

ORDINANCE NO. 641-AC

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEEDLES DECLARING AND IMPOSING A CITYWIDE MORATORIUM ON INDUSTRIAL HEMP CULTIVATION

WHEREAS, Government Code Section 65858(a) allows a city to adopt effective immediately, as an urgency measure, an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time for the immediate preservation of the public health or safety without following the procedures otherwise required prior to the adoption of a zoning ordinance.

WHEREAS, an urgency measure requires a four-fifths vote of the City Council for adoption and it shall be of no further force and effect forty-five (45) days from its date of adoption, unless otherwise extended pursuant to Government Code Section 65858(a).

WHEREAS, as of January 1, 2019, both California and federal law allow the cultivation and sale of industrial hemp.

WHEREAS, under California law, an individual or organization must register with the county agricultural commissioner to cultivate hemp. The County of San Bernardino currently allows industrial hemp cultivation.

WHEREAS, the City of Needles has no regulations regarding the cultivation of industrial hemp, nor does the Needles Municipal Code expressly prohibit the cultivation of industrial hemp.

WHEREAS, there is an urgent need for the City to assess the impacts of industrial hemp, to explore reasonable regulatory options relating thereto, and to adopt an ordinance or ordinances regulating the cultivation of industrial hemp. The City has a compelling interest in protecting the public health, safety, and welfare of its residents, businesses and visitors.

WHEREAS, the City is currently unaware of and is concerned with the potential impacts of industrial hemp cultivation on already limited groundwater resources, as well as the potential for odor, soil contamination, and pests, among other things, from unregulated industrial hemp cultivation.

WHEREAS, the City currently allows the licensing of commercial cannabis businesses, subject to strict regulations and requirements. Due to the fact that industrial hemp and cannabis are nearly indistinguishable without testing, the cultivation of industrial hemp prior to the adoption of local reasonable regulations will create an increased likelihood of unlawful commercial cannabis activity. Moreover, allowing the cultivation of industrial hemp prior to the adoption of reasonable regulations, if any, may result in violations of the City's cannabis regulations, and evasion of the City's cannabis tax.

WHEREAS, allowing the cultivation of industrial hemp prior to the adoption of reasonable regulations, if any, may interfere with the City's ability to effectively regulate land use, and may

be harmful to the welfare of the City and its residents, create a public nuisance, and threaten the existing agricultural industry and nearby property owners.

WHEREAS, the City has recently received, and anticipates receiving additional requests for licensing and/or permitting of industrial hemp cultivation. However, the existing provisions of the Municipal code are inadequate to regulate commercial hemp cultivation, and time is needed to review, study, and revise the Municipal Code to fully take account of the impacts related to industrial hemp cultivation in the City, including impacts on the public health, safety and welfare of the City and its residents and businesses.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEEDLES DOES ORDAIN AS FOLLOWS:

SECTION 1. Purpose. This Ordinance is an Interim Ordinance adopted as an urgency measure pursuant to Government Code Section 65858 for the immediate preservation of the public safety, peace, health, and welfare. The purpose of this urgency ordinance is to establish a temporary moratorium on industrial hemp cultivation, while City staff determines the impact of such cultivation and develops potentially reasonable regulations to mitigate such impacts.

SECTION 2. Findings. The City Council makes the following findings:

(a) The City Council finds that there is an urgent need to study the impact of industrial hemp cultivation on groundwater use, odor, soil contamination, and pests; the potential for violations of the City's current cannabis ordinance; as well as existing and potential land uses within the City to assure compatibility between the location of proposed industrial hemp growth and cultivation and surrounding properties, and to consider revisions to the Municipal Code to regulate and/or prohibit industrial hemp cultivation in the City; and

(b) The City will take steps within a reasonable time to update its Municipal Code and Zoning Code to regulate the cultivation of industrial hemp to protect the public health, safety and welfare and to ensure the laws are consistent with state and federal law and the General Plan following due deliberation and study; and

(c) The City Council further finds that it would be detrimental to the City and its residents, businesses, and visitors if, during the period the impacts of industrial hemp cultivation are being studied, parties seeking to evade operation of a proposed prohibition and/or regulations are permitted to open and operate in a manner which might progress to defeating the ultimate objectives of such prohibition or regulations. Therefore, approval of business licenses, permits, zoning entitlements, and/or building permits for industrial hemp cultivation in the City would threaten the public health, safety, and welfare; and

(d) There is a current and immediate threat to the public health, safety, and welfare, and an urgency ordinance adopting a moratorium on industrial hemp cultivation is warranted to protect the public against potential negative health, safety, and welfare impacts and to address potential deficiencies in the Municipal Code associated with industrial hemp cultivation.

SECTION 3. Imposition of Moratorium.

(a) From the effective date of this Ordinance and continuing for a period of forty-five (45) days, unless extended pursuant to California Government Code Section 65858, no certification, business license, permits, zoning entitlements, or building permits shall be approved or issued for industrial hemp cultivation in the City. For the purposes of this ordinance, “industrial hemp” shall have the same meaning as provided in Health and Safety Code section 11018.5.

(b) For the pendency of this moratorium, all provisions of the Municipal Code which relate to industrial hemp cultivation shall remain in full force and effect with respect to existing businesses except to the extent such provisions violate current law.

(c) This ordinance shall not preclude the continued operation of any lawfully existing uses which are not seeking to expand, convert, relocate, or otherwise change their use.

SECTION 4. CEQA. The City Council finds that the actions contemplated by this Ordinance are exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 5. No Mandatory Duty of Care. This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof, a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 6. Severability. The City Council hereby declares that if any provision, section, paragraph, sentence, or word of this Ordinance is rendered or declared to be invalid or unconstitutional by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, such invalidity shall not affect the other provisions, sections, paragraphs, sentences or words of this Ordinance, and to this end the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 7. Effective Date and Publication. The City Clerk shall certify adoption of this Ordinance and shall cause this Ordinance to be posted in the manner provided for in the City of Needles Municipal Code.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Needles, California, held on the 13 day of July, 2021.

AYES: Council Members Campbell, Terral, Merritt, Belt and Longacre
NOES: None
ABSENT: Mayor Williams

ABSTAIN: None


Vice Mayor Paget

(Seal)

Attest: 
City Clerk

Approved as to form:


Deputy City Attorney Wade