

EFFECTIVE DATE: 12-21-19

ORDINANCE NO. 2019- 88

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, DECLARING A MORATORIUM ON ALL NEW CULTIVATIONS OF INDUSTRIAL HEMP FOR A PERIOD OF TEN MONTHS

WHEREAS, the Aurora City Council possess certain police powers as provided in the City Charter pursuant to Article XX of the Colorado Constitution; and

WHEREAS, the terms hemp and industrial hemp are interchangeable and mean the plant Cannabis sativa L. and any part of the plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry-weight basis; and

WHEREAS, City Staff is recommending the passage of a moratorium on all new cultivations of industrial hemp in the City based upon a lack of clear guidance from the state regarding the City's authority to license and regulate the cultivation of industrial hemp; and

WHEREAS, the State Legislature passed Senate Bill 19-240 which authorizes municipalities to establish local licensing requirements on businesses engaged in the storage, extraction, processing, and manufacturing of industrial hemp and industrial hemp products (C.R.S. § 31-15-501(1)(r)); and

WHEREAS, the State Legislature has not enacted similar legislation for the cultivation of industrial hemp; and

WHEREAS, Section 16(1)(c) of Article XVIII of the Colorado Constitution requires the regulation of marijuana to be separate from the regulation of industrial hemp; and

WHEREAS, there is no provision in state law permitting or regulating home cultivations of industrial hemp; and

WHEREAS, the Colorado Department of Agriculture is conducting stakeholder work groups to develop the state's hemp management plan in accordance with the federal "Agricultural Improvement Act of 2018"; and

WHEREAS, the Colorado Department of Agriculture (CDA) anticipates the state hemp management plan will be created by November 2019. The state plan must be submitted to the United States Department of Agriculture (USDA) for approval. If the state's hemp management plan is approved by the USDA the plan will then be incorporated into a to-be-developed larger Colorado Blueprint; and

WHEREAS, the state hemp management plan may provide the City with the guidance necessary to regulate the cultivation of industrial hemp; and

WHEREAS, a reasonable period of time is necessary for the state to develop the state hemp management plan; and

WHEREAS, Aurora's City officials and elected Council members wish to have a reasonable period of time to study and consider the best method of dealing with all aspects of the cultivation of industrial hemp; and

WHEREAS, City Council has the authority to impose, through a public hearing process, a limited moratorium.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. No cultivations of industrial hemp, including home hemp cultivations, shall be permitted in the City for a ten-month period following the effective date of this ordinance.

Section 2. City staff is directed to utilize the moratorium period for the purpose of monitoring the Colorado Department of Agriculture's progress in creating a hemp management plan regulating hemp cultivation.

Section 3. After the hemp management plan is approved by the USDA and Colorado creates its Blueprint on the licensing and regulation of hemp cultivation, City staff will make recommendations to City Council on what legislation and/or regulatory measures the City should enact or adopt for the cultivation of industrial hemp within a reasonable timeframe prior to the expiration of the moratorium, but no less than thirty (30) days prior to the expiration of the moratorium.

Section 4. If the CDA's hemp management plan is not approved by the USDA during this ten-month moratorium period, or if the state's Blueprint is not developed during this ten-month moratorium period, or for good cause established by staff, the City has the option to renew the moratorium period by resolution for an additional ten-month period.

Section 5. All ordinances or parts of ordinances of the City in conflict herewith are expressly suspended during the period of the moratorium.

Section 6. Pursuant to Section 5-5 of the City Charter, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this 4th day of November, 2019.

PASSED AND ORDERED PUBLISHED BY REFERENCE this 18th day of  
November, 2019.

  
BOB LEGARE, Mayor

ATTEST:

  
STEPHEN J. RUGER, City Clerk

APPROVED AS TO FORM:

  
TIM JOYCE, Assistant City Attorney

F:/Dept/City Attorney/CA/Tim/Ordinance/Moratorium/Hemp Cultivation/Ordinance Moratorium Hemp Cultivation