

**STAFF REPORT FOR THE PLANNING COMMISSION MEETING OF
MARCH 25, 2020**

FILE NO: ZA-2020-0003

AGENDA ITEM: E.1

STAFF CONTACT: Lee Plemel, AICP, Community Development Director

AGENDA TITLE: Discussion and possible action regarding a recommendation to the Board of Supervisors for an ordinance declaring a moratorium, for a period of up to 180 days with the ability to extend it by resolution for up to an additional 60 days, on the acceptance and processing of planning or other applications for construction or operation of hemp cultivation or hemp product manufacturing.

STAFF SUMMARY: Federal and Nevada laws allow the cultivation of hemp and manufacturing of certain products from hemp. Though similar in appearance, hemp has different characteristics than cannabis (marijuana) and is regulated separately from cannabis. The cultivation of hemp may have some of the same potential negative impacts as the cultivation of marijuana, such as objectionable odors that may create a public nuisance to adjacent properties. The initiation of a moratorium on hemp cultivation and product manufacturing will allow the City time to develop appropriate regulations for such operations. An ordinance adopted by the Board of Supervisors is required upon recommendation from the Planning Commission to declare a moratorium.

PROPOSED MOTION: I move to recommend a moratorium, for a period of up to 180 days with the ability to extend it by resolution of the Board of Supervisors for up to an additional 60 days, on the on the acceptance and processing of planning or other applications for construction or operation of hemp cultivation only, including the drying of harvested hemp plant material.

DISCUSSION:

The implementation of a moratorium on hemp cultivation and manufacturing of products from the hemp plant will give the City time to develop appropriate zoning regulations for such operations, such as location and operational standards. Since the cultivation of hemp and manufacturing of products from hemp are currently legal, the implementation of a moratorium on hemp operations could have an impact on new hemp businesses planning to operate in Carson City. However, as of the writing of this staff report, there are no current building permits or business license applications for new hemp operations.

The Carson City Municipal Code requires the Board of Supervisors to initiate the moratorium process by adoption of a Resolution. The Board adopted the attached Resolution 2020-R-3 on February 20, 2020, to initiate the moratorium. The Planning Commission is required to make a recommendation to the Board of Supervisors to approve the moratorium, to modify the extent and area of the moratorium, or not to impose the moratorium. A recommendation to approve a moratorium requires a two-thirds vote of the total membership of the Planning Commission.

The adoption of this moratorium would effectively prohibit new hemp-related businesses for the period established by the moratorium, which would be for up to 180 days or until applicable regulations are adopted, whichever comes first. The moratorium may be extended in accordance with Carson City Municipal Code (CCMC) 18.02.120 through additional public hearings.

Note that staff's recommended motion is to implement a moratorium for hemp cultivation facilities only, which would not implement a moratorium on product manufacturing facilities.

Since the date of initiation of the moratorium by the Board of Supervisors on all types of hemp facilities, additional information has been obtained by staff indicating that the primary impact to adjacent properties from hemp operations are from the growing of live plants, i.e. hemp cultivation. Processing of the dead plant material, including the extraction of oils and manufacturing of other products from the plant material, does not create a significant odor, particular when measured outside of the building in which the processing is occurring.

Carson City currently has multiple businesses licensed or in the process of getting licensed through both the City and the State to process hemp products—a “hemp handlers” license in State regulation terms. These businesses have been operating in Carson City without any issues related to negative impacts to adjacent properties.

Staff toured one of the hemp product manufacturers’ facilities on March 4, 2020, to evaluate the potential impacts that such operations could have on adjacent properties. The facility contained pallets of large bags of dried, raw hemp plant material. The odor was only noticeable in close proximity to the bags, and not a strong odor even then. The various processes for extracting oils or otherwise processing the raw hemp material only creates localized odors around the machinery. In conclusion, the impact of processing hemp is similar in nature to the processing of other plant-based materials, and other types of permitted manufacturing create worse impacts.

Hemp material delivered to hemp handlers has been tested for THC content by the Department of Agriculture, so businesses can verify to law enforcement or other regulating agencies that they are not handling marijuana products that they would otherwise not be permitted to process.

