelling: Multi-unit	P	—	—	—	—	—	
Single-unit, Attached	P	P	—	—	—	—	
Single-unit, Detached	P ¹	P	P	P	P	P	
Temporary During Construction	—	P	P	P	P	P	130.40.190
Employee Housing: Agricultural—Six or Fewer	—	P	P	P	P	P	130.40.120
Seasonal Worker in Compliance with Standards	—	—	A	A	A	A	
Seasonal Worker not in Compliance with Standards	—	—	CUP	CUP	CUP	CUP	
Construction	TUP	TUP	TUP	TUP	TUP	TUP	130.40.190
Guest House	—	P	P	P	P	P	130.40.150
Hardship Mobile Home	—	TMA	TMA	TMA	TMA	TMA	130.40.190
Kennel, Private	—	—	—	—	—	CUP	130.40.080
Mobile/Manufactured Home Park	CUP	CUP	CUP	CUP	CUP	CUP	130.40.190 Also refer to adopted Mobile Home Park Design Standards (Resolution 198-2015)
Room Rental: One Bedroom, Only	P	P	P	P	P	P	
Accessory Dwelling Unit	P	P	P	P	P	P	130.40.300
Transitional Housing: Small (Serving 6 or Fewer)	P	P	P	P	P	P	130.40.360
Large (Serving 7 or More)	CUP	CUP	CUP	CUP	CUP	CUP	
Agricultural							
Animal Raising and Keeping	See Table in 130.40.080.1 (Animal Raising & Keeping Matrix)						130.40.080
Accessory Structures	—	P	P	P	P	P	130.40.030
Crop Production	—	—	P	P	P	P	
Grazing	—	—	P	P	P	P	

Nursery, Plants: Wholesale	—	—	—	—	—	P		
Orchards and Vineyards: Commercial	P	P	P	P	P	P		
Packing, On-site Products	P	P	P	P	P	P		
Processing of Agricultural Products; Commercial			CUP	CUP	CUP	CUP	130.40.160	
Produce Sales Sale of Produce Grown en;On-site	—	A	P	P	P	P	130.40.240	
Hemp Cultivation	—	—	—	—	—	P ⁴		
Commercial								
Child Day Care Center	—	—	—	—	—	—	130.40.110	
Contractor's Office	TUP	TUP	TUP	TUP	TUP	TUP	130.40.190	
Stables; Commercial	—	—	—	—	—	CUP	130.40.210	
Home Occupation	See Table in 130.40.160.1 (Home Occupation Use Matrix)							130.40.160
Lodging Facilities	CUP	CUP	CUP	CUP	CUP	CUP	130.40.170	
Mixed Use Development	P ²	—	—	—	—	—	130.40.180	
Outdoor Retail Sales: Garage Sales	P	P	P	P	P	P	130.40.220	
Seasonal Sales	—	—	—	—	—	A		
Temporary Real Estate Sales Office	A	A	A	A	A	A	130.40.330	
Wineries	—	—	—	—	—	CUP ³	130.40.400	
Industrial								
Mineral Exploration	A	A	A	A	A	A/ CUP	Chapter 130.29	
Mining	CUP	CUP	CUP	CUP	CUP	CUP		
Storage Yard: Equipment and Material Temporary	TUP	TUP	TUP	TUP	TUP	TUP		
Recreation and Open Space								
Golf Course	CUP	CUP	CUP	CUP	CUP	CUP	130.40.210	
Hiking and Equestrian Trail	P	P	P	P	P	P		
Marina, Non-motorized Craft	—	—	—	—	—	CUP		
Off-highway or Off-road Vehicle Area	—	—	—	—	—	A		
Parks (Public): Day Use	P	P	P	P	P	P		
Nighttime Use	CUP	CUP	CUP	CUP	CUP	CUP		
Picnic Area	P	P	P	P	P	P		

