

## HEMP ORDINANCES IN VENTURA COUNTY

In April 2019, the California Department of Food and Agriculture adopted regulations to facilitate the registration of industrial hemp growers pursuant to requirements in Chapter 24 of the Food and Agriculture Code of California as passed by the California Legislature and signed into law by the Governor. These requirements specified that registrations must be completed through the county agricultural commissioners throughout the State.

In the first year there were 54 applicants to grow hemp in Ventura County. There were 134 sites and 3,800 acres registered beginning in May 2019.



In August of 2019, the Agricultural Commissioner's Office began to receive numerous complaints about the smell, and the potential smell of industrial hemp plantings. Many of these complaints were centered around the Tierra Rejada Valley and Camarillo from the Leisure Village area. These complaints continued and increased through the month of November when the crops were harvested and removed.

On November 19, the Ventura County Board of Supervisors held a special meeting in Moorpark which concluded with a report from the Agricultural Commissioner about industrial hemp in Ventura County. Dozens of residents and growers provided comments about the detriments, particularly the odor, and benefits of industrial hemp during that meeting.

On December 10, 2019, the Board held another hearing on the County's authority to cease registrations to growers of industrial hemp or to temporarily prohibit the cultivation of industrial hemp.

At the same meeting the Board conducted a public hearing addressing the planting of hemp in all unincorporated areas of the County. At the conclusion of the meeting, the Board requested staff to develop an urgency ordinance to ban industrial hemp planting within ½ mile of sensitive receptors in areas zoned residential in cities and unincorporated areas, and near schools. They further directed staff to return with recommendations for an ordinance establishing schedules or "windows" for planting

industrial hemp in the unincorporated area and exempting from regulation industrial hemp in greenhouses with adequate filtration systems to control odor, and nurseries where propagative hemp material is grown.

On January 14, 2020, the Board adopted Urgency Ordinance No. 4558, banning industrial hemp planting within ½ mile of sensitive residential zoned areas in cities and unincorporated areas, and near schools. The urgency ordinance exempted only production of nonflowering propagative plants within the ½ mile setback area from sensitive receptors.



On February 25, 2020, the Board extended Urgency Ordinance No 4558 for up to 10 months and 15 days. They further instructed the Agricultural Commissioner to develop language for a regular land use ordinance to regulate industrial hemp to be reviewed by the County Planning Commission and then returned to the Board for adoption. This was expected to take approximately three to four months to draft ordinance language, review, hold hearings and to obtain approval.

Initial draft language was posted on the Agricultural Commissioner's website requesting public input through an email submission process on March 6, 2020. Based on input received the Agricultural Commissioner is now submitting revised draft language and requesting additional input from interested parties.

Through this process there have been questions raised about some of the proposed sections.

1. List of Certified low odor varieties maintained by the commissioner. Under current law, only state approved varieties are allowed to be planted in California. Only an accredited seed certifying agency such as the California Crop Improvement Association, or the Association of Official Seed Certifying Agencies can certify seed for production. Only varieties of industrial hemp certified as low odor by one of these agencies could be

approved for any exemption to planting within the ½ mile setback zone if so approved by the Board of Supervisors.

2. Protection from nuisance claims. If growers are in full compliance with both State and County laws and regulations they would be protected from legal complaints/lawsuits claiming their operation is a public nuisance. The public still has the right to file a complaint with the Agricultural Commissioner's Office if they have any concerns with any hemp operation. The Commissioner's Office will investigate any complaint filed. This also does not mean that the terms of the ordinance cannot be revised if it is determined there is a need to do so by the Board of Supervisors.

## **DRAFT Ordinance Language for Regulation of Industrial Hemp Cultivation**

**(Rev. 7/9/2020)**

Definitions of terms used.

“List of Low-Odor Varieties” means a list, maintained by the Agricultural Commissioner, of certified hemp varieties found to be low in odor.

“Sensitive site” means any occupied property within a:

- 1) Residential zone within a city
- 2) Unincorporated area designated “Urban,” “Existing Community” or “Existing Community-Urban Reserve” in the General Plan,  
or a:
- 3) School K-12
- 4) Licensed daycare center
- 5) College or university building
- 6) Hospital or medical facility

Regulatory Language.

