



Board Report

File #: PC 19-051, Version: 1

REF190027 - INDUSTRIAL HEMP PILOT PROGRAM

Public hearing to consider making a recommendation to the Board of Supervisors to adopt an ordinance to:

- a. Add Chapter 21.49 to Title 21 of the Monterey County Code (non-coastal zoning) to create an industrial hemp combining zoning district (“HMP” District) containing limited pilot program regulations for cultivation and processing of industrial hemp; and
- b. Amend Chapter 21.08 of the Monterey County Code to add the HMP District to the list of combining regulations, and amend the zoning classification to apply the HMP zoning designation to certain properties in the unincorporated area.

RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution recommending that the Board of Supervisors:

1. Find that the ordinance represents a minor alteration in land use limitations and applies for a limited term for the purposes of collecting information on industrial hemp cultivation which is categorically exempt from the California Environmental Quality Act pursuant to Sections 15305 and 15306 and none of the exceptions listed in Section 15300.2 apply; and
2. Adopt an ordinance (**Exhibit A**) adding Chapter 21.49 to Title 21 of the Monterey County Code (non-coastal zoning) to create an industrial hemp combining zoning district (“HMP” District) containing limited pilot program regulations for cultivation and processing of industrial hemp; and amending Chapter 21.08 of the Monterey County Code to add the HMP District to the list of combining regulations, and amending the zoning classification to apply the HMP zoning designation to certain properties in the unincorporated area; and

SUMMARY/DISCUSSION:

Recent legislation has made the cultivation of industrial hemp for fiber, seed, and extracts legal at the federal and state levels. Industrial hemp production includes cultivation of cannabis sativa plants, the same species of plant cultivated for the still federally illegal cannabis market. The legal distinction between industrial hemp and other cannabis varieties is based on the amount of tetrahydrocannabinol (“THC”) present in the flowering tops. If the plant has no more than 0.3% THC, it is defined under the law as hemp. Cannabis used for medical or recreation purposes typically contain 20% to 25% THC. Rules adopted in Monterey County for cannabis exclude hemp from the definition. There are currently no adopted regulations in Monterey County specific to hemp.

Many jurisdictions around the state are scrambling to address hemp cultivation based on the recent legislative changes. Approximately half of the counties in California have adopted interim ordinances banning hemp cultivation while regulations are developed, and the other half are allowing hemp cultivation in a variety of ways (regulated or allowed as an agricultural crop). Monterey County has not adopted an interim ordinance, but has interpreted hemp to be a “similar use” to cannabis, and therefore subject to adopted cannabis zoning regulations until such time that specific hemp regulations are adopted. This includes requiring an Administrative Permit in all cases, and for the operations to be contained in an existing greenhouse/industrial building.

On June 25, 2019, the Board of Supervisors provided direction to Resource Management Agency (RMA) and the Agricultural Commissioner to begin work on a pilot program for the cultivation and processing of industrial hemp in certain unincorporated areas of Monterey County. On June 26, 2019, a town hall style meeting was held in the Board Chambers. At the meeting, industry representatives urged the County to allow hemp cultivation in accordance with state law and expressed a desire to begin cultivation as soon as possible in order to allow for planting in August of this year. Concerns were raised by cannabis growers regarding the potential for pollen drift which could impact cannabis crops. Also, Mike LeBarre, Mayor of King City, expressed concern over odor enforcement and requested a setback from King City to aid in detection of odors and the source of odors within the City's boundaries.

At the direction of the Board and with feedback from the town hall meeting, staff has drafted an ordinance that creates a one-year pilot program that would permit cultivation and processing of industrial hemp on a limited basis. The draft ordinance attached as **Exhibit A**, establishes a new combining zoning district in Chapter 21.49, "HMP" District, of the inland zoning ordinance where the cultivation of industrial hemp would be a use allowed subject to certain regulations. The ordinance also amends the Sectional District Zoning Maps for areas in the North County Area Plan and South County Area Plan boundaries that have a base zoning designation of Farmlands "F" and that were previously cultivated.

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 **Exhibit B**, California Industrial Hemp Law).

Limitations established within the draft industrial hemp pilot program include:

1. Approval of no more the 30 registrations by the Agricultural Commissioner;
2. Location of industrial hemp cultivation sites with the HMP zoning district;
3. Only allowed on previously cultivated sites;
4. A maximum cultivated area per registration of 100 acres; and
5. Compliance with state law (includes registration process, testing requirements, and destruction of plants that do not pass tests).

For areas outside of the proposed HMP District, cultivation of hemp would continue to be treated as a "Similar Use" to cannabis, meaning that:

- Proposed cultivation must be located in a zone where the commercial cultivation of cannabis is allowed under the Monterey County Code
- Growers must obtain an administrative permit in the inland zone, or coastal development permit in the coastal zone from the Monterey County Resource Management Agency (RMA.)
- Cultivation must occur inside a legally established greenhouse or industrial building

Hemp processing facilities would be treated in the same manner as any other agricultural processing facility in the Farmland zoning district pursuant to the Monterey County Code. If a processing facility has been previously permitted on a site, it would be allowed to process hemp under the Ag Commissioner's registration. However, if no permitted facility exists, the appropriate land use entitlements would need to be obtained prior to construction, just like a traditional agricultural processing facility.

This pilot program includes a sunset date of August 31, 2020. Registrations for industrial hemp cultivation would need to be submitted to the Agricultural Commissioner on or before August 31, 2019. In accordance with state law, an approved registration is valid for one year. This pilot program would need to be amended in order to provide for new or extended registrations beyond August 31, 2020. It is the intent of staff to evaluate the pilot program and consider preparation of long-term industrial hemp regulations shortly after the first hemp

harvests under this pilot program (around December 2019) and prior to August 31, 2020. The Agricultural Commissioner will oversee, inspect, and enforce all industrial hemp cultivation activities in the County.

The Planning Commission is asked to forward a recommendation to the Board of Supervisors on the draft ordinance. The Planning Commission's recommendation will be transmitted to the Board of Supervisors for consideration. It is the intent to have the Planning Commission recommendation and the draft ordinances considered by the Board of Supervisors on July 23, 2019, before the Board goes on break for the month of August.

California Environmental Quality Act (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.

Prepared by: Craig W. Spencer, Interim Planning Manager, ext. 5233

Reviewed by: Brandon Swanson, Interim Chief of Planning

Approved by: John Dugan, FAICP, Deputy Director, RMA

The following attachments are on file with the RMA:

Exhibit A - Draft Resolution, including;

- Draft ordinance (Industrial Hemp Pilot Program)
- Sectional District Zoning Maps

Exhibit B - California Industrial Hemp Law

Exhibit C - California Code of Regulations for Industrial Hemp Cultivation