

ORGANIZATIONAL REVIEW OF  
CURRENT CANNABIS  
PROGRAM

COUNTY OF MONTEREY, CA

FEBRUARY 23, 2022



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## **EXECUTIVE SUMMARY**

Citygate Associates, LLC (Citygate) is pleased to present this review of the Monterey County (County) Cannabis Program. Citygate’s study of the Cannabis Program is based upon the County Board of Supervisors (Board) Referral 2021.12 (Referral) requesting County staff to “Consider a review of the Cannabis Program’s efficiencies, particularly the processes for permit review and compliance inspections.”

Citygate understands that obtaining a cannabis business permit may require precursor approvals, such as land use entitlements that result in conditions and mitigations. Citygate realizes this creates a complex permitting scheme, and that the County suffers from a significant permitting backlog in issuing cannabis business permits. The time from cannabis business permit application to approval is historically more than one year and is often several years.

In response to the Referral, the County engaged Citygate to review the Cannabis Program organizational structure, including formal and informal organizational alignment, management, and supervision; to review opportunities for organizational and staffing changes to improve customer service; and to review the Cannabis Program permitting processes to improve the permitting process for both the permitting staff and cannabis permittees. Citygate understands achieving the objectives of the County’s cannabis initiative involves not only the Cannabis Program staff in the County Administrator’s Office, but also relies on contributions from other departments and requires significant interdepartmental collaboration and coordination.

Citygate is conducting this study in the context provided by Citygate’s July 2020 review of the County Resource Management Agency (RMA) which focused primarily on the RMA’s community development functions including planning, engineering, permitting, and building services (RMA Report). In the RMA Report, Citygate made 76 recommendations, and the County has implemented many of them, including organizational restructuring and permit process improvements. County staff provided the Board with an update on these efforts during the May 18, 2021, Board meeting. Citygate understands that many of our RMA Report recommendations relating to land use and building permit processing are in various stages of implementation. It is with the appreciation that the recommendations made in the RMA Report take time to fully implement that Citygate conducts our analysis of the Cannabis Program.

As Citygate began this engagement, we found the Cannabis Program is based upon good fundamentals, and the Cannabis Strategic Plan is a great start. The Monterey County Cannabis Program and staff are held in high regard among neighboring counties with cannabis permitting programs. This is particularly notable considering the policy framework and market conditions within which commercial cannabis is permitted in California is rapidly evolving. In response to this environment, California counties employ various organizational, staffing, and taxing models.

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Each agency employs techniques best suited to local conditions. Overall, common practices are rare, and “best practices” are yet undefined.

Citygate believes County staff are working hard to achieve the best results for commercial cannabis operators, but the County’s organizational systems are not supportive of their efforts. Citygate believes existing organizational structures disperse and weaken key permitting processes, resulting in delayed communication, duplicated responsibilities, and diminished accountability. Citygate recommends consolidating activities into compatible organizational structures that smooth communications, centralize responsibilities, reduce duplication, and increase performance accountability.

Citygate also believes that while process improvements previously recommended for planning and building permitting will yield positive results in the Cannabis Program over time, strict adherence to interdepartmental approval procedures contained in Monterey County Code Chapter 7.90 has inappropriately contributed to the extensive backlog. Citygate believes the County can employ common contractual methods to accelerate this approval and acceptance process.

In this report, Citygate makes 16 recommendations in response to the Board’s Referral. These recommendations align in two categories: organizational recommendations and procedural recommendations. An Action Plan is presented in Section 5 which provides a blueprint for implementation of the recommendations.

When considering how to best support the cannabis industry and provide for efficient and effective permitting of cannabis businesses, Citygate first considered the various roles, or identities, of the cannabis permit applicant from the perspective of the County. In this analysis, Citygate found that the Monterey County cannabis business permit applicant has two discrete identities, one of a regulated market participant, and one of a cannabis permit applicant. Organizationally, Citygate recommends reorganizing the Cannabis Program in response to these two discrete identities. Citygate also makes recommendations on staffing changes to accommodate this reorganization. See Section 3 for Citygate’s organizational recommendations.

Procedurally, Citygate not only reinforces our previous recommendations to improve planning and building permit processes contained in the RMA Report, but also makes recommendations to improve processes contributing to the strict adherence to interdepartmental approval procedures by introducing an extension of the Stipulated Agreement process. This would contractually bind permit applicants in Good Standing who are currently operating cannabis businesses to already agreed-to conditions, improvements, and mitigations, allowing departments to more quickly “sign off” on commercial cannabis permit requirements. See Section 4 for Citygate’s procedural recommendations.

Citygate appreciates the opportunity to assist the County in this endeavor and believes the recommendations in this report will improve the County’s support of the cannabis industry, improve the permitting experience of both the industry and the County staff, and improve the



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information upon which County policy makers rely to respond to industry, market, and operational conditions. Overall, Citygate recommends:

- ◆ The Board review, consider, and adopt Citygate’s report in its entirety
- ◆ The Board direct staff to implement all recommendations presented in this report
- ◆ Staff provide monthly updates to the Board on the implementation status of this report (see Action Plan for implementation blueprint) and the permitting backlog for commercial cannabis permits for the first six months, and quarterly updates thereafter. Citygate believes the cannabis industry is important enough to the community’s economy and the County’s revenue that frequent updates will be required during the first six months of implementation. Citygate understands the overhead effort and scheduling challenge associated with giving presentations to the Board in session. We suggest brief monthly memos to the Board via the County Administrator’s Office to reduce the effort required, while still providing frequent updates on implementation progress.

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## SECTION 1—INTRODUCTION

### 1.1 PROJECT OVERVIEW

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#### 1.1.1 Referral 2021.12

On June 29, 2021, the Board initiated Referral 2021.12 (see **Appendix A**) recognizing that “Insignificant progress has been made towards local authorizations for cannabis operators related to land use and building permits, which impacts the industry’s ability to be considered for state annual licenses,” and directing staff to “Consider a review of the Cannabis Program’s efficiencies, particularly the processes for permit review and compliance inspections.” The Referral noted that “Despite the first applications being submitted in 2016, substandard progress has been made towards Land Use Permit approvals: 25 percent of applications have been approved at an average of six per fiscal year.”

Citygate recognizes that in the Referral, the Board expressed a potential preference in solving the permitting backlog, stating, “Disparate departmental staff funded solely by cannabis revenue should report directly to the Cannabis Program Manager to expedite permit submittal and reporting efficiencies. This would serve to not only expedite current cannabis permitting but would in-turn free up staff dedicated to cannabis to more quickly focus on other programs.”

This Referral was assigned to the County Administrator’s Office (CAO) on July 13, 2021, and in response, the County took several actions, including engaging Citygate to perform an independent review of the cannabis organizational structure and permitting program and make recommendations to improve the outcomes for cannabis permit applicants on September 1, 2021.

#### 1.1.2 Citygate’s Pre-Project Understanding

Based upon the Referral and Citygate’s initial discussions with County staff prior to the engagement, Citygate entered this engagement understanding the following:

- ◆ Since its inception a few years ago, the Cannabis Program in the CAO has grown from one to five staff in an attempt to meet current workload and performance standards
- ◆ There are a number of staff positions in various County departments funded 100 percent by County cannabis tax revenue that are not under the supervisory direction of the Cannabis Program Manager
- ◆ The Cannabis Program suffers from a permitting backlog, such that the County Supervisors have referred the issue to the County Administrator for extraordinary action, such as reassigning permitting and inspection staff directly to the Cannabis Program in an attempt to alleviate the backlog

- ◆ The Cannabis Program Manager has requested a classification and compensation study of the five positions in the Cannabis Program
- ◆ The entire business process of the Cannabis Program requires contributions from staff outside of the direct organizational influence of the Cannabis Program Manager
- ◆ The County Administrator desires to review the Cannabis Program’s business processes, organization, staffing structure, and workload to facilitate effective and efficient administration of the Program, including efficient and timely processing of licenses/permits to conduct cannabis-oriented business.

### **1.1.3 Project Objectives**

The objective of this engagement was to conduct a review of the Cannabis Program, including organizational structure, staffing levels, and permitting processes to find efficiencies in permit processing. To accomplish the project objectives, Citygate:

- ◆ Reviewed the Cannabis Program organizational structure, including formal and informal organizational alignment, management, and supervision
- ◆ Reviewed the Cannabis Program staff job alignments, class specifications, and salaries, as appropriate
- ◆ Reviewed opportunities for organizational and staffing changes to improve customer service for all stakeholders
- ◆ Reviewed the Cannabis Program permitting processes to improve the processes for permitting staff and cannabis permittees
- ◆ Made recommendations to create an efficient organizational structure
- ◆ Made recommendations for efficient and effective organizational alignment and staffing levels for the Cannabis Program
- ◆ Made recommendations to properly classify and compensate employees in the Cannabis Program
- ◆ Made recommendations to improve business processes and task assignments for cannabis licensing/permitting to alleviate the existing backlog, and to the extent possible, prevent new persistent backlogs.

### **1.1.4 Project Scope and Work Plan**

Based on our pre-project understanding, and to form the basis for our analysis and recommendations, Citygate researched and gained an understanding of the County’s:

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- ◆ Statutory and regulatory environment within which the Cannabis Program operates
- ◆ Budgets, expenditures, and revenues supporting the Cannabis Program
- ◆ Current Cannabis Program organizational structure, including formal and informal organizational alignment, management, and supervision
- ◆ Job classifications, specifications, and compensation for employees in the Cannabis Program.
- ◆ Current business processes and task assignments for cannabis licensing/permitting
- ◆ Current and historical workload for cannabis licensing/permitting, including timeline data for permit issuance and any current licensing/permitting backlog
- ◆ Current performance standards for cannabis licensing/permitting.

Citygate’s Work Plan was customized to address the specific items of interest identified by the County. Our approach incorporated current realities regarding COVID-19 and utilized virtual meetings. Citygate met project objectives through an exhaustive document review, detailed employee interviews, and a comprehensive review of industry best practices and comparable counties, as reflected in the following tasks:

- ◆ Initiated the project by videoconference with County representatives to finalize the project’s scope, objectives, and timeline
- ◆ Requested and reviewed a list of pertinent documentation relating to the Cannabis Program
- ◆ Conducted stakeholder interviews with appropriate County personnel, including County leadership, the Cannabis Program Manager and staff, and staff from other County departments involved in the Cannabis Program, including Agriculture, Health, Environmental Health, and Housing and Community Development
- ◆ Reviewed job classifications, specifications, and compensation for employees in the Cannabis Program
- ◆ Reviewed the current Cannabis Program organizational structure and other scope elements including program finances, staffing levels, industry regulations, comparable agency data, and best practice performance standards
- ◆ Conducted several mid-project briefings to share our preliminary findings and recommendations.

## **1.2**    **CONTEXT OF THIS STUDY**

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In July 2020, Citygate completed the review of the RMA focusing primarily on the RMA’s community development functions, including planning, engineering, permitting, and building services (RMA Report). The study also included a high-level review of administration, parks, public works, and other functions within the RMA. The objective of the study was to review current conditions, evaluate existing and future service demands, and analyze opportunities for organizational changes and process improvements that can increase customer service and stakeholder satisfaction.

In that report, Citygate made 76 recommendations covering communication, policies, priorities, procedures, reports, staff, and technology. The County has implemented a number of Citygate’s recommendations, including organizational restructuring and permit process improvements.

The most significant among our recommendations and the County’s implementation was splitting the RMA into two new departments: the Housing and Community Development Department and the Public Works, Facilities, and Parks Department. Citygate recognizes that implementing this recommendation required significant effort, and we applaud the County’s progress on this important recommendation.

Citygate understands that many of our RMA Report recommendations relating to permit processing overall are in various stages of implementation. It is with the appreciation that significant efforts such as those Citygate recommended in the RMA Report take some time to fully implement that Citygate conducts our analysis in response to the Referral. Citygate believes that fully implementing the RMA Report recommendations, in combination with the additional recommendations in this report, will have a significant, positive impact on the cannabis permitting processes.

## **1.3**    **HOW TO READ THIS STUDY**

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Citygate intends this report to provide a foundation upon which the County can enhance service to the cannabis industry by improving the County’s connections to the industry through collaboration and economic development advocacy, by improving the conditions within which the cannabis industry is permitted to conduct business in the County, and by improving the information upon which County policymakers base their decisions. Citygate based our analysis on conditions at the time of review and focused our recommendations on those actions most likely to improve operations and thus improve the experience of cannabis operators, especially in the short-term.

When examining reports such as this, it is common for a reader, especially one with knowledge of an organization’s history, to hold current staff, managers, and leaders responsible for all issues and conditions in the organization that occurred in the past, regardless of whether those current staff, managers, or leaders were with the organization during the period in question.

It is also common for an organization's employees to feel defensive when faced with an organizational review report that, to some, may feel overly critical or may contain challenging recommendations. During Citygate's work in this review, Citygate found, without exception, dedicated and passionate employees whose primary goal was to provide excellent service to the County's customers and stakeholders. Citygate recognizes the efforts of County employees and applauds the County for its desire to study current conditions and accept recommendations on how it might improve service to this important industry.

Citygate does not intend this study to be a comprehensive treatise on cannabis laws and legalization, the cannabis industry and marketplace, cannabis tax structures and revenues, nor the extensive and varied historical efforts of County staff in support of the cannabis industry. Rather, Citygate refers to these issues to provide context to the overall mission of this report, which focuses primarily on improving the organizational structures and operating procedures of the Cannabis Program to improve industry collaboration, program information quality and availability, and especially cannabis business permitting experiences.

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#### **1.4 LIMITATIONS OF THIS STUDY AND AREAS FOR FURTHER RESEARCH**

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##### **1.4.1 Land Use Entitlements, Conditions, and Mitigation Measures**

Citygate recognizes that the land use entitlement process, including compliance with the California Environmental Quality Act, is among the most time-consuming components of many permit applications. In addition, the conditions and mitigation measures resulting from the entitlement process can be among the most significant obligations, in terms of time and money, for the permit applicant. During this engagement, Citygate did not deeply examine the policy environment in which land use entitlement conditions and mitigations are determined in the County. Citygate suggests the County study the regulatory burdens resulting from the land use entitlement process, such as the standard conditions of approval and the parameters within which mitigation measures are determined, especially when cannabis operations are proposed on land that was previously engaged in other agricultural operations. Citygate understands, anecdotally, that other heavily agricultural communities similar to Monterey County may employ a different philosophy regarding agricultural reuse and cannabis cultivation. The County must be certain that the proposed mitigation measures, including on-site improvements and off-site improvements, such as transportation facilities, are relevant and necessary, especially in situations where agricultural operations may be exchanging cannabis for a previously grown crop.

##### **1.4.2 Tax Structures and Rates**

Citygate recognizes the cannabis industry is subject to a multi-layered and complex State of California and local taxing scheme. Recent advocacy from the cannabis industry, supported by analysis from various analytical and news organizations, suggests that current tax structures and rates are impairing the legal cannabis industry, and perhaps promoting the illegal cannabis market

at the expense of the regulated cannabis market. While Citygate did not examine the tax policy environment in which the cannabis permittees operate in the County-regulated cannabis market operations in this engagement, Citygate suggests the County carefully monitor all tax burdens on the cannabis permittee and seek to balance those burdens with the benefits to the community that revenue from the regulated market intended to provide at its inception.

### **1.5 PUBLIC SERVICE DURING THE COVID-19 PANDEMIC**

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The COVID-19 pandemic and the government response have significantly disrupted normal municipal business operations and personal lives, and the constantly evolving local, state, national, and international response to COVID-19 contributes to an uncertain environment in which to plan and execute once-common tasks. As a company comprised of former local government executives, Citygate understands the challenges presented to local governments by the COVID-19 pandemic, and Citygate accounted for the unusual nature of COVID-19 impacts on local government operations in our analysis.

### **1.6 ABOUT CITYGATE**

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In business more than 30 years, Citygate Associates, LLC, headquartered in Folsom, California, has conducted over 500 consulting reviews for over 300 government agencies. In addition to significant academic credentials, Citygate’s consulting staff represent many hundreds of years of local government experience.<sup>1</sup> Citygate is pleased to have served Monterey County in this engagement.

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<sup>1</sup> [www.citygateassociates.com](http://www.citygateassociates.com)



## SECTION 2—SERVING THE CANNABIS INDUSTRY

### 2.1 INDUSTRY AND MARKET OVERVIEW

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#### 2.1.1 Legal Market

While cannabis is still illegal under federal law, since approximately 2013 the federal government has generally taken a hands-off approach to cannabis prohibition enforcement in states where the drug is legal. Currently, cannabis is fully legal, including medical and recreational use, in 18 states and the District of Columbia.<sup>2</sup> As of April 2021, 31 of California's 58 counties allowed some form of commercial cannabis activity.<sup>3</sup> The cannabis industry in Monterey County is part of a regulated market created by a combination of statewide voter initiatives, Monterey County voter initiatives, and various actions by the Board of Supervisors, codified in various chapters of the Monterey County Code (MCC), including Chapters 7.02, 7.90, 7.100, 20.67, 20.69, 21.67, and 21.69. At the beginning of Citygate's review, there were 113 cannabis business permit applicants, of which 15 are fully permitted. At the time of preparing this report, Citygate understands that two applicants have shut down operations, leaving 111 cannabis business permit applicants, of which 15 are fully permitted.

According to the County's 2020 Crop and Livestock Report,<sup>4</sup> the production gross value of the County's crop and agricultural production is \$3,910,135,000, a decrease of 11.3 percent from 2019. The cannabis crop value is \$484,120,000, an increase of \$34.4 million (seven percent) from 2019, placing it between head and leaf lettuce as one of the County's top five crops.

In 2020, the tax revenue generated from the sale of cannabis totaled \$168,217,717<sup>5</sup> for the State of California and approximately \$20,100,000<sup>6</sup> for the County. Revenue generated by cannabis sales in the County rank third among general tax revenues, below property taxes and transient occupancy, but greater than sales taxes. Citygate recognizes that cannabis cultivation, manufacturing, distribution, and sales activities are an important industry in the County, and that cannabis tax revenue provides an important source of discretionary funding for County programs.

#### 2.1.2 Illegal Market and Quality Assurance

Under California law, cannabis sold legally at licensed retailers is subject to laboratory testing to ensure product purity, potency, and safety. Cannabis is tested for over 100 contaminants, including pesticides, toxins, and heavy metals. According to the County, a 2020 study showed that the cost

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<sup>2</sup> <https://www.usnews.com/news/best-states/articles/where-is-marijuana-legal-a-guide-to-marijuana-legalization>

<sup>3</sup> <https://cannabusinesslaw.com/2021/04/california-counties-cities-with-commercial-cannabis-business-laws/>

<sup>4</sup> <https://www.co.monterey.ca.us/home/showpublisheddocument/103876/637622804394330000>

<sup>5</sup> <https://www.cdtfa.ca.gov/dataportal/charts.htm?url=CannabisTaxRevenues>

<sup>6</sup> Fiscal Year 21–22 Monterey County Budget, Schedule 6, p. 8

of this compliance testing contributes \$136 per pound to the cost of legal cannabis. Illegally sold cannabis, because it is sold outside of California's and the County's regulatory scheme, likely does not undergo testing.

Monterey County was awarded an approximately \$1,000,000 grant by the State of California under the Proposition 64 Public Health and Safety Grant Program, of which nearly \$200,000 was allocated to conduct laboratory compliance testing on illicit cannabis between 2021 and 2023.<sup>7</sup> On behalf of the County, a licensed cannabis laboratory processed 55 random samples of illegal cannabis using the same standards as licensed cannabis businesses.

In December 2021, the County released the results of testing conducted during the past year on illicit cannabis seized by County Law Enforcement. The official testing results show that:

- ◆ 84 percent of illegal cannabis seized during these operations failed official laboratory testing due to contamination
- ◆ 58 percent failed in total or in part based on water and mold activity
- ◆ 42 percent failed in total or in part based on heavy metals
- ◆ 37 percent failed in whole or in part based on the presence of pesticides
- ◆ 10 percent failed in part based on the presence of microbial impurities like Salmonella.

In addition to valuable economic activity such as employment opportunities and tax revenue provided to the Monterey County community, the legal cannabis market assures the quality of the product for cannabis consumers. Citygate recognizes the County's efforts to measure product quality.

