



Monterey County

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

Legistar File Number: ORD 20-004

April 28, 2020

Introduced: 4/16/2020

Current Status: Agenda Ready

Version: 1

Matter Type: Ordinance

REF190027 Industrial Hemp Pilot Program

Public hearing to consider adoption of an ordinance to amend Chapter 21.49 of Title 21 of the Monterey County Code (non-coastal zoning) to extend the industrial hemp pilot program through December 31, 2022, and to amend the Sectional District Maps to add the Industrial Hemp Zoning Overlay District (“HMP” District) to portions of parcels that are outside of the rural center and community area buffers established in the industrial hemp pilot program.

Location: County-wide

Proposed CEQA action: The ordinance is categorically exempt pursuant to Sections 15305 and 15306 of the CEQA Guidelines.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Find that the ordinance qualifies for a categorical exemption from the California Environmental Quality Act (CEQA) pursuant to Sections 15305 and 15306 of the CEQA Guidelines, which exempt minor alterations in land use limitations in areas with an average slope of less than twenty percent (20%) that do not result in any changes in land use or density and information collection, research, experimental management and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. This ordinance extends a limited term pilot program for the purposes of information collection, applies to lands that allow agricultural uses as a principal use, is limited to lands that have previously been cultivated, and to lands with an average slope of less than 20%; and
- b. Adopt an ordinance (**Attachment A**) to amend Chapter 21.49 of Title 21 of the Monterey County Code (non-coastal zoning) to extend the industrial hemp pilot program through December 31, 2022, and amend the Sectional District Maps to add the Industrial Hemp Zoning Overlay District (“HMP” District) to portions of parcels that are outside of the rural center and community area buffers established in the industrial hemp pilot program.

SUMMARY:

The Board of Supervisors adopted Ordinance Number 5314 in July 2019, which established a one-year pilot program for industrial hemp cultivation and processing. (**Attachment B**). The purpose of the pilot program (“Program”) is to gather data and information related to industrial hemp cultivation and processing to enable the County to evaluate the establishment of long-term regulations, and to reduce the potential for negative impacts on the community and the environment for protection of public health, safety and welfare.

During the one-year pilot program, the Agricultural Commissioner's Office was asked by the Board of Supervisors to track and evaluate implementation of the Program and to recommend changes prior to expiration of the one-year Program. Over the course of the Program, the Agricultural Commissioner has conducted stakeholder meetings and has provided recommendations to the Cannabis Committee and Planning Commission. Recommendations included extension of the Program for two years (until December 31, 2022) and revisions to the sectional district zoning maps to apply the Industrial Hemp Zoning District overlay designation ("HMP District") to portions of properties that were previously excluded because the property was bisected by buffers from community areas and rural centers (split zoning).

As adopted in July 2019, the Program was limited to properties within the North County Area Plan and South County Area Plan, and only on lots with a base zoning designation of Farmland ("F"). The proposed ordinance (**Attachment A**) would not change these limits, it would simply extend to portions of properties that were previously excluded by the buffers. The extension of the Program is time sensitive as it would facilitate re-registration with the Agricultural Commissioner's Office and allow hemp cultivators to begin planting for the upcoming growing season. No significant issue with the current Program has been identified in the first year other than numerous requests from interested parties to expand the Program limitations to allow hemp cultivation in areas that are currently excluded. The Agricultural Commissioner will continue to monitor the Program and consider modifications over the course of the next two years.

DISCUSSION:

Background and Initial Pilot Program Results:

On December 18, 2019, the Agricultural Commissioner's Office held a public meeting with stakeholders to receive feedback and suggestions for the evaluation of the Program. What we learned is the following:

- 5,608 acres were excluded from growing hemp due to the buffers from rural centers or community areas which split properties and therefore these properties were not zoned for industrial hemp cultivation (HMP district), although portions of the property were outside of the established buffers.
- There were no cannabis cultivators that consented to a reduction in the three-mile setback between cannabis and industrial hemp cultivation in North County.
- The one-year pilot program needs to be extended as soon as possible to allow re-registration and planting for the 2020 growing season.

