

RESOLUTION NO. 2018-19

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF PROWERS, STATE OF COLORADO**

**RESOLUTION TO AMEND THE PROWERS COUNTY, COLORADO ZONING
REGULATIONS TO ADD NEW PROVISIONS REGARDING INDUSTRIAL
HEMP PRODUCTION AND PROCESSING.**

WHEREAS, pursuant to C.R.S. §§30-11-101(1)(e), 30-11-103, and 30-11-107(1)(e), the Board of County Commissioners of Prowers County, Colorado (hereinafter “Board” or “County”), has the legislative authority to manage the business and concerns of the County and to exercise such other and further powers as are conferred by law when deemed by the Board to be in the interests of the County and its inhabitants, and is further authorized by *inter alia*, C.R.S. §§30-28-101, *et seq.*, C.R.S. §§30-28-201, *et seq.*, and C.R.S. §§29-20-101, *et seq.*, to adopt regulations for the protection of public health, safety, and welfare of the inhabitants of Prowers County; and

WHEREAS, the Board has specific authority to regulate and designate matters of industrial hemp production and cultivation and to adopt and amend guidelines and regulations for hemp production and cultivation pursuant to C.R.S. §§24-65.1-101, *et seq.*, in Prowers County; and

WHEREAS, the Board has determined that the Prowers County Zoning Regulations adopted on February 16, 2006 and previously amended on April 12, 2012 should be amended to provide for industrial hemp production and cultivation and to adopt and amend guidelines and regulations for industrial hemp production and cultivation in Prowers County;

NOW THEREFORE, BE IT RESOLVED AND ORDERED:

That the Prowers County Zoning Regulations shall be amended to include the provisions set forth in Attachment 1, attached hereto and incorporated herein by reference, regarding industrial hemp production and cultivation.

That these said amendments are hereby declared to be effective upon the effective date of this Resolution.

That the County Attorney is authorized to make additional form and style revisions, including but not limited to spelling, numbering, statutory references and other conforming and non-substantive corrections, prior to public distribution and recording.

That the Prowers County Zoning Regulations adopted on February 16, 2006, as amended on April 12, 2012, shall be supplemented and amended by these amendments only as set forth in Attachment 1; shall constitute the now currently enacted and effective version; and shall be kept in the office of the Board of County Commissioners for Prowers County, Colorado, and the

Office of the Prowers County Land Use Administrator, there to be made available for public inspection.

BE IT FURTHER RESOLVED, that Ron Cook, duly elected, qualified member and Chair of the Board of County Commissioners, be and hereby is authorized and appointed on behalf of the Board to execute any and all documents necessary to carry out the intent of the Board as expressed herein.

Upon motion duly made and seconded, the foregoing Resolution was adopted by the following vote:

Commissioner Cook	<u>yes</u>
Commissioner Buxton-Andrade	<u>yes</u>
Commissioner Grasmick	<u>yes</u>

DONE this 20th day of December, 2018.

BOARD OF COUNTY COMMISSIONERS
OF PROWERS COUNTY, COLORADO

By Ron Cook
Ron Cook, Chairman

By Wendy Buxton-Andrade
Wendy Buxton-Andrade, Commissioner

By Tom Grasmick
Tom Grasmick, Commissioner

ATTEST:

By Anna Coen
County Clerk and Recorder

ATTACHMENT 1

AMENDMENTS TO PROWERS COUNTY ZONING REGULATIONS REGARDING INDUSTRIAL HEMP PRODUCTION AND CULTIVATION

Section 27 shall be amended to add the following definitions:

HEMP, INDUSTRIAL: Hemp Industrial or Industrial Hemp means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis. Delta-9 tetrahydrocannabinols has the same meaning as "tetrahydrocannabinols" as set forth in Section 27-80-203(24), C.R.S.

HEMP ESTABLISHMENT: A Hemp Establishment means 1) any Establishment which has been issued a Research and Development (R & D) Industrial Hemp Registration or Commercial Industrial Hemp Registration by the Colorado Department of Agriculture, pursuant to the Industrial Hemp Regulatory Program Act, Title 35, Article 61, C.R.S., including outdoor farming, greenhouse farming and indoor (building; excludes residential structures) farming; greenhouse and building shall be permitted by the Prowers County Land Use Administrator; 2) any Establishment which processes Industrial Hemp as defined herein as Hemp Processing. Hemp Establishments shall follow and abide by rules and regulations issued by Department of Agriculture in accordance with the Industrial Hemp Regulatory Program Act and shall also follow and abide by Prowers County's regulations regarding Industrial Hemp.

