

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING CHAPTER 7.90 OF THE MONTEREY COUNTY CODE TO MODIFY COMMERCIAL CANNABIS BUSINESS PERMIT APPLICATION AND OPERATIONAL REQUIREMENTS

County Counsel Summary

This ordinance amends Chapter 7.90 of the Monterey County Code to make commercial cannabis business permit requirements consistent with the California Code of Regulations established by the Department of Cannabis Control. The ordinance also amends numerous sections of Chapter 7.90 to update application requirements, and operational requirements such as odor control and employee roster requirements. This ordinance also makes organizational changes to the Chapter to clarify and simplify the permit procedures, and the processing and manufacturing requirements for cannabis business permits. Specifically, this ordinance repeals Section 7.90.110 concerning cultivation, manufacture, waste and storage requirements, and moves the pertinent requirements to Section 7.90.100. The ordinance also repeals Section 7.90.120 concerning packaging and labeling requirements, and moves the pertinent requirements to Section 7.90.100. Lastly, the ordinance renumbers the remaining sections in the Chapter.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Findings and Purpose.

A. Pursuant to Article XI, Section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. It is the intent of the County of Monterey to have a strong and effective regulatory and enforcement system with regard to cannabis that addresses threats to public safety, health and other law enforcement interests through robust controls and procedures that are effective in practice, and that comply with state law and federal guidelines.

C. This ordinance provides regulations for the local permitting of commercial cannabis operations under specified conditions in the unincorporated areas of the County. This ordinance, together with Chapters 7.02, 20.67, 21.67, 20.69, and 21.69 of the Monterey County Code requiring necessary licenses and land use entitlements for all commercial cannabis operations, are intended to establish criteria for issuing local permits pursuant to State law and to establish an effective regulatory and enforcement system.

D. This ordinance amends Chapter 7.90 of the Monterey County Code to make cannabis business permit requirements consistent with the California Code of Regulations

established by the Department of Cannabis Control.

E. This ordinance also makes organizational changes to Chapter 7.90 to clarify and simplify the cannabis business permit procedures, and the processing and manufacturing requirements for cannabis business permits.

SECTION 2. Section 7.90.030 of the Monterey County Code is amended to read as follows:

The following words and phrases shall have the meanings set forth below when used in this chapter. The definitions in Chapter 20.67 for the coastal zone and Chapter 21.67 for the inland zone shall otherwise apply.

A. "A-designation" means a designation placed on a County permit issued pursuant to this chapter for cannabis or cannabis products that are intended for adults who are twenty-one (21) years of age and over and who do not possess a physician's recommendation.

B. "Applicant" means an owner applying for issuance, renewal, or modification of a permit issued pursuant to this Cchapter.

C. "Application" means that form provided by the Appropriate Authority in accordance with this Cchapter for the purpose of seeking a commercial cannabis business permit.

D. "Appropriate Authority" means the Monterey County Cannabis Program Manager or his or her designee.

E. "California Cannabis Authority" is a joint powers authority, of which Monterey County is a member, established among California counties to create a comprehensive data platform that tracks cannabis data through a chain of production to consumption; to track payments among commercial partners and to various state, local agencies, and other commercial cannabis participants; and to provide data analytics designed to support local cannabis regulatory and tax compliance efforts.

F. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.

G. "Cannabis product" has the same meaning as in Section 11018.1 of the California Health and Safety Code.

H. "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.

I. "Commercial cannabis activity" means the cultivation, possession, manufacture, processing, storing, laboratory testing, packaging, labeling, transporting, distribution, delivery, or sale of cannabis or a cannabis product.

J. "Commercial cannabis business permit" means a permit issued by the County to an applicant to perform commercial cannabis activities under this Cchapter.

K. "Commercial cannabis operation" means an entity that engages in commercial cannabis activities.

L. "County" means the County of Monterey.

M. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform operated or controlled by the retailer.

N. "Financial interest" ~~means an investment into a commercial cannabis operation, a loan provided to a commercial cannabis operation, or any other fully vested equity interest in a commercial cannabis operation~~ has the same definition as in Section 15004 of Title 4 of the California Code of Regulations, as it may be amended. ~~The following persons are not considered to hold a financial interest:~~

- ~~1. A bank or financial institution whose interest constitutes a loan;~~
- ~~2. Persons whose only ownership interest in the commercial cannabis operation is through an interest in a diversified mutual fund, blind trust, or similar instrument;~~
- ~~3. Persons whose only financial interest is a security interest, lien, or encumbrance on the property that will be used by the commercial cannabis operation; and~~
- ~~4. Persons who hold a share of stock that is less than five percent of the total shares in a publicly traded company.~~

