

# Attachment A

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# DRAFT

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING TITLE 21 (INLAND ZONING ORDINANCE) OF THE MONTEREY COUNTY CODE ESTABLISHING MEDICAL CANNABIS ACTIVITIES AS A USE ALLOWED SUBJECT TO A USE PERMIT IN SPECIFIED ZONES AND ESTABLISHING CRITERIA FOR THE CONSIDERATION OF SUCH USES TO PROTECT THE PUBLIC HEALTH AND SAFETY.**

## **County Counsel Summary**

*This ordinance amends the Monterey County Zoning Ordinance (Title 21 of the Monterey County Code) to....*

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

SECTION 1. Section 21.06.152 is added to the Monterey County Code to read as follows:

### **21.06.152 - CANNABIS**

“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 curd 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 marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.

SECTION 2. Section 21.06.192 is added to the Monterey County Code to read as follows:

### **21.06.192 – COMMERCIAL CANNABIS ACTIVITY**

“Commercial cannabis activity” means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product. “Commercial cannabis activity” does not include a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates 100 square feet or less, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person. “Commercial cannabis activity” also does not include a primary caregiver who cultivates 100 square feet or less, possesses, stores, manufactures, transports, donates, or

provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code.

**Light Commercial**

SECTION 3. Subsection A of Section 21.18.040 of the Monterey County Code is amended to read as follows:

A. Change of commercial uses within a structure provided the new use will not change the nature or intensity of the use of the structure, however, in all cases, new Commercial cannabis activities shall require a Use Permit and/or updated General Development Plan in each case;

SECTION 4. Subsection HH is added to Section 21.18.060 to read as follows:

HH. Cannabis dispensary pursuant to Chapter 21.67;

**Heavy Commercial**

SECTION 5. Subsection A of Section 21.20.040 of the Monterey County Code is amended to read as follows:

A. Change of commercial uses within a structure provided the new use will not change the nature or intensity of the use of the structure, however, in all cases, new Commercial cannabis activities shall require a Use Permit and/or updated General Development Plan in each case;

SECTION 6. Subsections OO, PP, QQ, and RR are added to Section 21.20.060 of the Monterey County Code to read as follows:

OO. Cannabis dispensary pursuant to Chapter 21.67.

PP. Non-volatile cannabis manufacturing pursuant to Chapter 21.67;

QQ. Cannabis transportation and distribution facilities pursuant to Chapter 21.67;

RR. Cannabis testing facilities pursuant to Chapter 21.67.

**Agricultural Industrial**

SECTION 7. Subsection A of Section 21.24.040 of the Monterey County Code is amended to read as follows:

A. Change of agricultural industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure, however, in all cases, new

Commercial cannabis activities shall require a Use Permit and/or updated General Development Plan in each case;

SECTION 8. Subsections EE, FF, GG, and HH are added to Section 21.24.070 of the Monterey County Code to read as follows:

- EE. Indoor or mixed light cultivation pursuant to Chapter 21.67;
- FF. Non-volatile cannabis manufacturing pursuant to Chapter 21.67;
- GG. Cannabis transportation and distribution facilities pursuant to Chapter 21.67;
- HH. Cannabis testing facilities pursuant to Chapter 21.67.

**Light Industrial**

SECTION 9. Subsection A of Section 21.26.040 of the Monterey County Code is amended to read as follows:

A. Change of light industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure, however, in all cases, new Commercial cannabis activities shall require a Use Permit and/or updated General Development Plan in each case;

SECTION 10 Subsections II, JJ, KK, LL, and MM are added to Section 21.26.060 of the Monterey County Code to read as follows:

- II. Indoor or mixed-light cultivation pursuant to Chapter 21.67;
- JJ. Non-volatile cannabis manufacturing pursuant to Chapter 21.67;
- KK. Cannabis transportation and distribution facilities pursuant to Chapter 21.67;
- LL. Cannabis testing facilities pursuant to Chapter 21.67.

**Heavy Industrial**

SECTION 11. Subsection A of Section 21.28.040 of the Monterey County code is amended to read as follows:

A. Change of heavy industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure, however, in all cases, new Commercial cannabis activities shall require a Use Permit and/or updated General Development Plan in each case;

SECTION 12. Subsections KK, LL, MM, NN, and OO are added to Section 21.28.060 of the Monterey County Code to read as follows:

- KK. Indoor or mixed-light cultivation pursuant to Chapter 21.67;
- LL. Non-volatile cannabis manufacturing pursuant to Chapter 21.67;
- MM. Volatile cannabis manufacturing pursuant to Chapter 21.67;
- NN. Cannabis transportation and distribution facilities pursuant to Chapter 21.67;

OO. Cannabis testing facilities pursuant to Chapter 21.67.

