

ORDINANCE NO. 5293

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

County Counsel Summary

This ordinance amends Chapter 7.90 of the Monterey County Code to add commercial adult-use cannabis activities to the County's current commercial medical cannabis permit regulatory structure and to regulate the operation of commercial adult-use cannabis activities in a manner that is consistent with state law. The existing Chapter 7.90 established regulations for medical cannabis. This ordinance amends Chapter 7.90 to create a single permitting structure for medical and adult-use commercial cannabis activities, consistent with recent changes in state law. This ordinance requires all commercial cannabis operations to obtain an annual permit to conduct commercial cannabis activities, including cultivation, manufacturing, processing, storing, laboratory testing, packaging, labeling, transporting, distributing, delivery, and sale. This permit will be required in addition to any required land use entitlements. The commercial cannabis permit will cover only the permittee identified on the permit with respect to the premises identified on the permit and will not run with the land, and it will require the permittee to meet specified operating requirements including requirements relating to safety, security, waste disposal, storage of pesticides, and packaging and labeling. The ordinance also contains provisions for enforcement.

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

SECTION 1. Chapter 7.90 of the Monterey County Code is amended to read as follows:

Chapter 7.90 COMMERCIAL CANNABIS PERMITS

Sections:

- 7.90.010 Findings and purpose.**
- 7.90.020 Applicability.**
- 7.90.030 Definitions.**
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7.90.010 Findings and purpose.

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

B. 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. 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.

L. 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 of the Monterey County Code requiring necessary 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.

7.90.020 Applicability.

This Chapter applies in the unincorporated area of the County of Monterey.

7.90.030 Definitions.

The following words and phrases shall have the meanings set forth below when used in this Chapter. The definitions in Chapter 20.06 for the coastal zone and Chapter 21.06 for the

non-coastal zone shall otherwise apply.

A. “A-permit” means 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 a 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 Director of the Resource Management Agency or the Chief of Planning or his or her designee.

E. “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.

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

G. “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.

H. “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.

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

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

K. “County” means the County of Monterey.

L. “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 and controlled by the retailer.

M. “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.

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

O. “M-permit” means 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.

P. “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 Health and Safety Code) by a medicinal cannabis patient in California who possesses a physician’s recommendation.

Q. “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.

R. “Person” means an individual, firm, 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.

S. “Premises” means the building or greenhouse in which commercial cannabis activities are operated and, in addition, any accessory structures and appurtenant areas.

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

U. “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.

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

W. “State” means the state of California.

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

7.90.040 Commercial cannabis permit required.

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

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

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

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

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

1. Possession, storage, manufacturing, 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, 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.

7.90.050 Commercial cannabis permit application process.

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. 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 24-hour or nighttime contact phone number.
3. The physical address and assessor's parcel number(s) (APN or APNs) of the property upon which the proposed commercial cannabis operation will be located.
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, all entry ways and exits to the facility, loading zones and all areas in which cannabis and cannabis products will be stored, grown or dispensed.
6. If the applicant is a business entity or any form of entity, information regarding the entity, including, without limitation, the name and address 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 percent (10%) 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 percent (10%) or more financial interest in the entity.

8. All property owners and all owners, supervisors, employees, and persons having a ten percent (10%) or more financial interest must submit fingerprints and other necessary information for a criminal background check.

9. A statement of whether the applicant is applying for a M-permit or an A-permit.

10. Written proof (i.e., California driver's license, California identification card, or certified birth certificate) that all applicants, property 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.*, 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, 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. 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.

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

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

21. Any other information required by the Appropriate Authority.

7.90.060 Review of application for commercial cannabis permit.

A. The Appropriate Authority shall review the application for a commercial cannabis permit and associated documents and shall require, if he or she deems necessary, additional information to complete the application. The Appropriate Authority may deem the application incomplete if it does not contain all required information and documents.

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

C. Each commercial cannabis permit shall be granted for a one year period and shall expire one (1) year after the date of its issuance.

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.

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

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

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

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

4. If applicable, the applicant failed to obtain or maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the California Revenue and Taxation Code;

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

6. The proposed commercial cannabis operation does not comply with the provisions of this Chapter or State law; or

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

F. If the Appropriate Authority intends to deny the application, the Appropriate Authority shall specify in writing the reasons for the denial of the application, and notify the applicant that the decision shall become final unless the applicant seeks an appeal pursuant to Section 7.90.140 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.