## **2.2 REGULATORY ENVIRONMENT**

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According to federal law, the use and possession of cannabis is illegal<sup>8</sup> under the Controlled Substances Act of 1970.<sup>9</sup> As mentioned, federal authorities have not focused on cannabis-related enforcement, and currently, cannabis, including medical and recreational use, is currently fully legal in 18 states and the District of Columbia.<sup>10</sup> As of April 2021, 31 of California's 58 counties allowed some form of commercial cannabis activity.<sup>11</sup> Because cannabis is illegal federally, the use of financial institutions such as banks to provide working capital and other investment, which

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<sup>7</sup> Peterson, Gregory N., Monterey County Officials Announce Results of 2021 Grant Funded Illicit Cannabis Testing

<sup>8</sup> [https://www.deadiversion.usdoj.gov/schedules/orangebook/c\\_cs\\_alpha.pdf](https://www.deadiversion.usdoj.gov/schedules/orangebook/c_cs_alpha.pdf)

<sup>9</sup> 21 U.S. Code § 801, et seq

<sup>10</sup> <https://www.usnews.com/news/best-states/articles/where-is-marijuana-legal-a-guide-to-marijuana-legalization>

<sup>11</sup> <https://cannabusinesslaw.com/2021/04/california-counties-cities-with-commercial-cannabis-business-laws/>

is available to other business industries, is not readily available to the cannabis industry. Additionally, federal law prohibits banks from accepting cannabis-related deposits. Legislation titled the Secure and Fair Enforcement (SAFE) Banking Act of 2021, which would protect banks and financial institutions that choose to service cannabis-related businesses operating within their state's legal and regulatory frameworks has been passed the by the U.S. House but not the U.S. Senate thus far. In California, the commercial cannabis industry is heavily regulated by a unique blend of State of California and county ordinances, codes, and regulations, including the Medicinal and Adult-Use of Cannabis Regulatory and Safety Act (MAUCRSA), which combined medicinal and adult-use cannabis into a single state licensing scheme. The MAUCRSA allows counties and cities to maintain local regulatory authority over commercial cannabis activities, and the state will not issue a state license without first receiving authorization from the local jurisdiction within which the cannabis license applicant intends to conduct business.

At the local level, the commercial cannabis industry is subject not only to state law, but also to a varied and complex web of local ordinances and regulations that influence the way a cannabis permittee operates their business, including land use entitlements, building permits, specialty cannabis business permits, annual business licenses, hazardous material permits, pesticide application permits, and sewer, water, and solid waste discharge, distribution, and collection permits.

Each California county employs a different, local approach to cannabis permitting depending on many factors, including agricultural history, available cultivation locations and types, distribution networks, retail locations, taxing schemes, and general desires of the community. Considering these factors, local jurisdictions take varied approaches to organizational, procedural, and financial issues in serving cannabis permittees.

MCC Chapters 7.02, 7.90, 20.67, 20.69, 21.67, and 21.69 provide the landscape of regulations necessary for obtaining licenses and land use entitlements for all commercial cannabis operations. These local regulations are intended to establish criteria for issuing local permits pursuant to the MAUCRSA and to establish an effective regulatory and enforcement system consistent with guidance issued by the United States Department of Justice.

In the County, the permitting of commercial cannabis operators is codified in MCC Chapter 7.90 Commercial Cannabis Permits, which provides regulations for the local permitting of commercial cannabis operations in the unincorporated areas of the County. In addition to the annual cannabis business permit, each cannabis permittee is required to also have an annual business license, codified under MCC Chapter 7.02, and each cannabis permittee is required to pay a tax on commercial cannabis products and activities, as described in MCC Chapter 7.100, The Commercial Cannabis Business Tax.

MCC Chapter 7.90 requires several precursor approvals prior to using a business permit, including appropriate land use approvals, which are codified in MCC Chapters 20.67 and 20.69, Commercial

Cannabis Activities in Coastal Zones, and Chapters 21.67 and 21.69, Commercial Cannabis Activities in the Inland Zones. Chapters 20.69 and 21.69 specifically cover outdoor cultivation.

MCC Chapter 7.95 covers the regulations regarding personal medical cannabis permits, which are not subject to this study. Citygate understands that the County plans to repeal this Chapter.

In addition to the cannabis-specific regulations, several agencies are involved in the regulation of commercial cannabis activities, including the Agricultural Commissioner's Office, the Environmental Health Bureau of the County Health Department, and the Housing and Community Development Department.

The Agricultural Commissioner/Sealer of Weights and Measures Office does not process County cannabis permits including review and approval of any of the permitting requirements. However, the Agricultural Commissioner's Office does collaborate with the Cannabis Program, as necessary. The Agricultural Commissioner is charged with enforcing provisions of the California Business and Professions Code and the Food and Agriculture Code, of which several apply to the cannabis industry in the same manner as other industries, including, but not limited to, pesticide application and management, the certification of pesticide applicators, and certification of weights and measuring devices.

Similarly, the Environmental Health Bureau does not process County cannabis permits. Environmental health regulations for the cannabis industry are the same as for other industries, and the Environmental Health Bureau regulates several aspects of the cannabis permittee's operations, including handling of hazardous materials and solid waste, provision of domestic water systems and water wells, and sewage disposal. These various regulations are codified in the MCC as:

- ◆ Chapter 10.41, Solid Waste Collection and Disposal
- ◆ Chapter 10.65, Hazardous Materials Registration
- ◆ Chapter 15.04, Domestic Water Systems
- ◆ Chapter 15.08, Water Wells
- ◆ Chapter 15.20, Sewage Disposal

In addition to the locally codified regulations, the Environmental Health Bureau has been delegated as the local enforcement agency for various state statutes and regional agencies, including Title 14, Natural Resources, Division 7, pertaining to CalRecycle and regulations regarding to all other nonhazardous waste management in California, and Title 27, Environmental Protection, Divisions 1 and 2 regarding solid waste management. The Environmental Health Bureau also regulates septic systems prescribed by the State Water Resources Control Board's on-

site water treatment systems (OWTS) policy under a Local Agency Management Program (LAMP).

In December 2021, Cannabis Program staff, working with other County departments, applied for a \$1.7 million Local Jurisdiction Assistance grant to support the regulatory framework for the legal market and assist licensees in obtaining annual licenses, which was awarded to the County by the California Department of Cannabis Control. The County plans to use these funds to meet the needs of additional CEQA studies; to use outside consultants to process land use and building permits; to create, develop, and implement the Growing Equity Together program; and pass-through funding to the County's cannabis permittees.

## **2.3 TAX STRUCTURE AND RATES**

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### **2.3.1 Monterey County General Tax**

On November 8, 2016, the voters approved the commercial cannabis business tax (Measure Y, codified in Monterey County Code Chapter 7.100). On December 13, 2016, the tax was certified pursuant to Elections Code Section 15372. Specifically, the voters approved a tax on commercial cannabis activities in the unincorporated area of Monterey County up to a maximum of \$25.00 per square foot on cultivation with an annual adjustment by the Consumer Price Index (CPI) thereafter; \$5.00 per square foot on nurseries with an annual CPI adjustment thereafter; and 10 percent of gross receipts on other cannabis business activities with no CPI adjustment.

County tax rates are set by MCC Chapter 7.100 for various categories of cannabis operations, including indoor cultivation, mixed-light cultivation, nursery cultivation, outdoor cultivation, distributors/distribution facilities, retail facilities, and testing laboratories. In certain circumstances, the tax rates provide for automatic annual increases. Personal cultivation and personal use as defined by MCC Chapter 7.95 is exempt from the commercial cannabis business tax. The current tax structures and rates are as follows:<sup>12</sup>

#### ***Indoor Cultivation***

- ◆ July 1, 2018 – June 30, 2022: The initial tax rate is eight dollars (\$8.00) per fiscal year, per square foot of canopy authorized by each County permit, or by each state license in the absence of a County permit, not deducting for unutilized square footage.

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<sup>12</sup> <https://www.co.monterey.ca.us/government/departments-i-z/treasurer-tax-collector/commercial-cannabis-business-tax>

- ◆ July 1, 2022 – June 30, 2028: Beginning on July 1, 2022, the tax rate shall automatically increase each fiscal year by one dollar (\$1.00) per square foot of authorized canopy, not to exceed a rate of fifteen dollars (\$15.00) per square foot.
- ◆ July 1, 2028, and thereafter: Beginning on July 1, 2028, and on July 1 of each succeeding fiscal year thereafter, the amount of the tax shall be increased by the most recent change in the annual average of the Consumer Price Index (“CPI”) for all urban consumers in the San Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of the tax will be made.

### *Mixed-Light Cultivation*

- ◆ July 1, 2018 – June 30, 2022: The initial tax rate is five dollars (\$5.00) per fiscal year, per square foot of canopy authorized by each County permit, or by each state license in the absence of a County permit, not deducting for unutilized square footage.
- ◆ July 1, 2022 – June 30, 2031: Beginning on July 1, 2022, the tax rate shall automatically increase each fiscal year by one dollar (\$1.00) per square foot of authorized canopy, not to exceed a rate of fifteen dollars (\$15.00) per square foot.
- ◆ July 1, 2031, and thereafter: Beginning on July 1, 2031, and on July 1 of each succeeding fiscal year thereafter, the amount of the tax shall be increased by the most recent change in the annual average of the Consumer Price Index (“CPI”) for all urban consumers in the San Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this section shall be made.

### *Nursery Cultivation*

- ◆ July 1, 2018 – June 30, 2022: The initial tax rate is one dollar (\$1.00) per square foot of canopy authorized by each County permit, or by each state license in the absence of a County permit, not deducting for unutilized square footage
- ◆ July 1, 2022 – June 30, 2026: Beginning on July 1, 2022, the tax rate shall automatically increase each fiscal year by one dollar (\$1.00) per square foot of canopy for cannabis cultivation as a nursery, not to exceed the maximum tax rate of five dollars (\$5.00) per square foot
- ◆ July 1, 2026, and thereafter: Beginning on July 1, 2026, and on July 1 of each succeeding fiscal year thereafter, the amount of each commercial cannabis business tax shall be increased by the most recent change in the annual average of the Consumer Price Index (“CPI”) for all urban consumers in the San Francisco-

Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of the tax will be made.

### *Outdoor Cultivation*

- ◆ July 1, 2021 – June 30, 2022: The initial tax rate is two dollars and fifty cents (\$2.50) per square foot authorized by each County permit, or by each state license in the absence of a County permit, not deducting for unutilized square footage.
- ◆ July 1, 2022 – June 30, 2023, and thereafter: Beginning on July 1, 2022, the tax rate will increase each fiscal year by twenty-five cents (\$0.25) per fiscal year.

### *Manufacturers*

- ◆ July 1, 2018 – June 30, 2019: The initial tax rate is two and one-half percent (2.5%) of the gross receipts per fiscal year.
- ◆ July 1, 2019, and thereafter: Beginning on July 1, 2019, the tax rate will increase each fiscal year by one percent (1%), not to exceed a maximum tax rate of ten percent (10%) per fiscal year on gross receipts. However, such automatic increase shall not take place in Fiscal Years 2020–2021 and 2021–2022. The annual (1%) increase shall resume Fiscal Year 2022–2023 on July 1, 2022.

### *Distributors/Distribution Facilities*

- ◆ July 1, 2018 – June 30, 2019: The initial tax rate is two percent (2%) of the gross receipts per fiscal year.
- ◆ July 1, 2019, and thereafter: Beginning on July 1, 2019, the tax rate will increase each fiscal year by one percent (1%), not to exceed a maximum tax rate of ten percent (10%) per fiscal year on gross receipts. However, such automatic increase shall not take place in Fiscal Years 2020–2021 and 2021–2022. The annual (1%) increase shall resume Fiscal Year 2022–2023 on July 1, 2022.

### *Testing Laboratories*

- ◆ The tax rate, effective July 1, 2018, is one percent (1%) of the gross receipts per fiscal year.

### *Dispensaries*

- ◆ July 1, 2018 – June 30, 2019: The initial tax rate is four percent (4%) of the gross receipts per fiscal year.

- ◆ July 1, 2019, and thereafter: Beginning on July 1, 2019, the tax rate will increase each fiscal year by one-half percent (0.5%), not to exceed a maximum tax rate of ten percent (10%) per fiscal year on gross receipts. However, such automatic increase shall not take place in Fiscal Years 2020–2021 and 2021–2022. The annual (1%) increase shall resume Fiscal Year 2022–2023 on July 1, 2022.

### **2.3.2 Monterey County Regional Fire District Tax**

In addition to Monterey County’s general tax, the Monterey County Regional Fire District marijuana tax was put before voters as Measure H on the June 2018 primary ballot. The ballot question read, “Shall Monterey County Regional Fire District impose an annual tax only on commercial cannabis businesses within its boundaries to fund impacts upon fire prevention services, and response to fires, hazardous materials, and other emergencies at the following rates: \$0.18 per square foot on cannabis cultivation; \$0.10 per square foot on cannabis nurseries; and \$1.00 per square foot on cannabis manufacturing and retailers, adjusting all rates annually based on the Consumer Price Index, potentially generating \$350,000 annually with no termination?”<sup>13</sup> This initiative passed with a 66.87 percent vote,<sup>14</sup> which was just above the supermajority threshold for special taxes.

### **2.3.3 State of California Taxes**

In addition to local taxes, the State of California also taxes commercial cannabis businesses, with both an excise tax and a cultivation tax. The California Cannabis Excise Tax rates are illustrated in Table 1.

**Table 1—California Cannabis Excise Tax**

Effective Date	Excise Tax Rate of Average Market Price	Mark-up Rate for Arm’s Length Transactions
January 1, 2020 – Present	15%	80%
January 1, 2018 – December 31, 2019	15%	60%

In addition to the excise tax, California also taxes cannabis cultivators. The California Cannabis Cultivation Tax rates are illustrated in Table 2.

<sup>13</sup> [https://ballotpedia.org/Monterey\\_County\\_Regional\\_Fire\\_District,\\_California,\\_Measure\\_H,\\_Marijuana\\_Tax\\_\(June\\_2018\)](https://ballotpedia.org/Monterey_County_Regional_Fire_District,_California,_Measure_H,_Marijuana_Tax_(June_2018))

<sup>14</sup> [https://montereycountyelections.us/files/mced/Election\\_Info/past\\_results/SOV\\_2018-06-05.pdf](https://montereycountyelections.us/files/mced/Election_Info/past_results/SOV_2018-06-05.pdf)



**Table 2—California Cannabis Cultivation Tax**

Effective Date	Cannabis Flower (Per Dry-Weight Ounce)	Cannabis Leaves (Per Dry-Weight Ounce)	Fresh Cannabis Plant (Per Ounce)
January 1, 2022 – Present	\$10.08	\$3.00	\$1.41
January 1, 2020 – December 31, 2021	\$9.65	\$2.87	\$1.35
January 1, 2018 – December 31, 2019	\$9.25	\$2.75	\$1.29

Citygate notes the escalating structure of the cultivation tax, which is common to both the local and state taxing schemes.

### **2.3.4 Tax Burdens, Industry Health, and Government Responses**

The combined tax burden is seen by the cannabis industry as inhibiting the local cannabis industry, not only creating wholesale price volatility, but also threatening the variability of the legal market. Wholesale price per pound, especially of mixed-light product, dropped significantly in the third and fourth quarter of 2021, creating worries among the legal cannabis industry that product is being pushed to the illegal market. Some industry observers and professionals suggest that lower third-quarter sales volume and price softening go beyond historical product surpluses due to autumn outdoor harvests, and possibly represents a chronic oversupply in the legal California cannabis market.<sup>15</sup>

According to the California Department of Tax and Fee Administration (CDTFA), taxable sales for the third quarter of 2021 were \$1,240,854,498, nearly 12.5 percent lower than the second quarter and nearly two percent lower than the same quarter in 2020. The California Cannabis Authority tracks wholesale price per pound and notes significant volatility and in the case of mixed-light cultivation, significant declines in the third and fourth quarter, as illustrated in Table 3.

<sup>15</sup> <https://greengrowthcpas.com/wholesale-flower-price-update-shake-ups-in-california-oregon-and-oklahoma/>

**Table 3—Wholesale Price Per Pound in 2021**

Month	Mixed-Light Price Per Pound	Change from Previous Month	Indoor Price Per Pound	Change from Previous Month
January	\$1,117		\$1,647	
February	\$1,159	4%	\$1,679	2%
March	\$1,187	2%	\$1,608	-4%
April	\$1,170	-1%	\$1,800	12%
May	\$1,284	10%	\$1,729	-4%
June	\$1,237	-4%	\$1,575	-9%
July	\$1,154	-7%	\$1,681	7%
August	\$878	-24%	\$1,561	-7%
September	\$720	-18%	\$1,406	-10%
October	\$539	-25%	\$1,555	11%
November	\$443	-18%	\$1,151	-26%
December	\$469	6%	\$1,303	13%

Cannabis advocates have taken the position that state and local tax burdens are pressing the industry to the brink of collapse.<sup>16</sup> In response to advocacy by the cannabis industry citing a substantial decline in taxable sales, governments are considering various actions to reform tax structures to promote the legal cannabis market. The California Governor has pledged to support reform of the state cannabis tax structure.<sup>17</sup> In the State Budget proposal, the Governor stated, “It is my goal to look at tax policy to stabilize the market, and at the same time, it is also my goal to get these municipalities to wake up to the opportunities to get rid of the illegal market, the illicit market, and provide support in a regulatory framework for the legal market.”<sup>18</sup>

Locally, the County Board recognized that under current market conditions, the County tax scheme was exerting pressure on the legal, regulated cannabis industry’s financial viability. In response, the Board has taken several actions during the course of Citygate’s engagement.

One such action was to change MCC Chapter 7.90.070 (C), increasing the number of times an operator can modify the canopy limit allowed by their registration form or cannabis business permit from one time during the annual term to twice during the annual term.<sup>19</sup>

<sup>16</sup> <https://apple.news/AoV9PTwoaTZuMvDB1d3liAA>

<sup>17</sup> <https://www.sacbee.com/news/politics-government/capitol-alert/article257196637.html>

<sup>18</sup> <https://sanfrancisco.cbslocal.com/2022/01/14/california-cannabis-industry-marijuana-gavin-newsom/>

<sup>19</sup> Ordinance 5365, approved October 26, 2021.

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In another such action on December 14, 2021, the Board directed staff to amend MCC Chapter 7.100 to remove the automatic annual escalator; place a stay on penalties and fines for cultivation delinquent accounts if paid in full on or before July 31, 2022,<sup>20</sup> and reduce the cultivation tax rates as follows:

- ◆ Distribution Tax from three percent to zero percent of gross receipts
- ◆ Mixed-light cultivation from \$5.00 to \$3.00 per square foot of canopy
- ◆ Indoor cultivation from \$8.00 to \$7.00 per square foot of canopy
- ◆ Outdoor cultivation from \$2.50 to \$1.00 per square foot of canopy.

At the time of this report, the Board is expected to act to lower the tax rates in early March 2022. Table 4 illustrates the County commercial cannabis tax current rates and proposed changes.

**Table 4—Commercial Cannabis Tax Rates**

Type/Basis	2021 Rate <sup>1</sup>	2022 Rate (Proposed)	Percent Change
Indoor Cultivation (per square foot of canopy)	\$8.00	\$7.00	-12.5%
Mixed-Light Cultivation (per square foot of canopy)	\$5.00	\$3.00	-40%
Nursery Cultivation (per square foot of canopy)	\$1.00	No Change	
Outdoor Cultivation (per square foot of canopy)	\$2.50	\$1.00	-60%
Manufacturers	3.5%	No Change	N/A
Distribution (gross receipts)	3%	0%	-100%
Testing Laboratories (gross receipts)	1%	No Change	N/A
Dispensaries (gross receipts)	4.5%	No Change	N/A
Personal Cultivation/Use <sup>2</sup>	Exempt	Exempt	N/A

<sup>1</sup> Per Monterey County Treasurer–Tax Collector information on Commercial Cannabis Business Tax: <https://www.co.monterey.ca.us/government/departments-i-z/treasurer-tax-collector/commercial-cannabis-business-tax>

<sup>2</sup> As defined by Monterey County Code Chapter 7.95

## **2.4 CANNABIS TAX REVENUE**

The tax rate structure, under then current market conditions, produced a considerable amount of tax revenue to the County, growing from just over \$3 million in Fiscal Year (FY) 16–17 to more than \$20 million in FY 21–22. Table 5 illustrates the tax revenues by fiscal year over a six-year

<sup>20</sup> If the account is not paid in full by that period, the penalties and fines will be due and payable.

period. This is general tax revenue to the County and as such, is available to County policy makers to invest in priorities of the community. The County anticipates a 6.3 percent drop in cannabis tax revenue for the current fiscal year based on market trends.