**Farmland**

SECTION 13. Subsections JJ and KK are added to Section 21.30.050 of the Monterey County Code to read as follows:

- JJ. Mixed-light cultivation pursuant to Chapter 21.67;
- KK. Nursery pursuant to Chapter 21.67.

SECTION 14. Chapter 21.67 is added to the Monterey County Code to read as follows:

**Chapter 21.67  
COMMERCIAL CANNABIS ACTIVITIES**

**Sections:**

- 21.67.010 – Definitions**
- 21.67.020 – Application Requirements**
- 21.67.030 – Cannabis Dispensaries**
- 21.67.040 – Noncommercial Cannabis Cultivation**
- 21.67.050 – Commercial Cannabis Cultivation**
- 21.67.060 – Cannabis Manufacturing**
- 21.67.070 – Cannabis Testing Facilities**
- 21.67.080 – Cannabis Transport and Distribution**
- 21.67.090 – Enforcement**

**21.67.010 Definitions**

For the purpose of this Chapter, unless the context otherwise requires, certain terms used in this Chapter are defined as follows:

- A. “Bureau” means the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.
- B. “Cannabinoid” or “phytocannabinoid” means a chemical compound that is unique to and derived from cannabis.
- C. “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency.
- D. “Certificate of accreditation” means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.
- E. “Commercial cannabis activity” or “Commercial cannabis business” means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling,

transporting, distribution, or sale of medical cannabis or a medical cannabis product. “Commercial cannabis activity” does not include a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates 100 square feet or less, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person. “Commercial cannabis activity” also does not include a primary caregiver who cultivates 100 square feet or less, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code.

F. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. Within the definition of Cultivation, the following specific License Types apply:

1. Type 1 or “specialty outdoor” means outdoor cultivation using no artificial lighting and having no more the fifty (50) mature plants or five thousand (5,000) square feet of total canopy size whichever is less;
2. Type 1A or “specialty indoor” means cultivation using exclusively artificial lighting, is entirely contained within a structure, and having no more than five thousand (5,000) square feet of total canopy size;
3. Type 1B or “specialty mixed-light” means cultivation using a combination of natural and supplemental artificial lighting and having no more than five thousand (5,000) square feet of total canopy size;
4. Type 2 or “small outdoor” means outdoor cultivation using no artificial lighting and having a total canopy size between five thousand one (5,001) and ten thousand (10,000) square feet;
5. Type 2A or “small indoor” means indoor cultivation exclusively using artificial lighting and having a total canopy size between five thousand one (5,001) and ten thousand (10,000) square feet;
6. Type 2B or “small mixed-light” means cultivation using a combination of natural and supplemental artificial lighting and having a total canopy size between five thousand one (5,001) and ten thousand (10,000) square feet;
7. Type 3 or “outdoor” means outdoor cultivation using no artificial light and having a total canopy area between ten thousand one (10,001) and one (1) acre;
8. Type 3A or “indoor” means indoor cultivation using exclusively artificial light and having a total canopy area between ten thousand one (10,001) and twenty two thousand (22,000) square feet;

9. Type 3B or “mixed-light” means cultivation using a combination of natural and supplemental artificial lighting and having a total canopy area of between ten thousand one (10,001) and twenty two thousand (22,000) square feet;

10. Type 4 or “nursery” means cultivation of medical cannabis solely as a nursery.

G. “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount allowed by the Bureau, to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory.

H. “Dispensary” means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical cannabis and medical cannabis products as part of a retail sale.

I. “Distribution” means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.

J. “Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

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

L. “Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of a license for Commercial cannabis activities, or the state agency authorized to take disciplinary action against the license.

M. “Testing laboratory” means a facility, entity, or site in the state that offers or performs test of medical cannabis or medical cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state; and
2. Registered with the State Department of Public Health.

N. “Manufactured cannabis” or “cannabis product” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

O. “Manufacturing site” means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.



P. “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

Q. “Primary caregiver” has the same definition as in Section 11362.7 of the Health and Safety Code, as it may be amended.

R. “Qualified Patient” has the same definition as in Section 11362.7 of the Health and Safety Code, as it may be amended.

S. “State license,” “license,” or “registration” means a state license issued pursuant to the Medical Marijuana Regulations and Safety Act of 2015.

T. “Transport” means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to the Medical Marijuana Regulations and Safety Act of 2015.

#### **21.67.020 Application Requirements**

All applications for a Commercial Cannabis Business shall be filed with the Resource Management Agency on the form and in the manner prescribed by the Director of Planning. The application shall contain, without limitation, the following documentation:

A. Notarized, written authorization from the property owner(s) that a Commercial Cannabis Business may be operated at the site.