7.90.070 Commercial cannabis permit renewal process and grounds for denial.

A. Each commercial cannabis permit shall expire one (1) year after the date of its issuance. Any 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. At the time of consideration of a renewal application, the Appropriate Authority shall consider compliance with conditions in the prior term.

B. Any application for renewal shall be filed with the Resource Management Agency at least thirty (30) 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 renewal and shall provide such other information as the Appropriate Authority may require.

C. Any application for renewal shall be denied if:

1. The application is filed fewer than thirty (30) calendar days before its expiration;
2. The permittee fails to conform to the criteria set forth in this Chapter;
3. The permittee is delinquent in payment of County taxes on commercial cannabis activity; or
4. The permit is suspended or revoked at the time of the application.

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

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

F. If the Appropriate Authority intends to deny the renewal, the Appropriate Authority shall specify in writing the reasons for the denial of the 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.

7.90.080 Fees.

The filing of an application for a commercial cannabis permit, for renewal 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.

7.90.090 Commercial cannabis permit nontransferable.

A. A commercial cannabis permit does not create any interest of value, is not transferable, and automatically terminates upon transfer of ownership.

B. Whenever any individual, 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. 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.

7.90.100 Commercial cannabis operating requirements.

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 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 limit allowed by the permit.

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 eighteen (18) years of age may be employed or otherwise engaged in the operation of a M-permit, and no person less than twenty-one (21) years of age may be employed or otherwise engaged in the operation of an 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 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 are not detectable offsite.

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 the safety of persons and to protect the premises from theft and other crimes. Each permittee shall install and maintain in proper working order, video monitoring equipment capable of providing surveillance of both interior and exterior areas of the permitted establishment. Each permittee shall maintain such surveillance video tapes for a period of at least thirty (30) days and shall make such videotapes 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, supervisors, employees or other persons otherwise engaged in the operation of the commercial cannabis operation must submit their information to the Appropriate Authority within ten (10) days prior to their new ownership, employment or engagement, including fingerprints and other necessary information for a criminal background check.

18. No property owner, supervisor, employee, or 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

19. A permittee shall not be delinquent in the payment of all applicable state and County taxes and fees.

20. 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.

21. 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.

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

B. At any time between 8:00 a.m. and 8:00 p.m. and without notice, County officials may enter the premises for the purpose of observing compliance of the commercial cannabis operation with this Section, including access to and inspection of the commercial cannabis operation's records, books, accounts, financial data, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination.

C. It is unlawful for any person having any responsibility over a commercial cannabis operation to refuse to allow, impede, obstruct, or interfere with an inspection, or the review of the copying of records and monitoring (including recordings) including, but not limited to, the concealment, destruction, and falsification of any recordings or records.

7.90.110 Cultivation, manufacture, waste, and storage requirements.

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

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

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

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

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

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

G. Baked products (e.g., brownies, bars, cookies, etc.), tinctures, and other non-refrigerated type items may be sold or distributed at a commercial cannabis operation.

H. At any time between 8:00 a.m. and 8:00 p.m. and without notice, County officials may enter the premises of the commercial cannabis operation for the purpose of observing compliance with this Section.

7.90.120 Packaging and labeling requirements.

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

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

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

1. The following statements, in bold print:

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

b. For cannabis products: **“GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS**

PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

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

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

4. The appellation of origin, if any.

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

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

7. Information associated with the unique identifier issued by the State.

8. For a medicinal cannabis product sold at a retailer, the statement “FOR MEDICAL USE ONLY.”

9. Any other requirement set by the State.

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

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

7.90.130 Suspension or revocation of commercial cannabis permit.

Any of the following shall be grounds for suspension or revocation of a commercial cannabis permit, based on substantial evidence and following notice and public hearing pursuant to Section 7.90.140 of this Chapter.

A. Failure to comply with one or more of the terms and conditions of the commercial cannabis permit;

B. The commercial cannabis permit was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant;

C. Any act or omission by a permittee in contravention of the provisions of this Chapter;

D. Any act or omission by a permittee in contravention of State law, or the Monterey County Code;

E. Any act or omission by a permittee that results in the suspension or revocation of the applicable use permit issued under Titles 20 or 21 of the Monterey County Code for the commercial cannabis activities;

F. Any act or omission by a permittee that results in the denial, revocation or suspension of that permittee's State License;

G. Failure to pay applicable State or County taxes on commercial cannabis activity;
or

H. Conduct of the commercial cannabis operations in a manner that constitutes a nuisance, where the permittee has failed to comply with reasonable conditions to abate the nuisance.