- a) Odor Mitigation
  - 1) Except as exempted below, no flowering hemp shall be grown within ½ mile of any sensitive site.
  - 2) Within 1 mile of any sensitive site, hemp must be harvested within 30 days of receipt of the first Laboratory Test Result indicating “PASSED AS CALIFORNIA INDUSTRIAL HEMP.” Within 15 days of the completion of harvest, remaining hemp debris must be tilled under or moved beyond 1 mile from any sensitive site.
  - 3) The following are exempt from the above restrictions:
    - i. Any planting of five acres or less grown by an established agricultural research institution registered with the Agricultural Commissioner and at least ½ mile from any other planting within ½ mile of a sensitive site
    - ii. Any planting from certified seed on the List of Low-Odor Varieties
- b) Pollen Control
  - 1) Hemp plants producing pollen may only be grown by a registered seed breeder in an enclosed greenhouse unless they are more than 3 miles from any registered hemp planting.
  - 2) All other registrants must regularly patrol hemp fields and destroy all male plants within five days of discovery.

Signs Required.

- a) All parcels used for the cultivation of industrial hemp shall have onsite signs indicating that “Industrial Hemp” is being cultivated on site. The signs shall:

- 1) state "Industrial hemp," and
  - 2) state "NO TRESPASSING" in English and Spanish, that
  - 3) measure at least three feet wide by three feet high, with letters and symbols not less than three inches in height that sharply contrast with their immediate background, that
  - 4) except for locations affecting a traffic sight triangle where there are no traffic controls on either street at an intersection, are posted at the corners of the parcel and at all usual points of entry to the parcel. When a parcel is adjacent to a public right-of-way signs shall be posted at intervals of not more than 1/3 of a mile along the border.
- b) Signs may also include information such as:
- 1) An owner applied number, or
  - 2) "Not Marijuana," or
  - 3) "No THC," or "Less than 0.3% THC," or
  - 4) "No Effects if Smoked."

#### Transportation of Hemp.

- a) Any person transporting industrial hemp in a vehicle shall have in their possession a copy of the certificate of registration issued by the county agricultural commissioner and a certificate of analysis demonstrating that the industrial hemp has met the 0.3 % maximum level permitted by law.

#### Site Security.

- a) Each registrant shall submit a site security plan to the Agricultural Commissioner that may include measures such as Owner Applied Numbers, fencing, locking gates when no employees are present, security personnel on site or other security measures.

#### Abatement and Penalties.

- a) Any industrial hemp planted in violation of this ordinance is a public nuisance, and the Agricultural Commissioner may abate or order the violator to abate it. The Agricultural Commissioner may enter property and structures where industrial hemp may be grown to inspect for compliance with this ordinance and abate such nuisances.
- b) Any person or entity that violates any provision of this ordinance is guilty of a misdemeanor.

#### Severability.

- a) If any provision or any part of any provision of this ordinance or the application thereof to any person, property or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or parts of a provision or applications of the ordinance which can be given effect without the invalid provision, provision part or application, and, to this end, the

provisions and the parts of the provisions of the ordinance are hereby declared to be severable.

Authority.

- a) The California Constitution, Article 11, Section 7, and Section 65850 of the Government Code provide that the Board of Supervisors may adopt an ordinance under the County's police power and authority to regulate land use.

Effective Date.

This ordinance shall become effective \_\_\_\_\_.

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## Other Options and Measures

“Odor-Controlled Greenhouse” means an enclosed structure operated in accordance with an odor control plan (OCP) approved by the Agricultural Commissioner:

- 1) The OCP must be certified by a Certified Industrial Hygienist or Professional Engineer.
- 2) The Agricultural Commissioner may deny or withdraw approval of an OCP if the operator fails to make all records relating to the OCP available to the Agricultural Commissioner upon demand within a reasonable time.

### Odor Mitigation - Harvest Discipline Countywide

- a) Odor Mitigation
  - 1) Hemp must be harvested within 30 days of receipt of the first Laboratory Test Result indicating “PASSED AS CALIFORNIA INDUSTRIAL HEMP.” Within 15 days of the completion of harvest, remaining hemp debris must be tilled under or removed from the field unless it is more than 1 mile from any sensitive site.

### Odor Mitigation - Hemp-free Period

- a) Odor Mitigation
  - 2) No flowering hemp shall be grown from November 1 to March 31, within 1 mile of any sensitive site. Hemp debris must be tilled or moved more than 1 mile from any sensitive site prior to November 1.

