

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING CHAPTER 7.90 OF THE MONTEREY COUNTY CODE RELATING TO THE COMMERCIAL CANNABIS PERMIT

County Counsel Summary

This ordinance amends Chapter 7.90 of the Monterey County Code to reflect recent changes to state law and elsewhere in the Monterey County Code, and to streamline administrative processes of the commercial cannabis permit. This ordinance creates a mechanism for the commercial cannabis permit to be amended during its annual term by the Appropriate Authority if certain criteria are met. This ordinance changes the Appropriate Authority from the Director of the Resource Management Agency to the Cannabis Program Manager. This ordinance adds definitions for “owner” and “financial interest”, and requires owners to obtain a new permit when there is a full transfer of ownership or a change in business entity type. This ordinance also makes adjustments given recent amendments made elsewhere in the Monterey County Code, including the type of land use entitlement required and the adoption of the outdoor cultivation pilot program. This ordinance requires all property owners, business owners, and employees be 21 years of age or older, and wear an identifying badge while on a commercial cannabis premises. This ordinance removes the requirement for separate permits for adult-use and medicinal activities, and instead requires a single permit with an adult-use and/or medicinal designation on the permit. This ordinance also requires commercial cannabis permit holders to submit certain data to the California Cannabis Authority.

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

SECTION 1. Section 7.90.010 of the Monterey County Code is amended to read as follows:

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. The federal Controlled Substances Act (21 U.S.C. §§ 801, *et seq.*) prohibits, except for certain research purposes, the possession, distribution, and manufacture of cannabis, and there is no medical necessity exception to prosecution and conviction under the Controlled Substances Act.

C. The federal government ~~has~~ issued guidelines for states and local governments that have enacted laws authorizing cannabis related conduct, requiring them to implement strong and effective regulatory and enforcement systems that will address the threat that cannabis activity could pose to public safety, public health, and other law enforcement interests.

D. On November 5, 1996, California voters approved Proposition 215, the Compassionate Use Act of 1996 (Health & Safety Code § 11362.5, “CUA”), an initiative that exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of cannabis for medical purposes. One of the stated purposes of the CUA is to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use has been recommended by a physician.

E. On January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act (Health & Safety Code §§ 11362.7-11362.83, “MMP”), became law to clarify the scope of the CUA and to facilitate the prompt identification of qualified patients and their primary caregivers.

F. On October 9, 2015, the State enacted the Medical Marijuana Regulation and Safety Act (former Business & Professions Code §§ 19300, *et seq.*, “MMRSA”). MMRSA created a state licensing program for commercial medical cannabis activities.

G. On July 12, 2016, the Monterey County Board of Supervisors adopted inland zoning regulations establishing criteria for issuing local land use permits pursuant to the MMRSA (Ordinance Number 5270, amending sections of Title 21 and adding Chapter 21.67 to the Monterey County Code), and on July 19, 2016 the Monterey County Board of Supervisors adopted regulations establishing criteria for issuing local business permits pursuant to the MMRSA (Ordinance Numbers 5272 and 5273, codified at Monterey County Code Chapters 7.90 and 7.95). These ordinances were to become operative only if the Board of Supervisors submitted a County tax on commercial medical cannabis activities to the voters, the voters approved the tax, and the tax was certified by the County pursuant to Section 15372 of the California Elections Code. On November 8, 2016, the voters approved the tax (Measure Y, codified at Monterey County Code Chapter 7.100). On December 13, 2016, the tax was certified pursuant to Section 15372 of the Elections Code and Ordinance Numbers 5270, 5272, and 5273 became operative. Chapter 21.67 provided a one year amortization period for commercial medical cannabis activities that were legally established prior to August 12, 2016 to obtain all required County permits, licenses, and entitlements, or to terminate their operations. This one year amortization period ended on August 12, 2017.

H. On November 8, 2016, by statewide initiative, the voters enacted the Adult Use of Marijuana Act (“AUMA”). AUMA created a state licensing program for commercial adult-use cannabis activities.

I. On June 27, 2017, the State enacted the Medicinal and Adult-Use of Cannabis Regulatory and Safety Act (Business & Professions Code §§ 26000, *et seq.*, “MAUCRSA”), which combined MMRSA and AUMA into a single state licensing scheme for both medicinal and adult-use cannabis. MAUCRSA allows counties and cities to maintain local regulatory authority over commercial cannabis activities. The state will not issue a state license without first receiving authorization from the applicable local jurisdiction.