7.90.140 Procedure for suspension or revocation.

A. If the Appropriate Authority determines that grounds for suspension or revocation of the commercial cannabis permit exist pursuant to Section 7.90.130 of this Chapter, the Appropriate Authority shall issue a written Notice of Intention to suspend or revoke the permit, as the case may be. The Notice of Intention shall be served on the permittee, as reported on the permit, and on the property owner, as reported on the latest equalized assessment roll. The Notice of Intention shall be served in accordance with the requirements set forth in Section 7.90.150 of this Chapter. The Notice of Intention shall describe the property, the intention to revoke or suspend the permit, the grounds for suspension or revocation, the action necessary to abate the violation, the time limit for compliance, and the right to a hearing. The Notice of Intention shall notify the permittee and the owner of the opportunity to request a hearing before a Hearing Officer to present evidence as to why the permit should not be suspended or revoked, and shall notify them of the ten (10) day deadline to submit a written request for a hearing.

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

C. Upon receipt of a timely written request for a hearing, the Appropriate Authority shall set a date for a hearing to be held within sixty (60) days of receipt of the request, unless an immediate threat to the public health, safety and welfare necessitates an earlier hearing date. Notice of the hearing, including the time, date, and location of the hearing, shall be served in accordance with the requirements set forth in Section 7.90.150 of this Chapter.

D. Hearing by the Hearing Officer:

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

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

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

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

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

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

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

7.90.150 Service requirements.

Wherever this Chapter requires the County to serve notice to an applicant, permittee, or property owner such notice shall be given by the Appropriate Authority, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice may be posted at the physical address of the premises on the date of the mailing of notice.

7.90.160 Enforcement and penalties.

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

A. It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Chapter. Any person violating any of the provisions or

failing to comply with any of the mandatory requirements of this Chapter shall be guilty of a misdemeanor. No proof of knowledge, intent, or other mental state is required to establish a violation.

B. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for penalty pursuant to Chapters 1.20 and 1.22 of the Monterey County Code, and any other action authorized by law.

C. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Monterey County Code or otherwise authorized by law. Additionally, as a public nuisance, any violation of this Chapter shall be subject to injunctive relief, disgorgement of any payment to the County of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, attorney fees, restitution, and any other relief or remedy available at law or in equity. The County, including the Office of the District Attorney and the Office of the County Counsel, may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis operator or persons related thereto, or associated with, the commercial cannabis activity.

7.90.170 Operative date.

This Chapter became operative on December 13, 2016, upon adoption by County voters of a County commercial cannabis business tax (codified at Chapter 7.100 of the Monterey County Code) and certification of the results of the vote on the tax pursuant to Section 15372 of the California Elections Code.

7.90.180 Severability.

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

SECTION 3. 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 4. This Ordinance shall become effective on the thirty-first day following its adoption.

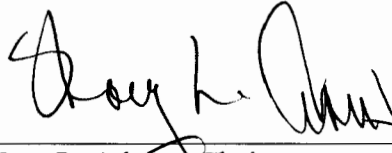
PASSED AND ADOPTED this 5th day of December, 2017, by the following vote:

AYES: Supervisors Alejo, Phillips, Salinas, Parker

NOES: None

ABSENT: None

ABSTAIN: Supervisor Adams



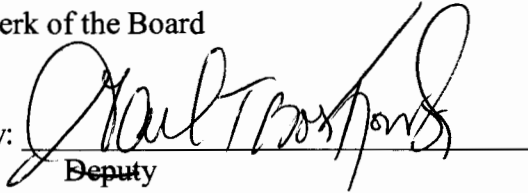
Mary L. Adams, Chair
Monterey County Board of Supervisors

ATTEST:

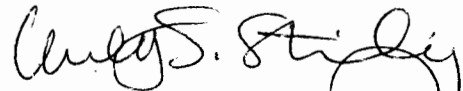
GAIL T. BORKOWSKI

Clerk of the Board

By:


Deputy

APPROVED AS TO FORM:



WENDY S. STRIMLING
Senior Deputy County Counsel