Private Recreation Area	PD/ CUP	PD/ CUP	PD/ CUP	PD/ CUP	PD/ CUP	PD/ CUP	
Resource Protection and Restoration	P	P	P	P	P	P	
Swimming Pool, Public	CUP	CUP	CUP	CUP	CUP	CUP	130.40.210
Tennis Court, Public	CUP	CUP	CUP	CUP	CUP	CUP	
Trail Head Parking or Staging Area	—	CUP	CUP	CUP	CUP	CUP	
Civic							
Cemetery	CUP	CUP	CUP	CUP	CUP	CUP	
Churches and Community Assembly	CUP	CUP	CUP	CUP	CUP	CUP	
Community Services: Minor	CUP	CUP	CUP	CUP	CUP	CUP	
Schools: Elementary and Secondary, Private	CUP	CUP	CUP	CUP	CUP	CUP	130.40.230
Utility							
Communication Facilities	A/CUP	A/CUP	A/CUP	A/CUP	A/CUP	A/CUP	130.40.130
Public Utility Service Facilities: Intensive	CUP	CUP	CUP	CUP	CUP	CUP	130.40.250
Minor	P	P	P	P	P	P	
Wind Energy Conversion System	See Table 130.40.390.1 (WECS Use Matrix)						130.40.390
NOTES:							
¹ Requires minimum General Plan density to be met. Planned Development application required unless in compliance with adopted Traditional Neighborhood Design standards found in the site planning and design manual. ² Allowed as part of a Mixed Use Development, residential component meets minimum General Plan density requirement and is subject to Section 130.40.180 (Mixed Use Development) in Article 4 (Specific Use Regulations) of this Title. ³ Or as otherwise permitted under Section 130.40.400 (Wineries) in Article 4 (Specific Use Regulations) of this Title. ⁴ Cultivation of industrial hemp allowed pursuant to a license issued under Chapter 130.43 of this Title.							

Section 4. Chapter 130.43, entitled "Cultivation of Industrial Hemp," is hereby added to Title 130 (Zoning) of the El Dorado County Ordinance Code as follows:

Chapter 130.43 – Cultivation of Industrial Hemp

Chapter 130.43 – Cultivation of Industrial Hemp

Section 130.43.100 – Definitions

For purposes of this Chapter:

- A. "Any purpose" includes cultivation for commercial purposes, cultivation for purposes of a hemp breeder, and cultivation by an Established Agricultural Research Institution.
- B. "Applicant" means a person who submits an application.
- C. "Cannabis" has the same meaning as defined in Subsection Section 130.41.100.2 (Definitions).
- D. "CCR" means the California Code of Regulations.
- E. "Cultivation" has the same meaning as defined in 3 CCR 4890(a)(6), as that section now reads or may thereafter be amended.
- F. "Cultivation site" has the same meaning as defined in 3 CCR 4890(a)(6), as that section now reads or may thereafter be amended
- G. "Disqualifying conviction" has the same meaning as defined in 3 CCR 4890(a)(10), as that section now reads or may thereafter be amended.
- H. "Established Agricultural Research Institution" has the same meaning as defined in Food and Agricultural Code Section 81000 as it now reads or may thereafter be amended.
- I. "Female industrial hemp plant" means an industrial hemp plant that possesses only female pistillate flowers and is capable of bearing seed and is not a male industrial hemp plant.
- J. "Female propagative plant material" means propagative plant material that is bred, grown, or otherwise developed to become a female industrial hemp plant.
- K. "Hemp breeder" has the same meaning as defined in Food and Agricultural Code Section 81000 as it now reads or may thereafter be amended.
- L. "Industrial Hemp" has the same meaning as defined in Food and Agricultural Code Section 81000 and Health and Safety Code Section 11018.5, and the same meaning as "hemp" as defined in 7 Code of Federal Regulations Section 990.1, as those sections now reads or may thereafter be amended.
- M. "Key participant" has the same meaning as defined in 3 CCR 4890(a)(17), as it now reads or may thereafter be amended.
- N. "Licensee" means a person who has been issued an industrial hemp license and registration pursuant to this Chapter.
- O. "Male industrial hemp plant" means an industrial hemp plant that has male staminate flowers or is otherwise capable of producing pollen.
- P. "Pollen" means the fine powdery substance discharged from a male plant containing male gametes that is capable of causing a female plant, or female part of a plant, to produce seeds.
- Q. "Premises" has the same meaning as defined in Business and Professions Code section 26001(ap).
- R. "Processing" means all activities associated with drying, curing, grading, trimming, storing, packaging, and labeling of raw industrial hemp, or any part thereof, for transport.
- S. "Propagative plant material" includes live plants, seeds, seedlings, clones, cuttings, transplants, or other propagules used to establish plants for planting.
- T. "Sensitive use" means the following:
 - 1. A child day care facility licensed under the California Child Day Care Facilities Act (Health and Safety Code section 1569.70 et seq.).
 - 2. A licensed child care home.
 - 3. An employer-sponsored child care center, as defined in Health and Safety Code section 1596.771.