O. "Hearing Officer" means a person appointed by the County to conduct an administrative hearing under this chapter. The appointed Hearing Officer shall be an impartial decision-maker selected by a process that eliminates risk of bias, such as:

1. An administrative law judge provided by the State of California Office of Administrative Hearings to function as the County Hearing Officer pursuant to Chapter 14 of Part 3 of Division 2 of Title 3 of the California Government Code;

2. A person selected randomly from a panel of attorneys willing to serve as a Hearing Officer; or

3. An independent contractor assigned by an organization or entity which provides hearing officers.

P. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

Q. "M-designation" means a designation placed on a County permit issued pursuant to this chapter for cannabis or cannabis products that are intended for to be sold for use pursuant to the Compassionate Use Act of 1996 (Section 11362.5 of the California Health and Safety Code) by patients who possess a physician's recommendation.

R. "Manager" means any individual who participates in the day-to-day direction, control, and management of the commercial cannabis operation.

S. "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Section 11362.5 of the California Health and Safety Code) by a medicinal cannabis patient in California who possesses a physician's recommendation.

T. "Owner" means any of the following:

1. A person with an aggregate ownership interest of twenty percent (20%) or more in the commercial cannabis operation applying for a permit, unless the interest is solely a security, lien, or encumbrance.

2. The chief executive officer of a nonprofit or other entity.

3. A member of the board of directors of a nonprofit.

4. An individual who will be participating in the direction, control, or management of the person applying for a permit, which includes any of the following:

a. A partner of a commercial cannabis operation that is organized as a partnership;

b. A managing member of a commercial cannabis operation that is organized as a limited liability company; and

c. An officer or director of a commercial cannabis operation that is organized as a corporation.

U. "Permittee" means a person issued a County permit under this Cchapter.

V. "Person" means an individual, firm, sole proprietorship, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

W. "Premises" has the same definition as in Section 15000(ccc) of Title 4 of the California Code of Regulations, as it may be amended~~means the building, greenhouse, or~~

~~outdoor area in which commercial cannabis activities are operated and, in addition, any accessory structures and appurtenant areas.~~

X. "Primary caregiver" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

Y. "Property owner" means the individual or entity who is the record owner of the subject property where commercial cannabis activities are located or are proposed to be located.

Z. "Qualified patient" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

AA. "State" means the state of California.

BB. "State license" means a state license issued pursuant to California Business & Professions Code Section 26000, et seq.

SECTION 3. Section 7.90.040 of the Monterey County Code is amended to read as follows:

A. Any person who intends to engage in a commercial cannabis activity shall obtain a commercial cannabis business permit for the fixed location in which the commercial cannabis activity is to occur.

B. It is unlawful for any person to conduct, engage in or allow to be conducted or engaged in a commercial cannabis activity in the unincorporated portion of Monterey County, unless the County has issued such person a permit under this Chapter and the permit is in effect. Notwithstanding the above, the permits issued under this Chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws.

C. The fact that an applicant possesses other types of state or County permits or licenses, shall not exempt the applicant from obtaining a commercial cannabis business permit under this Chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this Chapter, except that the commercial cannabis business permit must be consistent with the land use entitlement issued by the County pursuant to Title 20 or Title 21 of the Monterey County Code.

D. The applicant must receive all necessary land use entitlements as required by Titles 20 and 21 of the Monterey County Code before the County will issue a commercial cannabis business permit under this Chapter.

E. All the following cannabis activities are exempt from the commercial cannabis business permit requirements of this Chapter:

1. Possession, storage, manufacturing using a non-volatile solvent, or transportation of medicinal cannabis, or cultivation of up to one hundred (100) square feet total canopy area of medicinal cannabis by a qualified patient, as that term is defined

in Section 11362.7 of the California Health and Safety Code, provided the qualified patient, possesses, stores, manufactures, transports, or cultivates cannabis exclusively for his or her personal medical use, and does not provide, donate, sell, or distribute cannabis to any other person. Qualified patients shall, upon request, provide appropriate documentation to law enforcement demonstrating that they have a valid doctor's recommendation to use cannabis for medicinal purposes.

2. Possession, storage, manufacturing using a non-volatile solvent, transportation of medicinal cannabis, or cultivation of up to one hundred (100) square feet of canopy area of medicinal cannabis by a primary caregiver on behalf of a qualified patient, within the meaning of Section 11362.7 of the California Health and Safety Code, provided the primary caregiver does not receive remuneration for these activities except for compensation in full compliance with ~~subsection (e) of~~ Section 11362.765(c) of the California Health and Safety Code. Primary caregivers shall, upon request, provide appropriate documentation to law enforcement demonstrating that they are a primary caregiver for a qualified patient.

