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1 through extensive investigation and efforts by the Agriculture/Weights & Measures  
2 Department and Sheriff's Department, that a majority of the registered industrial hemp  
3 sites in the unincorporated County are operating in violation of state law and as a  
4 masquerade for illegal cannabis cultivation. These illegal cultivation sites have  
5 overwhelmed County resources and negatively impacted the wellbeing of the County's  
6 citizens. Accordingly, the County finds that planning and zoning regulations are needed  
7 in order to properly regulate and mitigate these adverse impacts.

8 (d) State law and regulations require an industrial hemp cultivator to comply  
9 with numerous testing and reporting requirements throughout the cultivation process.  
10 Despite these requirements, the vast majority of registered hemp cultivators fail to submit  
11 nearly all of the required reports and testing results. The County Agricultural  
12 Commissioner needs greater authority to revoke registrations and deny renewals from  
13 cultivators that fail to comply with Federal law, State law, and the County Code.

14 (e) Hemp and cannabis are both derivatives of the same plant Cannabis sativa  
15 Linnaeus which are virtually indistinguishable. (Cal. Bus. & Prof. Code § 26001(f), Cal.  
16 Food & Ag. Code § 81000(a)(6).) The primary difference between the plants is the amount  
17 of tetrahydrocannabinol present, which is detectable through laboratory testing. However,  
18 THC levels are difficult to reliably test until the plant is close to maturity and ready for  
19 harvest.

20 (f) It is the intent of the Board of Supervisors, in enacting this Chapter, to  
21 ultimately establish a well-regulated hemp industry, in order to effectively and efficiently  
22 eliminate illegal hemp and cannabis operations and to eliminate access to illegal and  
23 untested hemp and cannabis, and to protect the health, life, safety and general welfare  
24 of residents, particularly vulnerable minors.

25 (g) Hemp and cannabis activities are, and likely will remain, highly regulated by  
26 both the State and Federal governments, and their regulations are subject to rapid  
27 changes.

28 ///

SECTION 2. Chapter 16 is added to Division 3 of Title 3 of the San Bernardino County Code to read in its entirety as follows:

**CHAPTER 16: INDUSTRIAL HEMP AGRICULTURAL REGISTRATION AND REGULATIONS**

**Section**

**33.16.010 Purpose.**

**33.16.020 Definitions.**

**33.16.030 County Agricultural Commissioner Registration.**

**33.16.040 Cultivation Requirements.**

**33.16.050 Inspection and Sampling Program.**

**33.16.060 Registration Revocation or Non-Renewal.**

**33.16.070 Registration Revocation Appeal.**

**33.16.080 Destruction of Non-Compliant Industrial Hemp Crops.**

**33.16.090 Abatement Costs and Bond.**

**33.16.100 Fees.**

**33.16.110 Administration and Enforcement.**

**33.16.120 Registered Hemp Entity Responsible for Violations.**

**33.16.130 Limitations on County Liability.**

**33.16.010 Purpose.**

The purpose of this Chapter is to regulate industrial hemp cultivation within the unincorporated area of the County to promote agricultural diversification while protecting the environment, public safety, welfare of the County, and preventing the unlawful cultivation of cannabis under the guise of industrial hemp. Provisions of this Chapter are in addition to any other permits, licenses and/or approvals which may be required to conduct business in the County, including those found in Title 8 (the Development Code), and are in addition to any permits, licenses, registrations and/or approvals required under Federal, State or other law. All registered hemp entities must comply with the provisions

of this Chapter and all applicable provisions of Federal and State law and all associated regulations, as may be amended.

**33.16.020 Definitions.**

The definitions in this Section are intended to apply to this Chapter only. Any term which is not specifically defined herein shall have the definition as provided by Chapter 2, Division 1 of Title 1 of the County Code.

**County.** Refers to San Bernardino County, as a political subdivision or entity of the State of California and/or, as it relates to the land or jurisdiction to which this Chapter applies, refers to the unincorporated area of San Bernardino County.

**Cultivation.** Any activity involving the propagation, planting, growing, breeding, harvesting, drying, curing, or other development of industrial hemp plants or propagative material. Cultivation shall not include the manufacture or retail sale of industrial hemp or industrial hemp products.

**Cultivation site.** Contiguous land area on which the applicant plans to engage in industrial hemp cultivation, storage, or both.

**Enforcement officer.** Shall have the same meaning as defined in Section 11.0202 of the County Code.

**Industrial hemp.** Shall have the same meaning as defined in Section 81000 of the California Food and Agricultural Code, and as hereafter amended.