Pilot Program Applications:

<u>Category</u>	<u>Applicants</u>	<u>Application Acreage</u>	<u>Registered Acreage</u>	<u>Sampled/ Tested Acreage</u>	<u>THC Concen- tration</u>
Cultivator / Breeder	8	-	539.6	3	0.1283%
Established Agricultural Research Institution (EARI)	2	-	110	n/a	-
Total Registered	10		650	3	0.1283%

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Application Denied	11	465	-	-	-
Application Incomplete	5	172	-	-	-
Total Non-Registered	16	637			

Monterey County Industrial Hemp Pilot Program 2019-2020:

	<u>Sites</u>	<u>Acres Registered</u>	<u>Acres Planted</u>	<u>Acres Tested</u>	<u>Acres Harvested</u>
Registered Operations (CDFA)	8	540	5	3	0
Research Operations (EARI)	2	110	15	n/a	15
Total	10	650	20	3	15

In addition, over one-hundred people contacted the Agricultural Commissioner's Office indicating an interest to grow industrial hemp, of which thirty-seven provided site locations indicating their desire to cultivate. During this one-year Program, the Agricultural Commissioner's Office did not receive a complaint related to the cultivation of industrial hemp under the Program and/or that it had a negative impact on the community and the environment.

Interested Participation:

<u>Area</u>	<u>Sites</u>	<u>Acres</u>
South County	22	1,891
Salinas Area	9	349
North County	2	30
Coastal Area	4	144
County Total	37	2,414

On February 14, 2020, the Agricultural Commission presented options and recommendations to the Cannabis Committee. Near term options presented to the Cannabis Committee included:

1. Re-open registration to allow participation for those who are interested in cultivation for 2020.
2. Allow for a 12-month registration, as required by the California Department of Food and Agriculture (CDFA) Industrial Hemp Program.
3. Allow for open continuous registration for the duration of the Program.
4. Extend the length of the Program from a one-year to a three-year period (2020 - 2022).
5. Allow split parcel zoning for parcels split inside and outside of residential buffers.

After considering options and recommendations, the Cannabis Committee, directed the Agricultural Commissioners to work with RMA and County Counsel to extend the Program, and address the split parcel zoning issue. The attached ordinance reflects the direction of the Committee. The Agricultural Commissioner will continue to monitor the Program and consider changes over the course of the next two years.

Proposed Changes to Program:

As discussed above, the draft ordinance (**Attachment A**) amends the Program from a one-year pilot program to a three-year pilot program that would permit cultivation and processing of industrial hemp on a limited basis. The draft ordinance also provides a revision to the sectional district zoning maps to apply the Industrial Hemp Zoning District to overlay designation (“HMP” District) to portions of property that were previously excluded because the property was bisected by buffers from community areas and rural centers (split zoning), and split zoning of properties was intentionally excluded from the maps.

Within the HMP district, industrial hemp cultivation would be allowed subject to approval of a registration by the Agricultural Commissioner consistent with state law (See **Attachment C**, California Industrial Hemp Law).

This Program includes a sunset date of December 31, 2022. Registrations for industrial hemp cultivation would need to be submitted to the Agricultural Commissioner and would be valid for a 12-month period, based on state law, and able to renew until the sunset of the Program. This Program would need to be amended in order to provide for new or extended registrations beyond December 31, 2022. It is the intent of staff to evaluate the Program and consider preparation of long-term industrial hemp regulations prior to December 31, 2022. The Agricultural Commissioner will oversee, inspect, and enforce all industrial hemp cultivation activities in the County.

Monterey County has a total 336,990 acres designated as Farmland Zoning Areas. Within the North County Inland and South County Planning areas, 99,080 acres were considered for the Program. Further restrictions outlined below contributed to the reduction in the number of potential acres available for industrial hemp production.

In the North County Area Plan, a 1,000-foot buffer from residential zones in Pajaro was adopted by the Board of Supervisors. In the South County Area Plan, restrictions included a two-mile buffer from all community areas and rural centers. These buffers were adopted to mitigate potential odor impacts and were reflected in the zoning maps adopted with the Program. These zoning maps excluded entire properties where the buffer bisected the property (no split zoning), effectively increasing the distance of the buffer. Restrictions reduced the eligible cultivation areas by 20,560 acres (99,080 acres - 20,560 acres = 78,520 acres allowed after applying the restrictions).