3. Possession, processing, storage, transportation, or donation of not more than 28.5 grams of cannabis or not more than eight grams of concentrated cannabis to persons twenty-one (21) years of age or older by persons twenty-one (21) years of age or older.

4. The cultivation of up to six cannabis plants by persons twenty-one (21) years of age or older as allowed pursuant to Section 11362.1(a) of the California Health and Safety Code.

SECTION 4. Section 7.90.050 of the Monterey County Code is amended to read as follows:

A. Each application for the establishment of a commercial cannabis business permit shall be filed on the form and in the manner prescribed by the Appropriate Authority. The Appropriate Authority shall be responsible for administering the application process as set forth in this Chapter.

B. If an applicant holds a valid State provisional or annual license pursuant to California Business & Professions Code Section 26050.2, the applicant must submit an application for a commercial cannabis business permit within thirty (30) days of the final approval of the applicable land use entitlement pursuant to Titles 20 and 21 of the Monterey County Code.

C. In all cases, the application shall contain, without limitation, the following documentation:

1. All applicants' names, primary telephone numbers, mailing addresses, e-mail addresses, and a twenty-four (24) hour or nighttime contact telephone number.

2. The physical address(es) and assessor's parcel number(s) (APN or APNs) of the property upon which the proposed commercial cannabis operation will be located,

and the global positioning system (GPS) coordinates of any area that is proposed to contain commercial cannabis activities.

3. Proof of ownership of premises, or if the premises on which the commercial cannabis operation is to occur is rented or leased, written permission from the property owner containing the property owner's notarized signature that authorizes the tenant or lessee to engage in commercial cannabis activities at the site.

4. A premises diagram pursuant to Section 15006 of Title 4 of the California Code of Regulations, as it may be amended, "to-scale" diagram of the premises, showing, without limitation, a site plan, building layout, a description of where each commercial cannabis activity will occur, all entry ways and exits to the site, loading zones and all areas in which cannabis and cannabis products will be stored, grown, or dispensed. The diagram must include a description of the proposed total canopy area of any cultivation and/or nursery operation, including the maximum square footage to be cultivated for the annual term of the permit.

5. If the applicant is a business entity, information regarding the entity, including, without limitation, the legal business name, registered name(s) under which the business will operate, address of record for the entity, contact telephone number(s), its legal status, and proof of registration with, or a certificate of good standing from, the California Secretary of State, as applicable.

6. The full name, date of birth, ~~social security number~~, present address and telephone number for all owners, managers, employees, and persons having a twenty percent (20%) or more financial interest in the commercial cannabis activity that is the subject of the application.

7. All owners, ~~managers~~, and persons having a twenty percent (20%) or more financial interest must submit fingerprints and other necessary information for a criminal background check conducted by any entity authorized by the California Department of Justice to perform Live Scan fingerprinting services.

8. A statement of whether the applicant is applying for a commercial cannabis business permit with a M-designation, an A-designation, or both.

9. The employer shall verify that all owners, managers, and employees possess valid government-issued identification and are twenty-one (21) years of age or older. Acceptable forms of identification are an unexpired document issued by a federal, state, county, or municipal government that contains the name, date of birth, physical description, and picture of the individual.

10. The names and addresses of any other commercial cannabis operations currently being operated by the applicant, or that had previously been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefore.

11. A full description of the proposed activities and products of the commercial cannabis operation, including proposed hours of operation and the number of employees.

12. A description of the type of State license(s) that will be required for the proposed operations pursuant to California Business and Professions Code Section 26000, et seq. If a State provisional license(s) is held pursuant to California Business and Professions Code Section 26050.2, a photocopy of all applicable State provisional licenses.

13. A detail of the procedures to be utilized at the premises including a description of how chemicals, pesticides and fertilizers will be stored, handled, used, and disposed of; and if applicable, manufacturing methods, odor control methods and devices, how odor control devices will be maintained, the transportation process, inventory procedures, and quality control procedures.

14. A waste disposal plan.

15. If applicable, provide the applicant's seller's permit number issued pursuant to Part 1 (commencing with Section 6001) of Division 2 of the California Revenue and Taxation Code or indicate that the applicant is currently applying for a seller's permit.

16. If applicable, the federal tax identification number. If the applicant is a sole proprietorship, the applicant shall submit the social security number or individual taxpayer identification number of the sole proprietor.

