

ORDINANCE NO. 693

AN INTERIM URGENCY ORDINANCE REQUIRING
PERMITTING AND REGISTRATION
FOR HEMP CULTIVATION

The Board of Supervisors of the County of Kings, State of California, ordains as follows:

Section 1: Findings and Declarations.

The Board of Supervisors makes the following findings in support of the enactment of this ordinance:

A. Pursuant to Article XI, section 7, of the California Constitution, the County of Kings ("County") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. Pursuant to Section 25123, subdivision (d), of the Government Code, the Board of Supervisors may pass an ordinance that is effective immediately if necessary to preserve the public peace, health, or safety.

C. The Board of Supervisors finds that this ordinance is necessary for the preservation of the public peace, health, and safety based upon the following facts:

1. In September 2018, SB 1409 was enacted in which the definition of industrial hemp in Section 11018.5, subdivision (a), of the Health and Safety Code was amended deleting the reference to its being a crop for fiber or oilseed production. Section 81006 of the Food and Agricultural Code was also amended to its current form, including amendment of to remove requirement for dense planting and restrictions against pruning, tending, or culling. SB 1409 included the finding: "By removing limitations on the manner in which industrial hemp may be grown and the uses for which it may be grown, this act removes barriers to the growth of industrial hemp as an agricultural product, and for agricultural or academic research." The bill, however, did not address the product safety regarding cannabis products. Under Section 81007 of the Food and Agricultural Code, the California Department of Food and Agriculture (CDFA) is authorized to establish by regulation an agricultural pilot program pursuant to Section 7606 of the federal Agricultural Act of 2014, as codified at Section 5940, title 7, U.S. Codes. The CDFA has not yet adopted regulations to participate in, or promote, research projects recognized by federal law.

2. In December 2018, the President signed into law the 2018 Federal Farm Bill, H.R. 2, P.L. 115-334, which removed industrial hemp from the federal list of controlled substances, authorized the U.S. Department of Agriculture to create quality control standards for hemp production, and gave states the ability to adopt their own state plans to exercise primary regulatory authority over the production of hemp within the state. The state plan

may include a reference to a law of the state regulating the production of hemp, to the extent said law is consistent with federal law.

3. Under Section 81006, subdivisions (d)(3) and (5), of the Food and Agricultural Code, the CDFA is required to establish regulations for sampling procedures and approved laboratories for sample testing of all hemp crops no more than 30 days before harvest.

4. In late May 2019, the CDFA proposed emergency regulations to establish timeframes, procedures, methods, and confirmation for industrial hemp sampling, laboratory testing, and destruction for industrial hemp cultivation. In its submission, the CDFA declared that the absence of hemp regulations constituted an emergency and immediate action was necessary to prevent serious harm to the general welfare of the citizens of California.

5. CDFA found a pressing need for the swift establishment of regulations to prevent delay of the first industrial hemp harvest, which could occur as early as June 2019. Based on its calculations, the absence of regulation could result in a potential direct loss of over \$43,000,000 to California farmers.

6. [Deleted]

7. Industrial hemp strains grown for their cannabidiol (CBD) oil properties are indistinguishable from the high THC cannabis strains used for medicinal and recreational purposes. Permitting hemp cultivation without a limitation on the acreage and location of hemp plants may lead to the same type of odor and public safety issues facing cannabis operations in counties allowing the cultivation of cannabis.

8. Hemp can serve as a host to mites and other insects. At this time, there are no pesticides registered for hemp that specifically address such mites or other insects. The pesticides that have been approved for hemp are not always effective, which allows for such insects to move to nearby crops. The cultivation of hemp prior to the adoption of reasonable regulations is therefore harmful to the welfare of residents, creates a public nuisance, and threatens the safety and viability of nearby crops.

9. A limitation of one (1) acre per permit holder on the amount of land that may be used to cultivate hemp for research or educational purposes, whether grown by an established agricultural research institution or any other individual or entity, is reasonable and necessary to protect the public's health, safety, and welfare and prevent abuse of the County's registration and permitting requirements.

10. The Kings County Agricultural Commissioner-Sealer reported that the hemp growing season is soon to be underway with most planting expected to occur within the next two to three weeks. While there are no hemp plants in the ground as of June 20, 2019, at least two growers have made known their plans to plant between June 21 and 23, 2019. Any delay in adopting an ordinance addressing the cultivation of hemp will hamper enforcement efforts, place growers who planted early in an untenable position, and leave the citizens of the County without the reasonable protections afforded them by the County's registration and permitting requirements.

11. At the June 18, 2019, Kings County Board of Supervisors meeting, five County residents addressed the Board regarding their concerns for the proximity of their residential properties to unregulated cultivation of hemp. Their concerns included safety, odors, increased traffic, and declination in property values and air quality. The cultivation of hemp is a matter of concern for the residents of the County, thereby necessitating an ordinance for the preservation of the public peace, health, and safety.

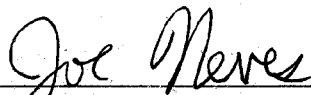
Section 2: Article XI of Chapter 14, attached hereto and incorporated herein by reference, is hereby added to the Kings County Code of Ordinances.

Section 3: Article XI of Chapter 14 shall remain in effect until December 31, 2020, unless otherwise amended or repealed.

Section 4. This ordinance shall take effect immediately following its adoption by four-fifths of the Board of Supervisors and, before the expiration of fifteen (15) days after its passage, shall be published once with the names of the members of the Board of Supervisors voting for and against the same in the Hanford Sentinel, a newspaper of general circulation published in the County of Kings.


