



Board Report

File #: PC 20-018, Version: 1

REF190027 - INDUSTRIAL HEMP PILOT PROGRAM

Public hearing to consider amending Chapter 21.49 of Title 21 of the Monterey County Code 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.

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 to amend Chapter 21.49 of Title 21 of the Monterey County Code (non-coastal zoning) extending the industrial hemp pilot program through December 31, 2022, and amending 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.

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. (**Exhibit A**). 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 to the Program, as needed 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. 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 (split zoning) that were previously excluded because the property was bisected by buffers from community areas and rural centers and split zoning of properties was intentionally excluded from the maps.

On February 14, 2020, the Cannabis Committee considered the Agricultural Commissioner’s recommendations and asked staff to prepare an ordinance that incorporates the recommended changes described above. In order to meet timelines for the growing season, staff prioritized preparation of an ordinance (**Exhibit B**). This draft ordinance is being presented to the Planning Commission to make a recommendation to the Board of Supervisors (**Exhibit C**).

DISCUSSION:

As adopted in July of 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”). 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.

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

- Due to buffer distances in the North and the South County, some operations were excluded because the entire APN was excluded (no split zoning).
- Cannabis consent forms were not used because Cannabis operations did not respond to potential industrial hemp operations.
- Allow re-registration as soon as possible.
- Expand the program for a two year or three-year period.

In addition, over one-hundred people contacted the Monterey County 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 pilot program, the Agricultural Commissioner’s Office did not receive a complaint related to the cultivation of industrial hemp under the pilot program and/or that it had a negative impact on the community and the environment.

On February 14, 2020, the Agricultural Commission presented options and recommendations to the Board of Supervisors Cannabis Standing Committee. Recommendations including:

1. Re-open registration to allow participation for those who are interested in cultivation Spring 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 pilot 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, Board of Supervisors Cannabis Standing Committee, directed the Agricultural Commissioners to work with RMA and County Counsel to extend the Program, and address the split parcel zoning issue.

Given this direction, staff has drafted an ordinance that amends and extends the pilot program for a two-year period that would permit cultivation and processing of industrial hemp on a limited basis. The draft ordinance amends Chapter 21.49 to extend the pilot program from August 31, 2020 to December 31, 2022. **(Exhibit B)**. The ordinance also amends the Sectional District Zoning 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. **(Exhibit B)**. Currently, if a portion of a parcel is transected by a rural center or community area buffer, the entire parcel is excluded from the HMP District on the Sectional District Zoning Maps.

Industrial hemp cultivation would continue to be allowed subject to approval of a registration by the Agricultural Commissioner consistent with state law **(See Exhibit D, California Industrial Hemp Law)** and the other requirements in Chapter 21.49. It is the intent of staff to evaluate the Program and consider preparation of long-term industrial hemp regulations over the next two years. 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 April 28, 2020.

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 in drafting this ordinance:

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

FINANCING:

Funding for staff time associated with development of the pilot program is included in the FY20-21 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: Jose Chang, Assistant Agricultural Commissioner

Reviewed by: Craig Spencer, RMA Planning Services Manager

Approved by: Henry Gonzales, Agricultural Commissioner

The following attachments are on file with the RMA:

Exhibit A - Ordinance No. 5314 (Adopted Pilot Program)

Exhibit B - Draft Ordinance (Proposed amendments), including:

- Proposed Zoning Map updates

Exhibit C - Draft Resolution (recommendation)

Exhibit D - California Industrial Hemp Law