17. A statement by the applicant that it is able to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.

18. Authorization for the County, its agents and employees to seek verification of the information contained in the application. Owners must complete and update an agent authorization form, as needed.

19. Certification, under penalty of perjury, that all the information contained in the application is true and correct. If applicable, an agent authorization form must be completed and updated by the applicant.

20. Any other information required by the Appropriate Authority.

D. If an applicant wishes to withdraw an application, a written request to withdraw shall be submitted to the Appropriate Authority.

1. Application fees for a withdrawn application will not be refunded.

2. An applicant may reapply at any time following the withdrawal of an application, but will be required to submit a new application and pay the required application fee.

3. If applicable, an applicant shall file a cessation of business form with the Appropriate Authority within five (5) business days of cessation of existing business operations.

SECTION 5. Section 7.90.060 of the Monterey County Code is amended to read as follows:

A. The Appropriate Authority shall review the application for a commercial cannabis business permit and associated documents and shall require, if he or she deems necessary, additional information to complete the application. The Appropriate Authority may deem the application incomplete if it does not contain all required information and documents. Applicants must submit all required information and documents to the Appropriate Authority within thirty (30) days receipt of an incomplete notice.

B. An application shall not be deemed complete unless all required application fees have been paid.

C. Each commercial cannabis business permit shall be granted for a one-year period and shall expire one year after the date of its issuance.

D. Upon review of a complete application for a commercial cannabis business 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 and 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; and

5. All responsible County departments have reviewed and approved issuance of the permit.

E. The Appropriate Authority shall deny any application that meets any of the following criteria:

1. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application;

2. Any owner, manager, employee, or persons having a twenty percent (20%) or more financial interest in the commercial cannabis activity has been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years. A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere;

3. Any person who is listed on the application is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the California Health and Safety Code;

4. If applicable, the applicant failed to obtain or maintain 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. Any person who is listed on the application is less than twenty-one (21) years of age;

6. The proposed or provisionally permitted commercial cannabis operation does not comply with the provisions of ~~this Chapter~~ the Monterey County Code or state law; or

7. The applicant has not received all necessary land use entitlements as required by Titles 20 and 21 of the Monterey County Code.

F. If the Appropriate Authority intends to deny the application, the Appropriate Authority shall specify in writing the reasons for the denial of the application, and notify the applicant that the decision shall become final unless the applicant seeks an appeal pursuant to Section 7.90.1~~2~~40 of this Chapter within ten (10) calendar days of the date of service of the Appropriate Authority's decision. Service of the decision shall be provided in accordance with the requirements set forth in Section 7.90.1~~3~~50 of this Chapter.

SECTION 6. Section 7.90.070 of the Monterey County Code is amended to read as follows:

A. Each commercial cannabis business permit shall expire one year after the date of its issuance, regardless of whether it is modified during its annual term, and may be renewed annually on the date of its issuance.

B. A permittee shall seek modification of a commercial cannabis business permit before making changes to aspects of the commercial cannabis operation that alter any of the information submitted pursuant to Section 7.90.050 of this Chapter. A Department of Cannabis Control Science Amendment must be submitted and approved if amending the State Cultivation Plan.

C. Any commercial cannabis business permit may be modified by the Appropriate Authority upon the submission of a modification application by the permittee, and upon determination by the Appropriate Authority that the applicant meets the standards for a grant of

application pursuant to Section 7.90.060 and none of the criteria listed in Section 7.90.070(F) apply. At the time of consideration of a modification application, the Appropriate Authority shall consider current compliance with this Chapter.

1. A permit may be modified two times during its annual term by the Appropriate Authority to modify the canopy limit allowed by the permit pursuant to Section 7.90.050(C)(5) of this Chapter.

2. A permit may be modified three times during its annual term by the Appropriate Authority to modify any other terms delineated in Section 7.90.050 of this Chapter.

D. Any commercial cannabis business permit may be renewed by the Appropriate Authority upon the submission of a renewal application by the permittee, and upon determination by the Appropriate Authority that the applicant meets the standards for grant of application pursuant to Section 7.90.060 and none of the criteria listed in Section 7.90.070(F) apply. At the time of consideration of a renewal application, the Appropriate Authority shall consider compliance with this Chapter in the prior term.

E. Any application for modification or renewal shall be filed at least forty-five (45) calendar days before expiration of the permit. If any of the documentation and information supplied by the applicant pursuant to Section 7.90.050 has changed since the grant of the permit, applicant shall submit updated information and documentation with the application for modification or renewal, and shall provide such other information as the Appropriate Authority may require.