**Table 5—Cannabis Commercial Tax Revenue by Fiscal Year**

<b>Fiscal Year</b>	<b>Revenue</b>	<b>Percent Change Over Previous Year</b>	<b>Cannabis Assignment Fund Balance</b>
2016–17	\$3,143,037	N/A	\$3.0 M
2017–18	\$14,533,062	362.4%	\$17.0 M
2018–19	\$15,768,705	8.5%	\$21.2 M
2019–20	\$17,537,3641	11.2%	\$26.9 M
2020–21 (Estimate)	\$20,092,8091	14.6%	\$23.4 M
2021–22 <sup>1</sup> (Estimate)	\$18,824,0971	-6.3%	N/A

<sup>1</sup> County of Monterey Adopted Budget FY 2021–22, Schedule 6, p. 8

## **2.5 IDENTITIES OF THE CANNABIS PERMITTEE**

When considering how to best support the cannabis industry and provide for efficient and effective permitting of cannabis businesses, Citygate first considered the various roles, or identities, of the cannabis permit applicant from the perspective of the County. In this analysis, Citygate determined that the Monterey County cannabis business permit applicant has two discrete identities, one of a regulated market participant, and one of a cannabis permit applicant. Citygate believes these two discrete identities require different organizational responses and “product” deliveries.

### **2.5.1 Regulated Market Participant**

Through various voter-approved initiatives and other actions by the Board, Monterey County has created a regulated marketplace in which business entities can cultivate, process, and sell cannabis products. This market was created to provide various benefits to the Monterey County community, including:

- ◆ Discretionary revenue to support current and anticipated County initiatives and programs
- ◆ Additional employment opportunities thought to provide higher wages than traditional County agricultural jobs.

In Monterey County, cannabis is a top-five crop and the second largest general tax provider behind property tax, per FY 21–22 budget estimates. To support a successful regulated market in which participants provide the anticipated benefits to the community, such as discretionary revenue and

employment opportunities, the County must take on the role of industry advocate. This is a common economic development role for local governments across California, as well as a common role for the state government. In an economic development role, local governments develop strategies to attract businesses to their communities, encourage businesses to expand and remain in their communities, create policies favorable to conducting business in their communities, and establish procedures and permitting schemes that balance attraction, expansion, and retention of businesses with other quality of life factors valuable to their community.

### **2.5.2 Cannabis Permit Applicant**

To participate in the County’s regulated market, the County requires a cannabis business to meet a number of regulatory obligations, including obtaining a Cannabis Business Permit (CNB) as prescribed by MCC Chapter 7.90. In addition to the CNB, the County requires several precursor approvals prior to using a permit, including appropriate land use entitlements, which are codified in MCC Chapters 20.67 and 20.69, Commercial Cannabis Activities in Coastal Zones; and 21.67 and 21.69, Commercial Cannabis Activities in Inland Zones. Land use entitlements are processed by the Housing and Community Development Department. In addition to the cannabis-specific regulations, several agencies are involved in the regulation of commercial cannabis activities, including the Agricultural Commissioner’s Office and the Environmental Health Bureau of the County Health Department.

Regulatory and permitting schemes in local governments are routine and common, including building permits, encroachment permits, land use permits, pesticide application permits, solid waste permits, water system permits, and wastewater permits. Under MCC Chapter 7.90, the County also processes permits for cannabis businesses. The County manages regulatory and permitting schemes in various departments, including, but not limited to, the Agricultural Commissioner’s Office, Environmental Health Bureau, and Housing and Community Development Department. While some collaboration occurs between these departments under certain permitted uses such as in retail food sales and restaurant establishments, the permitting criteria does not overlap.

For example, in an application for entitlement and operation for a food sales business, the Agricultural Commissioner would be responsible for weights and measuring devices; the Building Department would be responsible to ensure building plans meet code and that building processes are according to code and plans; the Environmental Health Bureau would be responsible to ensure food safety equipment meets standards; and the Planning Department would be responsible to ensure that the development meets community standards and codes through land use entitlements. These are traditional roles and responsibilities of traditional local agency regulatory departments, in the same way that issues of a leadership, financial, policy, political, and strategic nature are traditionally the role of administrative or executive departments. Regulatory schemes and permit processing are not common in administrative or executive departments.

While common and routine across California and across the nation, managing regulatory and permitting schemes requires focused attention and careful coordination to provide excellent customer service to the client in terms of manageability, predictability, timeliness, and thoroughness.

### **2.5.3 Discrete Identities Require Different Responses**

Citygate believe that the identities and roles and the cannabis permittee create competing organizational responses when County staff consider the needs of their client. These competing responses include:

- ◆ Encouraging versus regulating
- ◆ Promoting economic development versus managing regulatory schemes
- ◆ Developing strategies versus processing transactions
- ◆ Developing policies versus developing procedures
- ◆ Anticipating challenges versus managing processes
- ◆ Being future-focused versus today-focused.

As mentioned previously, the discrete identities of regulated market participants and cannabis permit applicants require different organizational responses and “product” deliveries from the County organization and staff.

## **2.6 GENERAL PROBLEM STATEMENT AND SOLUTION FRAMEWORK**

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As of November 2021, only 15 of 113 CNB applications had been approved. The time from CNB application to approval is historically more than one year and is often several years. Citygate understands that several factors may contribute to this backlog, including the land use entitlement process and departmental sign-off processes. The backlog of unapproved CNB applications prompted the County Board to issue Referral Number 2021.12, recognizing that “Insignificant progress has been made towards local authorizations for cannabis operators related to land use and building permits...” and seeking “efficiencies, particularly the processes for permit review and compliance inspections.”

As the cannabis industry is an important contributor of employment and tax revenue to the County, improving the cannabis permitting experience for applicants is critical to maintaining and enhancing these benefits to the Monterey County community.

During Citygate’s analysis of County-provided data relating the CNB permitting process, Citygate recognized that two primary responses were required to improve permitting results in the near- and long-term. The responses include organizational changes and procedural changes, and the

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remaining sections of this report align with these two change methodologies: Section 3—Responding Organizationally and Section 4—Responding Procedurally.

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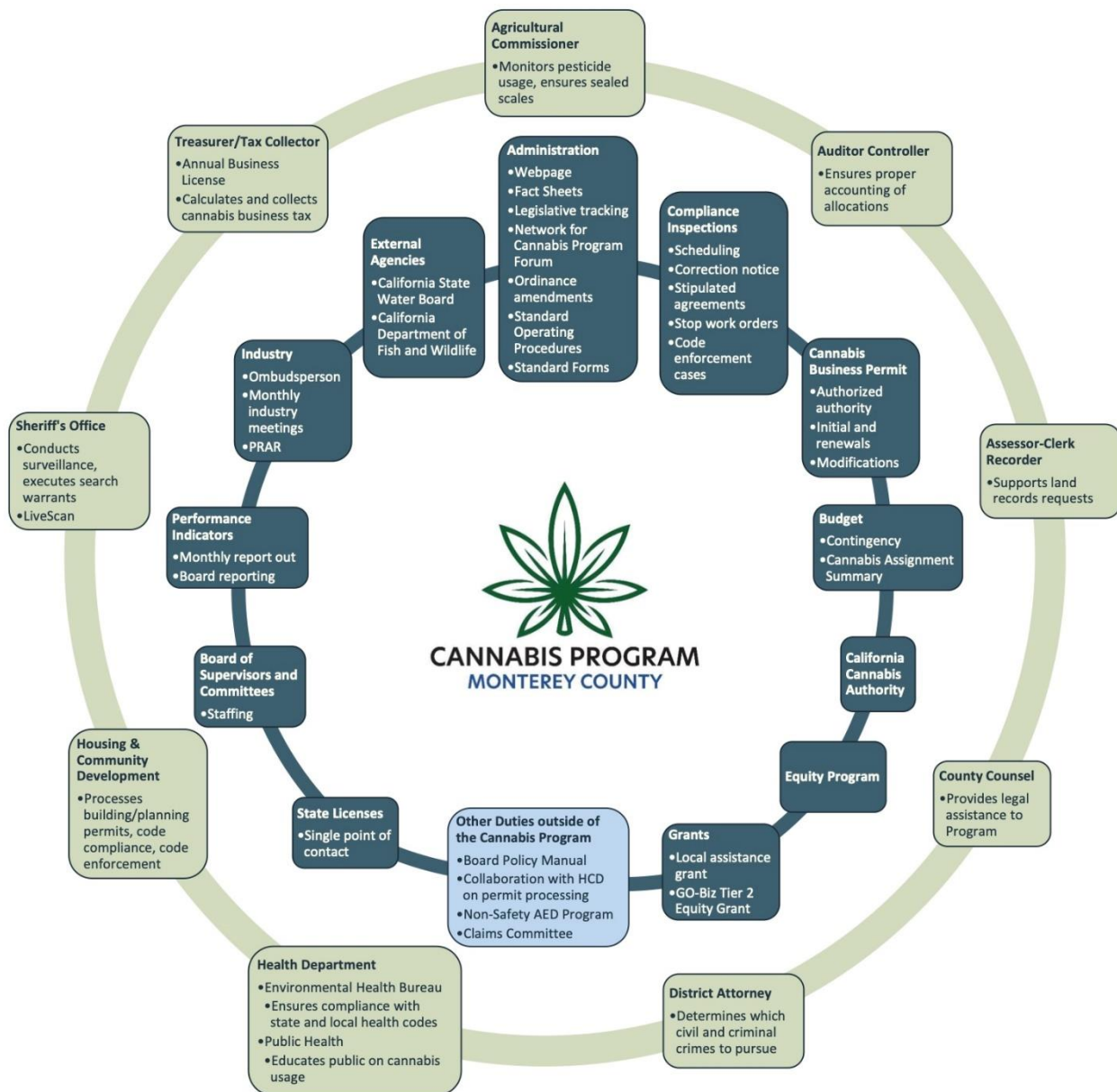


## SECTION 3—RESPONDING ORGANIZATIONALLY

### 3.1 CURRENT COUNTY CANNABIS PROGRAM ORGANIZATIONAL STRUCTURE

Operating the County Cannabis Program requires the collaboration of a number of departments, contributing to the policy, strategy, regulatory, and financial conditions within which the County’s cannabis permittees participate in the County’s regulated market. Figure 1 illustrates the current informal organizational structure.

**Figure 1—Collaborative Organizational Structure**



Citygate recognizes this collaborative environment, and in responding to the Referral, Citygate examined the organizational environment within which the policy and permitting functions primarily exist.

### **3.2 ORGANIZATIONAL BEST PRACTICES**

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When examining the organizational structure of the County’s cannabis permitting infrastructure, Citygate looked for organizational alignment that allowed for employee collaboration, process efficiency, resource consolidation, responsibility concentration, and supervisory accountability. There are four basic concepts typically used in determining the distinct units or departments in an organization.<sup>21</sup> Any single concept, or a combination of them, can be used. They are intended to provide clarity to the organization and result in more efficiency and effectiveness. This is the same methodology employed during Citygate’s review of the former Resource Management Agency. The organizational structure concepts, which are also illustrated in Figure 2, are:

- ◆ **Function** – All staff performing similar work are grouped together, such as all engineers in an organization comprising the engineering department.
- ◆ **Geography** – All staff serving a different geographic area are grouped together, such as a regional office of a statewide organization or division of a department servicing the north or south areas of the County.
- ◆ **Product** – All staff responsible for a product or product line are grouped together, such as employees that acquire, build, and maintain infrastructure.
- ◆ **Customers** – All staff serving a common set of customers, or a common market are grouped together, such as employees who provide services to all development applicants.

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<sup>21</sup> There are many sources that can be referenced to describe these concepts, but a succinct treatment of the subject can be found at <http://www.referenceforbusiness.com/management/Ob-Or/Organizational-Structure.html>.

**Figure 2—Organizational Structure Concepts**



Prior to prescribing an organizational structure best suited to support the County’s cannabis permitting system, Citygate sought to:

- ◆ Understand the cannabis permitting client’s identities and roles
- ◆ Understand the “product” being delivered
- ◆ Understand organizational accountability structures
- ◆ Understand professions, trades, and “career ladders”
- ◆ Understand the County’s current organizational structure norms
- ◆ Understand the County’s current cultural norms
- ◆ Understand the federal, state, and local regulatory environment.

Using these criteria, Citygate determined that the County should revise organizational structures to improve cannabis permitting outcomes.

### 3.3 EXAMPLE ORGANIZATIONAL STRUCTURES FOR COMMERCIAL CANNABIS BUSINESS LICENSE

As of April 2021, 31 of California’s 58 counties allowed some form of commercial cannabis activity.<sup>22</sup> Citygate examined 50 percent of the 31 counties as a sample, including all members of the California Cannabis Authority,<sup>23</sup> for organizational alignment and found various organizational models, as illustrated in Table 6.

**Table 6—Organizational Alignment of Selected Counties**

County	Organization/Department	Leadership Position	CCA <sup>1</sup> Member <sup>2</sup>
Colusa	Community Development	Community Development Director	
Imperial	Planning	Director of Planning and Building	
Inyo	Agriculture	Agricultural Commissioner	Yes
Nevada	Building (Code Compliance)	Program Manager	
Humboldt	Planning and Building	Supervising Planner	Yes
Lake	Community Development	Community Development Director	
Mendocino	Stand Alone Department	Cannabis Program Manager	Yes
Monterey	Administration	Program Manager II	Yes
San Benito	Resource Management Agency (Building, Planning, Public Works, Parks)	Agency Director	
San Luis Obispo	Planning and Building	Planning and Building Director	Yes
Santa Barbara	Administration	Enterprise Leader	
Santa Cruz	Administration	Cannabis Licensing Manager	
Sonoma	Administration	Department Analyst	
Stanislaus	Agriculture	Agricultural Commissioner	
Yolo	Community Services	Supervising Environmental Health Specialist	Yes
Trinity	Planning	Planning Director	

<sup>1</sup> California Cannabis Authority

<sup>2</sup> <https://cca.ca.gov/about-us/member-counties/>

Citygate notes that in many instances the counties listed employ hybrid models, wherein several county departments are involved in cannabis permitting and compliance activities, depending on

<sup>22</sup> <https://cannabusinesslaw.com/2021/04/california-counties-cities-with-commercial-cannabis-business-laws/>

<sup>23</sup> A Joint Powers Authority established by county governments.

task. For example, it is common to find hybrid models that delegate tasks along departmental lines, such as those listed in Table 7.

**Table 7—Example Cannabis Regulatory Duties by Department**

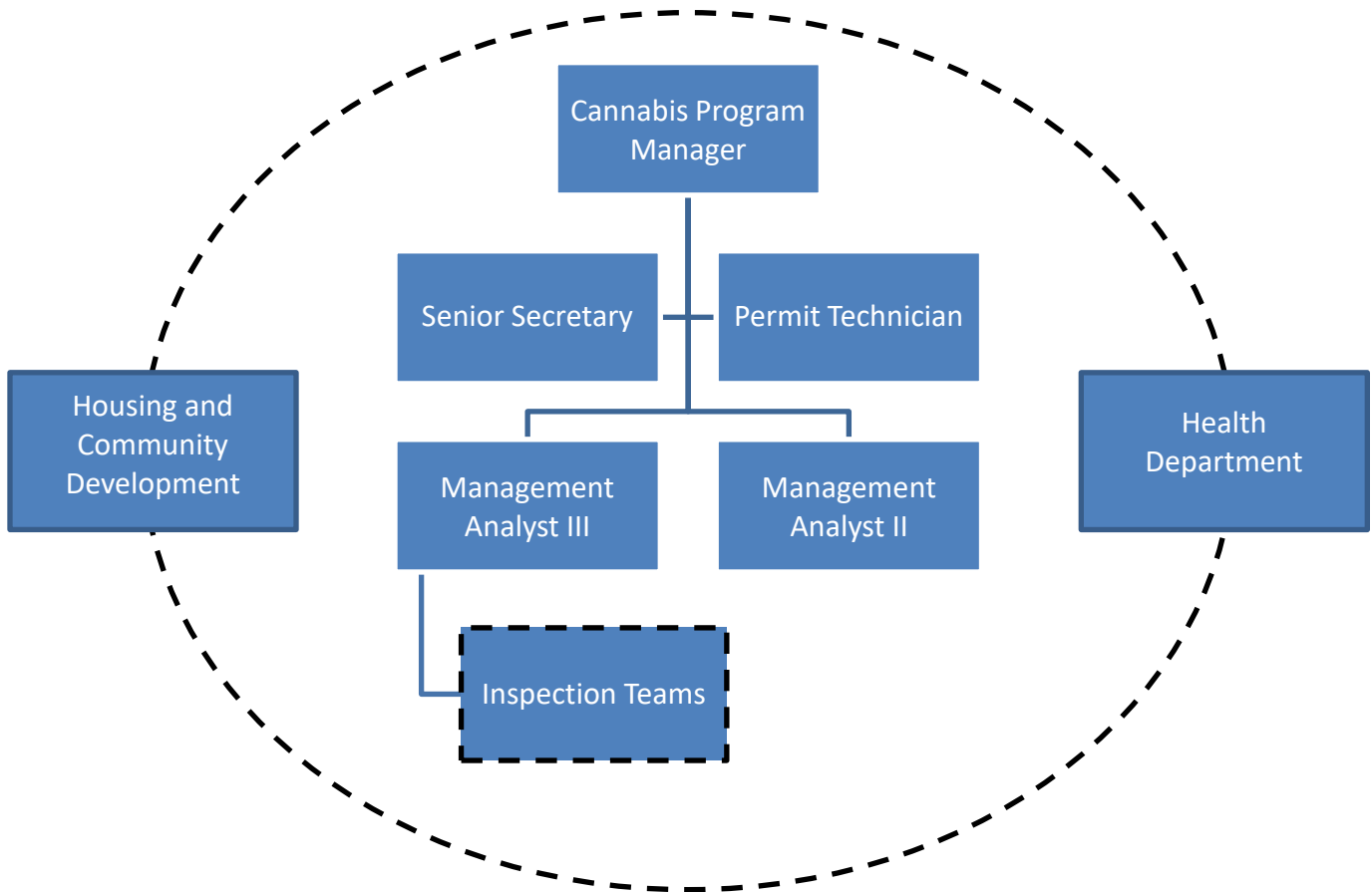
Example County Department	Example Duties
Agricultural Commissioner	Inspecting for pesticide, “track and trace,” and weights and measures compliance
Code Enforcement	Inspecting for county code violations
County Counsel	Abatement and code enforcement proceedings and ordinance development
Planning Department	Processing land use entitlements
Public Health and Environmental Health	Inspecting and permitting for hazardous material, domestic water, and wastewater system compliance
Sheriff and District Attorney	Investigation and prosecution of illegal operations
Treasurer–Tax Collector	Issuing licenses for business tax proposes

This is similar to the model employed by the County, in which the Agricultural Commissioner, County Counsel, County Executive, District Attorney, Housing and Community Development, Health, Sheriff, and Treasurer–Tax Collector departments all play important roles in permitting commercial cannabis businesses.

### ***3.4 CURRENT COUNTY CANNABIS PERMITTING ORGANIZATIONAL STRUCTURE***

Currently, the Cannabis Program resides in the County Administrator’s Office, and provides or coordinates all types of services to the cannabis industry and permit applicants in a highly collaborative organizational ecosystem, including industry collaboration, strategic planning, and cannabis business permit processing, as illustrated in Figure 1. Citygate recognizes that the cannabis business permit function is but one aspect of the local regulatory process required for all cannabis permittees. Figure 3 illustrates the organizational hierarchy of the Cannabis Program group with responsibility for processing cannabis business permits and the collaborative organizational alignment of the departments and divisions upon which the Cannabis Program group relies to process the various precursor permits. Figure 3 only intends to illustrate the Cannabis Program Office’s organizational hierarchy, and to provide an example of the Cannabis Program Office’s collaborative relationships for cannabis business permit precursor activities. For a comprehensive illustration of the Cannabis Program’s collaborative relationships, see Figure 1.