J. On December 5, 2017, the Board of Supervisors adopted Ordinance Number 5292 to amend Title 21 of the Monterey County Code to regulate both adult-use and medical commercial cannabis activities in the inland area of unincorporated Monterey County. The

Board also adopted a Resolution of Intent to adopt an ordinance amending the Monterey County Coastal Implementation Plan, Parts 1 and Part 2 (Title 20, coastal zoning ordinance) to make corresponding changes in the coastal area, and to amend the text of the North County Land Use Plan.

K. On January 30, 2018, the Board of Supervisors adopted Resolution Number 18-026 to approve a Joint Exercise of Powers Agreement establishing the California Cannabis Authority (“CCA”), and appoint Treasurer-Tax Collector Mary Zeeb as the primary representative of the County to serve as a member on the Board of Directors of the CCA.

L. On February 7, 2018, the California Coastal Commission certified Monterey County LCP Amendment number LCP-3-MCO-18-0004-1 (ordinance and North County Land Use Plan amendment) as submitted by the County.

M. On March 20, 2018, the Board of Supervisors adopted the ordinance and North County Land Use Plan amendment, as certified by the Coastal Commission (Ordinance No. 5299, amending sections of Title 20 and adding Chapter 20.67 to the Monterey County Code).

N. On November 6, 2018, the Board of Supervisors adopted Ordinance Number 5306 to amend Title 21 of the Monterey County Code to change commercial cannabis activities from a conditional use allowed subject to a Use Permit, to a principle use allowed subject to an Administrative Permit. The Board of Supervisors also adopted Resolution of Intent Number 18-413 to amend the Monterey County Coastal Implementation Plan, Part 1 (Title 20, coastal zoning ordinance) to change commercial cannabis activities from a conditional use allowed subject to a Coastal Development Permit, to a principle use allowed subject to a Coastal Administrative Permit. The County has submitted Resolution of Intent Number 18-413 to the Coastal Commission for certification. If certified by the Coastal Commission, the ordinance will then need to be adopted by the Board of Supervisors.

O. On June 18, 2019, the Board of Supervisors adopted Ordinance Numbers 5311 and 5312 to add Chapters 20.69 and 21.69 to the Monterey County Code to establish a five year pilot program for outdoor commercial cultivation and related activities in certain coastal and inland unincorporated areas. Ordinance Number 5312 adding Chapter 20.69 to establish a pilot program in the coastal area will not be operative until certified by the Coastal Commission.

~~JP. It is the purpose and intent of this Chapter to accommodate the health needs of medical cannabis patients, and to establish a local regulatory system for both medical and adult-use cannabis uses consistent with state law.~~

~~K. 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.~~

~~QL. This draft ordinance provides regulations for the local permitting of commercial cannabis operations under specified conditions in the unincorporated areas of the County.~~

~~M.~~—This ordinance, together with ~~the ordinances adding Chapter 20.67, if certified by the California Coastal Commission, to the Monterey County Code and amending Chapter 21.67~~ Chapters 7.02, 20.67, and 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 the MAUCRSA and to establish an effective regulatory and enforcement system consistent with the guidance issued by the United States Department of Justice.

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 20.067 for the coastal zone and Chapter 21.067 for the ~~non-coastal~~ inland zone shall otherwise apply.

A. ~~“A-permit~~ “A-permit 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 Chapter. person who has submitted an application for a permit, or renewal of a permit issued pursuant to this Chapter. If the applicant is an entity and not a natural person, applicant shall include all persons having a ten percent (10%) or more financial interest in the entity.~~

C. ~~“Application” means that form provided by the Appropriate Authority in accordance with this Chapter for the purpose of seeking a commercial cannabis permit.~~

D. ~~“Appropriate Authority” means the Monterey County Director of the Resource-Management Agency or the Chief of Planning~~ 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.

~~FE.~~ “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.

GF. “Cannabis product” has the same meaning as in Section 11018.1 of the California Health and Safety Code.

HG. “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.

IH. “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.

IJ. “Commercial cannabis permit” means a permit issued by the County to an applicant to perform commercial cannabis activities under this Chapter.

KJ. “Commercial cannabis operation” means an entity that engages in commercial cannabis activities.

LK. “County” means the County of Monterey.

ML. “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 ~~owned-operated and/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. 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 (5%) of the total shares in a publicly traded company.

OM. “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.

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

QQ. “~~M-permit~~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.

RP. “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.