**Industrial hemp activity or activities.** Includes, but is not limited to the cultivation, possession, distribution, manufacture, storage, laboratory testing, packaging, labeling, transportation, delivery, dispensing or wholesale of industrial hemp. Industrial hemp activities do not include the retail sale of industrial hemp or industrial hemp products to the public.

**Person.** Means without limitation, any natural person, firm, association, club, organization, corporation, partnership, business, trust, company or other entity.

**Registered hemp entity.** Any person who has properly registered an industrial hemp activity with the County. This includes any individual, firm, partnership, joint venture,

association, corporation, limited liability company, estate, trust, business, business trust, receiver, syndicate, collective, cooperative, institution, or any other group or entity, or combination acting as a unit.

**33.16.030 County Agricultural Commissioner Registration.**

(a) Before cultivating industrial hemp within the County, a person must register with the County Agricultural Commissioner and comply with the registration requirements of Food and Agricultural Code Sections 81003 through 81005.

(b) The County Agricultural Commissioner may refuse to accept a registration, including a renewal registration, for any premises upon which an industrial hemp activity is being conducted, or is proposed to be conducted, in violation of this Chapter.

(c) Every applicant for an industrial hemp registration must show proof of ownership or a notarized lease agreement to show they have the present ability to cultivate or manufacture on the property subject to the applicable entitlements. In addition to the notarized lease agreement, an applicant that does not own the property where industrial hemp is to be grown must submit a notarized form from the owner with their registration application acknowledging that industrial hemp is to be grown on the property and that the owner understands that any violations of this Chapter may result in all applications to cultivate industrial hemp on their property being denied pursuant to Section 33.16.110 (Administration and Enforcement).

(d) The person who registers to cultivate industrial hemp pursuant to this Chapter must provide photographic identification, in a form acceptable to the County Agricultural Commissioner, with their registration for copying and keeping by the County Agricultural Commissioner. If the person is a sole proprietor, a partnership, a limited liability corporation, or any other type of corporate form, photographic identification for all key participants, as defined by Section 4902 of Title 3 of the California Code of Regulations, shall be required.

(e) No registration or renewal shall be granted without the proper entitlements first being issued for the property as required by Title 8 of the County Code (the

Development Code).

(f) The acceptance of a registration pursuant to this Chapter shall not be deemed or construed to be a permit for or approval of any violation of this Chapter.

(g) Every applicant required to submit a bond pursuant to Section 33.16.090 shall submit a bond or other form of security acceptable to the County Agricultural Commissioner in the amount of one hundred percent (100%) of the estimated cost to fully abate all industrial hemp that will be grown on the site in the event that it does not meet requirements for legal harvest under applicable laws and regulations. The financial security provided shall be released to the applicant after the County Agricultural Commissioner determines that the security is no longer needed or once the registration is no longer valid.

(h) The acceptance of a registration shall not prevent an enforcement officer from thereafter requiring correction of a violation or from preventing the industrial hemp activity being carried out when in violation of this Chapter.

(i) A registration issued by the County Agricultural Commissioner under this Chapter does not grant any entitlement or interest in real property, nor does it create any interest of value, and it does not run with the land. A person that has obtained a registration from the County Agricultural Commissioner shall not transfer ownership or control of the registration to another person as the registration is non-transferable and automatically terminates upon transfer of ownership. Any attempt to transfer ownership shall cause the registration to be automatically revoked.

#### **33.16.040 Cultivation Requirements.**

The following standards shall apply to the cultivation of industrial hemp:

(a) A registered hemp entity shall comply with all provisions of Federal law, California law, associated regulations applicable to the cultivation of industrial hemp, including, but not limited to, requirements for cultivation, sampling, laboratory testing, harvesting, and crop destruction.

(b) A registered hemp entity shall submit all reports required by California law

1 and associated regulations, including, but not limited to a planting report, pre-harvest  
2 report, harvest report, and destruction report. All reports must be submitted to the County  
3 Agricultural Commissioner within the timeframes required by the Food & Agricultural  
4 Code and associated regulations.

5 (c) All sites used for the cultivation of industrial hemp shall have onsite signage  
6 indicating that hemp is being cultivated on site. The signs shall:

7 (1) Be of a size so that the wording on the sign is clearly visible and  
8 readable from a distance of twenty-five (25) feet; and

9 (2) Use letters and symbols, that are of a color that sharply contrasts  
10 with their immediate background; and

11 (3) Have the name and contact information for the responsible party for  
12 the grow site; and

13 (4) Be posted at the corners of the parcel and at all usual points of entry  
14 to the parcel.