**Figure 3—Current Organizational Structure**



The dashed line represents informal, collaborative organizational associations. The Housing and Community Development and Health Departments are listed as examples of departments that may have larger roles in cannabis permitting, particularly with precursor events, such as land use permits, building permits, water permits, and waste permitting. Citygate recognizes that other agencies and departments may also have precursor and ongoing responsibilities in the cannabis permitting system that require collaboration and coordination, such as the Agricultural Commissioner’s Office and the Monterey County Regional Fire District. Organizationally, the members of the inspection teams are housed in their respective departments. For example, code compliance inspectors are currently housed in the Housing and Community Development Department; environmental health inspectors are housed in the Environmental Health Bureau of the Health Department, and fire inspectors are housed in local fire agencies. These inspection teams are coordinated by the Cannabis Program staff.

### **3.5 ALIGNING THE ORGANIZATIONAL STRUCTURE TO SUPPORT THE CANNABIS INDUSTRY**

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Citygate recognizes that in the Referral, the Board expressed a potential preference in solving the permitting backlog, stating, “Disparate departmental staff funded solely by cannabis revenue should report directly to the Cannabis Program Manager to expedite permit submittal and reporting efficiencies. This would serve to not only expedite current cannabis permitting, but also would in-turn free up staff dedicated to cannabis to more quickly focus on other programs.”

The County budget indicates that other departments, such as the Health Department’s Environmental Health Specialists and the Agricultural Commissioner Office’s Agricultural Inspector/Biologist receive funding assigned from the cannabis tax revenue, and at its purest interpretation, may suggest these positions be assigned, or transferred, organizationally to the Cannabis Program. Citygate’s analysis does not support this interpretation as an organizational strategy, but Citygate does agree with what we see as the intent of this interpretation: breaking down organizational silos.

To help remedy the conditions that contribute to the significant cannabis permitting backlog, Citygate applied the aforementioned organizational structure concepts to test organizational alignment and accountability structures, and Citygate suggests that our recommended changes will centralize responsibilities, increase accountability, reduce duplication, smooth communications, and ultimately, increase process efficiency in the cannabis business permit function.

Citygate recommends reorganizing the Cannabis Program to correspond with the discrete roles of the cannabis industry and the cannabis permit applicant: one functional organization related to cannabis policy, planning, and advocacy; and one functional organization related to cannabis permit activities, as follows:

- ◆ **Cannabis Policy, Planning, and Advocacy** – This is the core of the Cannabis Program. The Cannabis Program will focus on supporting the Board and the County Administrator on industry collaboration and advocacy; providing strategic plans and direction in support of cannabis economic development; developing policies and coordinating support of the legal, regulated cannabis market; coordinating enforcement of the illicit market; collaborating with state and local jurisdictions; expediting cannabis business and precursor permits as necessary; and managing the other aspects of the Cannabis Program.
  
- ◆ **Cannabis Permitting** – This program will provide all aspects of permitting for cannabis operators including land use entitlement, building permits, code enforcement, and cannabis business permits including new permit applications, renewal processing, and inspections. This will consolidate all permitting activities within the Housing and Community Development Department, in the same manner as all other land uses.

**Recommendation #1:** Reorganize the cannabis permitting function in response to the discrete roles of the cannabis permit applicant, creating a Cannabis Program Office in the County Administrator’s Office and a Cannabis Permit Division in the Housing and Community Development Department.

While Citygate understands that strong collaborative relationships currently exist among County departments and staff, Citygate believes that consolidating the major activities relating to issuing cannabis business permits under a single organizational unit, to the greatest extent practical, will concentrate accountability for issuing permits in a timely manner. In Citygate’s experience, strong interdepartmental collaborative relationships are desired, even necessary, but Citygate understands that efforts to reduce the occasions in which business processes cross departmental boundaries, such as in the case of permitting processes, build real organizational opportunities to increase process efficiency.

Further, Citygate believes that renewing the County’s focus on the cannabis industry and increasing the County’s efforts on cannabis economic development, through the efforts of the newly reorganized Cannabis Program Office, will raise the profile of the cannabis activities in the County to a top-five agricultural crop and a top-three discretionary revenue source, especially during a period of market volatility. Citygate believes these steps are necessary if the County intends to create an economic environment attractive to cannabis cultivators relative to other California locations.

Citygate recommends the existing Cannabis Program employees be reassigned along these discrete roles. The Cannabis Program Office includes the Cannabis Program Manager, Management Analyst II, and a Senior Secretary. The Cannabis Permit Division includes the Cannabis Permit Manager (currently classified as a Management Analyst III) and the Code Compliance Inspectors currently located in the Housing and Community Development Department and assigned to the Cannabis Program. See Figure 4 for the proposed organization structure. Citygate proposes this reorganization be accomplished with the existing employees who are currently engaged in their various assigned tasks and responsibilities relating to the County’s Cannabis Program.

When Citygate considered the organizational location of the Cannabis Permitting function, we examined whether to locate the function under the other permit functions in the Housing and Community Development Department’s Development Services Division or to locate the function at the division level with the Development Services, Permit Center, and Planning Services divisions. Citygate believes this program should be a divisional peer to other development-related functions and should have direct organizational access to the Director of Housing and Community Development so issues and challenges in the Cannabis Permitting program can be recognized early and the permitting program can have maximum organizational agility to respond to these

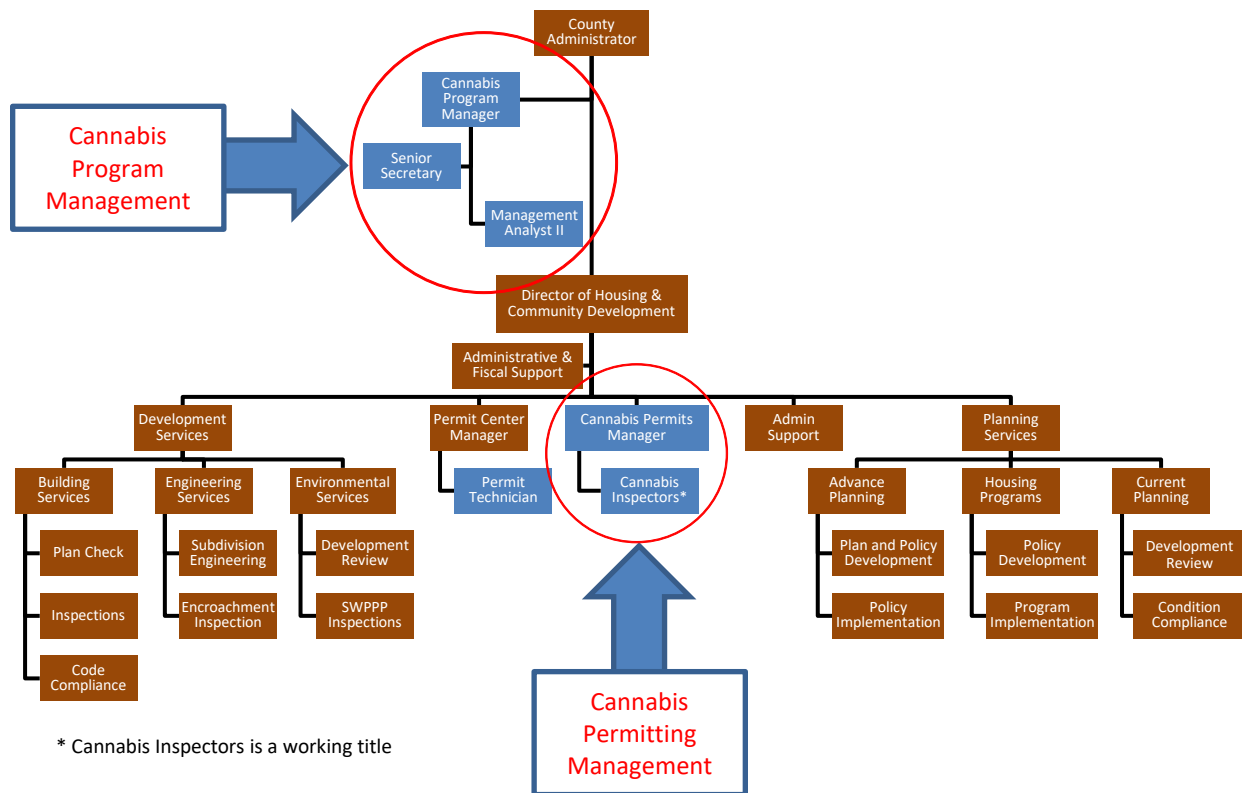


challenges. Citygate believes that organizational alignment is important in the cannabis business permitting function because it:

- ◆ Provides service to a specific industry
- ◆ Generates a specific economic benefit through the taxing scheme in the regulated market
- ◆ Provides additional employment opportunities in the agricultural industry which are anticipated to bring higher wage opportunities.

While Citygate understands that all land use and permitting functions in local jurisdictions provide general economic benefit through taxes and fees, they do not provide specific benefits in the same manner as the County’s cannabis industry does.

**Figure 4—Proposed Organizational Structure**



### 3.5.1 Cannabis Program Management

The Cannabis Program in the County Administrator’s Office would include the Cannabis Program Manager, a Management Analyst II, and a Senior Secretary. The Cannabis Program would support the cannabis industry as a regulated market participant through efforts in:

- ◆ Strategic planning
- ◆ Industry liaison and advocacy
- ◆ Cannabis economic development
- ◆ Policy development
- ◆ Policy implementation
- ◆ Cannabis assignment budget management
- ◆ State coordination
- ◆ Jurisdictional coordination
- ◆ Policies and coordination relating to illicit grows
- ◆ Board liaison
- ◆ Permit expediting.

### **3.5.2 Cannabis Permitting Management**

The Cannabis Permit Division of the Housing and Community Development Department would include the Cannabis Permit Manager (currently classified as a Management Analyst III) and the Code Compliance Inspectors currently located in the Housing and Community Development Department and assigned to the Cannabis Program. The Cannabis Permits Division would support the cannabis industry permit applicant's through:

- ◆ New permit application and issuance
- ◆ Renewal processing
- ◆ Canopy and crop tag inspections
- ◆ Other site inspections as necessary

Citygate recommends this Division be responsible for evaluating and issuing CNBs and collaborating with other departments/divisions on the necessary CNB precursor activities. Responsibility for processing all other permitting functions remain unchanged, including the CNB precursor activities in the Development Services and Planning Services Divisions.

### **3.5.3 Collaborative Relationships in Permitting**

Citygate does not recommend modifying the organizational structure of other collaborative relationships in the cannabis permitting scheme, including the Agricultural Commissioner's Office and Environmental Health Bureau. These collaborative relationships currently exist in all types of other permitting circumstances, such as fueling stations and restaurants. Citygate does not believe

changes to these relationships specifically for cannabis permitting will yield satisfactory results, but rather maintaining common methods and working within existing systems should provide greater opportunities for process standardization and improvement.

### **3.5.4 Organizational Outcomes**

Citygate believes this organizational strategy and alignment provides for employee collaboration, process efficiency, resource consolidation, responsibility concentration, and supervisory accountability by breaking down the key organizational silos that defuse cannabis business permitting accountability while reinforcing organizational collaborations that are working well, or that may realize limited benefit from changing the common organizational structures that currently exist in the Housing and Community Development Department’s Development Services Division and Planning Services Division, as well as the Environmental Health Bureau of the Health Department. In summary, Citygate believes this organizational strategy:

- ◆ Aligns “product” delivery with client identities
- ◆ Aligns organization, procedural, and regulatory environments
- ◆ Focuses accountability
- ◆ Honors professions and “career ladders”
- ◆ Aligns with current organizational norms
- ◆ Creates opportunities to streamline processes.

### **3.6 ALIGNING POSITION CLASSIFICATIONS WITH RECOMMENDED ORGANIZATIONAL STRUCTURE**

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One objective of this study was to review job classifications, specifications, and compensation for employees in the Cannabis Program under existing organizational conditions. One key recommendation in this study is to realign the organizational structure of the Cannabis Program to better serve the discrete identities of the cannabis permit applicant. Citygate understands that to effectively review the Cannabis Program organizational alignment, management, and supervision, Citygate must also consider the staffing assignments of incumbent employees, as well as the classifications and job specifications of the proposed positions in Citygate’s recommended organizational structure.

In this effort, Citygate reviewed several agencies across California, both broadly from an organizational perspective (see Table 6) and more narrowly for classification and salary purposes (see Table 8). Each of these agencies experiences its own successes and challenges, and many are maturing their organizational and procedural responses in the evolving cannabis marketplace and permitting ecosystems. As mentioned previously, management of cannabis programs and

permitting in California agencies is evolving, and as such, common practices are rare, and best practices have yet to be defined. Based upon Citygate’s recommended organizational changes, Citygate recommends reclassifying two positions to create a Cannabis Program Manager and a Cannabis Permit Manager.

### **3.6.1 Cannabis Program Manager**

The Cannabis Program Manager would lead the Cannabis Program in the County Administrator’s Office, focusing exclusively on the cannabis industry as a regulated market participant. As mentioned in the organization recommendation, these efforts include, but are not necessarily limited to:

- ◆ Strategic planning
- ◆ Industry liaison and advocacy
- ◆ Cannabis economic development
- ◆ Policy development and implementation
- ◆ Cannabis assignment budget management
- ◆ State coordination
- ◆ Jurisdictional coordination
- ◆ County representation in state, regional, and local organizations
- ◆ Policies and coordination relating to illicit grows
- ◆ Board liaison
- ◆ Cannabis business permit and precursor permit process expediting.

As the cannabis industry is still evolving, comparable counties experience varying degrees of commercial cannabis programs, from extensive agricultural areas with indoor, mixed-light, and outdoor cultivation to urbanized areas with a limited number of indoor-only cultivators. Some local agencies, including Monterey County, permit a wide variety of commercial cannabis activities, including cultivation, distribution, and retail, with no pre-identified limit on the number of permittees among the various business categories, such as cultivators or retailers. Other jurisdictions limit commercial cannabis activities, both in type and/or number. Some counties, such as Monterey County, have relatively mature regulatory environments, and some jurisdictions,

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such as the City of Monterey and the County of Sonoma,<sup>24</sup> are still working to approve effective and sustainable cannabis regulations.

In response to these differing market, regulatory, and taxing environments, California counties have many and varied approaches to organizing and staffing cannabis programs, and direct comparisons are difficult to find. In this environment, it is difficult to scale and compare the scope and complexity of positions with commercial cannabis program responsibilities. Using tax revenue as a proxy for market and program size, Table 8 illustrates the varying sizes of commercial cannabis activities in comparable counties, as used in County job comparisons. Citygate understands that many other California jurisdictions provide for some type of commercial cannabis activity, as illustrated in Table 6. Citygate has limited our review classifications for salary purposes to those accepted County comparable jurisdictions in an attempt to honor existing County processes.

**Table 8—Comparable Jurisdictions and Commercial Cannabis**

Agency	Commercial Cannabis Tax Revenue (Approximate)	Note
Contra Costa County	< \$60,000	Limited cultivation
Monterey County	\$20,000,000	113 cannabis applicants; good standing criteria
San Luis Obispo County	\$500,000	Evolving regulatory and tax structure
San Benito County	\$0	Zero permits issued 2018–2021
San Mateo County	\$0	No commercial cannabis tax
Santa Clara County	\$0	Commercial cannabis prohibited
Santa Cruz County	\$6,000,000	Relatively mature permitting framework
Sonoma County	\$2,600,000	Evolving regulatory framework
City of Monterey	\$0	Commercial cannabis prohibited
City of Salinas	1,800,000 <sup>1</sup>	Limited to 5 cultivators and 5 dispensaries

<sup>1</sup> Estimated 2021–22 budget, [https://www.cityofsalinas.org/sites/default/files/departments\\_files/finance\\_department\\_files/fy\\_21-22\\_adopted\\_operating\\_budget.pdf](https://www.cityofsalinas.org/sites/default/files/departments_files/finance_department_files/fy_21-22_adopted_operating_budget.pdf)

In examining the scope of responsibilities and tasks of the recommended Cannabis Program Manager, Citygate believes the current classification of Program Manager II does not fit. In Citygate’s analysis, we found the Program Manager II classification, while having significant responsibilities for independently managing complex and larger programs (such as managing

<sup>24</sup> <https://www.petaluma360.com/article/news/commentary-wake-up-and-smell-the-cannabis-in-sonoma-county/>

operations of a satellite office; reviewing, recommending, and implementing policy; resolving complex issues; and supervising activities of assigned staff), these activities are within a larger established system or department for which high-level managers, assistant directors, and directors are responsible for overall strategic planning and policy development. Citygate believes the Program Manager's current responsibilities and those under Citygate's recommended organizational structure are similar in many respects to the County's Economic Development Manager in terms of overall strategic responsibility.

The key characteristics of the County Economic Development Manager classification include working within a framework of broad policies and procedures and established organizational values and processes; supervising and participating in the planning, development, coordination and implementation of the County's economic development activities; managing the economic development programs and projects; developing recommendations; promoting and implementing the goals, strategies, policies, and programmatic framework for economic development activities. These activities are designed to promote the economic base and financial stability of the County and to develop and promote a strong and sustainable community with quality jobs and a stable, competitive business environment. Citygate believes these key responsibilities directly correlate to the cannabis industry and the role of the Cannabis Program Manager.

While not a large department, the Cannabis Program is a discrete program that provides valuable benefits to the Monterey County community, as established earlier in this report, and the Cannabis Program Manager classification is the functional head of that program broad responsibility for strategic planning, prioritizing, organizing, directing, staffing, and collaborating to manage the activities and achieve the goals of Monterey County's Cannabis Program.

Citygate proposes that the Cannabis Program Manager facilitate productive industry growth, such as collaborating with industry representatives and individual cannabis operators, working directly with the Board in developing policy recommendations, coordinating local regulatory processes, influencing state regulations, cooperating with state and federal regulators, participating in multi-jurisdictional industry support and regulatory schemes, and collaborating with various department heads to expedite cannabis permitting activities. See **Appendix B** for the Cannabis Program Manager job classification.

When analyzing classification specifications and salary levels, Citygate evaluated classifications of the County's comparable jurisdictions with responsibilities consistent with the Cannabis Program Manager. Due to varied cannabis market conditions, taxing methodologies, organizational structures, regulatory frameworks, position titles, and job responsibilities in comparable jurisdictions, Citygate has taken a hybrid approach, examining both external agency classifications and intra-County classifications to develop Citygate's classification specification and salary recommendation. Based upon our examination, Citygate believes that position classifications involving Cannabis Program activities are unlike most common County position

classifications. Citygate also believes that to be comparable, counties must process commercial cannabis activity in a scope and scale comparable to Monterey County (see Table 8). Based simply on tax revenue, a proxy for permit activity, the only comparable position classification with a scope of program responsibility similar to Citygate’s recommended Cannabis Program Manager is Santa Cruz County’s Cannabis Licensing Manager, whose monthly salary is \$11,526.

Based upon our analysis of the comparable jurisdictions and internal classifications, Citygate believes a salary adjustment is in order for this position. Table 9 illustrates the salary comparison used when determining the recommended salary for this classification. Citygate recognizes that the County may require additional organized labor consultations, salary equity considerations, and local labor market considerations when establishing the final classification and salary.

**Table 9—Cannabis Program Manager Salary Comparisons**

Agency	Position	Highest Monthly Salary
Santa Cruz County	Cannabis Licensing Manager	\$11,526
Monterey County	Economic Development Manager	\$12,999
<b>Average</b>		<b>\$12,262</b>
Monterey County	Program Manager II	\$10,345
<b>Variance</b>		<b>-18%</b>

**Recommendation #2:** Reclassify the incumbent Program Manager II to Cannabis Program Manager and set the salary commensurate with comparable classifications.

### **3.6.2 Cannabis Permit Manager**

As mentioned, California counties have many and varied approaches to organizing and staffing cannabis programs, and direct comparisons are difficult to find. Unlike the Cannabis Program Manager, the Cannabis Permit Manager position concentrates on the cannabis business permit portion of the County’s commercial cannabis licensing scheme. While collaborating with others, this position does not have overall program responsibility, and is not responsible for land use permitting or other regulatory processes in the Agricultural Commissioner’s Office or Environmental Health Bureau. See **Appendix B** for the Cannabis Permit Manager job classification.

