



Legislation Text

File #: 19-967, **Version:** 1

Conduct a noticed public hearing to consider a proposed 10 month and 15 day extension of an Interim Urgency Ordinance (Ordinance No. 2019-1808) establishing a temporary moratorium on the cultivation or processing of industrial hemp in the unincorporated areas of Solano County (4/5 vote required)

Published Notice Required? Yes X No
Public Hearing Required? Yes X No

DEPARTMENTAL RECOMMENDATION:

The Agriculture Department and the Department of Resource Management recommends that the Board:

1. Read the proposed ordinance by title only and waive further reading by majority vote;
2. Conduct a noticed public hearing to consider a proposed 10 month and 15 day extension of an Interim Urgency Ordinance (Ordinance No. 2019-1808) establishing a temporary moratorium on the cultivation or processing of industrial hemp in the unincorporated areas of Solano County (4/5 vote required), adopted as an urgency measure; and
3. Adopt an ordinance approving a 10 month and 15 day extension to the Interim Urgency Ordinance (Ordinance No. 2019-1808) adopted on November 5, 2019 (4/5 vote required).

SUMMARY:

On November 5, 2019 the Board adopted an Urgency Interim Ordinance (Ordinance 2019-1808) establishing a moratorium for 45 days on the cultivation or processing of industrial hemp in unincorporated Solano County. Under State law, the urgency ordinance may be extended 10 months and 15 days after conducting a duly noticed public hearing on the proposed extension. A public notice (Attached) has been published in local newspapers indicating that the Board will be considering an extension on the moratorium on hemp cultivation. The 10 month 15 day extension is measured from the end of the 45 days set forth under the initial ordinance.

The Board established the moratorium in response to numerous comments from the public and testimony from the Sheriff's Department regarding public safety concerns and criminal activities that had been reported in the vicinity of hemp fields during this year's growing season. These reported activities included attempted or actual theft of the crop as well as actions by growers or their security personnel attempting to protect their crop from theft in a manner that might cause risk of harm to persons on neighboring properties. Concerns were expressed not only for prohibiting planting for next year's growing season but also for security issues associated with harvesting this year's remaining crop. A specific provision was added by the Board to Ordinance 2019-1808 requiring security plans for continued harvesting of this year's hemp crop to be concluded by December 31, 2019. In accordance with this provision, security plans were submitted to the Sheriff's office by all growers by the November 15, 2019 deadline and all plans have been approved. It is anticipated that harvesting will be complete at all known hemp production sites by December 4, 2019.

Staff believes there is adequate basis to extend the moratorium. It is clear from public testimony and specific evidence that further study is needed to evaluate regulatory options for hemp cultivation. There may be aspects of hemp cultivation that are less impactful and could be addressed in a permanent ordinance. The

next 10 months and 15 days will provide opportunities for those to be identified and appropriate regulatory standards to be developed. Depending on what is identified, a permanent ordinance addressing some aspect of hemp cultivation could be brought forward in advance of the moratorium period should there be justification for such action. Depending on the nature and extent of the study, the Board also has the option of adopting another 1 year extension at the end of the initial moratorium period should further study be warranted.

FINANCIAL IMPACT:

Costs to prepare this report are covered by the Resource Management's FY2019/20 General Fund budget. The Agriculture Department has a cooperative agreement with the California Department of Food and Agriculture to cover some costs associated with the industrial hemp program and also charges hemp growers for crop sampling for THC testing. The Sheriff's Department has absorbed costs resulting from the high call volume associated with this year's hemp harvest.

DISCUSSION:

Hemp cultivators and seed breeders were required to register with the Solano County Agriculture Department prior to cultivation beginning in 2019. This was the result of the 2018 Farm Bill and subsequent California legislation that removed hemp from the Controlled Substance Act and classifying it as an agricultural commodity. To date, the Agriculture Department has issued registrations for hemp cultivation to 3 growers on 9 sites totaling approximately 476 acres.

The issues that have arisen regarding public safety and criminal activities seem to evolve from hemp plants being mistaken for cannabis. This is despite the fact that there is signage on the fields identifying the crop as hemp and not cannabis. For reference purposes, under the California Health and Safety Code, industrial hemp is legally defined and distinguished from cannabis by having no more than 0.3% tetrahydrocannabinol (THC). The Agriculture Department is responsible for ensuring the plants are tested to verify that they are below the maximum THC level. One issue discussed on November 5 was the sequence of testing and who conducted the tests. In regards to the current fields under production in 2019, all sampling and testing has been completed. All outstanding samples tested below the 0.3% legal threshold for THC content.

During the Board discussion on November 5, 2019 a total of 11 individuals spoke in favor of enacting an ordinance establishing a moratorium on hemp cultivation. Both the Farm Bureau and the Agricultural Advisory Committee have submitted correspondence (Attached) supporting the moratorium and extension. One hemp grower spoke with concerns with a focus on how to complete this year's harvest while addressing the Board's security concerns. Staff believes this issue has been addressed through the security plans that have been submitted. In general, harvested hemp is not being stored in unincorporated Solano County other than one storage area that is in a secured location.

Extension of the moratorium will effectively preclude planting of industrial hemp for the next growing season unless a permanent ordinance is adopted in the next few months that allows some aspect of hemp cultivation such as only within enclosed buildings or a provision is incorporated in to the interim urgency ordinance addressing such situations. The extension gives staff time to work with all parties involved to determine what can be done to minimize or prevent some of the issues that have been identified. Possible measures to be addressed include greater separation requirements from residential and other sensitive land uses, requiring indoor grows only, and allowing only hemp grown for agricultural purpose such as fabric or seed. The County will also explore the legal ramifications of prohibiting hemp cultivation on a permanent basis.

ALTERNATIVES:

The Board could choose not to adopt the extension to the existing moratorium on hemp cultivation. Such action is not recommended given the emerging issues associated with hemp cultivation identified in this and

the prior report from the November 5 meeting.

In addition to taking action to extend the moratorium on hemp cultivation, the Board could direct staff to pursue legislation that would distinguish between the agricultural commodity aspects of hemp and hemp grown for pharmaceutical purposes.

OTHER AGENCY INVOLVEMENT:

The County Counsel's office and the Sheriff's Department were both consulted in preparation of the report.

CAO RECOMMENDATION:

APPROVE DEPARTMENTAL RECOMMENDATION