4. A school, as defined in Section 130.41.100.
 5. A youth center, defined to mean any public or private facility that is used to host recreational or social activities for minors while minors are present.
 6. A youth-oriented facility, as defined in Section 130.41.100.
 7. Public Parks, defined to mean areas dedicated and used for active recreation operated by a public agency and open to the public.
- U. "THC" means delta-9 tetrahydrocannabinol.

Section 130.43.101 License Requirements

- A. License Required. A person shall not cultivate industrial hemp for any purpose in the unincorporated area of the County unless that person first obtains a license issued by the Agricultural Commissioner and satisfies all requirements of this Chapter.
1. A license issued under this Chapter does not grant any entitlement or interest in real property, does not create any interest of value, and it does not run with the land.
 2. A licensee shall not transfer ownership or control of the license to another Person as the license is non-transferable and automatically terminates upon transfer of ownership. Any attempt to transfer ownership shall cause the license to be automatically revoked.
 3. No license will be issued to carry out the activities of a hemp breeder or an established agricultural research institution.
- B. Application Requirements. In order to obtain a license to cultivate industrial hemp for commercial purpose, the applicant shall meet all of the following requirements:
1. The person submits an application for a license to cultivate industrial hemp to the Agricultural Commissioner on a form provided by the Agricultural Commissioner. An applicant may submit a single application for multiple parcels if the parcels are contiguous and either owned by the applicant or the applicant provides proof of consent from the record title holder of the land consistent with Subsection B.3, below. The application form shall include a statement that the applicant consents to inspections consistent with Section 130.43.106 (Inspections) and to abatement consistent with abatement and destruction consistent with Section 130.43.107 (Enforcement) and Section 130.43.108 (Destruction).
 2. The applicant submits, along with the application, a completed Industrial Hemp Registration Application for Growers on the form developed by the California Department of Food and Agriculture to the Agricultural Commissioner and satisfies all relevant state and federal requirements to obtain a registration to cultivate industrial hemp, including completion of a criminal history report.
 3. The applicant is the record title holder of the land upon which hemp is to be cultivated. If the applicant is not the record title owner of the parcel, the applicant must provide proof of written consent of the owner of the parcel with original

signature and notary acknowledgement. The written consent must be notarized within thirty (30) calendar days of the date that the application is submitted to the Agricultural Commissioner. The written consent shall also include consent to inspections consistent with Section 130.43.106 (Inspections) and to abatement consistent with abatement and destruction consistent with Section 130.43.107 (Enforcement) and Section 130.43.107 (Destruction).