As with the Cannabis Program Manager, Citygate evaluated classifications of the County’s comparable jurisdictions with responsibilities consistent with the Cannabis Permit Manager. Due to varied cannabis market conditions, taxing methodologies, organizational structures, regulatory frameworks, position titles, and job responsibilities in comparable jurisdictions, Citygate has taken

a hybrid approach, examining both external agency classifications and intra-County classifications to develop Citygate’s classification specification and salary recommendation. While Citygate recognizes the position classifications used in Table 10 do not directly compare to the current classification of Management Analyst III, these classifications are comparable to those in other agencies that process cannabis business permits and are similar to the prescribed responsibilities of the Cannabis Permit Manager in terms of breadth and complexity. Table 10 illustrates what Citygate believes are the most appropriate classification comparisons for salary determination purposes. Citygate recognizes the County may require additional organized labor consultations, salary equity considerations, and local labor market considerations when establishing the final classification and salary. Based upon our analysis, Citygate believes a salary adjustment may be warranted for this position classification.

**Table 10—Cannabis Permit Manager Salary Comparisons**

Agency	Position	Highest Monthly Salary
Monterey County	Senior Building Plans Examiner	\$9,840
Monterey County	Supervising Planner	\$9,764
Santa Cruz County	Resource Planner IV	\$10,035
<b>Average</b>		<b>\$9,879</b>
Monterey County	Management Analyst III	\$9,408
<b>Variance</b>		<b>-5%</b>

**Recommendation #3:** Reclassify the incumbent Management Analyst III to Cannabis Permit Manager and set the salary commensurate with comparable positions.

### ***3.7 OTHER CANNABIS PROGRAM CLASSIFICATIONS EXAMINED***

As illustrated in Figure 3, the Cannabis Program in the County Administrator’s Office consists of five positions working in four classifications (Management Analyst is a series), Program Manager II, Management Analyst III, Management Analyst II, Senior Secretary, and Permit Technician II. Citygate examined the Program Manager and Management Analyst III in the previous section.

In this section, we examine the remaining positions in the program. When considering the appropriate classifications, Citygate considers only scope and complexity of the tasks performed and not volume of tasks performed. In its simplest form, scope and complexity are classification issues and volume is a staffing issue. Citygate finds no long-term work or task volume issues that suggest additional staffing is required to carry out the Cannabis Program goals.



### **3.7.1 Management Analyst II**

The Management Analyst II is the second level in the Management Analyst I/II/III series. The Management Analyst II performs tasks of moderate to high scope and complexity in a wide variety of administrative analytical duties. Incumbents in this classification, as identified in the Management Analyst II Class Specification, for example:<sup>25</sup>

- ◆ Analyze, develop, gather, interpret, monitor, obtain, and research information; form conclusions based upon analysis; prepare written and oral reports; and make recommendations regarding policies, procedures, organization, operations, and programs on a wide variety of matters such as budgets, grants, legislation, programs, contracts, and staffing
- ◆ Research, interpret, evaluate, and comply with federal, state, and local codes, grants, regulations, statutes, policies, and procedures; provide guidance to department staff, County employees, and external agencies
- ◆ Implement and evaluate policies, procedures, and programs
- ◆ Coordinate activities related to projects, programs, and/or other areas being analyzed
- ◆ Attend or serve as the management liaison at meetings/functions such as committees, task forces, community forums, commissions, and conferences.

Citygate believes the incumbent is working within this classification and makes no classification or salary recommendations. Citygate recognizes that the Management Analyst II classification is the second level in the Management Analyst I/II/III series, and that the County may, in the future, require or desire the incumbent in this position to perform at the next level of the position in the series.

### **3.7.2 Senior Secretary**

The Senior Secretary is the advanced working level class in the Secretary career series. Incumbents function as the principal secretarial support and personal assistant under the direction of one or more principal administrative or professional employees, performing both routine and complex administrative, clerical, and secretarial tasks. Incumbents are expected to gain a high degree of knowledge of the agency's programs, services, organization, and objectives, and incumbents exercise a high degree of independent judgment and discretion in interpreting agency objectives, policies, and procedures sufficient to independently initiate, coordinate, perform, and complete secretarial and administrative tasks, such as payroll, purchasing, accounts payable, and inventory

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<sup>25</sup> <https://www2.co.monterey.ca.us/pages/hr/class-specs/14C30.pdf>

when such processes are not a major agency activity. As an example, incumbents in this classification:<sup>26</sup>

- ◆ Select, gather, organize, compile, tabulate and summarize a large quantity and wide variety of specialized information from multiple sources for completing reports
- ◆ Independently compose letters and memos for their supervisor's signature
- ◆ Type, format, and proof letters, reports, statistical data, forms, and other finished copy, examining and correcting grammatical construction, punctuation, spelling, verb tense, contextual meaning, layout, and format
- ◆ Prepare and assemble agendas, meeting packets, Board resolutions, minutes, and other duties in support of various County commissions or committees
- ◆ Set up, organize, and maintain active and archive manual and/or automated filing and retrieval systems
- ◆ Assist their supervisor in managing their time by maintaining appointment calendars and arranging meetings and travel itineraries
- ◆ Answer telephones and respond to routine requests for information.

Citygate believes the incumbent is working within this classification and makes no classification or salary recommendations.

### **3.7.3 Permit Technician II**

The Permit Technician II is the full working level class in the Permit Technician series and incumbents perform the full range of technical and paraprofessional level permit review, processing, and approval duties, including the field investigation and report writing. As an example, incumbents in this classification:<sup>27</sup>

- ◆ Provide general and technical information the public including permit requirements, building codes, land use regulations, and inspection procedures
- ◆ Review plans and associated documents for completeness and compliance with applicable ordinances, codes, and regulations
- ◆ Perform various paraprofessional and clerical tasks requiring working knowledge of applicable codes, ordinances, rules, laws, regulations, practices, and policies of an assigned area; perform related work as assigned.

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<sup>26</sup> <https://www2.co.monterey.ca.us/pages/hr/class-specs/80A32.pdf>

<sup>27</sup> <https://www2.co.monterey.ca.us/pages/hr/class-specs/43C11.pdf>

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In the organizational realignment, Citygate recommends moving this position to the Housing and Community Development Department Permit Center to work alongside all other Permit Technicians in support of the Cannabis Permitting Division and all other Housing and Community Development divisions as required. Citygate believes the incumbent is working within this classification and makes no classification or salary recommendations.

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## **SECTION 4—RESPONDING PROCEDURALLY**

### **4.1 CANNABIS PERMITTING**

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Prior to cannabis business permit (CNB) issuance, County Code requires that CNB applicants meet certain conditions and all responsible County departments sign off that CNB applicants meet all requirements.<sup>28</sup> Monterey County Code (MCC) Chapter 7.90.060 (D) states: “Upon review of a complete application for a commercial cannabis permit, the Appropriate Authority shall grant the application if:

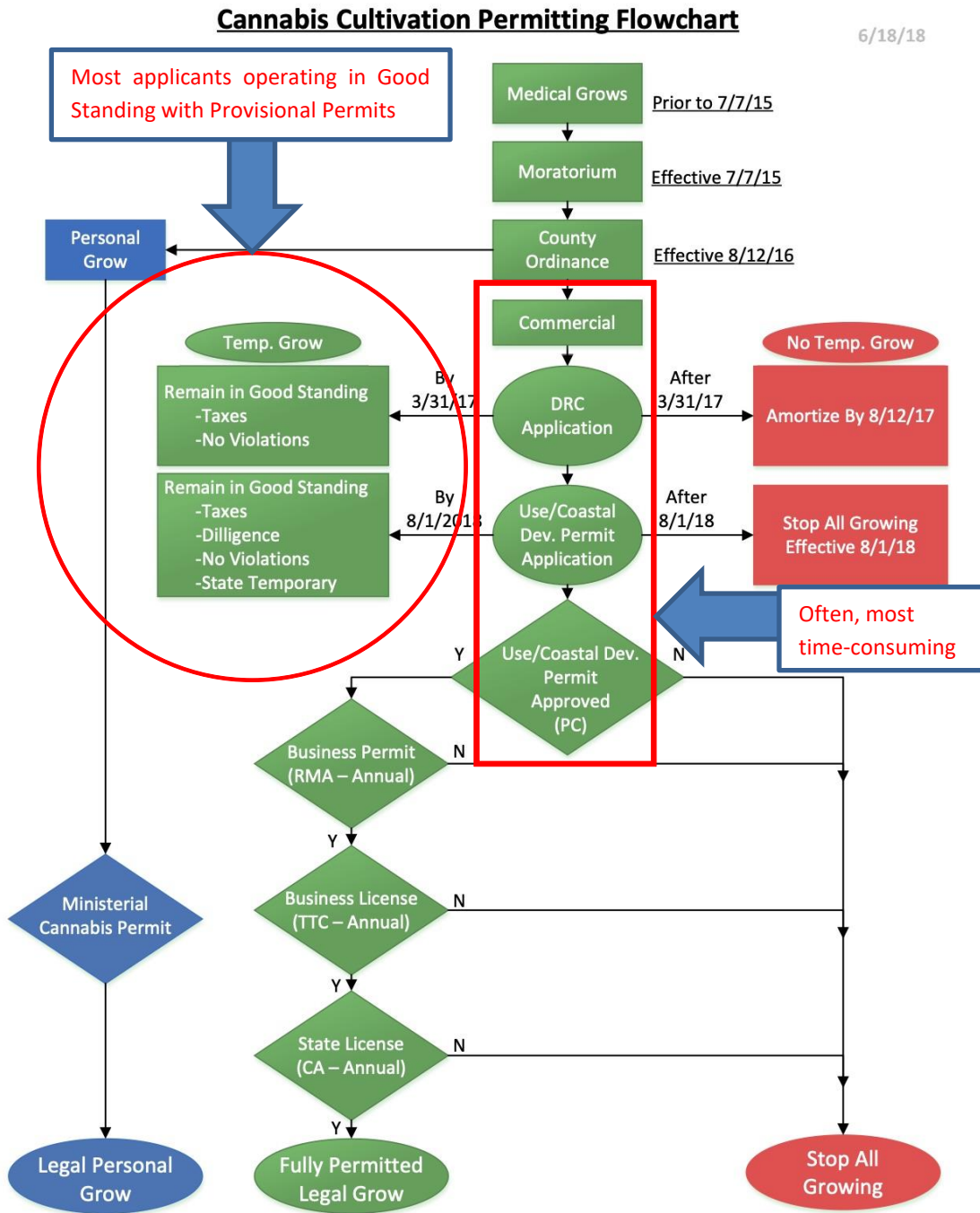
1. The proposed commercial cannabis activities will comply with all the requirements of the state and the Monterey County Code
2. The applicant has received all necessary land use entitlements as required by Titles 20 or 21 of the Monterey County Code
3. The proposed commercial cannabis activities will comply with all provisions of this Chapter
4. If applicable, the applicant has obtained a valid seller’s permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the California Revenue and Taxation Code
5. All responsible County departments have reviewed and approved issuance of the permit.”

County staff provided the flow chart in Figure 5 that illustrates the cannabis business permits process flow. Citygate added illustrations to Figure 5 to show that most of the applications in process are operating under the County’s Good Standing Criteria and are temporarily operating with provisional permits. The illustrations also highlight the land use entitlement processes, which are often the most time consuming.

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<sup>28</sup> Monterey County Code Chapter 7.90 (D) 5.

**Figure 5—Cannabis Cultivation Permitting Flowchart – 2018**



## **4.2 CONTINUE TO IMPROVE LAND USE PERMITTING**

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The Housing and Community Development Department’s published goal is to process 100 percent of discretionary land-use permit applications completed by an initial study resulting in a Negative Declaration / Mitigated Negative Declaration (ND/MND) within 180 days.<sup>29</sup> The Housing and Community Development Department’s performance falls far short of its goal, as illustrated in Table 11. Citygate examined this goal in the RMA Report and considered the 180-day timeline excessive and that the RMA’s performance in this measure was unsatisfactory. Assuming the required environmental review documentation is complete, the discretionary permit review standard should be no more than 120 days, for the most complex process, based on Citygate’s experience. The time required should be far less for straightforward projects.

**Table 11—Percent of Applications with ND/MND Completed within 180 Days**

<b>Fiscal Year</b>	<b>Percent</b>
2016–17	30%
2017–18	37%
2018–19	37%
2019–20	20%
2020–21 (Mid-Year)	20%

Citygate recognizes the land use entitlement process is among the most time-consuming components of many permit applications, and it is reasonable to suggest that planning entitlement backlogs contribute to the cannabis permitting backlog. Of the 76 recommendations contained in Citygate’s RMA Report, 25 pertained specifically to improving the County planning and land use entitlements processes.

Citygate understands that implementing the recommendations in the RMA Report take time and effort, and Citygate believes that as the County completes full implementation of these recommendations, land use permitting conditions will improve and persistent backlogs will end. Rather than capture each of these recommendations in detail in this report, Citygate relies on the good work of the County staff to continue to make progress in implementing the RMA Report’s recommendations.

Citygate recognizes that as an interim measure to assist in the processing of land use applications, especially those associated with cannabis permit applications, the County’s Housing and Community Development Department is under contract with Rincon Consultants to assist with

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<sup>29</sup> Fiscal Year 2021–2022 budget.

processing cannabis land use permits. As of September 2021, Rincon and Housing and Community Development had split the permit processing workload approximately 50/50.

**Recommendation #4:** Continue implementing recommendations in the RMA Report to improve general conditions in land use entitlement and building permit processes.

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### **4.3 CREATING PERMIT AGREEMENTS FOR APPLICANTS IN GOOD STANDING**

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As mentioned, prior to CNB issuance, the County Code requires that CNB applicants meet certain conditions and all responsible County departments sign off that CNB applicants meet all requirements.<sup>30</sup> In practice, responsible County departments approve, and the Cannabis Program issues, CNBs once:

1. All state statutory and County Code requirements have been satisfied, including sections relevant to environmental health and agriculture
2. All land use entitlements have been granted, and all conditions of compliance have been met
3. All provisions of MCC Chapter 7.90 have been met
4. A seller's permit has been issued
5. All building permits have been finalized and all code enforcement cases have been cleared.

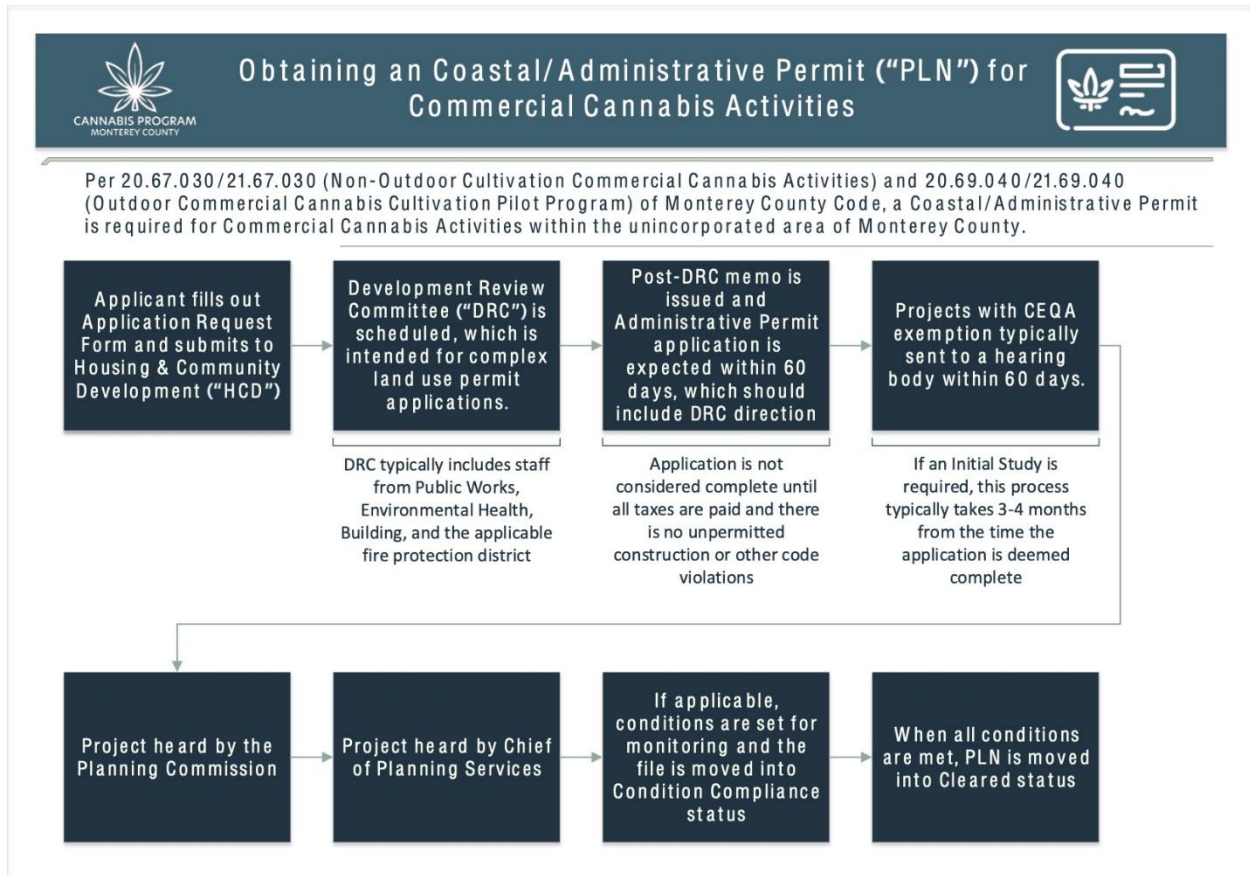
Note that Figure 6 states that when all conditions are met, the planning process is considered complete. This practice requires considerable monitoring, so that permit applications are not waiting unnecessarily for the administrative task of accepting or approving the permit step in the permitting software program, Accela, not only for planning processes, but for each precursor approval required. While not the only source of delay, Citygate believes that stringent application of these approval requirements has contributed to the extensive backlog.

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<sup>30</sup> Monterey County Code Chapter 7.90 (D) 5.



**Figure 6—Land Use Approval Process Flow**



To bridge the gap between permit application and CNB, especially as the planning process can require considerable time to complete condition compliance, the County has been utilizing a Good Standing<sup>31</sup> process to allow for provisional operation of cannabis businesses progressing through the permitting process to operate under Provisional Licenses from the State of California. Good Standing has been an effective measure to help build the County’s cannabis industry in its early stages, recognizing early operations could provide:

- ◆ The cannabis operators with financial resources to complete the necessary land use entitlements and infrastructure improvements, which may require significant investments in money and time
- ◆ The County with valuable discretionary revenue to support current and anticipated County initiatives and programs

<sup>31</sup> <https://www.co.monterey.ca.us/home/showpublisheddocument/104326/637637480370930000>

- ◆ The community with additional employment opportunities anticipated to provide higher wages than traditional County agricultural jobs.

The Good Standing process was intended to be a temporary solution and Good Standing status is not codified. Failure to comply with the Good Standing criteria may result in County enforcement actions and the potential loss of provisional license. Denial of a CNB and enforcement of Good Standing policies would likely follow the County’s administrative processes, which may be difficult due to the lack of statutory framework relating to Good Standing. To date, no Good Standing operator has lost its Good Standing status.

Citygate believes the County can significantly reduce the backlog of CNBs by using an extension of the current stipulated agreement process to fully permit CNB applicants, providing structure and accountability to provisional licensees in Good Standing and contractually obligating permittees to required improvements, mitigations, and condition compliance.

Currently, the County uses Stipulated Agreements as a mechanism to bind operators in Good Standing to certain obligations such as completing land use entitlement mitigations (e.g., transportation infrastructure improvements) and various site improvements (e.g., Americans with Disabilities Act parking spaces and water systems). The Cannabis Program is currently managing 25 stipulated agreements with cannabis operators. Examples of contractual obligations in typical Stipulated Agreements include completing intersection improvements. These intersection improvements are a condition of approval required as part of the land use entitlement process.

Citygate recommends the County use an extension of the Stipulated Agreement process to provide structure and accountability to provisional licensees in Good Standing by contractually obligating them to required site improvements, mitigations, and condition compliance in exchange for an approved CNB. This effectively transitions a CNB applicant from Good Standing to fully permitted, with all the rights and obligations.

**Recommendation #5:** Enter agreements with provisional operators in Good Standing to contractually obligate them to complete required site improvements, mitigations, and conditions. Issue cannabis business permits to each provisional operator upon completion of the cannabis business permits applications and execution of the agreement.

