



Board Report

File #: PC 21-016, Version: 1

OUTDOOR CANNABIS CULTIVATION PILOT PROGRAM UPDATES AND REVISIONS TO THE RENEWABLE ENERGY REQUIREMENTS FOR INDOOR CULTIVATION

Public hearing to consider a recommendation to the Board of Supervisors on draft ordinances amending Monterey County Code (coastal and non-coastal zoning ordinances) to amend:

- (a) Renewable energy generation requirements for indoor cannabis cultivation (Chapter 20.67 and 21.67);
- (b) Expand the outdoor cannabis cultivation regulations to include the Central Salinas Valley Area and add grazing land zoning districts within the Central Salinas Valley and Cachagua Area Plans to locations where outdoor cultivation may be permitted (Chapter 21.69); and
- (c) Reduce the setback required from the nearest off-site structure from 500 feet to 250 feet, to modify the criteria for granting and exception to the setback from the nearest off-site structure, to increase the maximum allowable canopy from 10,000 square feet to 20,000 square feet, and to extend the pilot program from 5 years to 8 years (Chapters 20.69 and 21.69).

RECOMMENDATIONS:

It is recommended that the Planning Commission recommend that the Board of Supervisors:

- a) Find the project is the adoption of commercial cannabis regulations that require subsequent discretionary permits that are themselves subject to CEQA review, and therefore is statutorily exempt from CEQA pursuant to Business and Professions Code section 26055(h).
- b) Adopt an ordinance (**Attachment 1**) amending Chapter 21.67 of Title 21 (non-coastal zoning) of the Monterey County Code to modify energy requirements for indoor cannabis cultivation and amending Chapter 21.69 of Title 21 (the Outdoor Cannabis Cultivation Pilot Program) to:
 - 1) Expand the outdoor cannabis cultivation pilot program to include the Central Salinas Valley Area;
 - 2) Add grazing land zoning districts within the Central Salinas Valley and Cachagua Area Plans as locations where outdoor cannabis cultivation may be permitted;
 - 3) Reduce the setback required from the nearest off-site structure from 500 feet to 250 feet;
 - 4) Modify the criteria for granting and exception to the setback from the nearest off-site structure;
 - 5) Increase the maximum allowable canopy from 10,000 square feet to 20,000 square feet; and
 - 6) Extend the pilot program from 5 years to 8 years.
- c) Adopt an ordinance (**Attachment 2**) amending Chapter 20.67 of the Monterey County Coastal Implementation Plan, Part 1 (Title 20, coastal zoning) to modify energy requirements for indoor cannabis cultivation and amending Chapter 20.69 of Title 20 (Outdoor Cannabis Cultivation Pilot Program) to:
 - 1) Reduce the setback required from the nearest off-site structure from 500 feet to 250 feet;
 - 2) Modify the criteria for granting and exception to the setback from the nearest off-site structure;
 - 3) Increase the maximum allowable canopy from 10,000 square feet to 20,000 square feet; and
 - 4) Extend the pilot program from 5 years to 8 years.

SUMMARY:

On June 18, 2019, the Board of Supervisors adopted Chapters 20.69 and 21.69 of the Monterey County Code (coastal and inland) creating a pilot program (Program) for limited outdoor commercial cannabis cultivation in the Big Sur, Carmel Valley, and Cachagua plan areas. Since adoption, the County has received three applications for outdoor cultivation pursuant to the adopted regulations. One of the applications received was

for cultivation in the Central Salinas area, outside of the Program boundaries. The other two applications are in the Cachagua area and are under review.

At the direction of the Cannabis Committee, staff coordinated an industry stakeholder meeting to gain input from the industry and to identify barriers to potential participation in the Program. A stakeholder meeting was held on March 9, 2020 in Carmel Valley. Results of the stakeholder meeting were reported to the Cannabis Committee on April 1, 2020. The Cannabis Committee accepted the report and directed staff to return with additional information on potential amendments. Staff returned to the Cannabis Committee to discuss potential amendments on July 22, 2020, August 5, 2020, and October 30, 2020. Ultimately, the Board of Supervisors and Cannabis Committee directed staff to prepare ordinances updating the Program to remove some of the barriers Program entry.

