

ORDINANCE NO. 3414

AN ORDINANCE AMENDING TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE, THE LAND USE ORDINANCE, BY AMENDING VARIOUS SECTIONS REGARDING INDUSTRIAL HEMP ACTIVITIES

The Board of Supervisors of the County of San Luis Obispo, State of California, ordains as follows:

SECTION 1: Section 22.06.030.C, Table 2-2 – Allowable Land Uses and Permit Requirements, of the San Luis Obispo County Code is amended to read as follows (for the new land use subcategory listed below only, uses not listed are not amended by this section):

TABLE 2-2 - ALLOWABLE LAND USES AND PERMIT REQUIREMENTS

	Permit Requirements by L.U.C. (3)						Specific Use Standards
	AG (8) Land Use (1) (2) (10)	RL	RR	RS	RSF	RMF	
Agriculture, Resource, and Open Space Uses							
Zoos - Private, no display open to public	MUP	MUP	MUP				22.30.100
Zoos - Open to public							22.30.100
Animal Keeping	A2	A2	A2	A2	A2	A2	22.32.090
Cannabis Activities (4)	A2	A2	A2	A2 (11)	A2 (11)		22.40
Crop Production and Grazing	A1	A1	A2	A2	A2	A2	22.30.200
Industrial Hemp Cultivation	A2	A2	A2				22.30.244
Energy-generating facilities (9)	A2	A2	A2	A2	A2	A2	22.32
Fisheries and Game Preserves	A1	A1	A1				

SECTION 2: Section 22.06.040 - Exemptions From Land Use Permit Requirements, is hereby amended to read as follows (for the uses listed in subsection E.2. below only; uses not listed are not amended by this section):

E. Agricultural uses:

2. Crop production and grazing. No land use permit is required for crop production, provided that Industrial Hemp Cultivation is subject to the standards of Section 22.30.244, and where an Agricultural Offset Clearance is required for New or Expanded Irrigated Crop Production that overlies the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin), as shown in Figure 6-1. No land use permit is required for grazing activities where allowable, provided that feedlots are subject to the standards of Section 22.30.100 (Livestock Specialties - Intensive).

SECTION 3: Section 22.80.030 – Definitions of Land Uses, and Specialized Terms and Phrases of the San Luis Obispo County Code, is hereby amended to read as follows (for the definitions listed below only; definitions not listed are not amended by this section):

Crop Production and Grazing (land use). Agricultural uses including production of grains, field crops, industrial hemp, vegetables, melons, fruits, tree nuts, flower fields and seed production, ornamental crops, tree and sod farms, associated crop preparation services and harvesting activities including but not limited to mechanical soil preparation, irrigation system construction, spraying, crop processing and sales in the field not involving a permanent structure. In the field sales of industrial hemp are prohibited. Does not include the production of cannabis, which is included under “Cannabis Cultivation”. Also includes the raising or feeding of beef cattle, sheep and goats by grazing or pasturing. Does not include cattle feedlots, which are included under "Animal Facilities." The distinction between feedlots and grazing operations is established by Chapter 22.30. See also, "Animal Keeping."

Industrial Hemp. As defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code, as they may be amended.

Industrial Hemp Cultivation (land use). Any activity involving the planting, growing, harvesting, or field drying of industrial hemp.

Indoor Industrial Hemp Cultivation. The cultivation of hemp within a permanent structure using a combination of natural light, light deprivation, and/or artificial lighting. Indoor Industrial Hemp Cultivation does not include cultivation within a hoop structure.

Industrial Hemp Processing. The drying, curing, trimming, packaging and preparing for further processing within a permanent building (not a hoop house or similar non-permanent structure); considered an agricultural processing use.

Industrial Hemp Transplant. An industrial hemp cultivar grown from seed or clonal

propagation for the purpose of planting at a separate location away from its original place of production. Plants are limited to the germination and vegetative stages; plants entering any portion of the budding or flowering stage do not meet the definition of “Industrial Hemp Transplant”.

SECTION 4: Section 22.30.070 - Agricultural Processing Uses, of the San Luis Obispo County Code is hereby amended to read as follows (for subsections A and D listed below only; sections not listed are not amended by this section):

A. Permit requirements.

1. Minor Use Permit approval is required for agricultural processing activities, including but not limited to wineries, packing and processing plants, fertilizer plants, commercial composting, and industrial hemp processing, unless Section 22.08.030 (Project-Based Permit Requirements) or Subsection D. would otherwise require Conditional Use Permit approval.