### Alternative Setback Distances

- a) Odor Mitigation
  - 1) Except as exempted below, no flowering hemp shall be grown within 1 mile from any sensitive site.

or

- a) Odor Mitigation
  - 2) No flowering hemp shall be grown within 600 feet of any sensitive site.
  - 3) Except as exempted below, no flowering hemp shall be grown from 600 feet to (¼ mile, ½ mile, 1 mile) from any sensitive site.

or

- a) Odor Mitigation
  - 1) No flowering hemp shall be grown within ¼ mile of any sensitive site.
  - 2) Except as exempted below, no flowering hemp shall be grown from ¼ mile to (½ mile, 1 mile) from any sensitive site.

or

- a) Odor Mitigation
  - 1) No flowering hemp shall be grown within 1 mile of any sensitive site.

### Optional Setback Exemptions

- a) Odor Mitigation
  - 3) The following are exempt from the above restrictions:
    - iii. Any planting of five acres or less in an Odor-Controlled Greenhouse which is at least ½ mile from any other planting within ½ mile of a sensitive site
    - iv. Any planting of ten acres or less upon express written consent of each resident of a sensitive site and at least ½ mile from any other planting within ½ mile of a sensitive site
      - 1. Written consent is valid only for the period of registration and new written consent must be obtained upon renewal of registration

### Nuisance Claims

- a) Nuisance Claims
  - 1) Odor from a registered industrial hemp cultivation site is not a nuisance if the industrial hemp cultivation site is operated in accordance with this chapter and state industrial hemp laws.

### Option Light Management

- 1) No outdoor grow lights are permitted between the hours of 10:00 PM and 6:00 AM within ½ mile of any sensitive site unless the glare is not visible from any neighboring property or the lights are within an enclosed structure with:
  - a. Fully or partially shielded directional lighting preventing visibility of glare from any neighboring property; or
  - b. Fitted with blackout screening for the walls and roof, preventing visibility of glare from any neighboring property.

### Additional Options for Sensitive Sites

“Sensitive site” means any occupied:

- 7) Hotel, motel, inn, hostel, or other temporary residential unit within city boundaries.

“Sensitive site” means any:

- 1) Area within city boundaries.

URGENCY ORDINANCE OF THE COUNTY OF VENTURA  
TEMPORARILY PROHIBITING THE OUTDOOR PLANTING  
OF INDUSTRIAL HEMP WITHIN CERTAIN PARTS  
OF THE UNINCORPORATED AREA OF VENTURA COUNTY

The Board of Supervisors of the County of Ventura ordains as follows:

**SECTION 1. Temporary Prohibition.**

A. For the duration of this ordinance and any extension thereof, the outdoor planting of industrial hemp (as defined in Food and Agricultural Code section 81000, as such may be amended from time to time) shall be prohibited in any part of the unincorporated area of Ventura County that is within one-half mile of (i) any land within a city zoned for residential use, (ii) any existing residential community in the unincorporated area of Ventura County or (iii) any school, and no person or entity shall engage in or cause the outdoor planting of any industrial hemp in those parts of the unincorporated area of Ventura County.

B. For purposes of this ordinance, “outdoor planting” means any planting other than propagative plants, in containers, that are not flowering. “Propagative plants” include live plants, seeds, seedlings, clones, cuttings, transplants or other propagules used to establish plants for planting.

C. For purposes of this ordinance, “existing residential community” means any area designated as “urban,” “existing community” or “existing community-urban reserve” on the Ventura County General Plan land use maps.

D. For purposes of this ordinance, “school” means any licensed day care center, public and private schools, colleges and universities.

**SECTION 2. Authority.**

A. Sections 25123 and 25131 of the Government Code provide that an urgency ordinance for the immediate preservation of the public peace, health or safety, which contains a declaration of the facts constituting the urgency, may be adopted, by a four-fifths vote of the Board of Supervisors, immediately upon introduction and shall take effect immediately.

B. Section 65858 of the Government Code also provides that, without following the procedures otherwise required prior to the adoption of a zoning ordinance, an urgency measure in the form of an interim ordinance may be adopted, by a four-fifths vote of the

Board of Supervisors, to protect the public from a current and immediate threat to the public health, safety or welfare resulting from the approval of an entitlement for use. Government Code section 65858 further provides that such an urgency measure shall be effective for only 45 days following its adoption but may be extended, following compliance with that section, for up to an additional 22 months and 15 days beyond the original 45-day period.