4. Each parcel for which a license application is submitted must be located in one of the following: Planned Agricultural (PA), Limited Agricultural (LA), Agricultural Grazing (AG), Residential Estate (RE), and Rural Lands (RL). If the parcel is located on Residential Estate (RE) or Rural Lands (RL), then the parcel must a minimum of 20 acres in size.
 5. The applicant shall provide proof adequate to the Agricultural Commissioner that the cultivation of the industrial hemp will comply with the setback requirements in Subsection 130.43.107. I (Setbacks).
 6. The applicant shall confirm that the proposed cultivation of industrial hemp will not occur on a premise that is being used for the commercial cultivation or processing of cannabis, consistent with Food and Agricultural Code section 81006(c), as that section now reads or may thereafter be amended, and that the proposed cultivation of industrial hemp will not occur on a parcel or parcels that are being used for commercial cannabis activity pursuant to Chapter 130.41 (Commercial Cannabis).
 7. The applicant shall include a site plan that shows the entire parcel or parcels used for cultivation and the location and area for cultivation and set backs, as applicable. The site plan shall include the following:
 - a. A legal description, Global Positioning System coordinates, size, and map of the cultivation site, consistent with 3 CCR 4901(a)(2)(D), as that now reads or may thereafter be amended.
 - b. Any easements on the property, streams, ponds, or other surface water features.
 - c. All areas of ground disturbances or surface water disturbance associated with cultivation activities, if any.
 - d. Identify any areas where hemp will be stored, handled, or displayed.
 - e. A detailed diagram of the parcel or parcels used for cultivation, including any buildings, structures, fences, gates, parking, lighting, and signage.
 8. If pesticides are to be used, the applicant must obtain an Operator Identification Number or Restricted Materials permit from the Agricultural Commissioner.
 9. The applicant shall identify all legal water sources used for cultivation activities.
 10. Each license shall expire one year from the date of its issuance.
- C. Review of Application. The Agricultural Commissioner shall review any application submitted and shall approve the license if the applicant meets all of the requirements

of this chapter. The Agricultural Commissioner shall deny a license if the Agricultural Commissioner concludes that:

1. The application is based on inaccurate or incomplete information.
 2. The application has failed to pay any required application fees in full, including any past due fees or penalties imposed on the applicant that are related to the cultivation of hemp or the cultivation of commercial cannabis.
 3. The Agricultural Commissioner denied the applicant a registration to cultivate industrial hemp because that applicant does not meet applicable state requirements. This includes if the applicant, registrant, or key participant is found to have a disqualifying conviction.
 4. The applicant, or a key participant of the application, is ineligible under Subsection 130.43.107.E (Suspension for Repeat Violations).
 5. There are currently five active licenses issued to cultivate industrial hemp and the application is not for a renewal of an existing license.
- D. Denial of Application. If the Agricultural Commissioner denies the application, the Agricultural Commissioner shall provide the applicant a written statement indicating the reason for the denial. The Agricultural Commissioner's decision on denial is final and unappealable administratively. The applicant may submit a revised application that addresses the deficiencies identified by the Agricultural Commissioner.
- E. Issuance of License. The Agricultural Commissioner shall issue a license concurrent with issuance of a registration whenever possible so that the terms may run concurrent with each. The Agricultural Commissioner shall have the review authority of original jurisdiction for licenses issued under this Chapter, and the procedure shall be staff-level without public notice.
- F. Renewal of License. A licensee shall submit an application for renewal of their license no later than sixty (60) days before the license expires and shall include in that application all information required by Subsection B (Application Requirements) above. The Agricultural Commissioner shall review that application consistent with Subsection C (Review of Application) above. If the licensee fails to request a renewal within the sixty (60) day period described by this Subsection, then the Agricultural Commissioner shall treat that application as a new license that is subject to the cap and waiting lists imposed by Section 130.43.102 (Cap on Licenses Issued).
- G. Application Fees. Each applicant for an initial application, or for the renewal of an application, shall pay an initial deposit in the amount of one-thousand and five hundred (\$1,500) for the actual cost of the Agricultural Commissioner for processing of the application, inspections, abatement, and related costs to administer this Chapter. That deposit will be kept in a County account and is available to the Agricultural Commissioner to recover the actual costs to administer this Chapter, as described in the previous sentence. The Agricultural Commissioner shall provide the applicant or licensee, as applicable, with a billing statement identifying the remaining deposit account or the amount due if deposited funds are exhausted. If deposited funds are

exhausted, the billing statement shall require the applicant or licensee the amount owed and that amount shall be paid within thirty (30) days as specified in Board of Supervisors Policy B-4. If, at the end of the licensure period, there are amounts remaining in the account, the remaining balance shall be returned to the applicant or licensee.