Citygate does not suggest shortcutting the discretionary approval process, otherwise delegating the responsibility of the approval authority, nor deferring mitigations or condition of approval. Rather, Citygate is recommending the products of the County’s current land use entitlement and other regulatory processes be captured in an agreement that serves to bind over mitigations, conditions, and required on-site improvements, such as water system development, facility improvement and

construction, and code enforcement remediation for those operators already operating under Good Standing. Citygate believes using this technique to permit operators already operating under Good Standing who have not completed the required conditions and mitigations does not defer any condition or mitigation, but rather may provide an additional level of assurance that these conditions and mitigations will be completed through contractual obligations. Citygate believes this extension of the existing Stipulated Agreement process could potentially provide faster permitting and greater accountability than what is currently available using the Good Standing process.

Citygate recognizes that, as of December 2021, as many as 43 of the 98 pending cannabis applications (24 in condition compliance; 19 set for or nearly ready for a land use hearing) may be initial candidates for this technique. Additional applications could mature quickly as land use processes move to the condition compliance phase.

#### **4.4 MODIFYING INSPECTION PROCESSES**

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In response to the Referral, the Cannabis Program, the Housing and Community Development Department, and the Health Department agreed to a pilot program for inspections beginning in August 2021 to better coordinate the inspection reporting process. At the time, the Agricultural Commissioner declined to participate, stating that the Agricultural Commissioner/Sealer of Weights and Measures Office (ACO) does not process County cannabis permits including review and approval of any of the permitting requirements. The Cannabis Program ordinance does not confer new authority to the ACO. All the authorities of the ACO relating to cannabis production are preexisting in the California Business and Professions Code, the California Food and Agricultural Code, and the California Code of Regulations. Citygate understands that staff provided the Board with an update on the inspection Pilot Project in October 2021.

Citygate understands the County conducts two types of inspections (full inspections and follow-up inspections) as follows:

- ◆ Full inspections (multi-department compliance inspections) are conducted by Housing and Community Development, the Environmental Health Bureau, and the local fire agencies. Each agency inspects the location according to their inspection checklist, and a correction notice is sent to the business owner and the property owner, as necessary
- ◆ Follow-up inspections are conducted for stop-work orders, stipulated agreements, Metrc verifications, or permit modification requests. Correction notices are not generated, but the information is captured in the comment section of Accela.

Citygate understands the County inspects all operators quarterly, except for follow-up inspections which are conducted as needed. Monterey County Code Chapter 7.90.100 (B) states that, “At any

time between eight am and eight pm and without notice, County officials may enter the premises for the purpose of observing compliance of the commercial cannabis operation with this Section, including access to and inspection of the commercial cannabis operation’s records, books, accounts, financial data, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination.” In practice, inspections are scheduled one to two weeks in advance, varying due to inspection staff availability. Cannabis operators are given notice the day before the inspection.

Over a six-month period, spanning July through December, the inspection teams have conducted 182 inspections, averaging about six inspections per week. Table 12 illustrates the average number of inspections per week.

**Table 12—Average Inspections Per Week**

Month	Average Number of Inspections Per Week
July	4.60
August	10.20
September	6.20
October	6.20
November	4.75
December	5.40
<b>Average During Period</b>	<b>6.28</b>

County staff reports to Citygate that when comparing the Pre-Pilot (June 27, 2021, through August 17, 2021) to the Pilot Project (August 18, 2021, through October 8, 2021) outcomes, inspections have increased in efficiency, decreasing the duration of inspections and time for resulting inspections:

- ◆ The Environmental Health Bureau reports a 14 percent decrease in inspection duration and a 55 percent decrease in time to result inspections
- ◆ Housing and Community Development reports an 18 percent decrease in inspection duration and a 45 percent decrease in time to result inspections.

During the same period, the Environmental Health Bureau and the Housing and Community Development Department also reported increases in non-compliant results of these inspections, such as:

- ◆ The Environmental Health Bureau reports a 34 percent increase in non-compliant results

- ◆ Housing and Community Development reports a 49 percent increase in non-compliant results.

This data covers a 51-day period for both Pre-Pilot and Pilot Project inspection outcomes. Citygate applauds the Pilot Project’s effort to increase the efficiency of the inspection process. While the Pilot Project may have aided in the coordination of inspections, the efficiency of the inspection processes, and perhaps the transfer of information, the Pilot Project has not demonstrated effectiveness in increasing the frequency of cannabis business permit issuance. The County issued no new cannabis business permits to existing permit applicants during this period but did issue seven cannabis business permit renewals.

As cannabis business permit applicants complete the required land use entitlement process and facility upgrades, and as the County issues the initial cannabis business permits, the County’s operations will evolve toward processing cannabis business permit renewals, which likely will not require the significant inspection effort of the initial permit.

Citygate recognizes that after the initial permit approval evolves to the routine of renewals, the inspection process will also change, likely with more emphasis on program compliance and revenue validation efforts, such as track and trace, and canopy/crop compliance.

Citygate believes that over the longer term, conducting quarterly inspections may not be frequent enough. We understand that auto-flower plants have a short lifespan and can be planted from seed to harvest within two and a half months. Inspections may miss a full harvest of auto-flowers if they are only performed quarterly. Citygate believes that conducting inspections every other month would allow inspectors better ability to track plants through the immature, flowering, and harvest phases and may ensure that revenue opportunities are captured.

**Recommendation #6:** Over the longer term, conduct inspections of cannabis permittees every other month, focusing on program compliance and revenue validation efforts.

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#### **4.5 IMPROVING MANAGEMENT DATA COLLECTION, ANALYSIS, AND REPORTING**

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As mentioned, there are many precursor conditions, such as cleared code compliance issues, completed land use entitlements, and upgraded site facilities, that may be required and must be completed prior to the issuance of a cannabis business permit (see Figure 5 and Figure 6). A report that illustrates moment-in-time status and aging of a cannabis business permit application in process and all precursor steps to obtaining a cannabis business permit, including active planning, building, and code enforcement activity is necessary. The cannabis permitting staff could use it as a dashboard to help determine which potential CNB licenses could best benefit from their acute efforts to clear permitting obstacles. Citygate worked with County staff to develop such a report,

but the effort is not complete. During this effort, Citygate recognized several issues relating to software capability and data correlation between cannabis business permits and various precursor activities. Citygate believes establishing strong correlations between cannabis business permits and precursor activities is not only critical to fully understanding the source of current and potential future CNB backlogs but is also critical in developing procedural remedies for these backlogs. Citygate recommends creating a cannabis business permit “dashboard” report. Citygate understands that implementing this recommendation may require several steps including:

- ◆ Completing the build out of the cannabis permitting module in Accela
- ◆ Cleaning up existing data in the permitting modules
- ◆ Creating stronger associations between building, planning, code enforcement, environmental health, and cannabis permits
- ◆ Creating a new report that illustrates the connections between building, planning, code enforcement, environmental health, and cannabis permits.

Citygate recognizes that improvements to the Accela permitting system are important to this effort, and Citygate understands that the County’s Local Jurisdiction Assistance grant, awarded in December 2021, includes funding to improve the County’s Accela implementation to support cannabis permitting.

**Recommendation #7:** Create a cannabis permit dashboard report that illustrates the moment-in-time status and aging of an active cannabis business permit in process linked to the active precursor steps to obtaining that specific cannabis business permit, such as planning, building, and code enforcement permits and activity.

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## **4.6 IMPROVING FISCAL MANAGEMENT**

### **4.6.1 General Fiscal Management**

Fiscal management for the Cannabis Program is coordinated through the Cannabis Program Manager in the County Administrator’s Office (CAO) with assistance from the CAO’s budget section, the Treasurer–Tax Collector, and the Auditor Controller’s departments. When the Cannabis Program was established, project codes referred to as report codes were developed by the Auditor Controller’s department to monitor cannabis-related expenditures throughout all applicable departments of the County. The report code (Cannabis) was provided to all departments with instructions from the CAO to use this report code with their regular account information when the expenditure was cannabis related. Per program staff, the CAO direction is not always followed

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for non-personnel related costs. Monthly fiscal reports are generated via the budget office to reflect cannabis-related expenditures for presentation to various groups including the County Board of Supervisors' Cannabis Subcommittee.

However, Citygate determined through its review and interviews with applicable County personnel that not only is the report code not being consistently used by all departments (see Recommendation #10), it is not being used at all to track revenues. The cannabis tax revenue, which, per FY 21–22 budget estimates, is the second largest General Fund tax-related revenue source, is tracked through the assignment of a unique account number; however, revenues other than tax-related revenues applicable to the Cannabis Program are not consistently tracked. Examples of these revenues include business licenses, cannabis permits, inspection fees, and grants. Consequently, cannabis-related revenues from these sources are not consistently reflected as providing support to the Cannabis Program. This situation can cause an increased use of cannabis tax revenues for the Cannabis Program. Additionally, Citygate found that direct-fee revenue resulting from the Cannabis Program is not considered when determining the amount of cannabis tax revenue to be allocated for Cannabis Program-related costs (see Recommendation #13).

Until recently, the Cannabis Program Manager hosted weekly meetings for those departments associated with the Cannabis Program. These meetings, however, proved to be non-productive and were replaced by weekly meetings involving just the inspectors for cannabis activity. Citygate believes it was a mistake to eliminate these meetings as opposed to improving the meeting structure to ensure the meetings are productive. Elimination of the meetings without implementing some effective process to consistently communicate with the applicable departments involved with the Cannabis Program decreases the efficiency and effectiveness of the program. This is evident based on Citygate's discussions with the fiscal administration and reporting departments involved with the Cannabis Program. Citygate recommends some form of consistent communication be established to include all applicable departments involved with the Cannabis Program. As an example, a monthly meeting rather than weekly would be held with a set agenda and with an opportunity for all attendees to raise and discuss issues regarding the program to help develop strategies to address concerns. A written recap of the meeting's key points should be created and shared with all attendees.

**Recommendation #8:** Periodic regular meetings between all applicable staff representing the various departments involved in the Cannabis Program should be reinstated. Management should provide direction to applicable staff that attendance and participation is important to ensure appropriate and necessary information is discussed and disseminated to applicable personnel. These meetings will help improve the efficiency and effectiveness of the program, including consistent communication of program issues and the development of comprehensive action plans to address those issues.

**Recommendation #9:** Training sessions should be conducted periodically and whenever there are major changes in the Cannabis Program fiscal operations to include all applicable department personnel to help develop a consistent understanding of the Cannabis Program among the applicable departments. This training will help ensure applicable departments are consistently following cannabis requirements and have a basic understanding of the Cannabis Program and their respective roles. This training should be organized and conducted by the Program Manager.

#### **4.6.2 Cannabis Tax**

As discussed previously in this report, County voters approved a general tax on cannabis activities which could be used for cannabis-related expenses, as well as any other lawful County General Fund expenditures. This tax revenue is billed annually in addition to separate quarterly reminder bills. The amount is collected in quarterly installments by the Treasurer–Tax Collector based on square footage of the cannabis business. If payment is not received by the due date a reminder notice is sent which provides an additional amount of time to pay. If the tax is not remitted by the terms included in the reminder notice, the Treasurer–Tax Collector notifies the Cannabis Program Manager of delinquent operators and the Treasurer–Tax Collector can then revoke the business license. The Cannabis Program can then revoke the business permit and close the business down. Per discussion with County staff, to date, no permit has been revoked and the amount of delinquencies averages between 5 percent and 10 percent.

The County has established a monitoring mechanism for the use of cannabis tax revenue net of assigned program cost. This mechanism is referred to as the Cannabis Assignment Account



(CAA). The CAA is administered by the County budget division on an Excel spreadsheet and is adjusted as necessary to reflect actual activity during the County’s budget cycle with an emphasis during the budget development process. The amount available in the CAA for consideration for the next budget is determined by identifying the actual amount of cannabis tax revenue collected, then deducting the actual cost of the Cannabis Program to reflect the net cannabis tax revenue amount available. Estimated non-cannabis-related project costs, as authorized by the Board, are subtracted from the net cannabis tax revenue amount to determine the net amount of cannabis tax revenue that is available for the next budget. This procedure works well for the County and should be continued. However, the County should include in this spreadsheet direct cannabis-related revenues to offset Cannabis Program costs and should consider including the spreadsheet in the published budget document to provide additional information relating to use of net cannabis tax revenues (see Recommendation #13). The latest CAA spreadsheet, which reflects non-Cannabis Program use of the cannabis tax since FY 18–19, is reflected in **Appendix C** of this report.

#### **4.6.3 Business License**

While the County budgets \$5,137,847 in total business license revenue from various sources,<sup>32</sup> business licenses related to cannabis are the only business licenses taxes collected by the Treasurer–Tax Collector.<sup>33</sup> This revenue source is estimated at \$6,610 in FY 21–22.<sup>34</sup> The license fee is \$226 initially and \$87 for each subsequent renewal. The process was designed to have the business license issued only after the cannabis business permit was issued. However, due to the backlog involved with the cannabis business permitting process, provisional annual business licenses were created to allow cannabis businesses to operate pending issuance of a permit. To obtain a provisional business license, certain conditions, including verification of a valid state license and valid and accurate licensee information, as well as all taxes having been paid, must be met. Currently, per County staff, the County has issued 84 provisional business licenses and 14 annual business licenses. Eight applications are currently incomplete or are in the process of being renewed.

#### **4.6.4 Accounting Structure**

The County determined that using report codes would be a good method to identify and report Cannabis Program fiscal activity. The report code “Cannabis” was created by the Auditor Controller’s Department and all applicable departments were instructed by the Auditor Controller’s Department with concurrence from the County Administrator’s Office to use the code for all cannabis-related fiscal activity. Although this method can be efficient and aligns with best practice, it can also cause inconsistency issues. Under the report code method, departments use

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<sup>32</sup> Fiscal Year 21–22 Monterey County Recommended Budget, Schedule 6, p. 114

<sup>33</sup> <https://www.co.monterey.ca.us/government/departments-i-z/treasurer-tax-collector/business-license>

<sup>34</sup> Fiscal Year 21–22 Monterey County Recommended Budget, p. 263

their regular account number to reflect activity and can sometimes forget to add the cannabis-related report code. In discussions with County staff, it is believed this is an issue that results in difficulty in determining and reporting actual Cannabis Program costs and direct revenues.

The County could consider establishing a set of accounts in each of the applicable departments using the current cannabis unit number (8533). This would allow the Cannabis Program Manager to better manage fiscal activity related to the Cannabis Program because activity would have to be approved by the Cannabis Program Manager before it is reflected in the County’s financial records by the Auditor Controller’s Department. The County currently uses the CGI Advantage financial system for its accounting transactions, which has the capability of accomplishing this change. Citygate realizes, however, this would create some added workload, so if the County continues with the current report code process, Citygate would recommend re-emphasizing the importance of using the report code for all cannabis-related activity to all departments.

**Recommendation #10:** Re-emphasize and/or re-train departments regarding the use of the “Cannabis” report code to ensure it is used consistently for not only applicable expenditures but also applicable revenues to accurately report Cannabis Program activity.

#### **4.6.5 Internal Control Strengths and Weaknesses**

A formal documented internal audit policy or process is considered best practice for fiscal activity. Per the Government Finance Officers Association (GFOA), a formal internal audit function is particularly valuable for those activities involving a high degree of risk (e.g., complex accounting systems, contracts with outside parties, or a rapidly changing environment). Internal control is necessary to provide governments a reasonable basis for believing and asserting they are meeting their operational (effectiveness, efficiency, and safeguarding of assets), reporting, and compliance objectives.<sup>35</sup> The GFOA recommends the following key actions in creating an internal control program.

- ◆ Establish a comprehensive framework for internal control that includes all five essential components identified by the Committee of Sponsoring Organizations (COSO)—control environment, risk assessment, control activities, information and communication, and monitoring
- ◆ Ensure each component of internal control is functioning in a manner consistent with all relevant principles

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<sup>35</sup> <https://www.gfoa.org/materials/internal-control-framework>

- ◆ Ensure the various components complement one another and operate together effectively.

Although currently in development, the County does not have a formal internal auditing process for the Cannabis Program due to lack of staff. The Auditor Controller’s Department staff informed Citygate that an internal auditing process is in place relating to high-profile and mandated audits, but prior to the current budget when an additional position was authorized funded by cannabis tax revenues, no internal audits were conducted on the Cannabis Program. The lack of this process has contributed to County staff’s uncertainty regarding the actual cost of the Cannabis Program. Additionally, due to the inability of cannabis business to engage with banks as discussed earlier, most payment activity related to the Cannabis Program involves cash, collected by the Treasurer–Tax Collector. The County has an overall cash collection policy and several Cannabis Program specific operations policies, which is a good step in strengthening internal controls, since a strong documented internal audit process helps minimize risk. Citygate recommends the internal auditing process currently being developed for programs like the Cannabis Program be completed and included in a formal document that is shared with all applicable parties.

**Recommendation #11:** An internal audit plan should be developed relating to the Cannabis Program funds to help minimize potential operational issues. The plan should identify high-risk areas, develop auditing procedures to help minimize associated risks, and provide regular monitoring and reporting related to the Cannabis Program. Additionally, the County should consider expanding the internal audit function to provide enhanced County-wide internal audits to identify and address potential fiscal and operational issues.

#### **4.6.6 Budget Process**

As discussed, the use of the cannabis tax is divided into two components which consist of: (1) direct costs for the Cannabis Program, and (2) non-Cannabis Program related projects as approved by the Board. Currently, the budget process for use of the cannabis tax for program costs begins with a department’s submission of a cannabis tax use request to the Cannabis Program Manager and the budget director. Cannabis Program budget requests are submitted to and prioritized by the Cannabis Subcommittee, which consists of two County Supervisors. It is unclear to Citygate what process is used by the Cannabis Subcommittee to prioritize these budget requests. Once the budget director receives the prioritized listing, however, it is incorporated into the budget development

process that is reviewed by the Budget Committee and is ultimately sent to the Board for approval in the adopted budget.

Per discussions with County staff, the most consistent use of the cannabis report code involves personnel utilization. County staff produces a payroll report to identify applicable time charged by the various departments related to the Cannabis Program. However, the inconsistent use of the cannabis report code and the lack of auditing staff has limited the ability to identify, verify, and justify personnel involvement levels related to the Cannabis Program. Citygate recommends the County review the amount of time actually used in cannabis tax-supported departments to ensure the accuracy of the cannabis tax required. Such a review was conducted involving the Cannabis Program staff in the CAO in the summer of 2021. The results of the recommended review could provide a baseline for budget justification for the next budget cycle.

**Recommendation #12:** A time study like what was conducted in the County Administrator’s Office related to the Cannabis Program should be completed to provide better identification of appropriate staff costs that should be charged to the program. The results of this review should be used as a baseline and reviewed annually during the budget process to ensure accurate cannabis tax program allocation.

As discussed earlier, Citygate was also informed that direct revenues collected from the Cannabis Program (e.g., permit and inspection fees), are not separately identified to help reflect the net cost of the Cannabis Program that would require cannabis tax subsidy. Per Citygate’s review of the allocations funded by the cannabis tax report for FY 21–22, the costs reflected are gross costs and are not netted against any direct revenue collected (see Recommendation #13). Consequently, the cannabis tax revenue allocation seems to be over-stated. Per discussions with Cannabis Program staff, communication with the budget office relating to use of cannabis tax revenues could be improved. The Cannabis Program Manager needs to be aware of, or have the ability to identify, all fiscal activity related to the Cannabis Program to accurately and effectively report on cannabis-related fiscal activity. The Cannabis Program Manager does not have a full-time Fiscal Analyst assigned to the program but does have access to a Finance Manager II to assist in development of financial reports and analysis, but not budget development and analysis. This requires the Cannabis Program Manager to rely on others, who are not direct reports, for fiscal analysis. As discussed, although underway as a result of the authorization of an analyst position in the Auditor Controller’s Department, no internal audit process related to the Cannabis Program currently exists.

For FY 21–22, County records reflect that 27.23 FTEs are funded through the Cannabis Program. The total cost for these FTEs, who are allocated cannabis tax revenue, is estimated at approximately \$4.5 million. In addition, approximately \$1.84 million of other Cannabis Program-

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related expenditures are allocated cannabis tax revenue, bringing the total budgeted Cannabis Program-related allocation of cannabis tax revenue to approximately \$6.3 million.

Table 13 reflects the approved use of the cannabis tax for the Cannabis Program for the FY 21–22 budget cycle.

