



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Agricultural
Commissioner
Department No.: 051
For Agenda Of: December 14, 2021
Placement: Administrative:
Set hearing for January
25, 2022 (first reading)
and February 1, 2022
(second reading)
Estimated Time: 30 minutes (1/25/22)
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Cathleen Fisher, Agricultural Commissioner 681-5600
Director
Contact Info: Lottie Martin or Traci Lewis 681-5600
SUBJECT: Santa Barbara County Hemp Ordinance

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors set a hearing on January 25, 2022, to:

- A. Approve the introduction (first reading) of an ordinance regulating hemp in the County of Santa Barbara;
- B. Read the title, "An Ordinance Regulating Hemp", and waive further reading of the Ordinance;
- C. Find that the proposed actions are exempt under the California Environmental Quality Act (CEQA) based on CEQA Guidelines 15307, 15308, 15060(c)(2), and 15061(b)(3) as it can be seen with certainty that there is no possibility that these actions will have a significant effect on the environment, these actions will not result in a direct or reasonably foreseeable indirect physical change in the environment, and these actions will assure the maintenance, restoration, or enhancement of natural resources and the environment; and
- D. Set a hearing on the Administrative Agenda of February 1, 2022, to consider recommendations, as follows:

On February 1, 2022, Staff recommends that the Board of Supervisors:

- i. Adopt (Second Reading) an Ordinance Amending Chapter 3, Agriculture, of the Santa Barbara County Code Regarding Hemp;
- ii. Read title, “An Ordinance Regulating Hemp” and waive reading the Ordinance in full; and
- iii. Find that the proposed actions are exempt under the California Environmental Quality Act (CEQA) based on CEQA Guidelines 15307, 15308, 15060(c)(2), and 15061(b)(3) as it can be seen with certainty that there is no possibility that these actions will have a significant effect on the environment, these actions will not result in a direct or reasonably foreseeable indirect physical change in the environment, and these actions will assure the maintenance, restoration, or enhancement of natural resources and the environment.

Summary Text:

The Department is proposing an Ordinance adding Article VII “Hemp” to Chapter 3, Agriculture, of the Santa Barbara County Code relating to registering and licensing industrial hemp cultivation. It is the purpose and intent of this Ordinance to regulate the cultivation of hemp within the unincorporated area of the County to promote agricultural diversification while protecting the environment, public safety, and welfare of the County.

The Ordinance will enhance local oversight with compliance tools that exceed those in the State Regulation. The Ordinance includes an annual local licensing requirement, additional opportunity for inspection and sampling by the Agricultural Commissioner and the Sheriff, provisions for destruction of non-compliant or abandoned hemp and cost recovery for Department for costs associated with the administration of the program.

The provisions of this Article are in addition to any other permits, licenses and/or approvals which may be required to conduct business in the County, and are in addition to any permits, licenses, registrations and/or approvals required under Federal, State or other law. All hemp operators must comply with the provisions of this Article and all applicable provisions of Federal and State law and all associated regulations, as may be amended.

Growing Hemp in Santa Barbara County will require an annual license issued by the Santa Barbara County Agricultural Commissioner in addition to annual registration with the California Department of Food and Agriculture. The Agricultural Commissioner and Sheriff will have the authority to inspect and take samples from any site during normal business hours without advance notice. The Commissioner ~~and/or Sheriff~~ may also conduct such additional inspection and sampling to verify compliance with this Article and all Federal and State laws.

The Agricultural Commissioner shall be reimbursed for staff time spent providing services and materials for Licensing, Sampling, and witness of non-compliant Hemp destruction or destroying the hemp if necessary. Licensees will be charged the Agricultural Commissioner Weights & Measures Department Fee Schedule current “Hourly Rate” and shall submit a Bond pursuant to California Food and Agricultural Code section 81005 for recovery of costs to the Department in implementing,

administering, and enforcing this Article, State Law, and all applicable regulations associated with the cultivation and preparation of hemp for THC testing.

Upon issuance of the license, the licensee shall submit a bond in the amount of \$2800 per acre to cover the cost of destruction or other expenses of the Commissioner's office in the event that the licensee does not adequately destroy the non-complaint hemp in a manner approved by the Agricultural Commissioner and consistent with this Article, Federal law, State law, and all applicable regulations. The bond may also be used to cover fees owed and any other costs incurred by the Commissioner as a result of the growing of the hemp related to the Ordinance if not paid in full prior to the expiration of the license. This bond amount was determined by utilizing the Sheriff's Office experience and documentation of their work in eradicating and disposing of illegal cannabis grows. The Agricultural Commissioner shall charge the licensee the current Department "Hourly Rate" to witness destruction. This bond shall also cover costs of mileage, direct and indirect labor, and materials associated with the destruction. If the abatement exceeds the \$2800 per acre bond the Department intends to bill the grower to recoup the overage costs. Upon expiration of the license, any remaining funds in the bond will be refunded to the licensee.