A moratorium is a temporary ban or suspension on the acceptance and processing of planning applications or permits for a specific type of application or a specific geographic area, authorized by the Carson City Municipal Code (CCMC) 18.02.120 (Moratorium). Moratoriums are typically used to allow time for a city or county to address a specific zoning issue without having to process the particular type of application for development or applications for a particular geographic area while regulations are being developed.

Staff anticipates bringing draft hemp cultivation regulations to the Planning Commission for its consideration on April 29, 2020, which would likely result in new regulations being adopted by the Board of Supervisors by June 2020.

If you have questions regarding this item, contact Lee Plemel at lplemel@carson.org or 283-7075.

PUBLIC COMMENTS:

Public notice of this proposed moratorium was published in the newspaper and posted on the City’s website pursuant to the provisions of NRS and CCMC. As of the writing of this staff report, no public comments were received. Any comments that are received after this report is complete will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division.

FINDINGS:

CCMC 18.02.120(5) requires the Planning Commission to make specific findings of fact when making a recommendation for approval of a moratorium. Staff recommends that the Planning Commission recommend approval of the moratorium based on the following findings:

- A. *The moratorium is necessary to promote the health, safety and welfare of the area described in the moratorium declaration.*

Staff response: The moratorium is necessary to promote the health, safety, and welfare of Carson City by allowing City staff, the Planning Commission, and the Board of Supervisors time to responsibly consider the potential impacts of hemp facilities on adjacent land uses, including but not limited to odors, and to consider amendments to the CCMC to address the impacts.

- B. *The moratorium is necessary to permit the staff, commission, board and public to focus on the efficient and effective preparation of an amendment to the master plan.*

Staff response: Ordinances establishing zoning requirements are adopted pursuant to the Master Plan in accordance with the CCMC and NRS. The moratorium is necessary to allow City staff, the Planning Commission, and the Board of Supervisors time to responsibly consider the potential impacts of hemp facilities on adjacent land uses, including but not limited to odors, and to consider amendments to the CCMC to address the impacts. No amendment to the Master Plan is expected to be required as a result of any regulations that may be imposed regarding new hemp facilities.

- C. *The moratorium is necessary because continued development during the proposed moratorium period possibly would result in development that may conflict with the plan amendment.*

Staff response: The CCMC, including portions pertinent to zoning, currently does not include regulations for hemp cultivation or product manufacturing facilities. Hemp cultivation is allowed anywhere an agricultural use is allowed, and product manufacturing is allowed anywhere manufacturing is allowed. To continue to allow applications for new hemp facilities at this time or any time during the moratorium could result in such facilities being in conflict with any regulations that will be developed.

ALTERNATIVES:

1. Recommend the moratorium for hemp cultivation and product manufacturing facilities.
2. Recommend to not implement a moratorium on any hemp facilities.

Attachments:

- 1) Draft ordinance to declare the moratorium
- 2) Board of Supervisors Resolution initiating the moratorium
- 3) Map of permitted areas for Marijuana cultivation and product manufacturing
- 4) Map of permitted areas for agricultural uses

Summary: Adds provision for the regulation of hemp cultivation and product manufacturing facilities.

BILL NO. _____

ORDINANCE NO. 2020 - _____

AN ORDINANCE RELATING TO MARIJUANA; AMENDING TITLE 18 APPENDIX (CARSON CITY DEVELOPMENT STANDARDS), DIVISION 1 (LAND USE AND SITE DESIGN), SECTION 1.20 (MEDICAL MARIJUANA ESTABLISHMENTS AND MARIJUANA ESTABLISHMENTS) OF THE CARSON CITY MUNICIPAL CODE TO REVISE HOURS OF OPERATION FOR MEDICAL MARIJUANA DISPENSARIES AND RETAIL MARIJUANA STORES; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 18 Appendix (Carson City Development Standards), Division 1 (Land Use and Site Design), Section 1.21 (Hemp Cultivation And Product Manufacturing Facilities), is hereby added as follows:

1.21 - Hemp Cultivation and Hemp Product Manufacturing Facilities.

The following standards are intended to establish minimum standards and Special Use Permit review criteria for Hemp Cultivation and Hemp Product Manufacturing Facilities, in addition to other required standards for commercial and industrial development.