**Table 13—FY 21–22 Allocations Funded by Cannabis Tax Revenue**

Department FTE Title	# of FTEs	Staff Costs	Other Costs	Total Costs
Agriculture Commissioner	2.50	\$328,585.00	\$55,450.00	<b>\$384,035.00</b>
Auditor Controller	1.00	\$184,997.00	-	<b>\$184,997.00</b>
County Administrator’s Office (Program – 5; Finance – 1)	6.00	\$810,569.00	\$853,078.00	<b>\$1,663,647.00</b>
County Counsel	1.00	\$252,549.00	-	<b>\$252,549.00</b>
District Attorney	3.50	\$806,724.00	-	<b>\$806,724.00</b>
Health	5.25	\$791,050.18	\$555,000.00	<b>\$1,346,050.18</b>
Housing and Community Development	3.00	\$410,999.00	-	<b>\$410,999.00</b>
Sheriff Office	2.00	\$531,730.00	\$262,836.00	<b>\$794,566.00</b>
Treasurer–Tax Collector	1.98	\$279,015.00	\$114,467.00	<b>\$393,482.00</b>
Social Services	1.00	\$97,372.00	-	<b>\$97,372.00</b>
<b>Total</b>	<b>27.23</b>	<b>\$4,493,590.18</b>	<b>\$1,840,831.00</b>	<b>\$6,334,421.18</b>

In reviewing the County-wide Cannabis Program fiscal activity per documentation provided by County staff, the Cannabis Program has underspent its budgeted funding every fiscal year since FY 18–19. Between FY 18–19 and FY 20–21, the average annual expenditure *budget* totaled approximately \$4.7 million with *actual* average annual expenditures over the same period totaling approximately \$3.5 million. Although these budget savings are carried over into the CAA, which is General Fund revenue that is re-allocated for future Cannabis Program expenditures or other projects approved by the Board, large budget-to-actual variances indicate inefficient budget estimating practices. Per the GFOA, the mission of the budgeting process is “to help decision makers make informed choices about the provision of services and capital assets...”<sup>36</sup> Inefficient budgeting obligates resources unnecessarily which can delay other programs or projects that may be desired by decision makers.

The following table reflects the combined fiscal activity for FY 18–19 through FY 20–21 per the financial information provided by County staff. The table does not reflect direct revenues as

<sup>36</sup> <https://www.gfoa.org/materials/recommended-budget-practices-from-the-national-advisory>

discussed previously in this report but does reflect cost allocation credits which are reflected in the table as “transfers in.” The detail for the financial activity summarized in Table 14 is included in **Appendix C** of this report.

**Table 14—Financial Activity Summary – FY 18–19 to FY 20–21 – All Departments**

<b>Total FY 18–19 to FY 20–21</b>	<b>Budget</b>	<b>Actual</b>	<b>Surplus (Deficit)</b>	<b>Percent Difference</b>
Revenues				
Transfers In	-	\$2,073,265.33	<b>\$2,073,265.33</b>	-
<b>Total Revenues</b>	<b>-</b>	<b>\$2,073,265.33</b>	<b>\$2,073,265.33</b>	<b>-</b>
Expenses				
Salaries and Benefits	\$10,683,173.00	\$8,248,947.63	<b>\$2,434,225.37</b>	22.8%
All Other Expenditures	\$3,534,274.00	\$2,146,309.38	<b>\$1,387,964.62</b>	39.3%
<b>Total Expenditures</b>	<b>\$14,217,447.00</b>	<b>\$10,395,257.01</b>	<b>\$3,822,189.99</b>	<b>26.9%</b>
<b>Net Surplus/(Loss)</b>	<b>(\$14,217,447.00)</b>	<b>(\$8,321,991.68)</b>	<b>\$5,895,455.32</b>	<b>41.5%</b>

#### **4.6.7 Cannabis Program Direct Fees**

The County has several fees that are directly related to Cannabis Program activity. These include fees related to permits, inspections, and business licensing.

Under Proposition 26, fees and charges that do not fall under one of seven specific exemptions are considered a tax, requiring voter approval. The fees currently charged by the County identified earlier meet one or more of the allowable exemptions. However, per state law, fees cannot exceed the cost of providing the service. In March 2021, the County received a draft report from MGT identifying the costs incurred by the County related to the cannabis business permit process. Based on this and other reports commissioned by the County these fees were established based on the cost of providing the service, which is best practice. However, as discussed previously, the County also provides funding through its cannabis tax allocation process for some costs that are also associated with the cost-of-service calculation for Cannabis Program direct fees. Although the fee amount is supported by the calculations completed by the various firms used by the County, the collection of these fees should be considered when determining the amount of cannabis tax revenue allocated to the fee-supported positions. The revenues for these direct fees are lumped into the general fee categories, such as zoning permits and business licenses and should be specifically and consistently identified and reflected as a partial offset to Cannabis Program costs.

**Recommendation #13:** The current process of determining the net amount of cannabis tax revenue reflected in the cannabis tax assignment account should be revised to deduct applicable cannabis-related direct revenues from the cost of the Cannabis Program, thereby allowing more of the cannabis tax revenue to be reflected in the cannabis tax assignment account.

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#### **4.7 IMPROVING PROGRAM STATUS REPORTING**

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Periodically, the Cannabis Program staff provides updates to the Board and the Board’s Cannabis Subcommittee. These updates include data intended to provide the Board with the status of pending cannabis permits, the status of cannabis tax revenues, and other information regarding the state of the cannabis industry in Monterey County.

The four key themes of the status report appear to be budget, revenue, and expenses; cannabis permit information; cannabis market information; and the enforcement of illicit grows. Citygate believes that by transforming the report from data points without context to a story informing the Administration and the Board what is happening, the County can greatly improve the background upon which the Administration and the Board base their policies, priorities, and strategies. In other words, Citygate encourages the County to create a narrative that illustrates what the Program is doing, at which step the applications are in the process, how the Cannabis Program’s actions are impacting the permitting experience, and how the industry is responding. When providing data and context on all pending cannabis permits, the narrative should include details on:

- ◆ Land use entitlement progress
- ◆ Condition and mitigation progress, such as traffic mitigations
- ◆ Building permit finals
- ◆ Code enforcement issues
- ◆ Cannabis permit compliance
- ◆ Water system improvements and permits.

Citygate notes that these reports have historically been heavy on data and light on context. Table 15 illustrates typical data for cannabis business permits from the July “Monthly Performance Outcomes on Cannabis Land Use Permits, Cannabis Business Permit Applications, Cannabis Cultivation Square Footage, and Program Updates” memorandum.

**Table 15—July Performance Outcomes of Cannabis Business Permits**

Status	Beginning of FY 20–21	Beginning of FY 21–22	Difference
Initial	36	2	-34
Incomplete	65	97	+32
Complete	2	0	-2
Approved	12	15	+3

No other information was provided relative to the context of the planning, building, or cannabis permits, such as where in the process they are; what the next steps are; what challenges they are facing; what staff is doing to assist the applicants; what policy changes might be necessary to reduce the backlog of permits; and how the Cannabis Program’s actions relate to the County’s program goals.

In the same memorandum, Table 16 illustrates typical data for land use permits. No other data or context are provided.

**Table 16—Performance Outcomes of Cannabis Land Use Permits**

Status	As of May 19, 2021	As of July 7, 2021	Difference
Initial	25	27	+2
Incomplete	33	28	-5
Complete	16	18	+2
Approved	24	25	+1
<b>Total</b>	<b>98</b>	<b>98</b>	

Citygate suggests reorganizing the information to focus on the more important data, such as how many permits are approved, how many are pending, and the status of pending approvals. We recommend providing information, such as the number of land use permits that:

- ◆ Have been fully approved
- ◆ Have been approved with monitoring conditions, which may include completion of traffic mitigations, a cultural resources report, driveway improvements, and/or odor control devices
- ◆ Are complete and are being prepared for hearing, which takes about 60 days
- ◆ Are set for hearing during the month of January



- ◆ Are in various stages of the initial application phase, beginning with the development review committee.

Citygate believes these data-heavy status reports miss the opportunity to “tell the story” about what is really happening in the cannabis industry and in the County’s efforts to permit cannabis operators by linking the cannabis business permits to their required precursor approvals and permits and by providing important context as to the what, why, and when of the next actions leading to full approval.

**Recommendation #14:** Modify reporting to the Administration and Board to provide a complete narrative on budget, revenue, and expenses; cannabis permit information; cannabis market information; and the enforcement of illicit grows.

In working with the Cannabis Program staff during the analysis of the reporting methods, Citygate encouraged staff to begin employing these modifications as soon as possible, and staff provided the first effort of improved reporting during the November 2021 Board Cannabis Subcommittee meeting. Citygate understands that the Board appreciates the ability to review the quarter-over-quarter progress of permitting activities, and Citygate is not suggesting any change to the Board’s ability to view permitting progress in a manner that they prescribe. Rather, Citygate believes additional information relative to the what, why, and when of current permit circumstances will add to the Board’s ability to understand the future actions necessary to improve cannabis permitting activities, while at the same time being able to measure past progress.

#### **4.8 IMPROVING PERFORMANCE MANAGEMENT**

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The County has developed and published its General Financial Policies,<sup>37</sup> understanding that, “The stewardship of public funds is one of the most significant responsibilities given to the officials and managers of the County of Monterey.” These policies “enable County officials to protect public interests, ensure transparency, and build trust,” and “define a shared understanding of how the County develops its financial practices and manages its resources to provide the best value to the community.”

The County requires departments to develop performance measurements that “address best practices, desired outcomes, strategic initiatives of the Board, annual goals, and measurable key indicators to assure that maximum productivity (results) are being achieved for the resources utilized.” Citygate agrees with these policies, and Citygate, and best practices, suggest that measuring outcomes as a result of activities rather than the activities themselves builds a culture

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<sup>37</sup> <https://www.co.monterey.ca.us/home/showpublisheddocument/76872/636906693627470000>

of accountability for results. Citygate previously provided feedback on the County’s performance management systems in the RMA Report, finding limitations in two key areas: service-level commitments and performance measurement. Citygate provides a review of that material here for convenience.

#### **4.8.1 Setting Performance Goals and Measuring Performance**

To build stakeholder confidence in the application, review, and permitting process, the County should establish goals, timelines, and milestones for each step of a given project review; publicly commit to performing within those timelines; and publish data that illustrates division performance on these important processes.

**Recommendation #15:** Establish and publish service-level commitments for cannabis permit and related precursor requirements and permits, such as building permits, environmental health permits, and land use permits.

**Recommendation #16:** Develop and report on performance measures for cannabis permit and related precursor requirements and permits, such as building permits, environmental health permits, and land use permits.

There are many resources available to aid in the development of performance measures, such as the International City/County Management Association’s *A Performance Management E-book for Local Government*, which is a comprehensive introduction to performance measurement and management. One method is developing goals for each business process, and Citygate suggests the Cannabis Program develop SMART goals for each business process.<sup>38</sup>

There are three essential characteristics of performance measurement representing best practices:

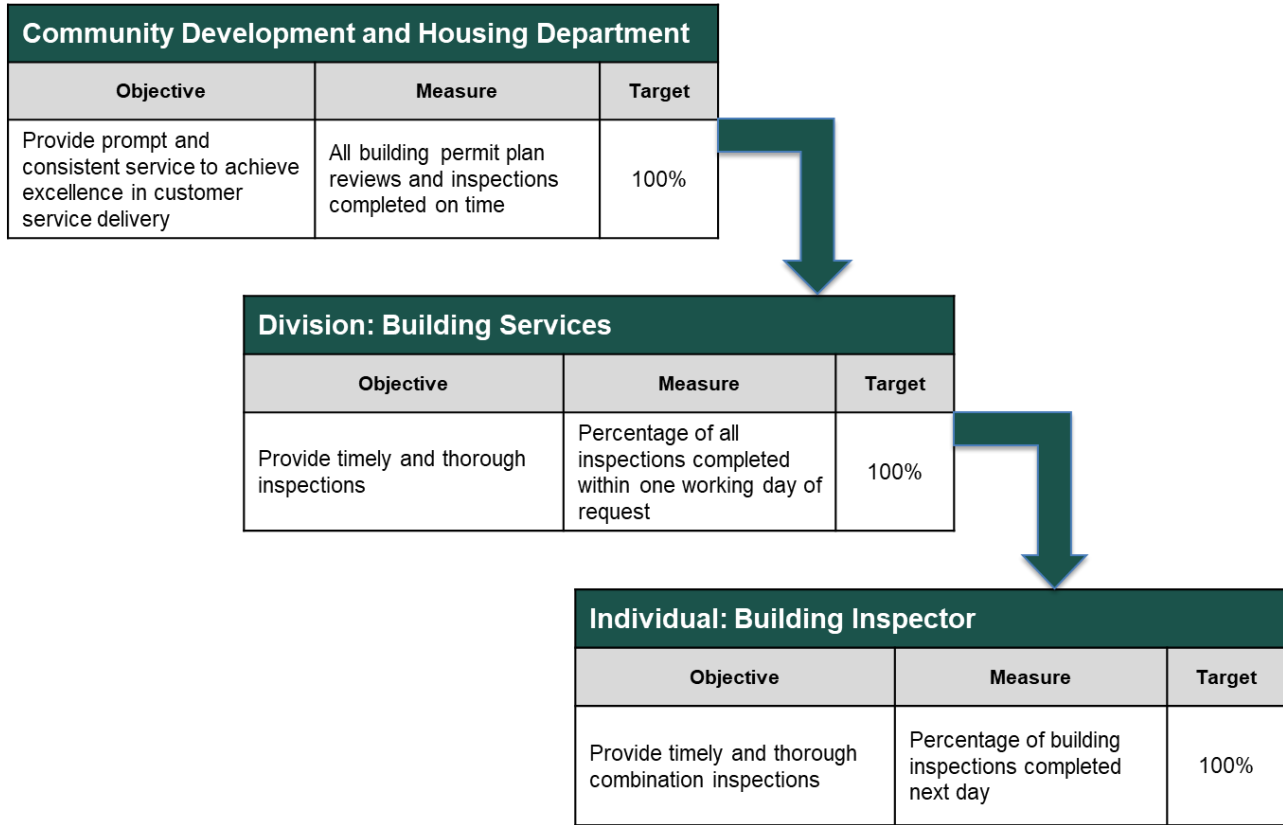
1. The performance goals must be SMART:
  - Specific – It must be specified who will perform the goal, what will be done, when and where it will be completed, and why it is being done
  - Measurable – The result needs to be measured using an indicator of quantity or volume, quality, time, and/or cost, and the tools to measure that are available

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<sup>38</sup> <https://corporatefinanceinstitute.com/resources/knowledge/other/smart-goal/>

- Achievable – The organization must have the resources and capabilities available to achieve the performance goal
  - Relevant – The goal must fit into one or more overall strategic objectives of the organization
  - Timely – A specific schedule is needed with dates for achieving the performance goal.
2. The performance measures must include desired outcomes. It is not enough to use performance measures that merely state the inputs, outputs, time, and/or cost. To have complete measures of organizational performance, outcome measures that more accurately reflect a desired end result should be included. For example, a processing time of a certain length that is met consistently is certainly a desirable condition to improve the likelihood that the desired outcome of the Cannabis Program will occur. However, an increase in cannabis tax revenue an increase in agricultural jobs due to cannabis cultivators, and/or higher incomes for cannabis-related agricultural jobs are measures that more directly reflect the desired outcome.
  3. The performance measures must have a context that creates a clear alignment between the Cannabis Program’s strategic objectives, the individual performance plans for each staff member, and all organizational levels in between. An example of this concept, often referred to as cascading performance measures, is illustrated in Figure 7, using examples in inspection processes.

**Figure 7—Cascading Performance Measures (Inspection Process Example)**



## SECTION 5—ACTION PLAN

### 5.1 OVERVIEW OF ACTION PLAN AND IMPLEMENTATION OF RECOMMENDATIONS

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Citygate makes 16 recommendations in this report in response to the County Board of Supervisors Referral 2021.12 requesting the County review the Cannabis Program. Citygate’s review included the Cannabis Program’s organizational structure, including formal and informal organizational alignment, management, and supervision; opportunities for organizational and staffing changes to improve customer service; and the Cannabis Program permitting processes to improve the permitting process for both the permitting staff and cannabis permittees. Citygate believes the best results will be obtained by implementing all recommendations as outlined in the following Action Plan. However, these recommendations do not need to be implemented in a linear fashion.

### 5.2 ACTION PLAN CONTENTS

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A list of recommendations and a blueprint for their implementation are presented in the Action Plan. This plan contains:

- ◆ The priority of each recommendation
- ◆ The suggested implementation timeframe
- ◆ The responsible party/parties
- ◆ The anticipated benefits of each recommendation.

The legend at the bottom of each page of the Action Plan defines the level of each priority indicated by the letters “A” through “C.”

It is important to note that an “A” priority, which indicates that the recommendation is deemed mandatory or critical, should not be interpreted to mean that the recommendation is mandated by a statute or regulation—it is simply an urgent recommendation of the highest priority.

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**Table 17—Action Plan**

Recommendation	Priority	Time Frame	Responsible Party/Parties	Benefit
<b>Responding Organizationally</b>				
<b>Recommendation #1:</b> Reorganize the cannabis permitting function in response to the discrete roles of the cannabis permit applicant, creating a Cannabis Program Office in the County Administrator’s Office and a Cannabis Permit Division in the Housing and Community Development Department.	A	Before July 2022	County Administrator, Housing and Community Development Director, and Cannabis Program staff	Aligns the Cannabis Program to correspond with the discrete roles of the cannabis industry and the cannabis permit applicant, and to centralize responsibilities, increase accountability, reduce duplication, and smooth communications
<b>Recommendation #2:</b> Reclassify the incumbent Program Manager II to Cannabis Program Manager and set the salary commensurate with comparable classifications.	A	Before July 2022	County Administrator and Human Resources Director	Aligns Cannabis Program and Cannabis Permitting staff with current responsibilities and recommended organizational structure
<b>Recommendation #3:</b> Reclassify the incumbent Management Analyst III to Cannabis Permit Manager and set the salary commensurate with comparable positions.	A	Before July 2022	County Administrator and Human Resources Director	Aligns Cannabis Program and Cannabis Permitting staff with current responsibilities and recommended organizational structure
<b>Responding Procedurally</b>				
<b>Recommendation #4:</b> Continue implementing recommendations in the RMA Report to improve general conditions in land use entitlement and building permit processes.	A	Continue as recommended in RMA Report	Housing and Community Development Management	Improves permitting experience for all customers

<b>LEGEND</b>
A Recommendation mandatory or critical
B Strongly recommended
C Recommended

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Recommendation	Priority	Time Frame	Responsible Party/Parties	Benefit
<b>Recommendation #5:</b> Enter agreements with provisional operators in Good Standing to contractually obligate them to complete required site improvements, mitigations, and conditions. Issue cannabis business permits to each provisional operator upon completion of the cannabis business permits applications and execution of the agreement.	A	Immediately upon acceptance of Final Report	County Administrator, County Counsel, Cannabis Program Manager, and Housing and Community Development Director	Provides the opportunity to improve backlog conditions in the near term
<b>Recommendation #6:</b> Over the longer term, conduct inspections of cannabis permittees every other month, focusing on program compliance and revenue validation efforts.	C	As circumstances dictate	Cannabis Program and Community Development Department	Improves ability to capture revenue on short-term crops
<b>Recommendation #7:</b> Create a cannabis permit dashboard report that illustrates the moment-in-time status and aging of an active cannabis business permit in process linked to the active precursor steps to obtaining that specific cannabis business permit, such as planning, building, and code enforcement permits and activity.	A	Immediately upon acceptance of Final Report	Community Development Department	Improves information capture relative to cannabis permit application activity and all precursor permitting activity enabling staff to focus actions on applications most needing staff intervention to stay on schedule
<b>Recommendation #8:</b> Periodic regular meetings between all applicable staff representing the various departments involved in the Cannabis Program should be reinstated. Management should provide direction to applicable staff that attendance and participation is important to ensure appropriate and necessary information is discussed and disseminated to applicable personnel. These meetings will help improve the efficiency and effectiveness of the program, including consistent communication of program issues and the development of comprehensive action plans to address those issues.	A	Immediately upon acceptance of Final Report	Cannabis Program Office and all departments with cannabis responsibilities	Improves consistency of Cannabis Program operations

<b>LEGEND</b>
A Recommendation mandatory or critical
B Strongly recommended
C Recommended