F. Any application for modification or renewal shall be denied if:

1. The application is filed fewer than forty-five (45) calendar days before the permit's expiration;

2. The permittee fails to conform to the criteria set forth in this Chapter;

3. The permittee is delinquent in payment of any ~~state, County, or other local~~ taxes;

4. The permittee's State license(s) is suspended or revoked at the time of the application; or

5. The permit is suspended or revoked at the time of the application.

G. If a modification or renewal or modification application is denied, an applicant may file a new application pursuant to this Chapter.

H. An application for modification or renewal shall ~~be~~ not be deemed complete until all application fees have been paid.

I. If the Appropriate Authority intends to deny the modification or renewal, the Appropriate Authority shall specify in writing the reasons for the denial of the modification or renewal, and notify the permittee that the decision shall become final unless the permittee seeks an appeal pursuant to Section 7.90.1240 of this Chapter within ten (10) calendar days of the date of service of the Appropriate Authority's decision. Service of the decision shall be provided in accordance with the requirements set forth in Section 7.90.1350 of this Chapter.

SECTION 7. Section 7.90.080 of the Monterey County Code is amended to read as follows:

The filing of an application for a commercial cannabis business permit, for renewal of a commercial cannabis business permit, for modification of a commercial cannabis business permit, and appeals shall be accompanied by payment of such fees as the Board of Supervisors may establish to recover the cost of administration of this Chapter. Applicants and permittees must pay all relevant fees in full within twenty-four (24) hours of submitting their application, renewal, modification request, or appeal. Applicants and permittees are responsible for the costs of inspections, investigations, and any other fee-associated activity established pursuant to this Chapter. Fees, fines, and costs specified by this Chapter shall be as established by the Board of Supervisors and as set forth in the Monterey County Fee Resolution, pursuant to Chapter 1.40 of the Monterey County Code, as amended from time to time.

SECTION 8. Section 7.90.090 of the Monterey County Code is amended to read as follows:

A. A commercial cannabis business permit does not create any interest of value, is not transferable or assignable, and does not run with the land.

B. Whenever any sole proprietorship, corporation, limited liability company, partnership or other type of business entity permitted under this Chapter sells or transfers all of its corporate stock, partnership interest or other business interest in a commercial cannabis operation, a new commercial cannabis business permit shall be obtained pursuant to Section 7.90.050 of this Chapter.

C. Whenever any sole proprietorship, corporation, limited liability company, partnership or other type of business entity permitted under this Chapter changes its business entity type, a new commercial cannabis business permit shall be obtained pursuant to Section 7.90.050 of this Chapter.

SECTION 9. Subsection A of Section 7.90.100 of the Monterey County Code is amended to read as follows:

A. Throughout the term of the commercial cannabis business permit, each permittee shall not violate this Chapter and shall comply with all of the following as appropriate for the cannabis business type:

1. For cannabis cultivation permittees, tThe canopy area of cannabis located at any premises shall not exceed the maximum canopy limits set by state law and the limits set forth in the commercial cannabis business permit. The maximum canopy square

footage specified in the commercial cannabis business permit is the basis of the County's commercial cannabis business tax pursuant to Chapter 7.100 of the Monterey County Code.

2. A permittee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of the business operation conducted from the premises, from the site plan contained in the diagram on file with the application, unless and until written approval by the Appropriate Authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

3. No cannabis shall be smoked, ingested, or otherwise consumed on the premises.

4. No person under the age of twenty-one (21) shall be employed or otherwise engaged in the operation of a commercial cannabis activity.

5. No person under the age of twenty-one (21) shall be allowed on the premises, unless the permittee is a retail facility and sells medicinal cannabis, in which case persons who are at least eighteen (18) years of age and hold a valid physician's recommendation for medicinal cannabis shall be allowed on the premises.

6. There shall not be a physician located in or around any commercial cannabis operation at any time for the purpose of evaluating patients for the issuance of a medical marijuana recommendation or card.

7. Each permittee shall conspicuously display its state and County permits and licenses required to operate at entrance of the premises. Each commercial cannabis operation that engages in delivery or transportation shall carry a copy of the permits and licenses in all vehicles that deliver or transport cannabis or cannabis products.

8. Devices or techniques that minimize offsite detection of cannabis odors to every extent feasible shall be utilized and maintained in good working order during the life of the operation. ~~Odor prevention devices and techniques, such as a ventilation system with a carbon filter, shall be incorporated to ensure that odors from cannabis offsite are minimized to every extent feasible. Odor prevention devices shall be maintained in good working order during the life of the operation.~~

9. No permittee may hold a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, nor may the commercial cannabis operation include a business that sells alcoholic beverages. No alcohol may be stored, sold, dispensed, or consumed on the premises.

