

Attachment A

This page intentionally left blank.

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING CHAPTER 21.67 OF TITLE 21 (NON-COASTAL ZONING) OF THE
MONTEREY COUNTY CODE TO ALLOW FOR EXPANSION OF MIXED LIGHT
AND INDOOR COMMERCIAL CANNABIS CULTIVATION**

County Counsel Summary

This ordinance amends Chapter 21.67 of the Monterey County Code to allow commercial cannabis cultivation to be permitted within newly constructed or expanded greenhouses within the Farmland zoning district on properties that have at least one greenhouse that was legally established prior to January 1, 2016. Allowances for permitting of commercial cannabis cultivation within existing greenhouses or agricultural support service facilities that were legally established prior to January 1, 2016 remains unchanged. This ordinance also allows for the construction of agricultural support service facilities for drying, trimming, processing, and storage to support permitted greenhouse cultivation. This ordinance adds medium cannabis cultivation types and nurseries to uses allowed with an administrative permit in the Light Industrial zoning district. This ordinance repeals requirements for commercial cannabis cultivation to occur within buildings legally established prior to January 1, 2016 within the Light Industrial, Heavy Industrial, and Agricultural Industrial zoning designations. New structures may be constructed and permitted for commercial cannabis use within these zones. Finally, this ordinance repeals language prohibiting outdoor commercial cannabis cultivation and replaces that language with reference to Chapter 21.69 of the Monterey County Code, which establishes permitting requirements for outdoor commercial cannabis cultivation.

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

SECTION 1. Findings and declarations.

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 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 issued guidelines for states and local governments that have enacted laws authorizing commercial cannabis that highlight the importance of implementing 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), 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 (“Board of Supervisors”) adopted inland zoning regulations establishing criteria for issuing local land use permits pursuant to the MMRSA (Ordinance No. 5270, amending sections of Title 21 and adding Chapter 21.67 to the Monterey County Code (“MCC”)), and on July 19, 2016 the Board of Supervisors adopted regulations establishing criteria for issuing local business permits pursuant to the MMRSA (Ordinance No. 5272, codified at MCC Chapter 7.90). 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 MCC Chapter 7.100). On December 13, 2016, the tax was certified pursuant to Section 15372 of the Elections Code and Ordinance Nos. 5270 and 5272 became operative. Hence, Chapter 21.67 became operative in the inland unincorporated area on December 13, 2016. Chapter 21.67 only allowed for medical commercial cannabis activities within greenhouses and indoor facilities legally established as of January 1, 2016.

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.

J. On December 5, 2017, the Board of Supervisors adopted Ordinance No. 5292 to amend Title 21 of the MCC to regulate both adult-use and medical commercial cannabis

activities. Commercial cannabis sites were limited to greenhouses and indoor facilities that were legally established as of January 1, 2016.

K. On November 6, 2018, the Board of Supervisors adopted Ordinance No. 5306 to amend Title 21 of the MCC 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.

L. The purpose of this ordinance is to expand the Monterey County cannabis industry by allowing mixed light and indoor commercial cannabis cultivation to be permitted in newly constructed greenhouses and industrial buildings within certain zoning districts if certain criteria are met.

M. 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.

N. In addition to this ordinance, commercial cannabis activities are subject to Chapters 7.02 and 7.90 of the MCC, which require a Business License and a Commercial Cannabis Business Permit respectively. Together these regulations establish an effective regulatory and enforcement system.

O. This ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Business and Professions Code section 26055(h), which provides a statutory exemption from CEQA where, prior to July 1, 2021, the local agency adopts an ordinance that requires discretionary review of permits, including applicable environmental review under CEQA, to engage in commercial cannabis activity.

SECTION 2. Subsection A of Section 21.67.050 of the Monterey County Code is amended to read as follows:

Applicability. Except as provided in Section 21.67.090 of this Chapter, cannabis cultivation may only be permitted in the Light Industrial (LI), Heavy Industrial (HI), Agricultural Industrial (AI), or Farmland (F) zoning districts with an administrative permit in each case and as may be further restricted by this Section. Outdoor cannabis cultivation is prohibited in all zones within the unincorporated areas of Monterey County except as provided in Section 21.67.090 of this Chapter, and as provided in Chapter 21.69 of the Monterey County Code. The table below summarizes the zoning districts where cultivation may be considered with an administrative permit.

	Type 1A	Type 1B	Type 1C	Type 2A	Type 2B	Type 3A	Type 3B	Type 4
LI	AP	AP	AP	AP	AP	AP	AP	AP
HI	AP	AP	AP	AP	AP	AP	AP	AP
AI	AP	AP	AP	AP	AP	AP	AP	AP

F	AP	AP	AP	AP	AP	AP	AP	AP
---	----	----	----	----	----	----	----	----

AP = Administrative permit pursuant to Chapter 21.70.

SECTION 3. Subsection B.1 of Section 21.67.050 of the Monterey County Code is amended to read as follows:

1. It is the intent of the County to provide for the adaptive reuse of greenhouse properties 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 cannabis cultivation and cannabis nurseries (Type 1A, 1B, 1C, 2A, 2B, 3A, 3B and 4 state license types) may be permitted with an administrative permit in each case provided that the cultivation occurs within a greenhouse or agricultural support service facility that was permitted or legally established prior to January 1, 2016. On properties that contain one or more greenhouses legally established prior to January 1, 2016, the above described cultivation may be permitted within legally established greenhouses, or within new or expanded greenhouses constructed after January 1, 2016. Agricultural support service facilities used for drying, trimming, processing, and storage, may also be constructed to support permitted greenhouse cultivation. In all cases, cannabis uses shall require approval of an administrative permit, and all new or expanded construction shall comply with the applicable regulations of this Title and state law.

SECTION 4. Subsection B.2 of Section 21.67.050 of the Monterey County Code is amended to read as follows:

2. Within the Light Industrial (LI), Heavy Industrial (HI), and Agricultural Industrial (AI) zoning districts, indoor or mixed-light cannabis cultivation or cannabis nurseries (Type 1A, 1B, 1C, 2A, 2B, 3A, 3B, or 4 state license types) may be permitted subject to an administrative permit in each case.

SECTION 5. 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 6. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this _____ day of June 2021, by the following vote:

AYES:

NOES:

ABSENT:


ABSTAIN:

Chair, Wendy Root Askew
Monterey County Board of Supervisors

A T T E S T:

VALERIE RALPH
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM BY:


Kelly L. Donlon
Deputy County Counsel

This page intentionally left blank