



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 1/28/2020

Agenda Placement: 6H

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: John McDowell, Supervising Planner - 299-1354

SUBJECT: Renewable Energy Systems Ordinance (2nd Reading)

RECOMMENDATION

Second reading and adoption of an ordinance repealing County Code Chapter 18.117, Small Wind Energy Systems, and replacing in its entirety with a new Chapter, Renewable Energy Systems, establishing development requirements for accessory on-site solar energy systems and commercial renewable energy production facilities, and amending sections 18.24.030 (AV-AIRPORT DISTRICT), 18.36.030 (I-INDUSTRIAL DISTRICT), 18.40.020 (IP-INDUSTRIAL PARK DISTRICT, 18.44.020 (GI-GENERAL INDUSTRIAL DISTRICT), and 18.50.030 (PL-PUBLIC LANDS DISTRICT) to allow commercial renewable energy facilities upon grant of a use permit; and amending section 18.120.010 (EXCEPTIONS TO USE LIMITATIONS) of Title 18 of the Napa County Code.

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of Categorical Exemptions Class 7, Class 8, Class 4, Class 5 and the General Rule. It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Categorical Exemption Class 7 ("Actions by Regulatory Agencies for Protection of Natural Resources") which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15307]; Categorical Exemption Class 8 ("Actions by Regulatory Agencies for Protection of the Environment") which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15308]; Categorical Exemption Class 4 ("Minor Alterations to Land") which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15304; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B]; Categorical Exemption Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B]; and General Rule in that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the CEQA 14 CCR 15061(b)(3)]. This project is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.

EXECUTIVE SUMMARY

On December 17, 2019, the Board conducted a public hearing to consider updates to County Code, Title 18, Zoning, to update regulations for commercial utility-scale renewal power generation facilities, and accessory use renewable energy systems. At the conclusion of the hearing, the Board voted unanimously to adopt the proposed ordinance with minor edits to exclude commercial renewable energy facilities from commercially-zoned properties within General Plan areas designated for agriculture and rural residential land use. Since all CN - Commercial Neighborhood, CL - Commercial Limited, and MC - Marine Commercial zoning districts lie within those aforementioned General Plan designations, amendments to these chapters are no longer necessary and result in Sections 3, 4, and 5 of the draft ordinance being removed in their entirety as they are no longer being amended. These sections are shown in the Tracked Changes ordinance version as redlined in their entirety. Board members also requested maps showing these commercially-zoned properties be included with this staff report.

Attached are clean and track-changes versions of the ordinance. On the tracked changes version, areas highlighted in yellow show changes reflecting the Board's December 17, 2019 action. Major components of the ordinance include:

1. Repeals the Small Wind Energy Systems Chapter which expired in 2017 and replaces it with the new Renewable Energy Systems Chapter;
2. Codifies long-standing existing administrative practices allowing accessory renewable energy systems as a matter of right provided that they are not designed to generate excess power-for-sale into the power grid;
3. Establishes comprehensive regulations for commercial renewable energy facilities that feed into the power grid, and limits such uses to industrial and public facilities zoning districts;
4. Removes "other public utilities" uses from the Exception Chapter which currently allows such uses in any zoning district; and
5. Codifies long-standing administrative practices allowing accessory emergency power generators as a matter of right.

This consent calendar item requests that the Board conduct its second reading, and take final action adopting the ordinance. The final ordinance is attached herein. The ordinance will become effective 30 days following adoption.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?

No

County Strategic Plan pillar addressed:

Livable Economy for All. Goal 9: Collaboratively design systems and structures that promote a diverse and stable economy, with livable wages.

Strategic Action 9.C: Work with stakeholders to update and develop sustainable regulations for issues including but not limited to residential development, view shed development, solar facilities, winery compatibility, outdoor winery hospitality, food pairings, and pesticide use.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of Categorical Exemptions Class 7, Class 8, Class 4, Class 5 and the General Rule. It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Categorical Exemption Class 7 (“Actions by Regulatory Agencies for Protection of Natural Resources”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15307]; Categorical Exemption Class 8 (“Actions by Regulatory Agencies for Protection of the Environment”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15308]; Categorical Exemption Class 4 (“Minor Alterations to Land”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15304; see also Napa County’s Local Procedures for Implementing the California Environmental Quality Act, Appendix B]; Categorical Exemption Class 5 (“Minor Alterations in Land Use Limitations”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15305; see also Napa County’s Local Procedures for Implementing the California Environmental Quality Act, Appendix B]; and General Rule in that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the CEQA 14 CCR 15061(b)(3)]. This project is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