10. A permittee shall not sell any tobacco or nicotine products on or at any premises permitted under this Chapter. No tobacco or nicotine products may be stored,

dispensed, or consumed in the area licensed and permitted for commercial cannabis activities. Tobacco or nicotine products may be stored on the premises in areas not licensed and permitted for commercial cannabis activities, and consumed in a specifically designated smoking area(s).

~~11. No cannabis or cannabis products, or graphics depicting cannabis or cannabis products shall be visible from the exterior of the premises.~~

112. All cannabis and cannabis products shall be stored in a secured and locked safe room, safe or vault, and in a manner to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.

123. Each permittee shall keep accurate records of its commercial cannabis activities pursuant to the requirements of Sections 26160 and 26162 of the California Business and Professions Code, as they may be amended.

134. Each permittee shall comply with the applicable security requirements of Sections 15042 through 15047 of Title 4 of the California Code of Regulations, as they may be amended.~~Each permittee shall be responsible and liable for safety and security in and around the commercial cannabis operation, and shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft and other crimes. Each permittee shall install and maintain in proper working order, a video surveillance system capable of capturing and maintaining surveillance recordings of all points of entry and exit on the premises. Each permittee shall maintain such surveillance recordings for a period of at least ninety (90) days and shall make such surveillance recordings available to the County upon demand.~~

145. Each permittee shall notify the County immediately after discovering any of the following: diversion, theft, loss, or any criminal activity involving the commercial cannabis operation; significant discrepancies identified during inventory; or any other breach of security.

156. Each permittee shall provide the Appropriate Authority with a twenty-four (24) hour or nighttime contact telephone number for County use, and provide a name, telephone number, and e-mail address of a community relations contact to whom the public can provide notice of problems associated with the commercial cannabis operation. The permittee shall make a good faith effort to resolve problems without the need for intervention by the County.

167. Any new owners, managers, employees, or persons having a twenty percent (20%) or more financial interest must submit their information to the Appropriate Authority pursuant to Section 7.90.050 and 7.90.070 of this Chapter within five (5) calendar days.

178. All owners, managers, employees, or other persons otherwise engaged in the operation of the commercial cannabis operation shall display a laminated or plastic-coated identification badge issued by the permittee at all times while engaging in

commercial cannabis activity. The identification badge shall, at a minimum, include the permittee's "doing business as" name and state license number(s), the individual's full name, an employee number exclusively assigned to that individual for identification purposes, and a color photograph of the individual that clearly shows the full front of the individual's face and that is at least one inch in width and one and one-half inches in height.

189. No owners, managers, employees, or persons having a twenty percent (20%) or more financial interest in the commercial cannabis operation may have been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

1920. A permittee shall keep a current roster on the premises that contains the names and dates of birth of all employees.~~A permittee shall keep a roster on the premises that contains the names and dates of birth of all employees, and a verification statement that there are no employees with felony convictions or drug related misdemeanor convictions reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years.~~

2021. A permittee shall not be delinquent in the payment of all applicable ~~state taxes and fees, County taxes and fees, and other local agencies' taxes and fees.~~

2122. The property owner(s) who own(s) the premises where the commercial cannabis operation is located must, at all times, have all necessary and operative land use entitlements as required by Titles 20 and 21 of the Monterey County Code.

223. When applicable, the permittee must legally hold all required State Licenses under the Medicinal and Adult-Use of Cannabis Regulatory and Safety Act (Business & Professions Code § 26000, et seq.), as it may be amended, and under all other applicable state laws.

234. A permittee shall comply with all applicable federal, state, and local laws, including without limitation, County building, zoning, and health codes.

245. A permittee shall transmit all required information to the California Cannabis Authority or Metric directly, as prescribed by the County Treasurer-Tax Collector. The data shall be transmitted by using a secure-access Application Program Interface from a California Cannabis Authority approved licensee-facing software integrator, or through manual submission to the California Cannabis Authority.

256. A permittee must file a cessation of business form with the Appropriate Authority as soon as the permittee is aware the business will close, or at the latest by the day business operations cease.~~A permittee shall file a cessation of business form with the Appropriate Authority within five (5) business days of cessation of existing business operations.~~

26. Each permittee must package and label cannabis products pursuant to the requirements of Sections 26120 and 26122 of the California Business and Professions Code, as they may be amended.

27. Each permittee must follow all pesticide use requirements of local, state and federal law.

28. Each permittee must maintain all weighing devices in compliance with local, state or federal law and comply with Chapter 7.60 of the Monterey County Code regarding device registration with the County.