Section 130.43.102 Cap on Licenses Issued

- A. **Cap.** The Agricultural Commissioner shall not issue more than 5 licenses to cultivate industrial hemp at any given time. The Agricultural Commissioner shall review applications on a first-come, first-serve basis, except that the Agricultural Commissioner shall review an application for a renewal that was submitted within the time period required by Subsection 130.43.101.E (Renewal of License) as it is submitted.
- B. **Waiting List.** The Agricultural Commissioner shall maintain a waiting list if the Commissioner receives an application after the cap in Subsection B above is met. The Agricultural Commissioner shall notify a prospective applicant on the waiting list if the number of active licenses have declined below. The prospective applicant shall have no more than forty-five (45) days to complete an application, after which the position on the waiting list shall no longer be held and the Agricultural Commissioner will notify the next prospective applicant on the waiting list. A person shall not appear on the waiting list if they are ineligible under Subsection 130.43.107.E (Suspension for Repeat Violations).

Section 130.43.103 Right to Farm

The cultivation of industrial hemp consistent with this Chapter cultivated on Agricultural Land is an agricultural operation within the meaning of Section 130.40.290 (Right to Farm), and as such any nuisance claim based on the cultivation of industrial hemp consistent with this Chapter on Agricultural Land will be subject to the protections and procedures set out in Section 130.40.290 (Right to Farm), including a claim related to alleged odors.

Section 130.43.104 Best Management Practices

The Agricultural Commissioner shall, no later than 30 days of the effective date of this ordinance and at any other time the Agricultural Commissioner determines, develop best management practices regarding the cultivation of industrial hemp consistent to implement or make specific the standards in this Chapter, including practices to reduce odor and pollen spread. The Agricultural Commissioner shall propose these best management practices to the Board of Supervisors by resolution. The Board of Supervisors may adopt the resolution.

Section 130.43.105 Cultivation Requirements

A licensee shall, at all times, comply with all of the following requirements relating to the cultivation of industrial hemp:

- A. The licensee shall ensure that they are, at all times, operating in a manner compliant with all applicable federal, state, and local laws. This includes the Agriculture Improvement Act of 2018 (132 Stat. 4490; PL 115-334), including its implementing regulations, and Division 24 (commencing with Section 81000) of the Food and Agricultural Code, including its implementing regulations.
- B. Odors. The licensee shall locate the cultivation area on their parcel or parcels used for cultivation in a manner that minimizes odors to surrounding areas. The Agricultural Commissioner shall include in the best management practices adopted under Section 130.43.104 (Best Management Practices) recommendations to reduce odor spread to surrounding parcels. Any odor associated with cultivation or processing activities shall not be equal to or greater than a seven-dilution threshold ("DT") when measured by the County with a field olfactometer at the property line on which the hemp is cultivated or processed for a minimum of two olfactometer observations not less than 15 minutes apart within a one-hour period ("seven DT one hour"). If the Agricultural Commissioner receives a complaint related to odor, and that complaint is verified based on the seven DT one hour threshold described in the previous sentence, the Agricultural Commissioner shall provide the Licensee with a written warning and suggestions to reduce odor. If, upon retesting, the odor has not been reduced to below the seven DT one hour threshold, then the Agricultural Commissioner shall refer the licensee to Code Enforcement. Any violation of this Subsection is subject to enforcement, abatement, and revocation of a license under Section 103.43.109 (Enforcement). Abatement may include, but is not limited to, increasing the required setback, growing fewer plants, or growing only low odor industrial hemp strains. Installation of certain odor control options may require a permit. Any such notice requiring the use of one or more odor control options will provide a deadline for completion and the dilution threshold will be retested upon expiration of that deadline.
- C. The licensee engaging in the outdoor cultivation of industrial hemp may only plant female propagative plant material. A licensee shall promptly destroy any male propagative plant material that the licensee discovers.
- D. Structures. Any structure(s) containing facilities used for the processing of industrial hemp must have all permits required under state law, Building Codes, and the El Dorado County Code.
- E. BMP Resolution. A licensee shall comply with the most recently adopted resolution governing best management practices adopted by the Board of Supervisors consistent with Section 130.43.106 (Best Management Practices).
- F. Permitted Uses. Cultivation of industrial hemp is permitted only in Planned Agricultural (PA), Limited Agricultural (LA), Agricultural Grazing (AG), Residential Estate (RE), and Rural Lands (RL).