1. The following standards apply to all Hemp Cultivation and Hemp Product Manufacturing Facilities:

(a) A Hemp Cultivation Facility may only operate upon the issuance of a Special Use Permit.

(b) All business activities related to a Hemp Cultivation Facility must be conducted indoors and within a permanent building. The use of an office trailer or other temporary structure is prohibited. A Hemp Cultivation Facility must at all times maintain an exterior appearance that is professional, orderly, dignified and consistent with the traditional style of manufacturing facilities in compliance with applicable development standards for architecture.

(c) The outdoor display or sale of a Hemp Cultivation Facility's merchandise or product is prohibited. Merchandise and products must not be visible when viewed from outside the building in which the Hemp Cultivation Facility is located.

(d) Accessory outside storage for a Hemp Cultivation Facility must comply with the provisions of Title 18 Appendix (Carson City Development Standards), Division 1.12 (Outside Storage).

(e) Notwithstanding other provisions of title 18, off-street parking must be provided for a Hemp Cultivation Facility in accordance with the following:

(1) A minimum of one space for every 1,000 square feet of gross floor area; and

(2) For any area used for Hemp Product Manufacturing, on space for every 500 square feet of gross floor area.

SECTION II:

That no other provisions of Title 18 of the Carson City Municipal Code are affected by this ordinance.

SECTION III:

This ordinance becomes effective on _____, 2020.

PROPOSED on _____, 2020.

PROPOSED by _____.

PASSED _____, 2020.

VOTE:

AYES: _____

NAYS: _____

ABSENT: _____

ROBERT L. CROWELL, Mayor

ATTEST:

AUBREY ROWLATT, Clerk-Recorder

RESOLUTION NO. 2020-R-3**A RESOLUTION TO INITIATE THE PROCESS FOR DECLARING A MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF PLANNING APPLICATIONS OR OTHER APPLICATIONS FOR HEMP CULTIVATION OR HEMP PRODUCT MANUFACTURING.**

WHEREAS, Carson City Municipal Code Section 18.02.120 (Moratorium) allows the Board of Supervisors by resolution to initiate the process for declaring a moratorium on the acceptance and processing of planning and zoning applications and permits for specific types of applications; and

WHEREAS, the 2014 U.S. Farm Bill, P.L. 113-79, section 7606, 7 U.S.C. section 5940, authorized institutions of higher education or state departments of agriculture in states that have legalized hemp cultivation to conduct research and pilot programs; and

WHEREAS, the Farm Bill defined hemp as the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis; and

WHEREAS, the 2015 Nevada legislature adopted Senate Bill 305 which legalized the cultivation of hemp for research and pilot projects and implemented the regulations from the 2014 Farm Bill; and

WHEREAS, on December 20, 2018, the Agriculture Improvement Act of 2018 ("the 2018 Farm Bill") was signed into law allowing hemp cultivation far more broadly than the previously allowed pilot programs under the 2014 Farm Bill. The 2018 Farm Bill also removed hemp from the federal list of controlled substances and directed the U.S. Department of Agriculture to develop standards for commercial hemp production; and

WHEREAS, the 2019 Nevada legislature adopted Senate Bill 209 which expanded the legalized cultivation of hemp beyond research and directed the state Department of Health and Human Services to adopt regulations for the testing and labeling of hemp products; and

WHEREAS, hemp and cannabis are derivatives of the same plant, *Cannabis Sativa* L., and the appearance of hemp and cannabis are virtually indistinguishable. Absent a laboratory performed chemical analysis for THC content, the two plants often cannot be distinguished. This would make it difficult for law enforcement to independently distinguish between a hemp plant and a cannabis plant without collecting samples for testing, thereby hampering civil and criminal enforcement of current cannabis cultivation regulations; and

WHEREAS, hemp cultivation creates a pungent seasonal odor that is similar in type and intensity to the pungent seasonal odor created by cannabis cultivation. Failure to prohibit hemp or

to regulate the location and size of industrial hemp cultivation sites is likely to result in nuisance odors impacting neighbors and neighborhoods; and

WHEREAS, allowing the cultivation of hemp, particularly 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 existing agricultural and other land uses and nearby property owners.