S. “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.

TQ. “Permittee” means a person issued a County permit under this Chapter, ~~regardless of whether the permit held is a M permit or an A permit.~~

UR. “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.

VS. “Premises” means the building, ~~or~~ greenhouse, or outdoor area in which

commercial cannabis activities are operated and, in addition, any accessory structures and appurtenant areas.

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

~~XU~~. “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.

~~YV~~. “Qualified patient” has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

~~ZW~~. “State” means the state of California.

~~AA~~. “State license” means a state license issued pursuant to California Business & Professions Code Sections 26000, *et seq.*

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

E. All the following cannabis activities are exempt from the commercial cannabis 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 (c) of Section 11362.765 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 (8) 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 (6) 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. 7.90.050 of the Monterey County Code is amended to read as follows:

A. Each application for the establishment of a commercial cannabis permit shall be filed with the Resource Management Agency 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 license pursuant to California Business & Professions Code Section 26050.2, the applicant must submit an application for a commercial cannabis 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.

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

1. All applicants' names, mailing addresses, and ~~if available,~~ e-mail addresses.
2. A twenty-four (24) hour or nighttime contact phone number.
3. 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.
4. 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.
5. A "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 ~~facility~~ 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.
6. If the applicant is a business entity ~~or any form of entity,~~ information regarding the entity, including, without limitation, the legal business name, registered

name(s) under which the business will operate, and address of record of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the California Secretary of State, as applicable.

7. The full name, date of birth, social security number, present address and telephone number for all property owners, ~~and for all~~ owners, supervisors, employees, and persons having a ~~ten-twenty percent (±20%) percent~~ or more financial interest in the commercial cannabis activity that is the subject of the application ~~or, if the applicant is an entity, having a ten (10) percent or more financial interest in the entity.~~

8. All property owners, ~~and all~~ owners, supervisors, employees, and persons having a ~~ten-twenty percent (±20%)~~ or more financial interest must submit fingerprints and other necessary information for a criminal background check conducted by the Monterey County Sheriff's Office.

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

10. Written proof (i.e., California driver's license, California identification card, or certified birth certificate) that all ~~applicants, property owners, owners,~~ supervisors, and employees are ~~eighteen (18) years of age or older for M-permits, and twenty-one (21) years of age or older for A-permits.~~

11. 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.

12. A full description of the proposed activities and products of the commercial cannabis operation.

13. A description of the type of State license(s) that will be required for the proposed operations pursuant to California Business & Professions Code Sections 26000, *et seq.* If a State provisional license(s) is held pursuant to California Business & Professions Code Section 26050.2, a photocopy of all applicable State provisional licenses, including a description of the proposed total canopy area of any cultivation or nursery operation.

14. 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.

15. Proposed hours of operation.

16. A waste disposal plan.

17. 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.

18. 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.

~~189.~~ A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.

~~2019.~~ Authorization for the County, its agents and employees to seek verification of the information contained in the application.

~~210.~~ Certification, under penalty of perjury, that all the information contained in the application is true and correct.

~~221.~~ Any other information required by the Appropriate Authority.

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

D. Upon review of a complete application for a commercial cannabis permit, the Appropriate Authority shall grant the application if:

1. The proposed commercial cannabis activities will comply with all the requirements of the state and the Monterey County Code;

2. The applicant has received all necessary land use entitlements as required by Titles 20 and 21 of the Monterey County Code;

3. The proposed commercial cannabis activities will comply with all provisions of this Chapter; ~~and~~

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.

SECTION 6. Subsection 2 of Subsection E of Section 7.90.060 of the Monterey County Code is amended to read as follows:

2. Any property owner, owner, supervisor, employee, or persons having a ten-twenty percent (+20%) percent 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;

SECTION 7. Subsection 5 of Subsection E of Section 7.90.060 of the Monterey County Code is amended to read as follows:

5. Any person who is listed on the application is less than eighteen (18) years of age for a M permit, and less than twenty-one (21) years of age for an A permit;

SECTION 8. Section 7.90.070 of the Monterey County Code is amended to read as follows:

7.90.070 Commercial cannabis permit renewal modification process, renewal process, and grounds for denial.

A. Each commercial cannabis permit shall expire one (1) 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 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.

C. Any commercial cannabis 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 one (1) time 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 (3) 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 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 ~~conditions~~ this Chapter in the prior term.

B.E. Any application for modification or renewal shall be filed with the Resource Management Agency at least ~~thirty-ninety (930)~~ 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.