In compliance with the provisions of this Article, Federal Law, State Law and all applicable regulations the harvest sampling shall be conducted by the Agricultural Commissioner. The licensee shall be charged the Department current "Hourly Rate" for the time spent by the Agricultural Commissioner sampling the hemp and preparing for laboratory testing of delta-9 THC concentration. The licensee will also be charged for mileage, direct and indirect labor costs and materials associated with the hemp sampling for laboratory testing of delta-9 THC concentration.

Background:

Hemp or Industrial Hemp is a strain of the Cannabis sativa plant species grown specifically for the industrial uses of its derived products such as fiber, oil and seed. Hemp was first introduced into the United States in 1608 which quickly became a cash crop commonly used for the making of rope, fabric and lamp oil and made up a significant portion of the economy. In 1937 the Marijuana Act was signed into federal law which established tight restrictions and levied a tax on those who dealt commercially in hemp or marijuana. In 1970, the Controlled Substance Act was signed into federal law which established the schedules that categorize drugs according to their perceived medical utility and potential for abuse. Cannabis and hemp were assigned to the highly restrictive Schedule I Federal Controlled Substance List.

In 2014 the Farm Bill allowed universities to cultivate industrial hemp for research purposes. The UC system in California did not establish a hemp research program. In 2018 the Farm Bill not only removed hemp from the Schedule I Federal Controlled Substance List, it also directed the United States Department of Agriculture (USDA) to develop regulations for a new federal regulatory program for industrial hemp cultivation. These regulations would require States and Indian Tribes to submit production plans to the USDA for approval to administer commercial hemp production.

The California Industrial Hemp Farming Act was signed into law on January 1, 2017 authorizing the cultivation of industrial hemp by registered growers and research institutions. California law does not currently provide any requirements for the manufacturing, processing or selling of non-food industrial hemp or hemp products.

The California Department of Food and Agriculture (CDFA), is in the process of developing a program to administer the new law for hemp cultivation. CDFA has adopted several sections pertaining to the registration process, fees, sampling and testing for THC content through emergency rulemaking. The emergency regulations will be in effect for a minimum of 180 days. CDFA has submitted an industrial hemp plan to USDA for review and certification.

In California some local authorities have taken different approaches for the type of cultivation that is allowed within their jurisdictions. Several counties have adopted moratoriums prohibiting all types of hemp cultivation or only allowing cultivation for research. A total of 36 counties are allowing commercial hemp cultivation. Currently there is approximately 13,000 acres of commercial hemp being grown within those counties. In Santa Barbara County, only research cultivation by an Institution of Higher Education as authorized by the 2014 Farm Bill is permitted.

Performance Measure:

N/A

Contract Renewals and Performance Outcomes:

N/A

Fiscal and Facilities Impacts: N/A

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees	\$ 20,000.00	\$ 20,000.00	
Other:			
Total	\$ 20,000.00	\$ 20,000.00	\$ -

Narrative: The Department estimates costs of \$20,000 associated with the registration and licensing of hemp operations. These costs will be recovered through the proposed fees and bonds included in the Ordinance.

Key Contract Risks: N/A

Staffing Impacts: N/A

Legal Positions:

FTEs:

Special Instructions: The Clerk will provide notice as required by Government Code section 25124.

After the December 14, 2021 Hearing direct the Clerk of the Board to:

1. Publish a Notice of Public Hearing pursuant to Section 6066 of the Government Code (publish notice on January 11, 2022 and January 18, 2022 in the Santa Barbara News Press.).

After the January 25, 2022 Hearing direct the Clerk of the Board to:

1. Email a copy of the adopted Ordinance and a copy of the minute order to the Agricultural Commissioner and County Counsel.
2. Publish a copy of the ordinance or summary with names of the members of the Board of Supervisors voting for or against the Ordinances in the Santa Barbara News Press 15 days of adoption of the Ordinance.

Attachments:

Attachment A: An Ordinance Regulating Hemp

Authored by:

Lottie Martin

CC:

NA