15 (d) The registered hemp entity shall be actively registered with the County  
16 Agricultural Commissioner

17 **33.16.050 Inspection and Sampling Program.**

18 (a) All cultivation sites are subject to inspection and sampling by the County  
19 Agricultural Commissioner and the Sheriff, or their designees, to verify compliance with  
20 all laws including that the delta-9 tetrahydrocannabinol concentration of the hemp planted  
21 on site does not exceed 0.3% on a dry weight basis. The County Agricultural  
22 Commissioner or Sheriff may select any and all registered hemp entities for inspection.

23 (b) The County Agricultural Commissioner and/or Sheriff may inspect and take  
24 samples from any site during normal business hours without advance notice. The County  
25 Agricultural Commissioner and/or Sheriff may also conduct such additional inspection and  
26 sampling to verify compliance with this Chapter and all Federal and State laws and  
27 regulations. Testing shall be in conformance with State requirements.

28 (c) A sample test result with a delta-9 concentration on a dry weight basis

greater than 0.3% shall constitute evidence that at least one hemp plant or part of a plant on the cultivation site contains a delta-9 concentration on a dry weight basis of more than 0.3% and that the registered hemp entity is not in compliance with this Chapter or State or Federal law. Sample test results with a delta-9 concentration on a dry weight basis greater than 0.3% shall be provided to the appropriate law enforcement agencies.

**33.16.060 Registration Revocation or Non-Renewal.**

An industrial hemp cultivation registration may be revoked or not renewed by the County Agricultural Commissioner in the following situations:

(a) If the County Agricultural Commissioner determines, after conducting State approved testing, that industrial hemp is being grown with a delta-9 tetrahydrocannabinol concentration of 3 percent or greater on a dry weight basis;

(b) If, after first confirming that an industrial hemp crop has been planted, it is discovered by the County Agricultural Commissioner that the industrial hemp crop has been harvested, destroyed, or in any way removed from a cultivation site without submitting a pre-harvest report and harvest report as required by Title 3 of the California Code of Regulations Sections 4940 and 4946 or a destruction report as required by Title 3 of the California Code of Regulations Section 4950;

(c) Industrial hemp crops being removed from a property while an enforcement officer is in the process of testing samples for delta-9 tetrahydrocannabinol concentration pursuant to Section 33.16.110(b);

(d) If a registered hemp entity fails to provide an enforcement officer with complete and unrestricted access during business hours to all industrial hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all industrial hemp and other cannabis plants, and all locations registered as a cultivation site;

(e) Falsifying a criminal history report required by Title 3 of the California Code of Regulations Section 4902(b);

(f) Failing to pay all abatement costs required by Section 33.16.100;



(g) Where a registered hemp entity commits a negligent violation three times in a five-year period. For purposes of this Section, a negligent violation includes:

(1) Growing an industrial hemp crop with a delta-9 tetrahydrocannabinol concentration greater than 1 percent, but less than 3 percent, on a dry weight basis;

(2) Failing to provide a legal description of the land on which industrial hemp is grown;

(3) Failing to register as required by Section 33.16.030; or

(4) Failing to provide signage at the grow site identifying it as industrial hemp cultivation.

(h) For purposes of subdivision (g), the County Agricultural Commissioner will provide the registered hemp entity a corrective action plan with a reasonable date by which the registered hemp entity shall correct the negligent violation. Failing to comply with the corrective action plan and applicable deadlines will be presumed an intentional violation of this Chapter and subject the registered hemp entity to revocation of their registration.

(i) If a registration is revoked pursuant to this Section, a registered hemp entity shall not be permitted to reapply or renew their application for three years.

### **33.16.070 Registration Revocation Appeal.**

Notwithstanding any other administrative procedure of this jurisdiction, and unless otherwise specified by State law or within this Code, the following administrative procedure shall be applied for all County Agricultural Commissioner hearings pertaining to the revocation or non-renewal of an industrial hemp cultivation registration issued pursuant to Section 33.16.030.

(a) An appeal made under this Section shall be made in writing, addressed to the County Agricultural Commissioner, within 30 calendar days of notice of the denial, suspension, or revocation of the industrial hemp cultivation registration.

(b) The hearing officer shall be appointed by the County Agricultural Commissioner to hear such appeals. Any such appointee shall be a person who has no

1 knowledge of the facts of the particular case at the outset of the hearing, and a person  
2 not immediately involved with enforcement activities pertaining to industrial hemp  
3 cultivation. As an alternative to the preceding, the County Agricultural Commissioner may  
4 instead contract with the Office of Administrative Hearings of the State of California  
5 pursuant to Government Code Section 27727.