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

1. The application is filed fewer than ~~thirty-ninety (930)~~ calendar days before ~~its~~ 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 ~~County~~ taxes ~~on commercial cannabis activity~~; ~~or~~

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

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

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

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

I.F. 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 7.90.140 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 7.90.150 of this Chapter.

SECTION 9. Section 7.90.080 of the Monterey County Code is amended to read as follows:

The filing of an application for a commercial cannabis permit, for renewal of a commercial cannabis permit, for modification of a commercial cannabis 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. Permit 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 10. Section 7.90.090 of the Monterey County Code is amended to read as follows:

A. A commercial cannabis permit does not create any interest of value, is not transferable or assignable, and does not run with the land~~automatically terminates upon transfer of ownership~~.

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

~~C. A commercial cannabis permit is issued to and covers only the permittee identified on the permit with respect to the premises identified on the permit. The commercial cannabis permit does not run with the land.~~

SECTION 11. 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 permit, each permittee shall not violate this Chapter and shall comply with all of the following:

1. The 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 permit. ~~County's Use Permit issued pursuant to Title 20 or Title 21 of the Monterey County Code. The commercial cannabis permit shall specify the canopy.~~ The maximum canopy square footage specified in the commercial cannabis 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 ~~who is less than~~under the age of eighteen (18) years of age ~~may be employed or otherwise engaged in the operation of a M permit, and no person less than is~~ twenty-one (21) years of age may ~~shall~~ be employed or otherwise engaged in the operation of a commercial cannabis activity ~~n A permit~~.

5. No person under the age of ~~eighteen (18) shall be allowed on the premises of permittees operating pursuant to a M permit, and no person under the age of~~ twenty-one (21) shall be allowed on the premises of permittees, 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 ~~operating pursuant to an A permit~~.

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 permit on the premises. Each commercial cannabis operation that engages in delivery or transportation shall carry a copy of the permit in all vehicles that deliver or transport cannabis or cannabis products.

8. 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 ~~not detectable~~ minimized to every extent feasible ~~offsite~~. 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 on the premises.

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

12. 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.

13. 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.

14. 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 ~~insure~~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 monitoring surveillance system equipment~~ capable of ~~providing capturing and maintaining~~surveillance ~~recordings~~ of ~~both interior and exterior areas of the permitted establishment~~all points of entry and exit on the premises. Each permittee shall maintain such surveillance ~~recordings~~ ~~video tapes~~ for a period of at least ~~thirty ninety~~ (930) days and shall make such ~~videotapes~~ surveillance recordings available to the County upon demand.

15. 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.

16. Each permittee shall provide the Appropriate Authority with the name, telephone number, facsimile 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.

17. Any new property owners, owners, supervisors, employees, or persons having a twenty percent (20%) or more financial interest ~~other persons otherwise engaged in the operation of the commercial cannabis operation~~ must submit their information to the Appropriate Authority pursuant to Section 7.90.070 of this Chapter. ~~within ten (10) days prior to their new ownership, employment or engagement, including fingerprints and other necessary information for a criminal background check.~~

18. All property owners, owners, supervisors, 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 (1) inch in width and one and one half (1.5) inches in height.

~~198.~~ No property owners, owners, supervisors, employees, or persons having a twenty percent (20%) or more financial interest in the commercial cannabis operation ~~other persons otherwise engaged in the operation of 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.

~~2019.~~ A permittee shall not be delinquent in the payment of all applicable state taxes and fees, and County taxes and fees, and other local agencies’ taxes and fees.

~~210.~~ The property owner(s) who own(s) the premises where the commercial cannabis operation is located must at all times have all necessary land use entitlements as required by Titles 20 and 21 of the Monterey County Code and the land use entitlements must be operative.

~~221.~~ 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.

~~232.~~ A permittee shall comply with all applicable federal, state and local laws, ordinances and regulations, including without limitation, County building, zoning and health codes.

24. A permittee shall transmit all required information to the California Cannabis Authority 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. –

SECTION 12. Subsection G of Section 7.90.110 of the Monterey County Code is amended to read as follows:

G. ~~Baked products (e.g., brownies, bars, cookies, etc.), tinctures, and other non-refrigerated type items may be~~ 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.

SECTION 13. Subsection G of Section 7.90.130 of the Monterey County Code is amended to read as follows:

G. Failure to pay all applicable taxes and fees required by the state, ~~or~~ County, or other local tax agencies on commercial cannabis activity;

SECTION 14. 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 15. This Ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this ____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

John M. Phillips, 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
Deputy County Counsel