B. The name and address of all persons and entities responsible for the operation of the Commercial Cannabis Business, including managers, corporate officers, any individual with an ownership interest, any member of a board of directors, any general or limited partner, and/or any member of a decision making body for the Commercial Cannabis Business.

C. Site plans, floor plans, and conceptual improvement plans.

D. An operations plan including at a minimum, the following information:

1. On-site security measures both physical and operational and, if applicable, security measures for the delivery of cannabis associated with the Commercial Cannabis Business;

2. Standard operating procedures manual detailing how operations will comply with state and local regulations; how safety and quality of products will be ensured; record keeping procedures for financing, testing, and adverse effect recording; and product recall procedures;

3. Proposed hours of operation;

4. Waste disposal information;
5. Proposed water supply;
6. Medical recommendation verification and youth access restriction procedures;
7. Product supply chain including information on where cultivation occurs, where the product is processed or manufactured, any required testing of cannabis or cannabis products, transportation, and packaging and labeling criteria;
8. Record keeping policy;
9. Odor prevention devices;
10. Size, height, colors, and design of any proposed signage at the site;
11. Parking plan; and
12. Any other pertinent information requested by the Director of Planning.

#### **21.67.030 Regulations for Cannabis Dispensaries.**

A. Purpose: The purpose of this Section is to protect the public health, safety, and welfare, protect neighborhood character, and minimize potential for negative impacts on people and communities in the unincorporated areas of Monterey County by establishing minimum requirements for cannabis dispensaries.

B. Applicability: The provisions of this Section are applicable in Light Commercial (LI) and Heavy Commercial (HI) zoning districts. Cannabis dispensaries shall not be allowed in any other zoning district.

C. Regulations.

1. A Use Permit shall be required for all new cannabis dispensary facilities. Dispensary facilities may also be approved as part of a General Development Plan pursuant to the requirements contained in this Title. The Planning Commission shall be the Appropriate Authority to approve a Use Permit or General Development plan for a cannabis dispensary facility.

2. A maximum of 15 dispensaries may be permitted in the inland, unincorporated area of Monterey County pursuant to these regulations. The Planning Commission and Board of Supervisors shall consider amending this limitation within two (2) years of adoption of this ordinance or by the end of the 2018 calendar year, whichever occurs first. Dispensaries will be considered on a first come, first served basis.

3. Any dispensary approved pursuant to this section shall not engage in dispensing cannabis or in any related commercial cannabis activity, without first securing all required permits, licenses, or registrations required by local, state, or federal law.

4. A dispensary approved pursuant to this section shall apply for and obtain a valid seller's permit from the California State Board of Equalization.

5. A dispensary shall obtain a Business License pursuant to Monterey County Code Chapter 7.02, a Commercial Cannabis Business Permit pursuant to Monterey County Code Chapter 7.90, and comply with all applicable provisions of the Monterey County Code.

6. Any dispensaries approved pursuant to this section shall, in addition to those items listed above, do all of the following:

a. Keep accurate records of all commercial cannabis activity and provide such records for inspection consistent with Section 19327 of the Business and Professions Code.

b. Implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products. Security measures shall include, but are not limited to, the following:

i. Prevent individuals from loitering on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary;

ii. Establish limited access areas accessible only to authorized dispensary personnel;

iii. Store all cannabis and cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis and cannabis products used for display purposes, samples or immediate sale;

iv. Install security cameras on site; and

v. Provide for on-site security personnel meeting the requirements and standards contained within Chapter 7.30 of the Monterey County Code. On-site security shall not carry firearms or other lethal weapons.

c. Provide access to the facilities in compliance with the Americans with Disabilities Act.

d. Ensure that all cannabis and cannabis products at the dispensary are cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the state and local regulations.

e. Consider green building techniques and sustainable operating practices consistent with the Monterey County Climate Action Plan goals and policies.

f. Ensure that odors are not detectable from off site.

g. Submit to and pay for inspections of the operations and records or documents necessary to determine compliance with this Chapter from any enforcement officer of the County or their designee.

h. Adhere to all the terms of Use Permit and other entitlements and licenses issued by the County or State, including adhering to any restrictions imposed on operating hours.

7. It is unlawful for any person to conduct or engage in the delivery cannabis and cannabis products in the unincorporated portion of the County, unless such delivery is performed by a permitted dispensary.

8. Cannabis dispensaries established prior to adoption of these regulations shall have one year from the effective date of this ordinance to obtain all required permits, licenses, and entitlements or to phase out their operations and terminate the dispensing operations.