6 (c) The hearing shall be held within 45 calendar days after receipt of a request  
7 for a hearing. Upon written request of the permit holder, the hearing officer may postpone  
8 the hearing date or it may be postponed or continued by stipulation of the parties. If the  
9 party notified does not respond or appear, no further hearing procedure shall be required.

10 (d) At the hearing, the registered hemp entity shall be given an opportunity to  
11 review the County Agricultural Commissioner's evidence and to present evidence on its  
12 own behalf. Any witness shall swear or affirm to tell the truth. The hearing need not be  
13 conducted according to technical rules relating to evidence and witnesses. Any relevant  
14 evidence shall be admitted if it is the sort of evidence on which responsible persons are  
15 accustomed to rely in the conduct of serious affairs, regardless of the existence of any  
16 common law or statutory rule which might make improper the admission of the evidence  
17 over objection in civil actions. Hearsay evidence may be used for the purpose of  
18 supplementing or explaining other evidence, but shall not be sufficient in itself to support  
19 a finding unless it would be admissible over objection in civil actions. The rules of privilege  
20 shall be effective to the extent that they are otherwise required by statute to be recognized  
21 at the hearing and irrelevant and unduly repetitious evidence shall be excluded.

22 (e) If an administrative hearing is requested, a proposed decision and order  
23 shall be made by a hearing officer within 60 calendar days of the conclusion of the  
24 hearing. The final decision and order shall be made by the County Agricultural  
25 Commissioner. This order shall be mailed to the appealing party and is effective as of  
26 the date on the notice.

27 **33.16.080 Destruction of Non-Compliant Industrial Hemp Crops.**

28 (a) Industrial hemp that does not comply with all provisions of Federal law,

1 State law, this Chapter and the associated regulations applicable to the cultivation of  
2 industrial hemp, including, but not limited to, requirements for cultivation, laboratory  
3 testing, harvesting, destructions, and reporting, shall be destroyed.

4 (b) Destruction shall proceed as provided for in all applicable laws and  
5 regulations, including, but not limited to, California Food and Agricultural Code section  
6 81006 and California Code of Regulations, Title 3, sections 4950 and 4950.1, as may be  
7 amended.

8 (c) A registered hemp entity that fails to destroy industrial hemp as described  
9 in the approved destruction plan shall forfeit the bond required by this Chapter up to the  
10 amount that is necessary to reimburse all actual costs of County initiated abatement and  
11 the County Agricultural Commissioner shall proceed to destroy the non-compliant hemp.

12 (d) Industrial hemp that is non-compliant or has been abandoned by the  
13 registered hemp entity shall be abated in a manner approved by the County Agricultural  
14 Commissioner. The registered hemp entity and the property owner shall be liable for all  
15 costs incurred by the County to abate the non-compliant hemp beyond the amount of the  
16 forfeited bond. In the event that no bond was required for issuance or renewal of the  
17 registration pursuant to Section 33.16.090(c), the registered hemp entity and property  
18 owner shall be liable for all costs incurred by the County.

19 (e) Once an industrial hemp crop is harvested, destroyed or removed, the  
20 registered hemp entity and the property owner, if different, are jointly responsible for  
21 abating all regrowth from the harvested or destroyed crop. Failure to comply will result in  
22 the County abating the property and the registered hemp entity and property owner, if  
23 different, will be severally liable for applicable costs.

24 **33.16.090 Abatement Costs and Bond.**

25 (a) County staff shall be reimbursed for all time, services, and materials  
26 required to implement, administer, and enforce this Chapter, Federal law, State law, and  
27 all applicable regulations associated with the cultivation, testing, etc. of hemp.

28 (b) An applicant's or registered hemp entity's failure to pay all fees attributable

to County costs incurred pursuant to this Chapter shall be cause for denial or non-renewal of a registration until all outstanding obligations have been paid in full.

(c) A bond in the amount of \$1,250 per acre shall be submitted upon issuance or renewal of the registration to reimburse the County for the cost of destruction in the event that the applicant or registered hemp entity does not adequately destroy the hemp in a manner approved by the County Agricultural Commissioner and consistent with the provisions of this Chapter, Federal law, State law and all applicable regulations, and any other costs incurred by the County Agricultural Commissioner as a result of this Chapter. Existing registered hemp entities with a valid registration at the time of the effective date of this ordinance may continue cultivation of industrial hemp, at the existing cultivation site identified on the registration, without payment of this bond provided the registered hemp entity timely renews and continues to maintain a valid hemp registration. Should a registration expire, be suspended, not be renewed or be revoked pursuant to Section 33.16.060, any subsequent registration will require payment of this bond.

(d) The registered hemp entity will be charged for the Commissioner to witness destruction, mileage, and direct and indirect labors costs and materials associated with the destruction.

