



Office of the City Manager

CONSENT CALENDAR
June 13, 2017

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Timothy Burroughs, Interim Director, Planning & Development
 Subject: Energy Use Requirements for Medical Cannabis Cultivation; Amending BMC Section 12.25.080

RECOMMENDATION

Adopt first reading of an Ordinance amending the energy use requirements for cannabis cultivation locations (BMC Section 12.25.080: Energy Use).

FISCAL IMPACTS OF RECOMMENDATION

The new regulations would remove the need to establish a city-run energy off-set fund, which would reduce significantly the potential fiscal impacts related to the staff time necessary to monitor the energy offset process.

Costs

The ordinance would require cannabis cultivation businesses to either buy renewable energy certificates (RECs) from an established fund, or buy 100% green energy through East Bay Community Energy (EBCE), which is a Community Choice Aggregation (CCA) program providing energy to municipalities within Alameda County. These options would involve the following costs:

1. The on-going costs of staff time involved in the annual review of reports detailing energy use and payment into offset funds from cultivators, and/or
2. Verifying participation in the EBCE program.

The departments primarily involved in these reviews would be Planning and Development, and Finance.

CURRENT SITUATION AND ITS EFFECTS

At its January 31, 2017 meeting, the City Council approved BMC Chapter 12.25, which established regulations for medical cannabis cultivation facilities. Indoor medical cannabis cultivation is known to be highly energy intensive due to the energy needed for lighting, heating, cooling and ventilating the cultivation facility. For this reason, the regulations included a requirement for indoor cultivators to offset the emissions associated with medical cannabis cultivation. The ordinance allowed for two options: 1) buy renewable energy certifications (RECs) from established funds to support carbon

reduction projects, or 2) pay into a new fund established by the City of Berkeley to fund local greenhouse gas (GHG) reduction projects.

At the Council's January 31, 2017 meeting, Councilmember Hahn questioned why the energy section of the ordinance did not include participation in the newly adopted Community Choice Aggregation (CCA) as a way for medical cannabis cultivators to offset their carbon emissions. This option allows for businesses to buy energy from 100% renewable energy sources, and removes the need for an energy offset.

Staff drafted an update to the ordinance to include that option, include more specific information regarding types of energy efficiency measures and systems, and remove the reference to a City of Berkeley carbon offset fund, as this would not be necessary with the CCA option. The MCC reviewed this and provided a positive recommendation.

MCC Action: The Medical Cannabis Commission (MCC) recommends the Council adopt first reading of an Ordinance amending BMC Section 12.25.080. (6-1-0-1; Ayes: Lampach, Pappas, Rice, Brewster, Ferguson-Riffe, Carlisle. Noes: Cable. Abstain: None. Absent: Cooper. Vote taken March 2, 2017.)

ENVIRONMENTAL SUSTAINABILITY

It is anticipated that medical cannabis cultivation in Berkeley will consist primarily of indoor growing operations. This kind of operation can use significant amounts of energy. Requiring an energy offset program to be established as part of this ordinance, with the modifications recommended by the MCC, will address the impacts that these kinds of uses could have on the City's carbon footprint and carbon reduction goals.

RATIONALE FOR RECOMMENDATION

The adoption of these ordinance amendments would provide a way for cultivators to use renewable energy to prevent additional GHG emissions rather than paying an additional fee into an offset fund. This would also remove the need for the City to establish, maintain and monitor an offset fund.

ALTERNATIVE ACTIONS CONSIDERED

The Council could maintain the current BMC language (12.25.080) that would require the city to develop a local carbon offset fund for cultivation facilities.

CONTACT PERSON

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Attachments:

1. Ordinance Amending Berkeley Municipal Code Section 12.25.080
2. 3-2-17 MCC minutes (partial)

ORDINANCE NO. #,###-N.S.

AMENDING SECTION 12.25.080 TO REFLECT CURRENT CLEAN ENERGY OPTIONS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Section 12.25.080 is amended to read as follows:

12.25.080 Energy use

- A. Facility may not be approved unless it includes all feasible (under the current Title 24, Part 6) cost-effective water and energy efficiency measures, including but not limited to natural daylighting, high efficiency lighting, ~~on-site renewable generation, automation networked lighting and mechanical controls, water collection, filtration and reuse, and rainwater harvesting.~~ and natural cooling.
- B. ~~Additionally, the following systems should be included as feasible: on-site renewable energy generation; energy storage batteries; water collection, filtration and reuse; and rainwater harvesting.~~
- C. The application for a Facility shall include a description of all energy and water systems, measures employed to maximize efficient resource use, and the following metrics, with supporting documentation:
1. Planned lighting power density (watts ~~per/ square foot~~sf)
 2. Planned lighting Energy Utilization Index (kBtu/sf/year)
 3. Planned total site Energy Utilization Index (kBtu/sf/year)
 4. Planned potable water consumption (gallons/sf/year)

~~BD.~~ A Cultivation Business shall mitigate the carbon dioxide emissions caused by the generation of electrical energy delivered to its Facility ~~by participating in East Bay Community Energy's EBCE) 100% renewable content option for electricity or equivalent.~~ ~~Until businesses have the option to purchase power through EBCE, the offset will be achieved through either:~~

- ~~1. purchase of renewable energy certificates certified by the Center for Resource Solutions;~~
- ~~2. a local carbon offset fund established by the City of Berkeley.~~

~~CE.~~ If a Facility uses natural gas to generate electricity for consumption at the site, the Cultivation Business shall offset the carbon content of all electrical energy delivered to the Facility ~~by participating in through either:~~

- ~~1. a program that is included in one of the Offset Project Registries approved by the California Air Resources Board and consists of a project or projects that are solely located in the United States and are either producing energy or reducing energy consumption;~~
- ~~2. a local carbon offset fund established by the City of Berkeley.~~

DE. For purposes of calculating carbon emissions, the carbon dioxide content of natural gas shall be 5.302 metric tons per 1,000 therms and the carbon dioxide content for electricity shall be the value, at the time of filing, from the most recent Power Content Label published by the California Energy Commission.

EG. The Cultivation Business shall be responsible for demonstrating compliance on a calendar-year basis. Documentation shall include copies of energy and water bills, as well as an authorization to energy and water providers to disclose energy and water consumption at the Facility directly to the City. All parties that are responsible for energy and water bills shall also be responsible for providing such documentation and authorization.

FH. The annual amount paid by a Cultivation Business to both mitigate carbon dioxide emissions caused by the generation of electrical energy to its Facility and to offset the carbon content of all electrical energy delivered to its Facility shall not exceed 10% of the Facility's annual energy bill. This fee shall be reconsidered after five years to determine whether it should be readjusted to reflect lower energy rates or higher costs of renewable energy certificates.

Section 2. Posting.

Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

**DRAFT MINUTES OF THE REGULAR MEDICAL CANNABIS COMMISSION
MEETING
March 2, 2017
(Partial)**

B. Review and vote on proposed changes to Chapter 12.25 (Cultivation).

Staff introduced revised language of 12.25 (cultivation) related to energy use.

Public comments: One public comment expressed concern that there should be different options for mitigating energy use for cultivation businesses.

Motion/second to approve the proposed revised language to Chapter 12.25 (Lampach/Pappas). The motion carried 6-1-0-1. (Ayes: Lampach, Pappas, Rice, Brewster, Ferguson-Riffe, Carlisle. Noes: Cable. Abstain: None. Absent: Cooper.)