D. Location Limitations.

1. Dispensaries shall be located only in zones that specifically provide for this use.

2. Dispensaries shall not be located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility.

3. Dispensaries shall not be located within one thousand five hundred (1,500) feet another dispensary.

E. Appearance.

1. No cannabis products or graphics depicting cannabis shall be visible from the exterior of the property.

2. Signage for a dispensary shall comply with Chapter 21.60 of this Title.

3. Comply with applicable exterior lighting and landscaping requirements.

F. Required Findings and Conditions.

1. In order to approve a Use Permit or General Development Plan for a dispensary, in addition to any other findings required, the Appropriate Authority shall make the following additional findings:

a. The dispensary as proposed, meets all of the requirements of Chapter 21.67 and is not located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility, or within one thousand five hundred (1,500) feet of another dispensary.

b. The owner, operators, and employees of the dispensary have not been convicted of a felony or a drug related misdemeanor within the last ten (10) years.

c. Approval of the dispensary will not exceed the limitations established in Section 21.67.040.C of the Monterey County Code.

2. In addition to any other condition or mitigation recommended by the Director of Planning, the following conditions shall be added to a permit for a dispensary:

a. The dispensary shall allow access to dispensary facilities and records if requested by the County, its officers, or agents and from any licensing authority of the State and shall pay for an annual inspection and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.

b. The applicant, owner, and operator agree to submit to and pay for inspections of the operations and relevant records or documents necessary to determine compliance with this Chapter from any enforcement officer of the County or their designee.

3. The dispensary shall operate only in accordance with the operating plans reviewed and approved by the County.

4. Any violation of the provisions contained in this Chapter or any violation of any condition of approval for a permit to operate a dispensary is considered a Public Nuisance and may be grounds for revocation of the permit, fines, and civil or criminal prosecution.

5. The applicant for the dispensary facility and property owner shall agree to a condition indemnifying the County.

#### **21.65.040 Regulations for Noncommercial (Personal Use) Cannabis Cultivation.**

A. Purpose: The purpose of this Section is to protect the public health, safety, and welfare, protect neighborhood character, and minimize potential for negative impacts on people and communities in the unincorporated areas of Monterey County by establishing minimum requirements for cultivation of cannabis by a qualified patient or primary caregiver for personal use (“noncommercial”).

B. **Applicability:** The provisions of this Section are applicable in all zoning districts. This Section applies to a qualified patient cultivating cannabis if the area he or she uses to cultivate cannabis does not exceed one hundred (100) square feet and he or she cultivates cannabis for his or her personal medical use and does not sell, distribute, donate, or provide cannabis to any other person or entity. This section applies to a primary caregiver cultivating cannabis if the area he or she uses to cultivate cannabis does not exceed one hundred (100) square feet in any case, and he or she cultivates cannabis for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver. Cultivation of cannabis exceeding one hundred (100) square feet shall be subject to the regulations contained in Section 21.65.050 of this Code.

C. **Regulations.**

1. The cultivation of up to one hundred (100) square feet of cannabis for personal use by a qualified patient is allowed in all zoning districts subject to the following restrictions:

a. In no case shall cannabis be visible from a public or private road, sidewalk, park, or any common public viewing area.

b. Cultivation of cannabis in an area over 100 square feet shall be subject to the regulations contained in Section 21.65.050 of this Code.

c. Unless enclosed within an accessory structure onsite, all personal cannabis cultivation activities shall be contained within a locked fence area and shall maintain the following minimum setbacks from property lines:

i. Front: fifty (50) feet or behind the main structure

ii. Side: thirty (30) feet

iii. Rear: thirty (30) feet

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

e. In no case shall any hazardous, flammable, or explosive substances be used to process or manufacture cannabis products on site.

f. If the premises on which the cultivation occurs is rented or leased, written permission that authorizes the tenant or lessee to cultivate cannabis at the site, containing the property owner(s) notarized signature shall be provided.

2. Cultivation of cannabis not in compliance with the terms of this Section are subject to seizure and destruction of cannabis plants and related equipment by an enforcing officer and may be responsible for paying fines or penalties associated with the such enforcement activities.

**21.65.050 – Commercial (Medical) Cannabis Cultivation.**

A. Purpose: The purpose of this Section is to protect the public health, safety, and welfare, protect neighborhood character, and minimize potential for negative impacts on people and communities in the unincorporated areas of Monterey County by establishing minimum requirements for the commercial cultivation of cannabis.

B. Applicability: Indoor and mixed light commercial cannabis cultivation may be permitted with a Use Permit in each case as described in the table below, and as may be further restricted by this Section. Outdoor commercial cannabis cultivation is prohibited in the unincorporated areas of Monterey County.