In addition, a three-mile buffer from existing cannabis operations was established in the ordinance to address potential cross pollination concerns. An exception to the cannabis cultivation buffer could be considered if an industrial hemp cultivator received consent from the cannabis operator for a reduced setback. In the North County Area Plan, because of the requirement of a three-mile buffer from existing cannabis operators and the unwillingness of cannabis operations to grant consent, potential industrial hemp cultivators were eliminated from the Program.

Planning Commission Recommendation:

On April 8, 2020, the Planning Commission held a public hearing to make a recommendation to the Board of Supervisors on the draft ordinance. At the conclusion of the hearing, by a vote of 9 ayes, 0 noes, and 1 abstention, the Planning Commission made the following recommendation:

1. Restate the July 10, 2019 recommendation of the Planning Commission on the industrial hemp

- pilot program as reflected in Resolution No. 19-021; and
2. With respect to the ordinance presented at the April 8, 2020 Planning Commission hearing, recommends that the Monterey County Board of Supervisors make the following revisions to the ordinance prior to adoption:
 - a. Amend the zoning maps to create a uniform 1,000-foot buffer between industrial hemp cultivation and all cities, Rural Centers, and Community Areas;
 - b. Amend the zoning maps to include Rural Grazing and Permanent Grazing zoning districts in the South County Area Plan, including allowing for split zoning on properties that are bisected by the uniform buffer;
 - c. Ensure that the industrial hemp pilot program remains amendable and adaptable; and
 - d. Separate discussion of industrial hemp policy from the purview of the Cannabis Committee.

The Planning Commission recommendation is attached as **Attachment D**.

CEQA:

This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15305 and 15306, which exempt minor alterations in land use limitations in areas with an average slope of less than twenty percent (20%) that do not result in any changes in land use or density and information collection, research, experimental management and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. This ordinance establishes a limited term pilot program for the purposes of information collection, applies to lands that allow agricultural uses as a principal use, is limited to lands that have previously been cultivated, and to lands with an average slope of less than 20%. Temporary allowances for rotation of crops to hemp on lands previously cultivated with other agricultural products, is a minor alteration in land use limitations and will not result in serious disturbance to environmental resources.

OTHER AGENCY INVOLVEMENT:

The following Departments or Agencies have been involved:

- Resource Management Agency
- Agricultural Commissioner
- County Counsel's Office
- CAO's Office

FINANCING:

Funding for staff time associated with development of the pilot program is included in the FY19-20 Adopted Budget for each of the involved Departments/Agencies. Enforcement and implementation of the pilot program by the Agricultural Commissioner will be accomplished with existing staff and costs will be recovered through collection of registration fees and reimbursement of covered activities by the California Department of Food and Agriculture.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Providing for a policy or regulations that allow cultivation of industrial hemp in a timely manner and in

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accordance with new state law, will allow for new economic opportunities that currently do not exist, will aid in existing enforcement efforts by implementing state law regarding industrial hemp cultivation and testing, and will promote public safety by directing hemp to appropriate areas.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by:

Jose Chang, Assistant Agricultural Commissioner

Reviewed by:

Craig Spencer, RMA Planning Services Manager

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CS

Kelly Donlon, Deputy County Counsel

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KLD

Approved by:

DocuSigned by:

Henry S. Gonzales

Henry Gonzales, Agricultural Commissioner

Attachments:

Board Report

Attachment A - Industrial Hemp Pilot Program draft ordinance (clean signed version)

Industrial Hemp Pilot Program draft ordinance (redline version)

Attachment B - Ordinance Number 5314

Attachment C - California Industrial Hemp Law

Attachment D - Planning Commission Recommendation

cc: Front Counter Copy; Planning Commission; RMA-Environmental Services; Environmental Health Bureau; RMA-Code Enforcement; Health Department; County Counsel; Sheriff; Treasure/Tax Collector; Agricultural Commissioner; District Attorney; CAO's Budget Office; CAO's office; Craig Spencer; Interested Hemp Cultivators; The Open Monterey Project (Molly Erickson); LandWatch; John H. Farrow; Planning File REF190027

DocuSigned by:

Jose Chang

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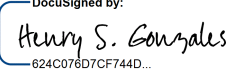
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