



Board Report

File #: 21-071, **Version:** 1

Receive an update on renewable energy requirements for indoor commercial cannabis cultivators, and direct the Housing and Community Development Planning staff to amend Titles 20 and 21 of the Monterey County Code to align with s renewable energy requirements of comparable jurisdictions or the State.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive an update on renewable energy requirements for indoor commercial cannabis cultivators;
- b. Provide direction to the Housing and Community Development Planning staff to amend Titles 20 and 21 of the Monterey County Code to align with renewable energy requirements of comparable jurisdictions or the State; and
- c. Provide direction to staff as appropriate.

SUMMARY

On October 30, 2020, the Cannabis Program (“Program”) presented a memorandum to the Board of Supervisors Cannabis Committee (“Committee”) on the renewable energy requirements as stated in Titles 20 and 21 of the Monterey County Code (“MCC”). Specifically, sections 20.67.050(B)(9) and 21.67.050(B)(9) require: “Onsite renewable energy generation shall be required for all indoor (cultivation activities using artificial lighting only including Type 1A, 1C, 2A, 3A and 4 state license types) cannabis cultivation activities. Renewable energy systems shall be designed to have a generation potential equal to or greater than one-half of the anticipated energy demand.”

This requirement applies only to indoor commercial cannabis cultivators. For reference, there are 17 indoor cultivators in operation in the unincorporated area of the County, representing 20% of all cultivators. The majority of these operations are located in the Moss Landing Commerical Park. It should be noted that these indoor cultivators have one tenth of the average canopy size of mixed-light operations within the County.

Monterey County’s requirement is more stringent than what is required by the State and other local jurisdictions because it does not provide options to operators. The Committee recommended that the MCC be amended so the renewable energy requirements are aligned with the State and other local jurisdictions. This will provide operators with options rather than requiring all operators to bear the cost of infrastructure improvements to satisfy this local requirement, which could be cost prohibitive when considering the average scale of indoor cultivation operations. As the County prepares to write it’s Climate Action Plan, any options provided to operators should be consistent with the goals and targets of that plan while providing cost-effective options to operators.

Staff also believes Titles 20/21 should be amended to match that of the State and other comparable local jurisdictions to provide consistency. Program staff has conducted research to compare renewable energy requirements of similar counties, and has reviewed CalCannabis state regulations for commercial cannabis cultivation operations. Staff has prepared an overview of renewable energy requirements by local jurisdictions,

and the applicable community choice aggregation or joint powers authority partner agency designated by a jurisdiction. (Attachment A).

CalCannabis renewable energy requirements will become effective in January 2023 and defer to greenhouse gas emission intensity requirements of local utility providers. This requirement could change as a result of the consolidation of the three state licensing bureaus, which may occur in July 2021. Monterey County is the only jurisdiction to require onsite renewable energy for indoor cultivators, while other jurisdictions allow operations the option to procure renewable energy from an approved provider, purchase carbon offsets proportional to power utilized from nonrenewable sources, or to implement an onsite renewable energy solution of their own. Three jurisdictions explicitly prohibit the use of generators, except in case of emergency.

Any amendments to Titles 20 and 21 (zoning code) would require a recommendation by the Planning Commission, and then a public hearing before the Board of Supervisors. Additionally, any amendments to Title 20 (coastal), would require certification by the Coastal Commission. For procedural efficiency, staff recommends that any proposed amendments to renewable energy requirements be presented alongside the proposed amendments for the outdoor commercial cannabis cultivation pilot program this winter/spring.

Also of note, California Business and Professions Code section 26055(h) provides a statutory exemption from CEQA for the adoption cannabis ordinances when the ordinance requires discretionary review of individual permits that are themselves subject to environmental review under CEQA. The statutory exemption provided in the Business and Professions Code section 26055(h) expires on July 1, 2021 so any MCC revisions must be considered and approved by the Board of Supervisors prior to that date in order to apply the exemption to the ordinance.

OTHER AGENCY INVOLVEMENT:

The Sustainability Program and Housing and Community Development Department contributed to the report.

FINANCING:

Monterey County's Cannabis Program is funded in County Administrative Office - Department 1050, Intergovernmental and Legislative Affairs Division - Unit 8533, Cannabis. The approval of this report and related documents will not incur additional expenses to the Program.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Monterey County Cannabis Program addresses each of the Strategic Initiative Policy Areas that promote the growth of a responsible and legal Monterey County cannabis industry.

Mark a check to the related Board of Supervisors Strategic Initiatives

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

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Attachments:

Attachment A: Renewable Energy Requirements by Jurisdiction