	Type 1	Type 1A	Type 1B	Type 2	Type 2A	Type 2B	Type 3	Type 3A	Type 3B	Type 4
LI		UP	UP							
HI		UP	UP		UP	UP		UP	UP	UP
AI		UP	UP		UP	UP		UP	UP	UP
F			UP <sup>1</sup>			UP <sup>1</sup>			UP <sup>1</sup>	UP <sup>1</sup>

UP = Use Permit pursuant to Chapter 21.74

<sup>1</sup> Conversion of Farmland to cannabis cultivation is not permitted. Cannabis may be cultivated only in existing greenhouses, warehouses, and agricultural processing facilities.

C. Regulations:

1. It is the intent of the County to provide for the adaptive reuse of greenhouses in Monterey County and to restrict the proliferation of greenhouses or other structures on productive agricultural lands. To this end, within the Farmland (“F”) zoning district indoor and mixed-light commercial cannabis cultivation and nurseries (Type 1B, 2B, 3B, and 4 state license types) may be permitted with a Use Permit in each case provided that the cultivation occurs only within a greenhouse or other legally permitted industrial building that legally existed prior to January 1, 2016. Greenhouses and industrial buildings may be improved after January 1, 2016 provided that the footprint of the existing greenhouse(s) or industrial building(s) does not change.

2. A maximum of 100 commercial cannabis cultivation sites may be permitted in the unincorporated area of Monterey County pursuant to these regulations. The Planning Commission and Board of Supervisors shall consider amending this limitation within two (2) years of adoption of this ordinance or by the end of the 2018 calendar year, whichever occurs first. Cultivation permits will be considered on a first come, first served basis.

3. Within the Light Industrial (“LI”), Heavy Industrial (“HI”), and Agricultural Industrial (“AI”) zoning districts, indoor commercial cannabis cultivation may be permitted subject to a Use Permit in each case and subject to the requirements of this Section.

4. Prior to establishing any new commercial cannabis cultivation activities all required permits, licenses, and entitlements shall be secured.

5. Commercial cannabis cultivation established prior to adoption of these regulations shall have one year from the effective date of this ordinance to obtain all required permits, licenses, and entitlements for such cultivation or to phase out their operations and restore the site to its pre-cultivation state.

6. All commercial cannabis cultivation shall comply with General Plan policies regarding long-term water supply. In no case shall a small water system or diversion of surface water be considered an adequate water supply unless all parties having interest in a small water system have provided written permission for use of the water from the system for the commercial cannabis cultivation activities. In the case of a large water system, the applicant shall provide written permission from the water provider or system operator. In all cases, water conservation measures, water capture systems, and greywater use shall be considered in order to minimize use of groundwater.

7. Commercial cannabis cultivation shall not be located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility.

8. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or cannabis products shall be provided for all commercial cannabis activities.

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

10. In no case shall any hazardous, flammable, or explosive substances be used to process or manufacture cannabis products on site.

11. If the premises on which the cultivation occurs is rented or leased, written permission that authorizes the tenant or lessee to cultivate cannabis at the site, containing the property owner(s) notarized signature shall be provided.

12. Submit to and pay for an inspections of the operations and records or documents necessary to determine compliance with this Chapter from any enforcement officer of the County or their designee.

13. Adhere to all the terms of Use Permit and other entitlements and licenses issued by the County or State.



14. Green building techniques, renewable energy generation, proper waste disposal protocol, and water conservation methods shall be considered as part of any new commercial cannabis cultivation activity.

15. In no case shall a building intended for residential use be used for commercial cannabis cultivation.

16. Indoor cultivation activities shall not be visible from offsite. No visual markers indicating that cannabis is cultivated on the site shall be visible from offsite.

D. Commercial outdoor cultivation: All commercial outdoor cultivation of cannabis is prohibited.

E. Location Limitations.

1. Commercial cannabis cultivation shall be located only in zones that specifically provide for this use.

2. Commercial cannabis cultivation shall not be located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility.

F. Appearance.

1. No cannabis products or graphics depicting cannabis shall be visible from the exterior of the property.

2. Signage shall comply with Chapter 21.60 of this Title.

3. Comply with applicable exterior lighting and landscaping requirements.

G. Required Findings and Conditions.

1. In order to approve a Use Permit or General Development Plan for commercial cannabis cultivation, in addition to any other findings required, the Appropriate Authority shall make the following additional findings:

a. The cultivation as proposed, meets all of the requirements of Chapter 21.67 and is not located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility.

b. The owner, operators, and employees have not been convicted of a felony or a drug related misdemeanor within the last ten (10) years.

c. Approval of the Use Permit for cultivation will not exceed the limitations established in Section 21.67.050.C of the Monterey County Code.