D. Standards for specific uses

5. Industrial Hemp Processing. For the purposes of this section the processing of industrial hemp is limited solely to drying, curing, trimming, packaging and preparing for further processing within a permanent building (not a hoop house or similar non-permanent structure). The harvesting of industrial hemp grown onsite that is performed in the field with mobile equipment not involving permanent buildings, hoop houses, or trailers is included under Crop Production and Grazing and subject to the standards set forth under 22.30.244. Industrial hemp processing does not include cannabinoid extraction and infusion and manufacturing of finished products. Extraction of cannabinoids from industrial hemp is considered Chemical Manufacturing. Manufacturing of finished hemp products are classified under existing Industry, Manufacturing, and Processing uses according to their end product and scale of operations. For example and not limitation, manufacturing of CBD infused chemical products would be considered Chemical Manufacturing, hemp cloth manufacturing would be classified as Textile products and manufacturing of CBD infused food and beverage products, once allowed under state law, would be included under Food and Beverage products.

a. Location. Industrial hemp processing is only allowed in the Agriculture (AG), Rural Lands (RL), Commercial Service (CS), Residential Rural (RR), and Industrial (IND) land use categories.

b. Nuisance Odors. All Industrial hemp processing facilities shall be sited and/or operated in a manner that prevents hemp nuisance odors from being detected offsite. An odor management plan shall be submitted with the use permit application that demonstrates how nuisance odor will be controlled

to be undetectable offsite.

- C. Design standards.** In the Agriculture and Rural Lands land use categories, all new structures associated with onsite Industrial hemp processing shall have an exterior design style that is agricultural or residential in nature. Structures shall not use an exterior design style typically associated with large industrial facilities.

SECTION 5: Section 22.30.244 – Industrial Hemp Cultivation, of the San Luis Obispo County Code is hereby added to read as follows:

22.30.244 - Industrial Hemp Cultivation

A. Limitation on use.

1. Industrial hemp cultivation (indoor and outdoor) may be allowed in the Agriculture (AG) and Rural Lands (RL)
2. Industrial hemp cultivation in Residential Rural (RR) land use categories is limited to indoor cultivation of industrial hemp transplants.
- ~~3.~~ Outdoor industrial hemp cultivation is limited to sites of four-hundred (400) acres or larger. Indoor industrial hemp cultivation is limited to sites of five (5) acres or larger.
4. Outdoor industrial hemp cultivation in the Residential Rural (RR) land use category is prohibited.

B. Permit Requirements.

No permit required.

C. Cultivation Standards

1. **Location Standards.** The location standards in this Section shall be measured from the location of the proposed outdoor or indoor hemp cultivation to the nearest point of the existing sensitive use or area boundary. A new adjacent use does not affect the continuation of an existing use that was legally established under the standards of this Section.
 - a. **Outdoor Industrial Hemp.** Outdoor industrial hemp cultivation shall not be located within two-thousand (2,000) feet from adjacent property lines and one-mile from Urban Reserve Lines (URL), and Village Reserve Lines (VRL). For any properties adjoining parcels located within the jurisdiction of another agency and the agency allows industrial hemp cultivation, the

setback shall be the lesser of the setback set forth above or the setback required by the other agency. For any properties adjoining parcels located within the jurisdiction of another agency and the agency does not allow industrial hemp cultivation, the setback set forth above shall control.

- b. **Indoor Industrial Hemp.** Indoor industrial hemp cultivation shall be within a fully enclosed permitted building or greenhouse that has been setback as set forth in Section 22.30.060. In addition, indoor hemp cultivation shall be setback 100 feet from any existing offsite residences of separate ownership.
- c. All industrial hemp cultivation shall be setback at least 50 feet from the upland extent of riparian vegetation of any watercourse, and 100 feet from any wetland.
- d. **Exclusion Area.** The cultivation and processing of industrial hemp is prohibited within the unincorporated portions of the Edna Valley American Viticultural Area recognized in Title 27 of the Code of Federal Regulations Part 9.35 and more particularly described as follows:

(1) From Cuesta Canyon County Park, located on U.S.G.S. map "San Luis Obispo Quadrangle" at the north end of Section 25, Township 30 South, Range 12 East, the boundary runs southwesterly along San Luis Obispo Creek to a point .7 mile southerly of the confluence with Davenport Creek;

(2) Thence due east to the intersection with the 400-foot contour line of the northeastern flank of the San Luis Range;

(3) Thence in a generally easterly and then a southeasterly direction along this 400-foot contour line of the northeastern flank of the San Luis Range, which forms the southwestern rim of Edna Valley, to the township line identified as "T31S/T32S" on the U.S.G.S. map;

(4) Thence east along township line "T31S/T32S", across Price Canyon to Tiber;

(5) Thence in a generally easterly direction along the 400-foot contour line of Tiber Canyon and the southern rim of Canada Verde, crossing Corbit Canyon Road and continuing along the 400-foot contour line to longitude line 120°32'30";

(6) Thence north along longitude line 120°32'30" to the 600-foot contour line of the southwestern flank of the Santa Lucia Mountain Range;

(7) Thence in a generally northwesterly direction along the 600-foot contour line of the southwestern flank of the Santa Lucia Range to Cuesta Canyon County Park, the beginning point.