29. Each permittee must follow all local, state and federal requirements for waste disposal.

30. Each permittee shall not use any hazardous, flammable or explosive substances to process or manufacture cannabis products on site unless all necessary permits have been obtained from the Environmental Health Bureau of the Monterey County Health Department, and all other appropriate agencies.

31. Each permittee shall protect all food products from contamination at all times, and all food handlers must be clean, in good health and free from communicable diseases. All food products, food storage facilities, food-related utensils, equipment, and materials shall be approved, used, managed and handled in accordance with Sections 113700 through 114437 of the California Health and Safety Code, and California Retail Food Code, as they may be amended.

32. Each permittee shall ensure that all cannabis products sold or distributed at a commercial cannabis operation must be from an approved source in accordance with Title 4 of the California Code of Regulations, as it may be amended. Cannabis products sold or distributed at a commercial cannabis operation must also be acceptable to the County Health Officer based on a determination of conformity with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and generally recognized industry standards that protect public health.

SECTION 10. Section 7.90.110 of the Monterey County Code is repealed:

~~7.90.110 Cultivation, manufacture, waste, and storage requirements.~~

~~A. Each permittee must follow all pesticide use requirements of local, state and federal law.~~

~~B. Each permittee must maintain all weighing devices in compliance with local, state or federal law and comply with Chapter 7.60 of the Monterey County Code regarding device registration with the County.~~

~~C. Each permittee must follow all local, state and federal requirements for waste disposal.~~

~~D. — In no case shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site unless all necessary permits have been obtained from the Environmental Health Bureau of the Monterey County Health Department, and all other appropriate agencies.~~

~~E. — Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.~~

~~F. — All food products, food storage facilities, food-related utensils, equipment and materials shall be approved, used, managed and handled in accordance with Sections 113700—114437 of the California Health and Safety Code, and California Retail Food Code. All food products shall be protected from contamination at all times, and all food handlers must be clean, in good health and free from communicable diseases.~~

~~G. — Cannabis products sold or distributed at a commercial cannabis operation must be from an approved source in accordance with State regulations 17 CCR sections 40300 through 40308. Cannabis products sold or distributed at a commercial cannabis operation must also be acceptable to the County Health Officer based on a determination of conformity with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and generally recognized industry standards that protect public health.~~

~~H. — At any time between eight a.m. and eight p.m. and without notice, County officials may enter the premises of the commercial cannabis operation for the purpose of observing compliance with this Section.~~

SECTION 11. Section 7.90.120 of the Monterey County Code is repealed:

~~7.90.120 Packaging and labeling requirements:~~

~~A. — Prior to delivery or sale at a retailer, cannabis and cannabis products shall be labeled and placed in a re-sealable, tamper-evident, child-resistant package and shall include a unique identifier for the purposes of identifying and tracking cannabis and cannabis products.~~

~~B. — Packages and labels shall not be made to be attractive to children.~~

~~C. — All cannabis and cannabis product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the state:~~

~~1. — The following statements, in bold print:~~

~~a. — For cannabis: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO~~

~~DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."~~

~~b. — For cannabis products: "GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."~~

~~2. — For packages containing only dried flower, the net weight of cannabis in the package.~~

~~3. — Identification of the source and date of cultivation, the type of cannabis or cannabis product and the date of manufacturing and packaging.~~

~~4. — The appellation of origin, if any.~~

~~5. — List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total.~~

~~6. — A warning if nuts or other known allergens are used.~~

~~7. — Information associated with the unique identifier issued by the state.~~

~~8. — For a medicinal cannabis product sold at a retailer, the statement "FOR MEDICAL USE ONLY."~~

~~9. — Any other requirement set by the state.~~

~~D. — Only generic food names may be used to describe the ingredients in edible cannabis products.~~

~~E. — In the event that cannabis is no longer a Schedule I controlled substance under federal law, the label prescribed in Subdivision C shall no longer require a statement that cannabis is a Schedule I controlled substance.~~

SECTION 12. Section 7.90.130 of the Monterey County Code is renamed to Section 7.90.110, and is amended to read as follows:

7.90.~~130~~110 – Suspension or revocation of commercial cannabis business permit.

Any of the following shall be grounds for suspension or revocation of a commercial cannabis business permit, based on substantial evidence and following notice and public hearing pursuant to Section 7.90.~~140~~120 of this Chapter.