- G. Signage. All parcels used for the cultivation of industrial hemp shall display County approved signage indicating that hemp is being cultivated on site. It is the responsibility of the Licensee to pay for the costs of printing and posting all signage. All signage shall utilize a County approved template. The signs shall comply with all the following:
1. 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.
 2. Clearly identify that the crop is industrial hemp and not cannabis.
 3. That entering upon that land without consent of the owner or legal occupant is prohibited, consistent with Penal Code section 602(h).
 4. Use letters and symbols that are of a color that sharply contrasts with their immediate background.
 5. Based at the corners of each parcel used for the cultivation of industrial hemp and at all usual entry points 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 a road, trail, or path, signs shall be posted at intervals not exceeding two hundred (200) feet along the parcel's border with the right-of-way.
- H. Setbacks. A licensee engaging in the outdoor cultivation of industrial hemp shall comply with the following setback requirements.
1. Boundary Line Setback. If the parcel is located on Planned Agricultural (PA), Limited Agricultural (LA), and Agricultural Grazing (AG), there shall be no setback imposed by this Subsection. If the parcel is located on Residential Estate (RE) or Rural Lands (RL), the setback requirement is no less than two hundred (200) feet from the boundary line of the parcel. This setback shall be measured in a straight line from the nearest point of the outdoor industrial hemp cultivation to the boundary line of the parcel. This setback will not apply if the property line is adjacent to the property line of a parcel that is either owned, managed, or otherwise under the control of the licensee.
 2. Residential Use Setback. No less than two hundred (200) feet from any parcel zoned as Multi-unit Residential (RM), Single-unit Residential (R), One-acre Residential (R1A), Two-acre Residential (R2A), Three-acre Residential (R3A), or Residential Estate (RE) at the time the licensee obtains their license. This setback shall be measured from the nearest point of the outdoor industrial hemp cultivation to the boundary line of the parcel.
 3. Residential Structure Setback. If the parcel is located on Planned Agricultural (PA), Limited Agricultural (LA), and Agricultural Grazing (AG), there shall be no setback imposed by this Subsection. If the parcel is located on Residential Estate (RE) or Rural Lands (RL), the setback requirement is no less than six hundred (600) feet from a permitted residential structure that is located on a parcel zoned as Multi-unit Residential (RM), Single-unit Residential (R), One-acre Residential (R1A), Two-acre Residential (R2A), Three-acre Residential (R3A), or Residential Estate (RE) at the time the licensee applies for their license or renewal of a license. This setback

shall be measured from the nearest point of the outdoor industrial hemp cultivation to the nearest outer wall of the structure.

4. Sensitive Use Setback. No less than two hundred (200) feet from a parcel containing a sensitive use that was in existence at the time the licensee obtains their license. This setback shall be measured in a straight line from the nearest point of the outdoor industrial hemp cultivation to the boundary line of the parcel containing the use. A new adjacent use does not affect the continuation of an existing use that was permitted and legally established under the standards of this Chapter.
5. Agricultural Crop Setback. No less than two hundred (200) feet from a commercial agricultural crop located on parcel not owned by the licensee that was in existence at the time the licensee obtains their license. This setback shall be measured in a straight line from the nearest point of the outdoor industrial hemp cultivation to the boundary line of the parcel containing the use.
6. Setback Waiver: The setbacks imposed by this Subsection 130.43.105.H will not apply with respect to a particular parcel if the licensee obtains written consent from all owners of record of any adjacent parcels that are impacted by the setback to waive the setback requirement. The Agricultural Commissioner shall prescribe the form to be used for this written agreement, and any written agreement must be approved by the Agricultural Commissioner. A written agreement will expire at the same date that the licensee's license expires, and if the licensee renews their license the licensee must obtain a new written agreement. The written agreement is only binding on those parties involved and does not bind any subsequent owner of the parcel.