2. **Nuisance Odors.** All structures utilized for indoor hemp cultivation shall be equipped and/or maintained with sufficient ventilation controls (e.g. carbon scrubbers) to eliminate nuisance odor emissions from being detected offsite.
3. **State Industrial Hemp Registration.** Applicants must satisfy the registration requirements specified in the California Food & Agricultural Code. Applicants must submit those registration materials to the Agricultural Commissioner in accordance with state laws and regulation. The registration materials must be accompanied by all required fees.
4. Industrial hemp cultivation is prohibited in hoop houses.

D. Enforcement

The remedies provided by this Subsection are cumulative and in addition to any other remedies available at law or in equity.

1. Inspection

All industrial hemp operations in the unincorporated territory of San Luis Obispo County are subject to review and inspection at any time, including crop and/or product testing by agents of the County of San Luis Obispo Sheriff's Department, Code Enforcement, and Department of Agriculture / Weights and Measures.

2. Violations

Any violation of County Code or state law related to industrial hemp constitutes a public nuisance and shall be subject to the enforcement procedures and provisions set forth in Chapters 22.40 and 22.74 of this Code and by any other means available by law. In the event any test of industrial hemp grown by an industrial hemp operation who holds a valid registration with the County Agricultural Commissioner's Office pursuant to Food and Agricultural Code section 81000 et seq. indicates a tetrahydrocannabinol (THC) content greater than that established under Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code, as they may be amended, that crop shall not constitute a violation of County Code so long as the remedial actions required or available under state law are being followed by the registrant and verified by the County Agricultural Commissioner's Office in compliance with state law, and the operation otherwise complies with the standards of this Section.

SECTION 6: Section 22.74.150 – **Nuisance Abatement of the San Luis Obispo County Code** is amended to read as follows (for the sections listed below only; sections not listed are not amended by this section):

G. Cannabis Activity and Industrial Hemp Related Violations. Pursuant to

Government Code sections 25845, subdivision (i) and 27721, the duties and powers of the Board of Supervisors under Section 22.74.150 are hereby delegated to the Cannabis Hearing Officer, established under Section 22.40.130.C, for all violations of Titles 6, 8, 19 or 22 of this Code which relate to or arise from a cannabis or industrial hemp activity in the County's discretion, whether or not such cannabis or industrial hemp activity is ongoing, dormant or abandoned. Such duties and powers include conducting abatement hearings and determination of post-abatement costs and assessments. For violations which relate to or arise from a cannabis or industrial hemp activity, the Code Enforcement Officer is not required to first pursue the procedures of Section 22.74.105 or send a Notice of Nuisance under Section 22.74.150.C, and instead, upon a determination that a nuisance exists, may proceed immediately with a Notice of Nuisance Abatement under Section 22.74.150.D, with a notice to appear before the Cannabis Hearing Officer at a stated time and place not less than 5 days after service of the notice, to show cause why stated conditions should not be found to be a nuisance, and why the nuisance should not be abated by the County. The foregoing notice may be consolidated with a notice of nuisance abatement under Section 22.40.130.B, and with a notice of violation and/or notice of fine under Sections 1.05.030 and 1.05.050. Notwithstanding Section 22.74.150.E.2.a, the Cannabis Hearing Officer may order that the owner or other affected person abate the nuisance within two (2) calendar days of the date of service of the decision of the Cannabis Hearing Officer, and, in the event the abatement is not completed, the Code Enforcement Officer is empowered and authorized to enter upon the property and abate the nuisance. Nuisances subject to abatement under this subsection include, but are not limited to: wood or chain link fences with tarp, plywood or similar screening; storage structures; raised or ground-level plant beds and pots; above ground water storage tanks or pools; hoop structures, greenhouses and frames, irrigation lines; generators; small and large machinery; manufacturing and processing equipment or implements; artificial lighting; pesticides; fertilizers; trash or refuse; and, tents, RVs or other unpermitted structures used for living quarters.

SECTION 7: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 8: Before the expiration of 15 days after the adoption of this ordinance by the San Luis Obispo County Board of Supervisors, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

SECTION 9: This Ordinance shall become effective thirty (30) days after its enactment by the Board of Supervisors.

SECTION 10: That the project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA.

SECTION 11: In accordance with Government Code Section 25131, after reading the title of this Ordinance, further reading of the Ordinance in full is waived.

SECTION 12: Interim/Urgency Ordinance No. 3393, and its extending ordinance, No. 3394, as they apply to the Inland portions of the County, shall be repealed and replaced upon this Ordinance becoming effective.

RECOMMENDED at a hearing of the San Luis Obispo County Planning Commission held on the 23rd day of January, 2020, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 5th day of May, 2020, by the following roll call to vote, to wit:

YES: Supervisors Debbie Arnold, Adam Hill, John Peschong, and Chairperson Lynn Compton

NOES: Supervisor Bruce S. Gibson

ABSENT: None

ABSTAINING: None

Lynn Compton

ATTEST:

WADE HORTON
Ex-Officio Clerk of the Board of Supervisors
San Luis Obispo County, State of California

By: Annette Ramirez
Deputy Clerk