

ORDINANCE NO. 2019-0033

Adopted by the Sacramento City Council

September 24, 2019

An Interim Ordinance Imposing a 45-Day Moratorium on Industrial Hemp Cultivation and Declaring the Ordinance to be an Urgency Measure to Take Effect Immediately Upon Adoption

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Findings and Purpose

The City Council of the City of Sacramento finds and declares as follows:

- A. As of January 1, 2019, both California and federal law allow the cultivation and sale of industrial hemp. Since 2013, California has regulated the cultivation and sale of industrial hemp for both commercial and research purposes. (California Food and Agricultural Code, sections 81000-81011.) On January 1, 2019, the federal government decriminalized hemp by removing it from the list of Schedule 1 controlled substances under the Controlled Substances Act of 1972 and authorized an agricultural research pilot program for the growth, cultivation, and marketing of industrial hemp. (7 U.S.C.A., sections 1639o and 5940; and 21 U.S.C.A., section 802(16)(B).)
- B. Under California law, an individual or organization must register with the county agricultural commissioner to cultivate hemp. Recently, the California Department of Food and Agriculture and the County of Sacramento have made registration available. The County has registered one individual to date. However, the City has not been contacted by that individual and does not have any information about whether that individual has actually started to cultivate.
- C. The City of Sacramento has no regulations regarding the cultivation of industrial hemp. Subject to certain exceptions, the City prohibits uses of land that are not specifically listed in Divisions II, III, or IV of title 17. (Sacramento City Code, section 17.104.090.) The City Code does not expressly allow the cultivation of industrial hemp. However, plant nursery is a permitted use and the public may believe that the cultivation of industrial hemp would be considered a plant nursery. (Sacramento City Code, section 17.108.170.)

- D. The regulatory scheme for industrial hemp is changing. For example, under federal and California law, the definition for industrial hemp has already changed several times in the past five years. (7 U.S.C.A., section 5940 (2014 and 2018 versions); California Food and Agricultural, sections 81000(d) (2013, 2016, and 2018 versions)).
- E. For the California legislature 2019-2020 regular session, there were two emergency measures that if passed, would take immediate effect and significantly impact the regulatory scheme for the cultivation of industrial hemp, and the production, testing, and manufacturing of hemp products for human and animal consumption. As of September 13, 2019, the close of the session, one of the bills, SB 153, passed and is awaiting the Governor's signature and the other bill, AB 228, was still under committee review. Considering the volatility of hemp regulations, adoption of local regulations should await the completion of the California legislative process.
- F. Further, the methods to distinguish and identify industrial hemp (the non-intoxicating *Cannabis sativa* L. plant) from cannabis (the psychotropic version of the plant) are also complex and evolving. Industrial hemp and cannabis are derivatives of the same plant, *Cannabis sativa* L. Currently, under California law, industrial hemp is largely distinguished from cannabis by the amount of tetrahydrocannabinol (THC), the psychoactive chemical in the plant. If the plant has less than 0.3% THC, it is categorized industrial hemp. As such, industrial hemp and cannabis may be difficult to distinguish without a chemical analysis for the presence of THC content. The federal Drug Enforcement Administration is in the process of seeking companies to develop test kits that can verify THC content at a cultivation site. There may be other ways to distinguish cannabis and from hemp through the physical characteristics of the plants. However, such expertise requires training and the investigation could be time consuming and labor intensive. This difficulty in distinguishing industrial hemp from cannabis plants may adversely affect the public health, safety, or welfare of the residents or visitors of the city of Sacramento because individuals may claim that cannabis plants are hemp plants thus thwarting enforcement efforts and causing an increase in crime.
- G. A moratorium is therefore necessary to clarify the Sacramento City Code and protect the public health, safety, and welfare by expressly prohibiting the cultivation of industrial hemp, until the City Council's consideration of suitable land use regulations, if any, can be completed. City staff anticipates bringing a report to the Law and Legislation Committee regarding additional regulations within six months.
- H. This interim ordinance prohibiting the cultivation of industrial hemp is enacted as an urgency measure, pursuant to California Government Code section 65858, subdivision (a). This interim ordinance shall be of no further force and effect 45 days from its date of adoption, unless extended pursuant to the California Government Code. The City Council anticipates that an extension will be necessary to complete the study.

SECTION 2.

Moratorium

During the term of this ordinance, the cultivation of industrial hemp, as defined by California Health and Safety Code section 11018.5, subdivision (a) is not a permitted, conditional, or accessory use in any zone in the city of Sacramento.

SECTION 3.

Term

The term of this ordinance is 45 days from its date of adoption, and thereafter this ordinance has no further force or effect unless extended pursuant to the California Government Code.

SECTION 4.

This ordinance is declared to be an urgency measure to take effect immediately upon adoption of the City Council pursuant to California Government Code section 65858, subdivision (a) and City Charter, section 32(g)(2). The facts constituting the emergency are set forth in section 1 of this ordinance, all of which are incorporated into this section.

Adopted by the City of Sacramento City Council on September 24, 2019, by the following vote:

Ayes: Members Ashby, Carr, Guerra, Harris, Jennings, Schenirer, Warren and Mayor Steinberg

Noes: None

Abstain: Member Hansen

Absent: None

Attest: **Mindy Cuppy** Digitally signed by Mindy Cuppy
Date: 2019.09.26 16:02:46
-07'00'

Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.

Passed for Publication: Not applicable per Sacramento City Code § 32(e) and 32(g)(2).

Published in its entirety: October 1, 2019

Effective: September 24, 2019