2. In addition to any other condition or mitigation recommended by the Director of Planning, the following conditions shall be added to a permit for commercial cannabis cultivation:

a. The cultivator shall allow access to cultivation site and to any records related to the cultivation if requested by the County, its officers, or agents and from any licensing authority of the State.

b. The cultivator shall pay for an annual inspection and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.

3. The cultivation shall occur only in accordance with the operating plans reviewed and approved by the County.

4. Any violation of the provisions contained in this Chapter or any violation of any condition of approval for a permit to cultivate cannabis is considered a public nuisance and may be grounds for revocation of the permit, fines, and civil or criminal prosecution.

5. The applicant for the cultivation facility and property owner shall agree to a condition indemnifying the County.

### **21.65.060 – Cannabis Manufacturing**

A. Purpose: The purpose of this Section is to protect the public health, safety, and welfare, protect neighborhood character, and minimize potential for negative impacts on people and communities in the unincorporated areas of Monterey County by establishing minimum requirements for the commercial cannabis manufacturing.

B. Applicability: Non-volatile cannabis manufacturing facilities (requiring a Type 6 state license) may be permitted subject to a Use Permit in each case and subject to the regulations contained in this Section within the Heavy Commercial (“HC”), Light Industrial (“LI”), Heavy Industrial (“HI”), and Agricultural Industrial (“AI”) zoning districts. Cannabis manufacturing facilities involving volatile processes or substances (requiring a Type 7 state license) shall only be permitted with a Use Permit in the Heavy Industrial (“HI”) zoning district. The Director of Environmental Health is the appropriate authority to determine if manufacturing operations are “volatile.” The Planning Commission is the Appropriate Authority to approve a Use Permit for any type of cannabis manufacturing.

C. Regulations:

1. In reviewing an application for a Use Permit to operate a cannabis manufacturing facility, the Director of Planning or his or her designee may request any information deemed necessary to carry out the purposes of this Chapter. In addition to

information required pursuant to Section 21.67.020 of this Chapter, the following additional information may be requested:

- a. Information on products used in the manufacturing process including the cannabis supply chain, liquids, solvents, agents, and processes. Cannabis shall be obtained from a licensed cultivator or licensed distributor operating in compliance with all local and State laws;
- b. Storage protocol and hazard response plan;
- c. Quality control measures; and
- d. Any other information requested by the Director of Planning.

2. A maximum of 15 commercial cannabis manufacturing facilities may be permitted in the unincorporated area of Monterey County pursuant to these regulations. The Planning Commission and Board of Supervisors shall consider amending this limitation within two (2) years of adoption of this ordinance or by the end of the 2018 calendar year, whichever occurs first. Cultivation permits will be considered on a first come, first served basis.

3. The permittee, owner, and operator shall agree to, and pay for, inspections of the manufacturing operations and all relevant records or documents necessary to determine compliance with this Chapter upon request from any enforcement officer of the County or their designee.

4. Manufacturing operations must adhere to all the terms of Use Permit and other entitlements and licenses issued by the County or State.

D. Location Limitations.

1. Cannabis manufacturing facilities shall be located only in zones that specifically provide for this use.

2. Cannabis manufacturing facilities shall not be located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility.

E. Appearance.

1. No cannabis products or graphics depicting cannabis shall be visible from the exterior of the property.

2. Signage shall comply with Chapter 21.60 of this Title.

3. Comply with applicable exterior lighting and landscaping requirements.

F. Required Findings and Conditions.

1. In order to approve a Use Permit or General Development Plan for cannabis manufacturing, in addition to any other findings required, the Appropriate Authority shall make the following findings:

a. The manufacturing operation, as proposed, meets all of the requirements of Chapter 21.67 and is not located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility.

b. The owner, operators, and employees have not been convicted of a felony or a drug related misdemeanor within the last ten (10) years.

c. Approval of the Use Permit for a manufacturing facility will not exceed the limitations established in Section 21.67.050.C of the Monterey County Code.

2. In addition to any other condition or mitigation recommended by the Director of Planning, the following conditions shall be added to a permit for cannabis manufacturing:

a. The manufacturer shall allow access to its site and records if requested by the County, its officers, or agents and from any licensing authority of the State.

b. The manufacturer shall pay for inspections and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.

3. The manufacturer shall comply with the operating plans reviewed and approved by the County.

4. Any violation of the provisions contained in this Chapter or any violation of any condition of approval for a permit to manufacture cannabis is considered a public nuisance and may be grounds for revocation of the permit, fines, and civil or criminal prosecution.

5. The applicant for the manufacturing facility and property owner shall agree to a condition indemnifying the County.

### **21.65.070 – Cannabis Testing Facilities**

A. Purpose: The purpose of this Section is to protect the public health, safety, and welfare, protect neighborhood character, and minimize potential for negative impacts on people and communities in the unincorporated areas of Monterey County by establishing minimum requirements for the commercial cannabis testing facilities.

