



Memorandum

4/9/2019

Item#:7.3

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Anita L. Grant, County Counsel

DATE: April 9, 2019

SUBJECT: Discussion and Consideration of County Regulation of Industrial Hemp

EXECUTIVE SUMMARY:

Presently, the State Department of Food and Agriculture has not yet promulgated regulations for the administration, inspection, and enforcement work associated with the State's Industrial Hemp Program. All growers of industrial hemp for commercial purposes must register with the County agricultural commissioner prior to cultivation. Registration is not yet available. (Food and Agriculture Code sec. 81003.) The fees and the process for registration will be developed by the State Department of Food and Agriculture, which will consider recommendations from the Industrial Hemp Advisory Board.¹

What has been and continues to be under consideration by many California counties where commercial cannabis is allowed is whether and to what extent cultivation of industrial hemp can be also allowed given the concerns of potential risks to commercial cannabis. Many of those counties have adopted interim ordinances imposing moratoriums on the cultivation of industrial hemp while they grapple with whether local land use measures should be implemented to ensure that both commercial business concerns can co-exist compatibly.

The lack of State regulations makes such considerations much more difficult.

A number of California counties have determined that a moratorium on industrial hemp cultivation should be imposed until the State's final regulations are adopted and those counties then each come to a decision as to the manner in which it will regulate industrial hemp at the local level. Those counties include, but are not limited to, Sacramento, Siskiyou, Riverside, Yolo, Sonoma, Mendocino, San Joaquin, and Tulare Counties.

¹The Industrial Hemp Advisory Board was established by Food and Agriculture Code section 81001.

Its purpose is to advise the State Department of Food and Agriculture and make recommendations related to the cultivation of industrial hemp.

Some counties still have not addressed commercial cannabis cultivation and have imposed moratoriums on commercial industrial hemp cultivation while they determine the shape and scope of each such business in their counties.

Some counties have now developed or are in the process of developing land use ordinances that will allow both business concerns to coexist. Inyo County has passed an ordinance that limits industrial hemp activities to take place in certain zones and which requires a conditional use permit for all hemp activities. Another county has determined to allow limited commercial cannabis cultivation in industrially-zoned areas and to allow industrial hemp in those same areas.

Some counties have decided against pursuing an urgency ordinance banning industrial hemp production and have instead taken a wait-and-see approach in anticipation of updated State regulations for this industry.

Whether your Board determines to impose a temporary moratorium on industrial hemp cultivation or to take a wait-and-see approach in anticipation of the impending State regulations, there is nothing to prevent you from exercising your land use authority to initiate the development of an ordinance establishing the parameters within which you wish this type of cultivation to occur so to ensure the viability of both industrial hemp cultivation and cannabis cultivation. This may include determining the zones in which industrial hemp cultivation will be allowed, implementing requirements for buffers, deciding whether and how best to utilize conditional use permits to ensure compatibility with other commercial businesses, and promulgating other requirements not in conflict with State law.

Both my office and Community Development will be providing your Board with information regarding possible options in this regard on April 9.

Thank you.

FISCAL IMPACT (Narrative): None

STAFFING IMPACT (if applicable): None

RECOMMENDED ACTION:

Direction to staff.