C. This ordinance is adopted as an urgency ordinance pursuant to the provisions of Government Code sections 25123, 25131 and 65858.

### **SECTION 3. Declaration of Purpose, Facts Constituting Urgency, and Determination of Current and Immediate Threat.**

A. Purpose. The purpose of this ordinance is to protect the residents of Ventura County from the detrimental effects of the strong, skunk-like odor produced by the growing of industrial hemp in parts of the unincorporated area while the County of Ventura studies potential regulations to eliminate or mitigate to an acceptable level the effects of the odor.

#### **B. Facts Constituting Urgency.**

1. At meetings of the Board of Supervisors on November 19, 2019, and December 10, 2019, the Agricultural Commissioner for the County of Ventura presented reports on hemp cultivation in Ventura County (agenda item No. 35 and agenda items Nos. 49 and 50, respectively). He reported that an issue of concern regarding hemp is the strong, skunk-like odor produced by flowering hemp, which exists for approximately six weeks with each crop. He reported that while industrial hemp is a warm-weather crop, it generally could be planted and cultivated year-round in Ventura County, and that some growers are anticipated to plant crops as early as February 2020.

2. At the meetings of the Board of Supervisors on November 19, 2019, and December 10, 2019, more than 40 members of the public orally testified to the detrimental effects of the strong odor produced by the cultivation of industrial hemp in the unincorporated area, including the disruption of the peaceful use and enjoyment of the outdoor areas around their homes; the disruption of the peaceful use and enjoyment of their homes themselves, due to the infiltration of the odor into their homes; and stress, headaches, nausea, coughing and other respiratory problems, eye irritation, sore throats and allergic reactions attributed to the persistent odor. More than 85 additional members of the public submitted written comment cards at the at the November 19, 2019, meeting objecting to the cultivation of industrial hemp in the unincorporated area.

3. At the meeting of the Board of Supervisors on November 19, 2019, the mayors of the cities of Camarillo and Moorpark and the city managers of the cities of Camarillo,

Moorpark and Ojai testified to detrimental effects on the residents of those cities from hemp cultivation in the unincorporated area. This testimony supplemented letters previously received by the Board of Supervisors from the mayors of the cities of Camarillo and Ojai concerning the detrimental effects of hemp cultivation, including reports by residents of the City of Camarillo of headaches, nausea and allergic reactions. At the meeting of the Board of Supervisors on December 10, 2019, the mayor and city manager of the city of Camarillo and representatives from the cities of Moorpark and Ojai testified in favor of a prohibition on industrial hemp cultivation in the unincorporated area or the adoption of buffer zones around their cities in which industrial hemp cultivation would be prohibited to protect the residents of those cities from the detrimental effects of hemp cultivation.

C. Determination of Current and Immediate Threat. Based on the foregoing facts, the record of agenda item No. 35 at the meeting of the Board of Supervisors on November 19, 2019, the record of agenda items Nos. 49 and 50 at the meeting of the Board of Supervisors on December 10, 2019, and the record of the item at the meeting of the Board of Supervisors at which this ordinance is adopted, the Board of Supervisors finds and determines that there is a current and immediate threat to the public health, safety and welfare from the detrimental effects of the strong, skunk-like odor produced by the growing of industrial hemp in the unincorporated area of Ventura County and this ordinance is necessary for the immediate preservation of the public peace, health and safety. The Board of Supervisors further finds and determines that the current entitlement to engage in industrial hemp cultivation as of right in agricultural zones under the County of Ventura's current zoning ordinances is resulting in a current and immediate threat to public health, safety and welfare.

#### **SECTION 4. Study and Report.**

At the meeting of the Board of Supervisors on November 19, 2019, the Board of Supervisors directed County of Ventura staff to study and report back on measures to mitigate the impact of odor produced by hemp cultivation, including, but not limited to, buffer zones (around cities and/or sensitive sites) and setbacks, with a potential exemption for indoor cultivation, in accordance with federal and state law. At the meeting of the Board of Supervisors on December 10, 2019, the Board of Supervisors further directed County of Ventura staff to study and report back on recommendations for establishing schedules or "windows" for the planting of industrial hemp in the unincorporated area and exempting from regulation industrial hemp cultivation in greenhouses with adequate odor filtration systems and nurseries where industrial hemp is grown solely for the purpose of producing propagative material. The Board of Supervisors hereby confirms those directions and finds that the prohibition of the outdoor planting of industrial hemp in section 1 prohibits uses that may be in conflict with the above studies directed by the Board of Supervisors.