B. Applicability: Cannabis testing facilities (requiring a Type 8 State license) may be permitted in the Heavy Commercial (“HC”), Light Industrial (“LI”), Heavy Industrial (“HI”), and Agricultural Industrial (“AI”) zoning districts subject to a Use Permit in each case. The Planning Commission is the Appropriate Authority to approve Use Permits pursuant to this Section.

C. Regulations:

1. In reviewing an application for a Use Permit to operate a cannabis testing facility, the Director of Planning or his or her designee, in addition to the application requirements contained in Section 21.67.020, may request any information deemed necessary to carry out the purposes of this Chapter including but not limited to the following:

- a. An operations plan detailing how cannabis will be received, secured, tested, and destroyed upon completion;
- b. Certificate of accreditation from an approved accrediting body;
- c. Proposed procedures for record keeping including chain of custody control and certificate issuance; and
- d. Any other information requested by the Director of Planning.

2. A maximum of 2 commercial cannabis testing facilities may be permitted in the unincorporated area of Monterey County pursuant to these regulations. The Planning Commission and Board of Supervisors shall consider amending this limitation within two (2) years of adoption of this ordinance or by the end of the 2018 calendar year, whichever occurs first. Cultivation permits will be considered on a first come, first served basis.

3. The permittee, owner, and operator shall agree to, and pay for, inspections of the testing facility operations and all relevant records or documents necessary to determine compliance with this Chapter upon request from any enforcement officer of the County or their designee.

4. Testing facilities shall adhere to all the terms of Use Permit and other entitlements and licenses issued by the County or State.

D. Location Limitations.

1. Cannabis testing facilities shall be located only in zones that specifically provide for this use.

2. Cannabis testing facilities shall not be located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility.

E. Appearance.

1. No cannabis products or graphics depicting cannabis shall be visible from the exterior of the property.

2. Signage shall comply with Chapter 21.60 of this Title.

3. Comply with applicable exterior lighting and landscaping requirements.

F. Required Findings and Conditions.

1. In order to approve a Use Permit or General Development Plan for a cannabis testing facility, in addition to any other findings required, the Appropriate Authority shall make the following additional findings:

a. The testing facility, as proposed, meets all of the requirements of Chapter 21.67 and is not located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility.

b. The owner, operators, and employees have not been convicted of a felony or a drug related misdemeanor within the last ten (10) years.

c. Approval of the Use Permit for a testing facility will not exceed the limitations established in Section 21.67.050.C of the Monterey County Code.

2. In addition to any other condition or mitigation recommended by the Director of Planning, the following conditions shall be added to a permit for a cannabis testing facility:

a. The testing facility shall allow access to its site and records, if requested by the County, its officers, or agents and from any licensing authority of the State.

b. The testing facility shall pay for inspections and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.

3. The testing facility shall comply with the operating plans reviewed and approved by the County.

4. Any violation of the provisions contained in this Chapter or any violation of any condition of approval for a permit to test cannabis is considered a public nuisance and may be grounds for revocation of the permit, fines, and civil or criminal prosecution.

5. The applicant for the testing facility and property owner shall agree to a condition indemnifying the County.

## **21.65.080 – Cannabis Transportation and Distribution**

A. Purpose: The purpose of this Section is to protect the public health, safety, and welfare, protect neighborhood character, and minimize potential for negative impacts on people and communities in the unincorporated areas of Monterey County by establishing minimum requirements for the commercial cannabis transportation and distribution facilities.

B. Applicability: The provisions of this Section are applicable to all cannabis transportation and distribution facilities. Cannabis transportation and distribution facilities may be permitted only in zoning districts that allow Wholesale distributors. Cannabis transportation and distribution facilities shall be subject to a Use Permit in each case. The Planning Commission is the Appropriate Authority to approve a Use Permit pursuant to this Section.

C. Regulations:

1. In reviewing an application for a Use Permit to operate a cannabis transportation and/or distribution facility, the Director of Planning or his or her designee, in addition to the application requirements contained in Section 21.67.020 of this Chapter, may request any information deemed necessary to carry out the purposes of this chapter including but not limited the following:

a. An operations plan detailing how, and from where, cannabis and cannabis products will be received, how any storage, distribution, and transportation operations will be secured to prevent theft and trespass, and to whom the product will be distributed;

b. Quality control inspections and requirements plan;

c. Truck parking and loading areas;

d. Storage and handling plans; and

e. Any other information requested by the Director of Planning.