- A. Failure to comply with one or more of the terms and conditions of the commercial cannabis business permit;
- B. The commercial cannabis business permit was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant;
- C. Any act or omission by a permittee in contravention of the provisions of this Chapter;
- D. Any act or omission by a permittee in contravention of state law, or the Monterey County Code;
- E. Any act or omission by a permittee that results in the suspension or revocation of the applicable use permit issued under Titles 20 or 21 of the Monterey County Code for the commercial cannabis activities;
- F. Any act or omission by a permittee that results in the denial, revocation or suspension of that permittee's state license;
- G. Failure to pay all applicable taxes and fees required by the ~~state, County,~~ or other local agencies;
- H. Conduct of the commercial cannabis operations in a manner that constitutes a nuisance, where the permittee has failed to comply with reasonable conditions to abate the nuisance.

SECTION 13. Section 7.90.140 of the Monterey County Code is renamed to Section 7.90.120, and is amended to read as follows:

7.90.~~140~~120 – Procedure for suspension or revocation.

A. If the Appropriate Authority determines that grounds for suspension or revocation of the commercial cannabis business permit exist pursuant to Section 7.90.~~130~~110 of this Chapter, the Appropriate Authority shall issue a written notice of intention to suspend or revoke the permit, as the case may be. The notice of intention shall be served on the permittee, as reported on the permit, and on the property owner, as reported on the latest equalized assessment roll. The notice of intention shall be served in accordance with the requirements set forth in Section 7.90.~~135~~0 of this Chapter. The notice of intention shall describe the property, the intention to revoke or suspend the permit, the grounds for suspension or revocation, the action necessary to abate the violation, the time limit for compliance, and the right to a hearing. The notice of intention shall notify the permittee and the owner of the opportunity to request a hearing before a Hearing Officer to present evidence as to why the permit should not be

suspended or revoked, and shall notify them of the ten-day deadline to submit a written request for a hearing.

B. The permittee and owner shall have ten (10) calendar days from the service of the notice of intention to submit a written request for a hearing before the Hearing Officer. Failure to submit the written request for a hearing shall be deemed a waiver of the right to challenge the suspension or revocation of the commercial cannabis business permit and a failure to exhaust administrative remedies. If the hearing is not timely requested, the Appropriate Authority may suspend or revoke the permit in accordance with the notice of intention.

C. Upon receipt of a timely written request for a hearing, the Appropriate Authority shall set a date for a hearing to be held within sixty (60) days of receipt of the request, unless an immediate threat to the public health, safety and welfare necessitates an earlier hearing date. Notice of the hearing, including the time, date, and location of the hearing, shall be served in accordance with the requirements set forth in Section 7.90.1~~3~~⁵⁰ of this Chapter.

D. Hearing by the Hearing Officer.

1. The Hearing Officer is authorized to conduct hearings, issue subpoenas, receive evidence, administer oaths, rule on questions of law and the admissibility of evidence, prepare a record of the proceedings, and render decisions on the suspension or revocation of the commercial cannabis business permit.

2. In any proceeding before a Hearing Officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the Hearing Officer, his/her clerk, or other designee shall have the power to administer oaths and affirmations and to certify to official acts.

3. All parties to the hearing shall have the opportunity to testify, introduce exhibits, call and examine witnesses, and cross examine opposing witnesses on any matter relevant to the issues.

4. The Hearing Officer may postpone the hearing date upon good cause shown, continue the hearing during the course of the hearing, and make such other procedural orders and rulings as he or she deems appropriate during the course of the hearing.

5. Within thirty (30) calendar days after the close of the hearing, the Hearing Officer shall issue a written decision, including a statement of the basis for the decision. The Hearing Officer's written decision shall constitute the final administrative decision of the County.

E. In the event a civil action is initiated to obtain enforcement of the decision of the Hearing Officer, and judgment is entered to enforce the decision, the person against whom the order of enforcement has been entered shall be liable to pay the County's total costs of enforcement, including reasonable attorney fees.

F. If neither permittee nor owner, nor their authorized representatives, appear at the noticed hearing, such failure to appear shall constitute an abandonment of the hearing request and a failure to exhaust administrative remedies.

SECTION 14. Section 7.90.150 through Section 7.90.180 of the Monterey County Code are renumbered as follows:

7.90.~~150~~130 – Service requirements.

7.90.~~160~~140 – Enforcement, penalties, and administration of this Chapter.

7.90.~~170~~150 – Operative date.

7.90.~~180~~160 – Severability.

SECTION 15. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 16. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this ____ day of March 2023, by the following vote:

AYES:

NOES:

ABSENT:

Luis A. Alejo, Chair,
Monterey County Board of Supervisors

A T T E S T :

VALERIE RALPH
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:

KELLY L. DONLON
Assistant County Counsel