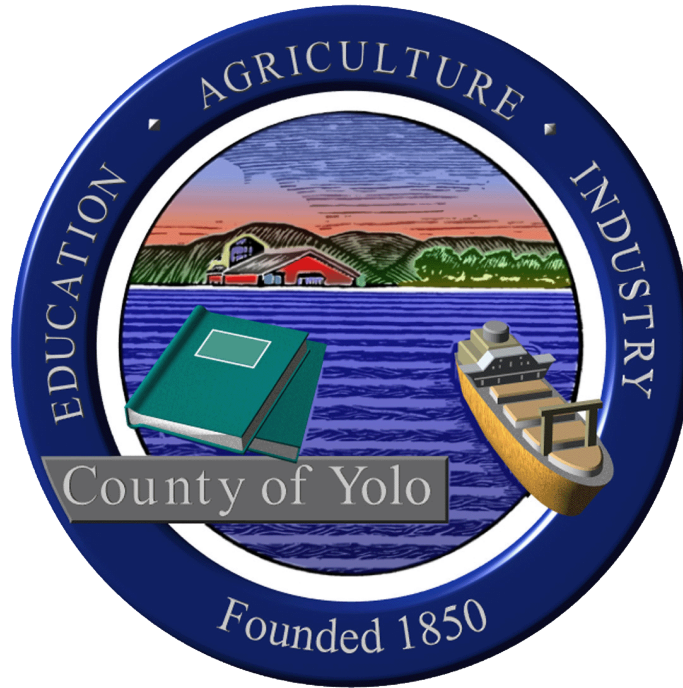


**YOLO COUNTY BOARD OF  
SUPERVISORS  
&  
YOLO COUNTY FINANCING  
CORPORATION  
&  
IN-HOME SUPPORTIVE SERVICES  
PUBLIC AUTHORITY**

**AGENDA & SUPPORTING MATERIALS**

**January 15, 2019**



**COUNTY BOARD OF SUPERVISORS**

CHAIR, DON SAYLOR, DISTRICT 2  
VICE-CHAIR, GARY SANDY, DISTRICT 3  
JIM PROVENZA, DISTRICT 4  
DUANE CHAMBERLAIN, DISTRICT 5  
OSCAR VILLEGAS, DISTRICT 1

**BOARD OF SUPERVISORS CHAMBERS**

625 COURT STREET, ROOM 206  
WOODLAND, CALIFORNIA 95695

PATRICK S. BLACKLOCK  
COUNTY ADMINISTRATOR

PHILIP J. POGLEDICH  
COUNTY COUNSEL

**Please note:**

- Materials to be shared with the Board of Supervisors should be handed to the Clerk of the Board for distribution.

- During Board meetings, Supervisors will not review e-mails or other electronic communications on agenda items.

Regular-General Government # 43.

Board of Supervisors

County Administrator

Meeting Date: 01/15/2019

Brief Title: Adopt Interim Ordinance Declaring a Temporary Moratorium on Hemp Cultivation

From: Mindi Nunes, Assistant County Administrator,  
County Administrator's Office

Staff Contact: Mindi Nunes, Assistant County Administrator,  
County Administrator's Office, x8426

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#### Subject

For the reasons set forth above, allowing the cultivation of industrial hemp prior to the adoption of reasonable local regulations, if any, may result in violations of the County's cannabis regulations, evasion of the County's cannabis tax, interfere with the County's ability to effectively regulate land use, and may threaten the existing cannabis industry. As an urgency measure, this interim zoning ordinance prohibits the commercial cultivation of industrial hemp for 45 days and may thereafter be extended as provided by law. Staff is not recommending a permanent moratorium on hemp production. Rather, the purpose of this ordinance and any extensions thereafter is to give the County the opportunity to study the issue and to formulate and adopt regulations to mitigate or avoid negative effects of such grows, namely the potential for the cross pollination of hemp and cannabis which can damage cannabis grows. Potential solutions may include buffers between cannabis and hemp grows and/or pre-plotting of cannabis and hemp production similar to the current process for sunflower cultivation.

(No general fund impact) (Nunes)

#### Recommended Action

- A. Introduce, waive the reading, and adopt an uncodified urgency interim ordinance of the County of Yolo declaring a temporary moratorium on the cultivation of industrial hemp in the unincorporated areas of the County of Yolo (the "Urgency Interim Ordinance"); and

- B. Find that the Urgency Interim Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) for the reasons stated in the Urgency Interim Ordinance.

#### Strategic Plan Goal(s)

##### Flourishing Agriculture

##### Reason for Recommended Action/Background

The purpose of this urgency ordinance is to establish a temporary moratorium on the cultivation of industrial hemp for commercial purposes or by “Established Agricultural Research Institutions,” as defined by California Food and Agricultural Code Section 81000(c), while County staff determines the impact of such unregulated cultivation and reasonable regulations to mitigate such impacts.

