

City of Sacramento

Legislation Text

File #: 2019-01580, **Version:** 1

Title:

Emergency Interim Ordinance Extending the Interim Ordinance Imposing a Moratorium on Industrial Hemp Cultivation for 10 Months and 15 Days (Four-Fifths Vote Required) [Noticed 10/25/2019] **{To be published in its entirety upon adoption}**

File ID: 2019-01580

Location: Citywide

Recommendation:

Conduct a public hearing and upon conclusion, adopt an Interim Ordinance: 1) extending the term of Ordinance No. 2019-0033, relating to a moratorium on industrial hemp cultivation, for 10 months and 15 days, to expire on September 20, 2020; and 2) and declaring the ordinance to be an urgency measure to take effect immediately upon adoption.

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Presenter: Leyne Milstein, Assistant City Manager, (916) 808-8491, Office of the City Manager

Attachments:

1-Description/Analysis
2-Ordinance

Description/Analysis

Issue Detail: On September 24, 2019, the City Council adopted a 45-day moratorium to temporarily prohibit cultivation of industrial hemp in the city's boundaries. This item seeks to extend the moratorium for another 10 months and 15 days, while staff conducts further research on the subject, federal and state government regulations evolve, and field-test equipment is developed to assist law enforcement in distinguishing cannabis from industrial hemp.

On December 12, 2018, the federal 2018 Farm Bill, which covers the cultivation of industrial hemp, production of industrial hemp for agricultural research and transfer across state lines was signed into law. The Farm Bill immediately removed hemp from the federal government's list of Schedule I controlled substances under the Controlled Substances Act of 1970 and permitted the cultivation of industrial hemp for agricultural research purposes. California has regulated industrial hemp since 2013. Under California's law, industrial hemp may be cultivated for agricultural research and commercial purposes. (California Food and Agricultural Code sections 81000-81011.)

To date, federal and state regulatory schemes for industrial hemp is still evolving. On October 12, 2019, California Senate Bill 153 became law. The bill changes the definition for industrial hemp (the definition for industrial hemp has been changed several times before this bill), places new conditions on eligibility to participate in the industrial hemp program, requires county registration for growers of if industrial hemp for noncommercial purposes, and imposes new testing requirements and enforcement procedures to be established by a plan by California that has been approved by the

federal government. In addition, tetrahydrocannabinol (THC) content is a critical factor in distinguishing industrial hemp from cannabis and field-testing equipment is still being developed to assist law enforcement activity.

Under both federal and state laws, industrial hemp can be grown outdoors and indoors. In the County of Sacramento, potential industrial hemp growers must register with the County of Sacramento Agricultural Commissioner in order to cultivate in the county or city. At least one individual has registered to cultivate within the city. And in the absence of any jurisdictional ban or moratorium, the County has opined that it cannot refuse to register an applicant.

Currently, the City Code does not expressly allow cultivation of industrial hemp, but the public may perceive that industrial hemp cultivation is allowed as plant nurseries. (Sacramento City Code section 17.108.170.)

City staff is still exploring and researching the industrial hemp industry and an appropriate approach to regulate industrial hemp to recommend to City Council. City staff anticipates making a policy recommendation on how to regulate industrial hemp, if at all, subject to the regulatory framework released by the Federal and State governments prior to the end of the moratorium.

Policy Considerations: There are no immediate local policy considerations associated with extending the moratorium on industrial hemp. However, if the City chooses to regulate industrial hemp in the future, the City may need to create a regulatory framework for specifically for industrial hemp, which may require amendments to the City's land use (Title 17), business (Title 5), and the health and safety (Title 8) regulations. There may be other amendments to the City Code based on the state Legislature's adoption of any new legislation on the subject matter.

Economic Impacts: None

Environmental Considerations: This action is not a "project" subject to and is exempt from the California Environmental Quality Act (CEQA) because it involves only general policy and procedure making and does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (CEQA Guidelines sections 15002(d), 15061(b)(3), and 15378).

Sustainability: Not Applicable

Commission/Committee Action: Not Applicable

Rationale for Recommendation: Extending the temporary interim ordinance will give the City the time it needs to be thorough in its efforts to develop rules that are fair and reasonable to business interests and protect the public's health and safety, especially with the continuing evolution of federal and state regulations. More time is necessary to develop regulations with the input of stakeholders. Additionally, extending the interim ordinance will prevent cultivation of industrial hemp within the City's boundaries. Lastly, it will give additional time for the development of the necessary field-equipment to assist law enforcement in distinguishing industrial hemp from cannabis.

Financial Considerations: None at this time.

Local Business Enterprise (LBE): Not Applicable.