HEMP PROCESSING: Hemp Processing means the refinement of Industrial Hemp to create products derived from hemp. Hemp Processing shall only be conducted in a greenhouse and/or building, excluding residential structures that are permitted by the Prowers County Land Use Administrator and the Prowers County Public Health and Environment Department and have obtained zoning authorization from the Prowers County Land Use Administrator.

Section 18 shall be amended to add a new Subsection (v) as follows:

- (v) A Hemp Establishment and Hemp Processing shall be subject to the following supplementary regulations:
 - (1) Prior to the operation of any Hemp Establishment, a Commercial Industrial Hemp Permit or Research and Development Permit shall be obtained from the State of Colorado Department of Agriculture. Said Permit shall be submitted to the Prowers County Land Use Administrator as part of the zoning application.

- (2) Prior to the operation of any Hemp Establishment or Hemp Processing, proof of processing either on-site or the name of the processing company shall be submitted to the Prowers County Land Use Administrator as part of the zoning application.
- (3) Prior to the operation of any Hemp Establishment, a zoning application shall be submitted for review by the Prowers County Land Use Administrator and only upon approval shall the operation be permitted.
- (4) Uses established pursuant to this Subsection (v) shall at all times be in complete compliance with the terms and conditions of its Hemp Establishment permit for Permits issued by the State of Colorado Department of Agriculture and zoning permit issued by Prowers County.
- (5) No Hemp Establishment shall be allowed as a Home Occupation use.
- (6) Distances are measured from the property line upon which the Hemp Establishment is located using a direct line. If part of a larger parcel of land as described as one property by legal description in a recorded deed upon which several Hemp Establishments are to be located, the distances are measured from the fence line of each Hemp Establishment or if no fences, from the outside boundary of the grow area or from the greenhouse and/or building in which the Hemp Establishment is located.
- (7) No Hemp Establishment shall be located within five (5) miles of any personal use marijuana location as measured from the property line of the Hemp Establishment to the property line of the personal use marijuana location using a direct line. This subsection (v)(5) shall not apply to: 1) any Hemp Establishment that contains only plants that are confirmed female and documentation of female only plants shall be submitted to the Prowers County Land Use Administrator; or 2) any Hemp Establishment who submits a waiver of the distance requirement that is signed by all A Hemp Establishment occupants within the five (5) mile radius; or 3) a location where the Prowers County Land Use Administrator previously approved a zoning and a permitted Hemp Establishment has existed in continuous operation since the time of original permitting.

- (8) No Hemp Establishment shall be located within 1,000 feet of any existing public or private elementary, middle, junior high or high school as measured from property line of the school to the property line of the Hemp Establishment using a direct line.
- (9) No Hemp Establishment shall be located in:
 - (a) a building containing residential units, or
 - (b) a movable or mobile structure.
- (10) Permitted Zone District. Hemp Establishment is only permitted in:
 - (a) the Irrigated Agriculture (A-1) District in a greenhouse, building, or outside farming as a use-by-right;
 - (b) the Non-Irrigated Agriculture (A-2) District in a greenhouse, building, or outside farming as a use-by-right;
 - (c) the Industrial (I-1) District in a greenhouse or building as a use-by-right.
- (11) Male hemp plants and hermaphrodite hemp plants shall only be grown in an enclosed building, which does not include a greenhouse, with a proper filtration system and clothing/footwear preventative measures (i.e., clean room mat) to prevent escape of pollen/seed/or other product that might be detrimental to a hemp crop or personal marijuana use.
- (12) Any transporting of Industrial Hemp shall be accompanied by a copy of the Department of Agriculture Hemp Permit.
- (13) Quarterly and year end harvest data shall be provided to Prowers County Land Use Administrator.
- (14) The Prowers County Land Use Administrator has the right to inspect the Hemp Establishment and request paperwork from the Department of Agriculture. Other Governmental Agencies whether State or Local, such as Colorado Division of Water Resources, Prowers County Public Health and Environment Department have the right to inspect the Hemp Establishment for compliance with their respective regulations.

Section 2 Irrigated Agricultural (A-1) District, Subsection (b) shall be amended to add as a use by right:

- (9) Hemp Establishment as defined in Section 27, Definitions and subject to the provisions of Section 18(v) of the Prowers County Zoning Regulations.

Section 3 Non-Irrigated Agricultural (A-2) District, Subsection (b) shall be amended to add as a use by right:

- (13) Hemp Establishment as defined in Section 27, Definitions and subject to the provisions of Section 18(v) of the Prowers County Zoning Regulations.

Section 9 Industrial (I-1), Subsection (b) shall be amended to add as a use by right:

- (15) Hemp Establishment as defined in Section 27, Definitions and subject to the provisions of Section 18(v) of the Prowers County Zoning Regulations.