The foregoing ordinance was introduced at a meeting of this Board of Supervisors of the County of Kings held on June 25, 2019, and adopted at a meeting held on June 25, 2019, by the following vote:

AYES:	Supervisors Verboon, Pedersen, Valle, Fagundes, Neves
NOES:	None
ABSENT:	None
ABSTAIN:	None



Joe Neves, Chairman of the
Board of Supervisors
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this 25th day of June, 2019.



Deputy Clerk of said Board of Supervisors

ARTICLE XI. CULTIVATION OF HEMP

Sections:

14-190	Purpose
14-191	Authority
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14-199	Each violation is a separate offense
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14-190 Purpose.

It is the purpose and intent of this article to implement an urgent interim program to regulate the cultivation of hemp in a responsible manner in order to protect the health, safety, and welfare of the residents of the County of Kings and enforce rules and regulations consistent with state law. It is further the purpose and intent of this article to require all persons cultivating hemp to register and obtain a permit to operate within the County of Kings. Nothing in this article is intended to authorize the cultivation of hemp for purposes that violate state or federal law. The provisions of this article are in addition to any other permits, licenses, and approvals, which may be required to conduct activity in the county. The provisions of this article shall expire on December 31, 2020.

14-191 Authority.

Pursuant to Section 7 of Article XI of the California Constitution, the County of Kings is authorized to adopt ordinances that establish standards, requirements, and regulations for the permitting of hemp cultivation. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the County of Kings to all hemp cultivation.

14-192 Definitions.

When used in this article, the following words shall have the meaning ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- A. "Hemp cultivation" means any activity involving the planting,

growing, harvesting, drying, curing, grading, or trimming of hemp, including activities carried out by seed breeders or by established agricultural research institutions for research or educational purposes.

B. "Hemp" has the same meaning as in Section 11018.5 of the Health and Safety Code.

C. "Seed breeder" has the same meaning as in Section 81000 of the Food and Agricultural Code.

D. "Established agricultural research institution" has the same meaning as in Section 81000 of the Food and Agricultural Code.

E. "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, activity trust, receiver, syndicate, or any other group or combination acting as a unit, in the plural as well as the singular.

F. "Sensitive Receptor" includes any church, child daycare, school, youth oriented facility, and Residential Zone Districts established by the Kings County Development Code.

14-193 Establishment and promulgation of county regulations.

A. In addition to any regulations adopted by the Board of Supervisors by resolution, the Agricultural Commissioner-Sealer, or his designee, is authorized to establish additional rules, regulations, or standards governing the issuance or denial of hemp permits, the ongoing operation of hemp cultivation, and the county's monitoring and inspection activities if the Agricultural Commissioner-Sealer determines the rule, regulation, or standard is necessary to carry out the purposes of this article.

B. Regulations issued by the Agricultural Commissioner-Sealer shall be published on the county's website. A copy of the regulations established by the Agricultural Commissioner-Sealer shall be filed with the clerk of the board.

C. Regulations promulgated by the Agricultural Commissioner-Sealer shall become effective upon the date of publication.

14-194 Hemp cultivation registration and permit required.

Except as authorized in this article, no person shall cultivate hemp in the unincorporated area of the County of Kings without first registering and obtaining a permit to cultivate as provided in this article. A permit issued under this article does not grant any interest in real property or create any interest of value and is not transferable.

14-195 Requirements for registration and issuance of a permit.

Prior to the cultivation of hemp in the unincorporated area of the county, the following requirements shall be met:

A. Applicants shall demonstrate that they meet the standards established in the application requirements or further amendments thereof as established by the Agricultural Commissioner-Sealer. A person may be issued only one hemp cultivation permit.

B. Applicants must be the deed holder of the land upon which hemp is to be cultivated or provide a county consent form signed by the deed holder.

C. The land upon which hemp is to be cultivated must be located in General Agricultural Zone Districts (AG-20, AG-40), must have a minimum of one-half a mile set back from any Sensitive Receptor, and must be located outside of a Local Agency Formation Commission (LAFCO) Sphere of Influence.

D. Applicants shall provide all information as set forth in Section 81003, subdivision (a), of the Food and Agricultural Code.

E. Applicants shall pay the state registration fee as set forth in Section 4900, title 3, of the California Code of Regulations.

F. All applications for hemp cultivation registration and permits shall be submitted to the Agricultural Commissioner-Sealer. Applicants shall be responsible for the actual costs, including, but not limited to, the costs of staff time, associated with processing a registration and permit for hemp cultivation.

14-196 Terms and Conditions of Permits.

Permit holders shall comply with the following terms and conditions:

A. Hemp cultivation for research or educational purposes shall be limited to a total of one (1) acre per permit holder within the County of Kings.

B. On-site processing of hemp is prohibited. For purposes of this section, on-site processing does not include those general agricultural cultivation practices as defined in Section 14-192, subsection A, above.

C. In order to maintain the public health, safety, and welfare, permit holders shall allow monitoring and inspection of any hemp cultivation site by drones operated by the Kings County Sheriff's Office or any other department of the County of Kings. Permit holders shall be responsible for payment of the actual costs, including, but not limited to, the costs of staff time, for monitoring and inspection activities.

D. Hemp cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.

E. Hemp cultivation shall be in compliance with all state and local laws and regulations, including, but not limited to, any rules, regulations or standards adopted by the Agricultural Commissioner-Sealer.

F. Each registration and permit issued pursuant to this article shall expire on December 31, 2020.

14-197 Limitations on county's liability.

To the fullest extent permitted by law, the County of Kings shall not assume any liability whatsoever with respect to having registered and issued a permit to cultivate hemp pursuant to this article or otherwise approving the operation of any hemp cultivation.

14-198 Violations declared a public nuisance.

Each and every violation of the provisions of this article is hereby deemed unlawful and a public nuisance.

14-199 Each violation is a separate offense.

Each and every violation of this article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Code of Ordinances of the County of Kings.

14-200 Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this article or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.