2. A maximum of 5 commercial cannabis transportation or distribution facilities may be permitted in the unincorporated area of Monterey County pursuant to these regulations. The Planning Commission and Board of Supervisors shall consider amending this limitation within two (2) years of adoption of this ordinance or by the end of the 2018 calendar year, whichever occurs first. Cultivation permits will be considered on a first come, first served basis.

3. The permittee, owner, and operator shall agree to, and pay for, inspections of the transportation and distribution facility operations as well as all relevant records or documents necessary to determine compliance with this Chapter upon request from any enforcement officer of the County or their designee.

4. Transportation and distribution facilities shall adhere to all the terms of Use Permit and other entitlements and licenses issued by the County or State.

D. Location Limitations.

1. Transportation and Distribution facilities shall be located only in zones that specifically provide for this use.

2. Transportation and Distribution facilities shall not be located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility.

E. Appearance.

1. No cannabis products or graphics depicting cannabis shall be visible from the exterior of the property.

2. Signage shall comply with Chapter 21.60 of this Title.

3. Comply with applicable exterior lighting and landscaping requirements.

F. Required Findings and Conditions.

1. In order to approve a Use Permit or General Development Plan for a cannabis transportation and/or distribution facility, in addition to any other findings required, the Appropriate Authority shall make the following additional findings:

a. The facility, as proposed, meets all of the requirements of Chapter 21.67 and is not located within six hundred (600) feet from any school, public park or playground, recreation area, or a drug recovery facility.

b. The owner, operators, and employees have not been convicted of a felony or a drug related misdemeanor within the last ten (10) years.

c. Approval of the Use Permit for a transportation and/or distribution facility will not exceed the limitations established in Section 21.67.050.C of the Monterey County Code.

2. In addition to any other condition or mitigation recommended by the Director of Planning, the following conditions shall be added to a permit for a cannabis transportation and/or distribution facility:

a. The transporter and/or distributor shall allow access to their facilities and records if requested by the County, its officers, or agents and from any licensing authority of the State.

b. The transporter and/or distributor shall pay for inspections and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.

3. The transportation and/or distribution of cannabis shall occur only in accordance with the operating plans reviewed and approved by the County.



4. Any violation of the provisions contained in this Chapter or any violation of any condition of approval for a permit to transport and/or distribute cannabis is considered a public nuisance and may be grounds for revocation of the permit, fines, and civil or criminal prosecution.

5. The applicant for a transporter and/or distributor facility and the property owner shall agree to a condition indemnifying the County.

### **21.65.090 – Enforcement**

A. Purpose: The purpose of this Section is to establish procedures and penalties that are sufficient to deter unpermitted and illegal cannabis activities in order to protect the public health, safety, welfare, neighborhood character, and minimize potential for negative impacts on people and the environment in the unincorporated areas of Monterey County.

B. Applicability: This Section is applicable in all zoning districts.

C. Regulations.

1. All permitted commercial cannabis activities shall post all required permits and licenses required to operate in a central location at the operating site.

2. All permitted commercial cannabis activities shall maintain clear and adequate records demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. These records shall be made available for inspection to any enforcement officer of the County upon request.

3. All permitted commercial cannabis activities shall operate in compliance with the plans approved by the County, the requirements of the State issued licenses, and shall pay any and all required inspection fees, permit fees, and taxes.

4. Violations of the terms and conditions of a commercial cannabis activity permit, or any of the requirements of this Chapter, or any other applicable local or state rules, regulations, and laws shall be unlawful and is deemed a public nuisance. Violations shall be grounds for revocation of the permit and/or for nonrenewal of other applicable permits and licenses. In addition, at the discretion of the County, a cause of action for injunctive relief or other applicable civil remedies shall be brought or commenced against the owner of the property where the violation occurred.

5. The Director of Planning is the Appropriate Authority to revoke a permit for breach of conditions or violation of the requirements of this Chapter. The decision of the Director of Planning to revoke a permit pursuant to this Section is appealable to the Planning Commission pursuant to Chapter 21.80 of this Title.

6. In addition to any other fines or remedies, the County shall charge fees to recover all costs incurred as a result of enforcement of this Chapter.

7. Each day that a violation exists is a separate violation. Each violation is a separate violation. Fines and penalties may be assessed to each violation for each day that that violations remain on the property.

8. Violations of this Section are subject to Chapter 1.20 and 1.22 of the Monterey County Code in addition to the provisions of this Section.

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 31st day following its adoption.

PASSED AND ADOPTED on this \_\_\_ day of \_\_\_\_, 20\_\_, by the following vote:

AYES: Supervisors  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Chair  
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI  
Clerk of the Board

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM BY:  
  
\_\_\_\_\_  
Wendy S. Strimling  
Senior Deputy County Counsel