On December 20, 2018, President Trump signed H.R. 2, the Agriculture Improvement Act of 2018 (the 2018 Farm Bill) into law allowing hemp cultivation more broadly than the previously allowed pilot programs for studying market interest in hemp-derived products. The 2018 Farm Bill allows the transfer of hemp-derived products across state lines for commercial or other purposes. It also puts no restrictions on the sale, transport, or possession of hemp-derived products, so long as those items are produced in a manner consistent with the law.

In California, the Industrial Hemp Advisory Board is expected to implement requisite regulations allowing the cultivation of industrial hemp for commercial purposes in early 2019. Once those regulations are in place, all commercial growers of industrial hemp must register with the county agricultural commissioner prior to cultivation. But until the Industrial Hemp Advisory Board has developed and implemented the requisite industrial hemp seed law, regulations, and enforcement mechanisms, including the registration process and fees, the cultivation of industrial hemp for commercial purposes is prohibited within the State of California.

Despite the current prohibition on the cultivation of industrial hemp for commercial purposes, state law exempts cultivation by an “Established Agricultural Research Institution” from some of the regulatory requirements. The definition of an “Established Agricultural Research Institution”, is vague and neither the Legislature nor the Industrial Hemp Advisory Board have provided guidelines on how the County can establish whether a cultivator claiming to be an “Established Agricultural Research Institution” is legitimate or that the cultivation constitutes “agricultural or academic research.”

As a result of this exemption for “Established Agricultural Research Institutions”, the cultivation or manufacturing of industrial hemp by an “Established Agricultural Research Institution” is not contingent upon the development of a regulatory framework addressing hemp seed, cultivation or any other provision set forth by the Industrial Hemp Advisory Board. It is foreseeable that individuals or organizations may

exploit the exemptions afforded to “Established Agricultural Research Institutions” in an effort to prematurely cultivate industrial hemp for commercial purposes, or to cultivate cannabis under the guise of “agricultural or academic research”. Due to the fact that industrial hemp and cannabis are derivatives of the same plant, *Cannabis sativa* L., the appearance of industrial hemp and cannabis are indistinguishable. Absent a laboratory performed chemical analysis for tetrahydrocannabinol (THC) content, the two plants cannot be distinguished. The inability to distinguish the plants could be exploited by an “Established Agricultural Research Institution” or a commercial grower once the state regulations are in place allowing cultivation of industrial hemp for commercial purposes.

Moreover, whether cultivated by an “Established Agricultural Research Institution” or commercially, cross-pollination from hemp plants poses a threat to licensed outdoor cannabis cultivators when pollen from male hemp plants travels and cross-pollinates with female cannabis plants, which destroys the cannabis plants.

For the reasons set forth above, allowing the cultivation of industrial hemp prior to the adoption of reasonable local regulations, if any, may result in violations of the County's cannabis regulations, evasion of the County's cannabis tax, interfere with the County's ability to effectively regulate land use, and may threaten the existing cannabis industry. As an urgency measure, this interim zoning ordinance prohibits the commercial cultivation of industrial hemp for 45 days and may thereafter be extended as provided by law. Staff is not recommending a permanent moratorium on hemp production. Rather, the purpose of this ordinance and any extensions thereafter is to give the County the opportunity to study the issue and to formulate and adopt regulations to mitigate or avoid negative effects of such grows, namely the potential for the cross pollination of hemp and cannabis which can damage cannabis grows. Potential solutions may include buffers between cannabis and hemp grows and/or pre-plotting of cannabis and hemp production similar to the current process for sunflower cultivation.

As part of that study, staff will reach out to U.C. Davis to determine the University's interest in cultivating industrial hemp for research purposes. However, this interim ordinance will not prevent U.C. Davis from moving forward with a hemp research program because the Regents of California, a state agency created by the California Constitution, is not subject to the County's building or zoning ordinances. See *Regents of University of California v. City of Santa Monica* (1978) 77 Cal.App.3d 130.

The proposed ordinance is exempt from CEQA review for various reasons, as set forth in the ordinance (see Section 2.Z). If the Board adopts the Ordinance, staff will file an Notice of Exemption citing CEQA Guidelines Sections 15061(b)(3) and 15308 as the legal grounds for an exemption.

Collaborations (including Board advisory groups and external partner agencies)  
County Counsel, Ag Department

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Fiscal Information

No Fiscal Impact

Fiscal Impact of this Expenditure

Total cost of recommended action

Amount budgeted for expenditure

Additional expenditure authority  
needed \$0

On-going commitment (annual cost)

Source of Funds for this Expenditure

General Fund \$0

Attachments

[Att. A. Ordinance](#)

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Form Review

Inbox	Reviewed By	Date
Mindi Nunes (Originator)	Mindi Nunes	01/09/2019 12:02 PM
Patrick Blacklock	Patrick Blacklock	01/09/2019 02:41 PM
Carrie Scarlata	Carrie Scarlata	01/09/2019 07:34 PM
Phil Pogledich	Julie Dachtler	01/10/2019 10:08 AM
Elisa Sabatini	Elisa Sabatini	01/10/2019 12:16 PM
Phil Pogledich	Phil Pogledich	01/10/2019 01:56 PM
Form Started By: Mindi Nunes		Started On: 12/05/2018 08:46 AM
Final Approval Date: 01/10/2019		