Section 130.43.106 Inspections

- A. The Agricultural Commissioner shall conduct regular inspections of each licensee to ensure that that the licensee is in compliance with all the requirements of this Chapter and all state and federal law, including 3 CCR 4930. The Agricultural Commissioner shall conduct inspections at random intervals and shall ensure that each licensee is inspected at least once annually. The Agricultural Commissioner shall provide reasonable advance notice of the inspection, and that notice shall be no later than same day notice.
- B. The licensee shall provide County staff with complete and unrestricted access during business hours, consistent with 3 CCR 4930.
- C. If the Agricultural Commissioner during that inspection discovers or reasonably suspects that a violation of this Chapter or any other provision of County Code has occurred during that inspection, that violation may be referred to Code Enforcement. If the Agricultural Commissioner discovers or reasonably suspects that there is any criminal violation of any provision of this Code or state or federal law, such as that a crop was

tested as having a total THC concentration of more than one (1) percent on a dry weight basis, the Agricultural Commissioner shall promptly notify the Sheriff's Office.

Section 130.43.107 Enforcement

- A. **Enforcement of State Law.** The Commissioner may enforce negligent violations Division 24 (commencing with Section 81000) of the Food and Agricultural Code, including its implementing regulations, consistent with 3 CCR 4951 and 4952.
- B. **Code Enforcement.** In addition to criminal enforcement and potential revocation of a license issued under this Chapter, a violation of any provision of this Chapter shall be deemed a public nuisance and subject to enforcement as provided in this Section and the provisions of Chapter 9.02 (Code Enforcement), except for the following changes:
 - 1. A notice to correct or notice to abate issued under Chapter 9.02 shall provide seventy-two (72) hours for the responsible person to correct or abate the violation and shall identify the administrative fines of this Section if the violation is not corrected or abated within seventy-two (72) hours.
 - 2. Notwithstanding Section 9.02.370, a request for an administrative hearing under Chapter 9.02 must be made within three (3) days of service of the notice to correct, administrative citation, or notice to abate.
 - 3. Notwithstanding Section 9.02.390, the hearing shall be held within five (5) days of the request for a hearing.
 - 4. The decision of the Hearing Officer under Section 9.02.440 shall be issued within five days of completion of the hearing.
 - 5. If an abatement order requires the destruction of any crops, those crops shall be destroyed consistent with Subsection 130.43.108.B (Destruction Under this Chapter).
 - 6. Unless a notice is personally served, any notice provided under this Section shall be mailed under Section 9.02.120 and posted conspicuously on or in front of the business or cultivation site, or other place reasonably anticipated to provide notice to the responsible person.
- C. **Cannabis Enforcement.** A licensee who is found to have engaged in commercial cannabis activities in violation of Chapter 130.41 (Commercial Cannabis) is subject to enforcement under Subsection 130.41.100.10 (Criminal Enforcement) or Subsection 130.41.100.11 (Administrative Enforcement and Abatement).
- D. **Hemp Cultivated Outside of Site Plan.** Each industrial hemp plant cultivated outside of the square footage provided in the approved site plan shall be deemed a separate violation. The determination of the plants outside of the permitted square footage shall be made with reference to the site plan submitted with an application.
- E. **Suspension for Repeat Violations.** If a person has received three (3) or more sustained violations of this Chapter within a twelve (12) month period, that person shall be ineligible to submit an application or to be a key participant in any application under

Subsection 130.43.101.B (Application Requirements) or to appear on a waiting list under Subsection 130.43.102.B (Waiting List) for a twelve (12) month period after the date of the last violation. If a licensee has received two or more sustained violations of this Chapter during the term of their license, their license shall be revoked. Any subsequent sustained violation of this Subsection will extend that twelve (12) month period for an additional six (6) months. The County may enforce any violation of this paragraph as a public nuisance and may take all reasonable actions consistent with law to abate that public nuisance, including injunctive relief.

- F. The remedies provided herein are cumulative to all other administrative, civil, and criminal remedies now or hereafter available to abate or otherwise regulate or prevent public nuisances or criminal activity.
- G. All County officers with authority to enforce this Code shall also have the authority to enforce this Section.