### **33.16.100 Fees.**

Pursuant to Section 81005 of the California Food and Agricultural Code, the Board of Supervisors may establish a schedule of fees, in an amount necessary to cover the costs of the County Agricultural Commissioner and the County in implementing, administering, and enforcing the provisions of Federal, State, and local laws, regulations and ordinances pertaining to industrial hemp. Such fees may include, but are not limited to, costs for licensing, inspections, monitoring, sampling, testing, enforcement, and abatement/destruction. Said fees may be updated from time to time by the Board of Supervisors. Failure to pay all fees attributable to County costs incurred as a result of the cultivation or manufacturing of industrial hemp shall serve as a basis for suspension, revocation or nonrenewal of the registration with the County Agricultural Commissioner

1 until all outstanding fees are paid in full.

2 **33.16.110 Administration and Enforcement.**

3 (a) *Administration.* The County Agricultural Commissioner, Sheriff, or their  
4 respective designees, are charged with the responsibility of administering and exercising  
5 the authority conferred under this Chapter, as applicable. The County Agricultural  
6 Commissioner, or their respective designees, are authorized to establish additional rules,  
7 regulations, or standards governing the issuance or denial of industrial hemp cultivation  
8 registrations, the ongoing operation of industrial hemp cultivation, and the County's  
9 monitoring and inspection activities if the rule, regulation, or standard is necessary to  
10 carry out the purposes of this Chapter.

11 (b) *Consent to entry, inspection and additional testing.* Registered hemp  
12 entities consent, as a condition of the issuance of any industrial hemp registration, to the  
13 entry by enforcement officers to make such inspections and to take such actions as may  
14 be necessary to enforce the provisions of this Chapter. To the extent reasonably  
15 necessary to verify that the industrial hemp contains less than .3 percent  
16 tetrahydrocannabinol concentration, registered hemp entities consent to additional testing  
17 by enforcement officers, which shall be at the cost and expense of the registered hemp  
18 entity. If samples are taken for testing, the County Agricultural Commissioner and/or  
19 Sheriff, or their designees, may issue an order to the registered hemp entity requiring that  
20 no industrial hemp be removed or harvested from the property until testing results are  
21 returned or 10 days, whichever occurs first.

22 (c) *Violations.* Every violation of this Chapter shall constitute a separate  
23 violation and shall be subject to all remedies and enforcement measures authorized by  
24 Chapter 2, Division 1 of Title 1 of the County Code.

25 (d) *Compliance with Federal, State and Local Laws.* It shall be the responsibility  
26 of the owners and employees of the registered hemp entity to ensure that it is, at all times,  
27 operating in a manner compliant with all applicable Federal, State and local laws and/or  
28 regulatory, licensing or certification requirements, and any specific, additional operating

procedures or requirements which may be imposed by the County.

**33.16.120 Registered Hemp Entity Responsible for Violations.**

The registered hemp entity shall be responsible for any and all violations of Federal, State and/or local laws, as well as any regulations promulgated under this Chapter, whether committed by the registered hemp entity, any employee or agent of the registered hemp entity.

**33.16.130 Limitations on County Liability.**

To the fullest extent permitted by law, the County shall not assume any liability whatsoever with respect to having registered any industrial hemp entity pursuant to this Chapter.

SECTION 3. The Board declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion of it irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions of it be declared invalid and unconstitutional. If for any reason any portion of this Ordinance is declared invalid or unconstitutional, then all other provisions of it shall remain valid and enforceable.

SECTION 4. This ordinance shall take effect thirty (30) days from the date of adoption.

---

CURT HAGMAN, Chairman  
Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY  
OF THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIRMAN OF THE BOARD

LYNNA MONELL, Clerk of the  
Board of Supervisors

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1 STATE OF CALIFORNIA )  
2 ) ss.  
3 COUNTY OF SAN BERNARDINO )

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County,  
5 State of California, hereby certify that at a regular meeting of the Board of Supervisors of  
6 said County and State, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at which meeting  
7 were present Supervisors: \_\_\_\_\_

8 and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to  
9 wit:

10 AYES: SUPERVISORS:

11 NOES: SUPERVISORS:

12 ABSENT: SUPERVISORS:

13 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal  
14 of the Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2022.

15 LYNNA MONELL, Clerk of the  
16 Board of Supervisors of  
17 San Bernardino County,  
18 State of California

19 \_\_\_\_\_  
20 Deputy

21 Approved as to Form:

22 TOM BUNTON  
23 County Counsel

24 By: \_\_\_\_\_  
25 JOLENA E. GRIDER  
26 Deputy County Counsel

27 Date: \_\_\_\_\_  
28