NOW, THEREFORE, BE IT RESOLVED that the Carson City Board of Supervisors hereby initiates the process for declaring a moratorium on the acceptance and processing of planning applications, including land use applications, business license applications, building permit applications or any other application or request for the cultivation of hemp or production manufacturing from hemp in Carson City.

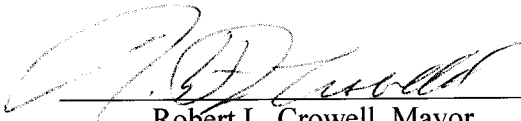
Upon motion by Supervisor Stacey Giomi, seconded by Supervisor Lori Bagwell, the foregoing Resolution was passed and adopted this 20th day of February, 2020 by the following vote:

AYES: Supervisor Stacey Giomi
 Supervisor Lori Bagwell
 Supervisor Brad Bonkowski
 Supervisor John Barrette
 Mayor Robert Crowell

NAYS: None

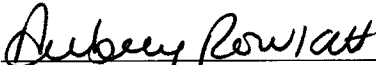
ABSENT: None

ABSTAIN: None



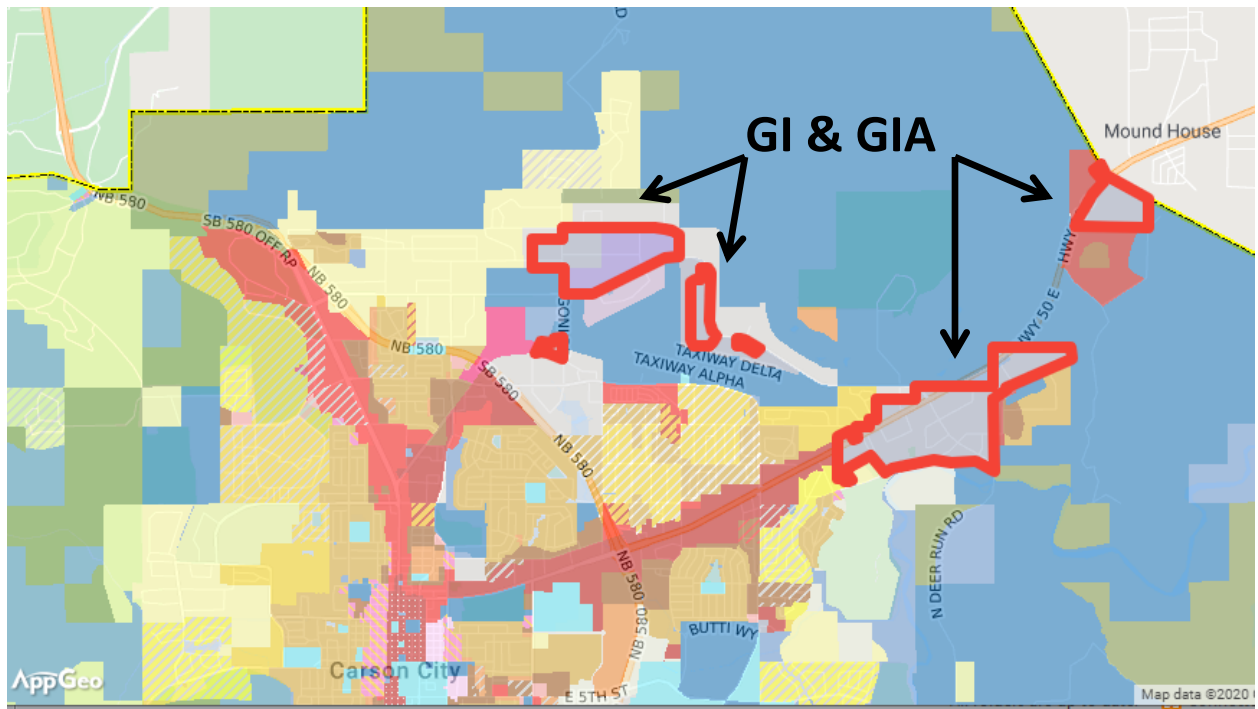
Robert L. Crowell, Mayor
Carson City, Nevada

ATTEST:



Aubrey Rowlett, Clerk
Carson City, Nevada

Permitted Marijuana Cultivation & Product Manufacturing Locations



Permitted Agricultural Zoning Locations