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Recommendation	Priority	Time Frame	Responsible Party/Parties	Benefit
<b>Recommendation #9:</b> Training sessions should be conducted periodically and whenever there are major changes in the Cannabis Program fiscal operations to include all applicable department personnel to help develop a consistent understanding of the Cannabis Program among the applicable departments. This training will help ensure applicable departments are consistently following cannabis requirements and have a basic understanding of the Cannabis Program and their respective roles. This training should be organized and conducted by the Program Manager.	A	Ongoing	Cannabis Program Office	Improves consistency of Cannabis Program operations
<b>Recommendation #10:</b> Re-emphasize and/or re-train departments regarding the use of the “Cannabis” report code to ensure it is used consistently for not only applicable expenditures but also applicable revenues to accurately report Cannabis Program activity.	A	Immediately upon acceptance of Final Report	Cannabis Program Office and all departments and employees with permitting responsibilities	Improves consistency of Cannabis Program operations
<b>Recommendation #11:</b> An internal audit plan should be developed relating to the Cannabis Program funds to help minimize potential operational issues. The plan should identify high-risk areas, develop auditing procedures to help minimize associated risks, and provide regular monitoring and reporting related to the Cannabis Program. Additionally, the County should consider expanding the internal audit function to provide enhanced County-wide internal audits to identify and address potential fiscal and operational issues.	B	Before July 2023	Cannabis Program Office and Auditor Controller	Improves accountability of Cannabis Program revenues and expenditures
<b>Recommendation #12:</b> A time study like what was conducted in the County Administrator’s Office related to the Cannabis Program should be completed to provide better identification of appropriate staff costs that should be charged to the program. The results of this review should be used as a baseline and reviewed annually during the budget process to ensure accurate cannabis tax program allocation.	B	Before July 2023	All departments and employees with permitting responsibilities	Improves accountability of Cannabis Program budgets and expenditures and potentially increases the amount of cannabis tax revenue available for discretionary projects

<b>LEGEND</b>
A Recommendation mandatory or critical
B Strongly recommended
C Recommended

**Section 5—Action Plan**



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Recommendation	Priority	Time Frame	Responsible Party/Parties	Benefit
<b>Recommendation #13:</b> The current process of determining the net amount of cannabis tax revenue reflected in the cannabis tax assignment account should be revised to deduct applicable cannabis-related direct revenues from the cost of the Cannabis Program, thereby allowing more of the cannabis tax revenue to be reflected in the cannabis tax assignment account.	A	Before July 2022	All departments and employees with fee-based responsibilities for cannabis operators that receive cannabis tax funding	Improves accounting of fee-based direct revenues, improves accountability of Cannabis Program budgets and expenditures, and potentially increases the amount of cannabis tax revenue available for discretionary projects
<b>Recommendation #14:</b> Modify reporting to the Administration and Board to provide a complete narrative on budget, revenue, and expenses; cannabis permit information; cannabis market information; and the enforcement of illicit grows.	A	Immediately upon acceptance of Final Report	Cannabis Program Office and all departments with permitting responsibilities	Improves the information upon which the Administration and the Board base their policies, priorities, and strategies
<b>Recommendation #15:</b> Establish and publish service-level commitments for cannabis permit and related precursor requirements and permits, such as building permits, environmental health permits, and land use permits.	B	By July 2023	Cannabis Program Office and all departments with permitting responsibilities	Sets performance expectations among staff and stakeholders
<b>Recommendation #16:</b> Develop and report on performance measures for cannabis permit and related precursor requirements and permits, such as building permits, environmental health permits, and land use permits.	B	By July 2023	Cannabis Program Office and all departments with permitting responsibilities	Sets performance expectations among staff and stakeholders

<b>LEGEND</b>
A Recommendation mandatory or critical
B Strongly recommended
C Recommended

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**Monterey County**  
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## APPENDIX A—REFERRAL 2021.12

### Monterey County Board of Supervisors Referral Submittal Form

**Referral No. 2021.12**  
**Assignment Date: 7/13/21**  
 (Completed by CAO's Office)

**SUBMITTAL - Completed by referring Board office and returned to CAO no later than noon on Thursday prior to Board meeting:**

Date: 6/29/21	Submitted By: Supervisor John Phillips	District #: 2
Referral Title: Review of Cannabis Program Organizational Structure		
<p>Referral Purpose: To consider a review of the Cannabis Program's efficiencies, particularly the processes for permit review and compliance inspections. Insignificant progress has been made towards local authorizations for cannabis operators related to land use and building permits, which impacts the industry's ability to be considered for state annual licenses. Disparate departmental staff funded solely by cannabis revenue should report directly to the Cannabis Program Manager to expedite permit submittal and reporting efficiencies. This would serve to not only expedite current cannabis permitting, but would in-turn free up staff dedicated to cannabis to more quickly focus on other programs.</p>		
<p>Brief Referral Description (attach additional sheet as required): The Cannabis Program was established in March 2018 as a collaborative between ten departments. The role of the Program is to provide coordination between departments, state licensing bureaus, the cannabis industry and community groups. The Program coordinates and leads without authority to direct staff from other county departments. Program duties and resources have expanded over the past three years, beginning with 11.48 staff positions at a total cost of \$2,731,109.50, but has grown to the FY 21/22 budget allocation of 28.23 staff positions at a total cost of \$6,420,089.18. This increase in staff and expense has not resulted in efficiencies or permit processing. Despite the first applications being submitted in 2016, substandard progress has been made towards Land Use Permit approvals: 25% of applications have been approved at an average of six per fiscal year.</p>		
<p>Because of this, many operators are not eligible for annual licenses: the industry collectively holds 521 state provisional licenses and 44 state annual licenses. If approved as drafted, language in a trailer bill being considered by California legislature would prohibit new provisional licenses from being issued beginning July 2022. This change would require new applicants to become fully licensed and permitted at the state and local levels before beginning operations, removing the ability to generate revenue to offset compliance costs.</p>		
<p>8.75 staff are allocated for cannabis compliance inspections across the Agricultural Commissioner's Office, Housing and Community Development's Building Services, and the Health Department's Environmental Health Bureau. These departments are the primary mechanism for determining operator compliance and application processing. Without uniform management those various departments have not proven to operate in a manner sufficient to process permits effectively. For that reason, select staff funded wholly by cannabis revenue should report directly to the Cannabis Program Manager on an interim basis of 1 year to streamline the managing and reporting process.</p>		
<b>Classification - Implication</b>		<b>Mode of Response</b>
<input type="checkbox"/> Ministerial / Minor <input type="checkbox"/> Land Use Policy <input type="checkbox"/> Social Policy <input type="checkbox"/> Budget Policy <input checked="" type="checkbox"/> Other: <u>Cannabis Program</u>	<input type="checkbox"/> Memo <input checked="" type="checkbox"/> Board Report <input checked="" type="checkbox"/> Presentation	
<b>Requested Response Timeline</b>		
<input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input checked="" type="checkbox"/> 6 weeks <input type="checkbox"/> Status reports until completed <input type="checkbox"/> Other: _____ <input type="checkbox"/> Specific Date: _____		

**ASSIGNMENT – Provided by CAO at Board Meeting. Copied to Board Offices and Department Head(s) Completed by CAO's Office:**

Department(s): CAO and HRD	Referral Lead: Nick Chiulos and Irma Ramirez-Bough	Board Date: 7/13/21
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Board Referral Form 11/02/09, revised 6/08/12; 1/15/14; 05/01/2018; 09/30/2019, and 1/13/20

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## APPENDIX B—CLASSIFICATION DESCRIPTIONS

### B.1 CANNABIS PROGRAM MANAGER—DRAFT

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#### B.1.1 Definition

Under general direction, assume broad responsibility for planning, prioritizing, organizing, directing, staffing, and collaborating to manage the activities and achieve the goals of Monterey County’s Cannabis Program.

#### B.1.2 Distinguishing Characteristics

The Cannabis Program Manager is a single position class that has broad strategic and administrative responsibility for direction and management of the Cannabis Program to facilitate productive industry growth, such as collaborating with industry representatives and individual cannabis operators, developing policy recommendations, managing local regulatory processes, influencing state regulations, cooperating with state and federal regulators, participating in multi-jurisdictional industry support and regulatory schemes, and collaborating with various department heads to expedite cannabis permitting activities.

#### B.1.3 Examples of Duties

1. Plan, organize, prioritize, direct, and manage the activities and operations of the Cannabis Program
2. Collaborate with various department heads to expedite cannabis permitting activities
3. Manage the preparation, implementation, and administration of the program budget, policies, procedures, and performance standards
4. Review new and proposed legislation to evaluate its impact on Cannabis Program operations and activities; provides recommendations and work collaboratively with other departments responding to County-wide legislative impacts
5. Work with County executives and elected officials to develop and implement program goals, plans, policies, and procedures that meet the County’s Cannabis Program goals and objectives
6. Recommend to the Board of Supervisors new and modified policies and regulations in support of a legal cannabis industry
7. Collaborate with industry representatives and community members on the development and impact of County cannabis policies and regulations

8. Participate in multi-jurisdictional cannabis industry regulatory and support groups
9. Coordinate with state regulatory agencies to develop and implement complementary local regulatory schemes
10. Manage, plan, direct, and supervise program personnel, including employee selection, performance evaluation, professional development, disciplinary actions, and technical direction.

#### **B.1.4 Qualifications**

Any combination of training or experience that substantially demonstrates the following knowledge, skills, and abilities.

##### *Knowledge of:*

1. Principles and practices of leadership and management including goal setting, strategic planning, budgeting, program development, program analysis, performance management, quality improvement, and problem solving
2. Principles and practices of personnel management such as supervision, selection, training, performance evaluation, coaching, discipline, and conflict resolution
3. Applicable federal, state, and local laws, regulatory codes, ordinances, and procedures relevant to the Cannabis Program
4. Techniques for effectively representing the County in contacts with governmental agencies, community groups, industry organizations, and various professional, educational, regulatory, and legislative organizations
5. Procedures and requirements pertaining to contracting, grant compliance and reporting, and financial/fiscal procedures.

##### *Skills and Abilities to:*

1. Develop and articulate program vision, mission, goals, and objectives
2. Develop, recommend, implement, and monitor County policies, procedures, and standards of services to successfully implement the Cannabis Program
3. Exercise a high level of independent action and decision making over program operations, including budgets, services, processes, and staffing
4. Select, assign, motivate, evaluate, counsel, and discipline staff and provide for their training and professional development

5. Successfully build and maintain relationships to work effectively with County policy makers, executives, department heads, and staff; community and industry groups; state and local government representatives; and individual cannabis applicants and permittees
6. Integrate a variety of activities and services into an innovative service delivery system for the cannabis industry to achieve program goals, objectives, and priorities, such as planning, building, code enforcement, and business licenses
7. Understand, interpret, and apply laws, rules, and regulations relating to the Cannabis Program
8. Successfully implement program objectives while facing competing priorities, conflicting demands, and time pressure
9. Communicate effectively orally and in writing, prepare clear and concise reports, correspondences, policies, procedures, and other written materials
10. Operate modern office equipment including computer equipment and specialized software applications programs.

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## **B.2 CANNABIS PERMIT MANAGER—DRAFT**

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### **B.2.1 Definition**

Under administrative direction, implement the goals, strategies, policies, and procedures for issuing commercial cannabis permits for commercial cannabis activity, as provided by the Monterey County Code and applicable federal and state statutes and regulations. Evaluate the licensing of cannabis locations and issue/deny/revoke licenses based on applicable statutes, regulations, and procedures; direct the activities of the commercial cannabis permitting function; working with other County departments and divisions, coordinate other application, permit, and compliance activity necessary for issuance of a commercial cannabis permit.

### **B.2.2 Distinguishing Characteristics**

This single position class is responsible for exercising a high degree of responsibility in permitting of commercial cannabis operators. The incumbent reports directly to the Director of Housing and Community Development and provides permitting status and analysis to the Cannabis Program Manager. The incumbent provides direction and supervision to cannabis permitting and code compliance licensing staff, as well as any contract service providers. This position differs from lower classes due to the discrete nature of the cannabis permitting program and the required administrative, supervisory, and technical skills necessary for the position.

### **B.2.3 Examples of Duties**

1. Implement the goals, strategies, policies, and procedures for issuing commercial cannabis permits
2. Direct the activities of the commercial cannabis permitting function and supervise, direct, coordinate, and review the work of subordinate staff, including outside professional consultants and contract service providers
3. Create and/or adopt any policies or procedures necessary to implement the permitting of commercial cannabis activity
4. Review, analyze, and interpret applications for commercial cannabis activity; evaluate the licensing of cannabis business locations; and issue/deny/revoke licenses in accordance with adopted codes, regulations, and statutes
5. Coordinate other application, permit, and compliance activity necessary for issuance of a commercial cannabis permit with other County departments and divisions
6. Perform applicant site visits as necessary to understand and resolve questions concerning commercial cannabis permit applications
7. Coordinate permit inspection and code enforcement activities relating to commercial cannabis permitting
8. Develop performance measures to evaluate the commercial cannabis permitting activity and create action plans for improvement recommendations based on performance data
9. Develop written reports providing status, analysis, and evaluation of commercial cannabis permitting activity
10. Make recommendations to the Director of Housing and Community Development and the Cannabis Program Manager on improvements to the cannabis permitting activity.

### **B.2.4 Qualifications**

Any combination of training or experience which substantially demonstrates the following knowledge, skills, and abilities.

#### *Thorough Knowledge of:*

1. Federal, state, and local statutes, regulations, and codes pertaining to commercial cannabis permitting in Monterey County



2. Local government organizational structure, functions, and management
3. Office procedures and practices, including correspondence, report development, and record keeping
4. Procedures and requirements pertaining to financial/fiscal procedures and reporting
5. The principles and practices of management, supervision, training, and performance evaluation.

***Working Knowledge of:***

1. Land-use planning principles and practices, including the general plan, zoning, and the California Environmental Quality Act (CEQA)
2. Building permit processes
3. Code compliance inspection procedures
4. Automated permitting technologies.

***Skills and Abilities to:***

1. Research, interpret, and apply complex federal, state, and local codes, regulations, and statutes relating to commercial cannabis permitting
2. Apply unbiased judgment in applying adopted federal, state, and local codes, regulations, and statutes in the permitting of commercial cannabis operators
3. Analyze problems, identify alternative solutions, and anticipate consequences in difficult commercial cannabis permitting circumstances
4. Work effectively to meet deadlines
5. Establish and maintain effective working relationships with cannabis businesses, County staff, personnel from other agencies, and the general public
6. Communicate clearly and effectively orally and in writing through clear, concise, and comprehensive correspondences, presentations, and reports
7. Plan, direct, supervise, and evaluate the work of assigned staff and contractors
8. Evaluate and recommend changes to policies, practices, and procedures in commercial cannabis permitting.

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## APPENDIX C—CANNABIS FINANCIAL ACTIVITY

**Table 18—Financial Activity Summary FY 18–19 – All Departments**

Fiscal Year 18–19	Budget	Actual	Surplus (Deficit)	Percent Difference
Revenues				
Direct Revenues		\$161,700.00	<b>\$161,700.00</b>	
Transfers In		\$255,038.00	<b>\$225,038.00</b>	
General Fund Contribution		-	-	
<b>Total Revenues</b>		<b>\$386,738.00</b>	<b>\$386,738.00</b>	
Expenses				
Salaries and Benefits	\$2,431,969.00	\$1,711,322.70	<b>\$720,646.30</b>	29.6%
All Other Expenditures	\$1,096,021.00	\$390,010.46	<b>\$706,010.54</b>	64.4%
<b>Total Expenditures</b>	<b>\$3,527,990.0</b>	<b>\$2,101,333.16</b>	<b>\$1,426,656.84</b>	<b>40.4%</b>
<b>Net Surplus/(Loss)</b>	<b>(\$3,527,990.00)</b>	<b>(\$1,714,595.16)</b>	<b>\$1,813,394.84</b>	<b>51.4%</b>

**Table 19—Financial Activity Summary FY 19–20 – All Departments**

Fiscal Year 19–20	Budget	Actual	Surplus (Deficit)	Percent Difference
Revenues				
Direct Revenues	-	\$85,700.00	<b>\$85,700.00</b>	
Transfers In	-	\$585,363.65	<b>\$585,363.65</b>	
General Fund Contribution	-	-	-	
<b>Total Revenues</b>	-	<b>\$671,063.65</b>	<b>\$671,063.65</b>	
Expenses				
Salaries and Benefits	\$3,932,161.50	\$2,965,679.06	<b>\$966,482.44</b>	24.6%
All Other Expenditures	\$1,091,663.00	\$695,761.08	<b>\$395,901.92</b>	36.3%
<b>Total Expenditures</b>	<b>\$5,023,824.50</b>	<b>\$3,661,440.14</b>	<b>\$1,362,384.36</b>	<b>27.1%</b>
<b>Net Surplus/(Loss)</b>	<b>(\$5,023,824.50)</b>	<b>(\$2,990,376.49)</b>	<b>\$2,033,448.01</b>	<b>40.5%</b>

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**Table 20—Financial Activity Summary FY 20–21 – All Departments**

<b>Fiscal Year 20–21</b>	<b>Budget</b>	<b>Actual</b>	<b>Surplus (Deficit)</b>	<b>Percent Difference</b>
Revenues				
Direct Revenues	-	\$50,032.00	<b>\$50,032.00</b>	
Transfers In	-	\$965,431.68	<b>\$965,431.68</b>	
General Fund Contribution	-		-	
<b>Total Revenues</b>	<b>-</b>	<b>\$1,015,463.68</b>	<b>\$1,015,463.68</b>	
Expenses				
Salaries and Benefits	\$4,319,042.50	\$3,571,945.87	<b>\$747,096.63</b>	17.3%
All Other Expenditures	\$1,346,590.00	\$1,060,537.84	<b>\$286,052.16</b>	21.2%
<b>Total Expenditures</b>	<b>\$5,665,632.50</b>	<b>\$4,632,483.71</b>	<b>\$1,033,148.79</b>	<b>18.2%</b>
<b>Net Surplus/(Loss)</b>	<b>(\$5,665,632.50)</b>	<b>(\$3,617,020.03)</b>	<b>\$2,048,612.47</b>	<b>36.2%</b>

**Table 21—Financial Activity Summary Total FY 18–19 to 20–21 – All Departments**

<b>Fiscal Year 18–19 to 20–21</b>	<b>Budget</b>	<b>Actual</b>	<b>Surplus (Deficit)</b>	<b>Percent Difference</b>
Revenues				
Direct Revenues	-	\$297,432.00	<b>\$297,432.00</b>	
Transfers In	-	\$1,775,833.33	<b>\$1,775,833.33</b>	
General Fund Contribution	-	-	-	
<b>Total Revenues</b>	<b>-</b>	<b>\$2,073,265.33</b>	<b>\$2,073,265.33</b>	
Expenses				
Salaries and Benefits	\$10,683,173.00	\$8,248,947.63	<b>\$2,434,225.37</b>	22.8%
All Other Expenditures	\$3,534,274.00	\$2,146,309.38	<b>\$1,387,964.62</b>	39.3%
<b>Total Expenditures</b>	<b>\$14,217,447.00</b>	<b>\$10,395,257.01</b>	<b>\$3,822,189.99</b>	<b>26.9%</b>
<b>Net Surplus/(Loss)</b>	<b>(\$14,217,447.00)</b>	<b>(\$8,321,991.68)</b>	<b>\$5,895,455.32</b>	<b>41.5%</b>

**Monterey County**  
*Organizational Review of Current Cannabis Program*

**Table 22—Financial Activity Summary Average FY 18–19 to 20–21 – All Departments**

<b>Fiscal Year Average 18–19 to 20–21</b>	<b>Budget</b>	<b>Actual</b>	<b>Surplus (Deficit)</b>	<b>Percent Difference</b>
Revenues				
Direct Revenues	-	\$99,144.00	<b>\$99,144.00</b>	
Transfers In	-	\$591,944.44	<b>\$591,944.44</b>	
General Fund Contribution	-	-	-	
<b>Total Revenues</b>	-	<b>\$691,088.44</b>	<b>\$691,088.44</b>	
Expenses				
Salaries and Benefits	\$3,561,057.67	\$2,749,649.21	<b>\$811,408.46</b>	22.8%
All Other Expenditures	\$1,178,091.33	\$715,436.46	<b>\$462,654.87</b>	39.3%
<b>Total Expenditures</b>	<b>\$4,739,149.00</b>	<b>\$3,465,085.67</b>	<b>\$1,274,063.33</b>	<b>26.9%</b>
<b>Net Surplus/(Loss)</b>	<b>(\$4,739,149.00)</b>	<b>(\$2,773,997.23)</b>	<b>\$1,965,151.77</b>	<b>41.5%</b>