Pursuant to the Board's direction at the ordinance's first reading on December 17, 2019, the attached final version of the ordinance excludes commercial renewable energy facilities from those commercial zoning districts within agricultural and rural residential General Plan designations. A final version of the ordinance is attached in clean and tracked-changes versions, with the tracked-changes version containing yellow highlighting identifying the modified language reflective of the Board's direction from the first reading.

Notable components of the ordinance are summarized below.

Repeal of Small Wind Energy Systems Regulations – The ordinance will repeal this antiquated code language, which automatically expired on January 1, 2017, and replace it with the new renewable energy systems standards.

Accessory Use Renewable Energy Systems – This ordinance codifies current administrative practices allowing homes, businesses, and agricultural uses to install solar systems to offset the power needs of the on-site uses. The ordinance sets ministerial design criteria for accessory solar systems that do not otherwise qualify for processing under Article III of Chapter 15.14 , and will define the extent of renewable energy facilities as an accessory use supporting primary property uses.

Commercial Renewable Energy Facilities – The ordinance defines and establishes design criteria for commercial renewable energy facilities, which are privately-owned power generating facilities that sell power to a utility provider through a Power Purchase Agreement. These uses can be a stand-alone facility, or they can occur in concert with other development such as a large solar array on an industrial warehouse property that produces more energy that is required for on-site needs. These uses are not considered public utilities or governmental uses, and such projects would be subject to discretionary use permit approval by the Planning Commission. The draft ordinance proposes the following:

- 1 Exclude commercial facilities from residential and agricultural zoning districts, and instead direct facilities to industrial, commercial, and public facility zoning districts.
- 1 Apply comprehensive development criteria including the Conservation Regulations (Chapter 18.108), flood protection, setbacks from existing residential uses, and viewshed protection.
- 1 Define commercial facilities to include solar and bioenergy, acknowledging that other new or emerging

technologies may be included in future ordinance updates.

- I Allow commercial renewable energy facilities to co-locate on developed industrial sites without a use permit provided the commercial solar proposal is consistent with the Use Permit for the existing development.

Public Utility Exception Revision – The draft ordinance updates Exceptions Chapter 18.120 to eliminate the undefined phrase "other public utilities" providing clarity that public utilities are only those facilities which are exempted from local zoning regulations under State Law, and are therefore not subject to a Use Permit.

Emergency Power Generators – This ordinance would allow emergency power generators as an accessory use in all zoning districts provided that they are designed to meet on-site power needs, and are subject to County Code requirements for noise, setbacks and environmental compliance.

PLANNING COMMISSION RECOMMENDATION AND PUBLIC INPUT

The Planning Commission conducted public hearings for the proposed ordinance on November 20, 2019 and December 4, 2019, and forwarded a recommendation to adopt the ordinance to the Board of Supervisors. On December 17, 2019 the Board of Supervisors conducted a public hearing. Several members of the public provided written and verbal testimony at both the Planning Commission and Board of Supervisors hearings. No public correspondence to the Board of Supervisors has been received subsequent to the Board's December 17, 2019 hearing.

AIRPORT LAND USE COMMISSION

The Airport Land Use Commission (ALUC) found the ordinance consistent with the Airport Land Use Compatibility Plan on November 20, 2019. Ordinance revisions resulting from the Board's December 17, 2019 do not result in any changes to land use regulations within the Airport Influence Areas (AIA's) and thus further ALUC review is not required.

RECOMMENDATION

On December 17, 2019, the Board conducted a public hearing and introduced the ordinance, read the title, waived reading the balance of the ordinance and declared its intention to adopt the ordinance on January 14, 2020 or as soon thereafter as possible. The ordinance is now before the Board for formal adoption. Staff recommends adoption of the Ordinance.

SUPPORTING DOCUMENTS

- A . Renewable Energy Ordinance CLEAN
- B . Renewable Energy Ordinance TRACKED CHANGES
- C . Renewable Energy Ordinance General Plan & Zoning Maps

CEO Recommendation: Approve

Reviewed By: Leigh Sharp