Separately, on February 23, 2020, the Board of Supervisors provided direction to staff to prepare ordinances amending the renewable energy generation requirements that apply to indoor cultivation to be in line with how other jurisdictions.

Based on direction from the Board of Supervisors and the Cannabis Committee, Housing & Community Development (HCD) staff prepared draft ordinances amending Titles 20 and 21 of the Monterey County Code (coastal and non-coastal) (**Exhibits B and C respectively**).

As drafted, the ordinances would make the following revisions:

1. Within the inland areas, expand the Program to:
 - a. Add the Central Salinas Valley Area Plan to the areas where outdoor commercial cannabis may be permitted. The Program is currently applicable only in the Carmel Valley Master Plan, Cachagua Area Plan, and Big Sur Land Use Plan areas; and
 - b. Add Permeant Grazing and Rural Grazing zoning designations within the Central Salinas Valley area and Cachagua areas to zoning districts where outdoor cannabis cultivation may be permitted. The Program is currently limited the Rural Density Residential and Resource Conservation zoning designations in the Cachagua area.
2. Within both the inland and coastal areas, the following Program regulations would be amended:
 - a. Extend the five year pilot program to eight years;
 - b. Reduce the setback required between cannabis cultivation and the nearest off-site structure from 500 feet to 250 feet;
 - c. Modify the criteria for granting an exception to the setback required between a cannabis cultivation site and the nearest off-site structure; and
 - d. Increase the maximum permissible canopy from 10,000 square feet to 20,000 square feet.
3. Both Ordinance would also be amended regulations applicable to indoor cannabis cultivation by removing the requirement for onsite renewable energy generation that is capable of providing at least 50% of the projected energy demand and instead requiring onsite renewable energy generation to the extent feasible, or purchase of renewable energy credits, or participation by the cultivator in a program provided by the utility provider that ensures all energy used at the site is supplied by renewable sources.

The Planning Commission is asked to consider and forward its recommendation to the Board of Supervisors on the draft ordinances.

DISCUSSION:

See **Exhibit A** attached for a detailed discussion.

ENVIRONMENTAL REVIEW (CEQA):

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 pursuant that are themselves subject to environmental review under CEQA. The proposed ordinances would not change the need for discretionary review of individual applications that would each be subject to CEQA review.

OTHER AGENCY INVOLVEMENT:

Housing and Community Development staff has worked with the CAO's cannabis program and the Office of County Counsel on the proposed ordinances.

FINANCING:

Staff time associated with preparation of the ordinances and this report is included in the FY19/20 budget for the agencies involved.

In consideration of adoption of the Pilot Program in 2019, staff estimated that approximately 50 properties may qualify. With a maximum canopy area of 20,000 square feet, outdoor grows would generate about \$1 million in taxes, assuming a tax rate of \$1/square foot of canopy. As a reminder, the Board approved a \$2.50 tax rate for outdoor cultivation, but an amendment to Monterey County Code Chapter 7.100 is still required. Initial resource and staffing cost estimates from each County Department involved in permitting and enforcement also totaled approximately \$1 million.

Only three permits applications have been submitted under the program to date. Staff suggests that with changes proposed, these estimates above would remain applicable and are more likely to be realized.

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

Reviewed and Approved by: Erik Lundquist, AICP, Chief of Planning

The following attachments are on file with the HCD:

- Exhibit A - Detailed Discussion

- Exhibit B - Draft Resolution for a recommendation of approval to the Board of Supervisors:

- Attachment 1 - Draft ordinance amending Chapters 20.67 and 20.69 (coastal)

- Attachment 2 - Draft ordinance amending Chapters 21.67 and 21.69 (non-coastal)