**SECTION 5. Abatement and Penalties.**

A. Any industrial hemp planted in violation of section 1 of this ordinance is a public nuisance, and the Agricultural Commissioner may abate or order the violator to abate it.

B. Any person or entity that violates section 1 of this ordinance is guilty of a misdemeanor/infraction, which is enforceable pursuant to sections 13 through 13-4 of the Ventura County Ordinance Code.

**SECTION 6. Severability.**

If any provision or any part of any provision of this ordinance or the application thereof to any person, property or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or parts of a provision or applications of the ordinance which can be given effect without the invalid provision, provision part or application, and, to this end, the provisions and the parts of the provisions of the ordinance are hereby declared to be severable.

**SECTION 7. Duration.**

This ordinance shall take effect and be operative immediately upon adoption and shall be of no further force and effect 45 days following the date of its adoption unless extended in accordance with law.

**PASSED AND ADOPTED** this 14th day of January 2020, by the following vote:

AYES: Supervisor Long, Parks, Huber and Zaragoza

NOES: none

ABSENT: Supervisor Bunnell

Keen Long  
CHAIR, BOARD OF SUPERVISORS

ATTEST:

MICHAEL POWERS  
Clerk of the Board of Supervisors  
County of Ventura, State of California

By: Yan Shuen  
Deputy Clerk of the Board



ORDINANCE NO. 4560

URGENCY ORDINANCE OF THE COUNTY OF VENTURA  
EXTENDING FOR 10 MONTHS AND 15 DAYS  
URGENCY ORDINANCE NO. 4558 PROHIBITING THE OUTDOOR PLANTING  
OF INDUSTRIAL HEMP WITHIN CERTAIN PARTS OF  
THE UNINCORPORATED AREA OF VENTURA COUNTY

The Board of Supervisors of the County of Ventura ordains as follows:

**SECTION 1. Determination of Current and Immediate Threat.**

The Board of Supervisors of Ventura County (Board) hereby incorporates by this reference the determination of current and immediate threat to public health, safety and welfare and the necessity for the immediate preservation of public peace, health and safety as stated in section 3 of Urgency Ordinance No. 4558, which the Board hereby determines to continue to exist, warranting the extension of Urgency Ordinance No. 4558 as set forth herein. In particular, the Board finds and determines that there is a current and immediate threat to the public health, safety and welfare from the detrimental effects of the strong, skunk-like odor produced by the growing of industrial hemp in the unincorporated area of Ventura County and the extension of Urgency Ordinance No. 4558 is necessary for the immediate preservation of the public peace, health and safety; and further finds and determines that the current entitlement to engage in industrial hemp cultivation as of right in agricultural zones under the County of Ventura's current zoning ordinances constitutes a current and immediate threat to public health, safety and welfare.

**SECTION 2. Urgent Need.**

Urgency Ordinance No. 4558 continues to be urgently needed for the immediate preservation of the public health, safety and welfare and the necessity for the immediate preservation of public peace, health and safety based on the determination referenced and stated in section 1 above.

**SECTION 3. Severability.**

If any provision or any part of any provision of this ordinance or the application thereof to any person, property or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or parts of a provision or applications of the ordinance which can be given effect without the invalid provision, provision part or application, and, to this end, the provisions and the parts of the provisions of the ordinance are hereby declared to be severable.

**SECTION 4. Effective Date; Extension of Urgency Ordinance No. 4558.**

This urgency ordinance shall take effect and be operative immediately upon adoption and shall extend Urgency Ordinance No. 4558, as amended by this ordinance, for a period of 10 months and 15 days, after which date Urgency Ordinance No. 4558, as amended, shall be of no further force and effect unless further extended in accordance with law.

**PASSED AND ADOPTED** this 25th day of February 2020, by the following vote:

AYES: Supervisors Bennett, Parks, Huber, Zaragoza, Long

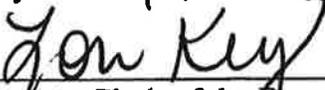
NOES: none

ABSENT: none

  
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CHAIR, BOARD OF SUPERVISORS

ATTEST:

MICHAEL POWERS  
Clerk of the Board of Supervisors  
County of Ventura, State of California

By:   
\_\_\_\_\_  
Deputy Clerk of the Board