Section 130.43.108 Destruction

- A. **Destruction Under State Law.** Any industrial hemp crop that does not meet the requirements of Division 24 of the Food and Agricultural Code shall be destroyed consistent with 3 CCR 4950 et seq, including the submittal of a destruction plan and destruction report to the Commissioner. If the Commissioner, after review, determines that the industrial hemp plants were not destroyed, the Commissioner shall cause the crops to be destroyed consistent with state law and charge the licensee the full costs of the abatement.
- B. **Destruction Under This Chapter.** Any industrial hemp crop that does not meet the requirements of this Chapter shall, after an abatement order is issued, be destroyed consistent with the procedures set out in 3 CCR 4950 et seq., including the submittal of a destruction plan and destruction report to the Commissioner. If the Commissioner, after review, determines that the industrial hemp plants were not destroyed, the Commissioner shall cause the crops to be destroyed consistent with state law and charge the licensee the full costs of the abatement.

Section 130.43.109 No Duty to Enforce

Nothing in this Chapter shall be construed as imposing on the Agricultural Commissioner, the Sheriff, the District Attorney, or any officer or employee of the County to enforce any provision of this Chapter or to take any action regarding alleged violations of this Chapter. Furthermore, the Agricultural Commissioner, Sheriff, District Attorney, County, and any of their officers or employees shall not be held liable for failure to abate any violation of this Chapter, to prosecute a violation of this Chapter, or to take any other action regarding any violation of this Chapter.

Section 130.43.110 No Licenses Issued on or After January 1, 2025

- A. Notwithstanding any other provision of this Chapter, the Agricultural Commissioner shall not issue any license for the cultivation of industrial hemp on or after January 1, 2025, unless that date is extended by the Board of Supervisors.
- B. Effective January 1, 2025, a person or entity shall not cultivate, process, or manufacture, industrial hemp for any purpose within the unincorporated areas of the County of El Dorado, except that a licensee who was issued a license and registration before January 1, 2025, may finish cultivation activities consistent with the terms of that license and registration. Effective January 1, 2025, the Agricultural Commissioner, and any other County official or employee, shall not issue any County permit, registration, or approval of any type to authorize the cultivation or processing of industrial hemp for any purpose within the unincorporated areas of the County. The prohibition shall supersede the provisions of the Section 130.30.290 (Right to Farm) and another provision of the County Code to the contrary. A violation of this Subsection is a misdemeanor and is subject to enforcement under Section 130.43.107 (Enforcement).

Section 5. Severability

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 6. California Environmental Quality Act

The adoption of this Ordinance is exempt under California Environmental Quality Act (CEQA) based on CEQA Guidelines 15307, 15308, 15060(c)(2), and 15061(b)(3) as it can be seen with certainty that there is no possibility that the actions authorized by this limited term pilot program will have a significant effect on the environment, these actions will not result in a direct or reasonably foreseeable indirect physical change in the environment as compared to other agricultural crops, and these actions will assure the maintenance, restoration, or enhancement of natural resources and the environment as compared to existing state laws governing hemp. In addition, the Ordinance is also exempt under CEQA Guideline 15306 because this ordinance establishes a limited term pilot program for the purposes of information collection regarding hemp cultivation, applies to lands that allow agricultural uses as a principal use, is limited to only 5 licensees, and will not result in a serious or major disturbance to an environmental resource as compared to any other existing agricultural crop.

Section 7. Effective Date

Pursuant to California Government Code section 25123, this ordinance shall become effective thirty (30) days from the date of final passage by the Board of Supervisors.


PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 1st day of November 2022, ~~2020~~, by the following vote of said Board:

ATTEST

Ayes: Thomas, Hidahl, Turnboo, Novasel

Kim Dawson

Clerk of the Board of Supervisors

By 
Deputy Clerk

Noes: Parlin

Absent: None


Lori Parlin

Chair, Board of Supervisors

APPROVED AS TO FORM
DAVID LIVINGSTON
COUNTY COUNSEL

By: 

Daniel S. Vandekoolwyk
Deputy County Counsel