

## Attachment E - 2

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

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,  
AMENDING TITLE 21 (NON-COASTAL ZONING) OF THE MONTEREY COUNTY  
CODE RELATING TO MEDICAL CANNABIS USES**

**County Counsel Summary**

*This ordinance amends Title 21 (non-coastal zoning) of the Monterey County Code to regulate commercial medical cannabis activities in the inland unincorporated area of Monterey County consistent with state law. This ordinance establishes certain specified commercial medical cannabis activities--including cultivation within greenhouses and industrial buildings as well as manufacturing, testing, delivery, and transport-- as a use allowed subject to a Use Permit in each case within specified zoning districts. These zoning districts include the Light Commercial, Heavy Commercial, Agricultural Industrial, Light Industrial, Heavy Industrial, and Farmland non-coastal zoning districts, with allowance of the particular use within each zoning district dependent on factors specified by the ordinance. This ordinance also defines terms and adds Chapter 21.67 to the Monterey County Code to establish regulations governing the issuance of use permits for commercial medical cannabis activities, including cultivation, dispensaries, manufacturing, testing, transportation, and distribution. The ordinance also contains provisions for enforcement of the ordinance.*

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 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 medical cannabis activity could pose to public safety, public health, and other law enforcement interests.

D. California statutes specify that, except as authorized by law, the possession, cultivation, possession for sale, transportation, administration, or furnishing of cannabis are state criminal violations. State law further punishes one who maintains a place for the purpose of

unlawfully selling, using or furnishing, or who knowingly makes available a place for storing, manufacturing, or distributing cannabis.

E. 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.

F. 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.

G. On October 9, 2015, the State enacted the Medical Marijuana Regulation and Safety Act (Business & Professions Code §§ 19300, *et seq.*; the “MMRSA”). The MMRSA creates a state licensing program for commercial medical cannabis activities. The MMRSA allows counties and cities to maintain local regulatory authority over medical cannabis. The state will not issue a state license without first receiving authorization by the applicable local jurisdiction.

H. It is the purpose and intent of this Chapter to accommodate the needs of the seriously ill and protect their health and safety, while protecting the health, safety, and general welfare of the residents and businesses within the unincorporated areas of Monterey County and comply with state law and federal guidelines.

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

J. This draft ordinance provides regulations for the local permitting of medical marijuana operations in specified locations and under specified conditions in the inland unincorporated areas of the County.

K. To address the added financial burden to the County that may result from this ordinance, including costs associated with processing applications under this ordinance as well as additional law enforcement and other costs, this ordinance requires voter passage of a County tax on commercial medical cannabis activities prior to this ordinance becoming operative.

L. This ordinance, together with such other ordinances as the County may adopt, is intended to establish criteria for issuing local permits pursuant to the MMRSA and to establish an effective regulatory and enforcement system consistent with the guidance issued by the United States Department of Justice.

SECTION 2. Section 21.06.152 is added to the Monterey County Code to read as follows:

**21.06.152 - Cannabis**

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof, the resin, whether 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 marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code.

SECTION 3. Section 21.06.192 is added to the Monterey County Code to read as follows:

**21.06.192 – Commercial medical cannabis activity**

“Commercial medical cannabis activity” means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product.

SECTION 4. Section 21.06.775 is added to the Monterey County Code to read as follows:

**21.06.775 – Medical Cannabis**

“Medical cannabis” or “Medical cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this Title, “medical cannabis” does not include “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

SECTION 5. Subsection A of Section 21.18.040 of the Monterey County Code is amended to read as follows:

A. Change of commercial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; however, new commercial medical cannabis activities shall require a Use Permit in each case.

SECTION 6. Subsection HH is added to Section 21.18.060 to read as follows:

HH. Medical cannabis dispensary pursuant to Chapter 21.67.

SECTION 7. Subsection A of Section 21.20.040 of the Monterey County Code is amended to read as follows:

A. Change of commercial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; [however, new commercial medical cannabis activities shall require a Use Permit in each case.](#)

SECTION 8. Subsections OO, PP, QQ, and RR are added to Section 21.20.060 of the Monterey County Code to read as follows:

- OO. Medical cannabis dispensary pursuant to Chapter 21.67.
- PP. Non-volatile medical cannabis manufacturing pursuant to Chapter 21.67.
- QQ. Medical cannabis transportation or distribution facilities pursuant to Chapter 21.67.
- RR. Medical cannabis testing facilities pursuant to Chapter 21.67.

SECTION 9. Subsection A of Section 21.24.040 of the Monterey County Code is amended to read as follows:

A. Change of agricultural industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; [however, new commercial medical cannabis activities shall require a Use Permit in each case.](#)

SECTION 10. Subsections EE, FF, GG, and HH are added to Section 21.24.070 of the Monterey County Code to read as follows:

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

SECTION 11. Subsection A of Section 21.26.040 of the Monterey County Code is amended to read as follows:

A. Change of light industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; [however, new commercial medical cannabis activities shall require a Use Permit in each case.](#)

SECTION 12. Subsections II, JJ, KK, and LL are added to Section 21.26.060 of the Monterey County Code to read as follows:

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

SECTION 13. Subsection A of Section 21.28.040 of the Monterey County Code is amended to read as follows:

A. Change of heavy industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; however, new commercial medical cannabis activities shall require a Use Permit in each case.

SECTION 14. Subsections KK, LL, MM, NN, and OO are added to Section 21.28.060 of the Monterey County Code to read as follows:

- KK. Indoor or mixed-light medical cannabis cultivation pursuant to Chapter 21.67.
- LL. Non-volatile medical cannabis manufacturing pursuant to Chapter 21.67.
- MM. Volatile medical cannabis manufacturing pursuant to Chapter 21.67.
- NN. Medical cannabis transportation or distribution facilities pursuant to Chapter 21.67.
- OO. Medical cannabis testing facilities pursuant to Chapter 21.67.

SECTION 15. Subsections JJ, KK, and LL are added to Section 21.30.050 [Farmland] of the Monterey County Code to read as follows:

- JJ. Mixed-light medical cannabis cultivation pursuant to Chapter 21.67.
- KK. Medical cannabis nursery pursuant to Chapter 21.67.
- LL. Non-volatile medical cannabis manufacturing pursuant to Chapter 21.67.

SECTION 16. Chapter 21.67 is added to the Monterey County Code to read as follows:

## **Chapter 21.67 COMMERCIAL MEDICAL CANNABIS ACTIVITIES**

### **Sections:**

- 21.67.010 – Definitions**
- 21.67.020 – Purpose**
- 21.67.030 – Permits Required**
- 21.67.040 – Medical Cannabis Dispensaries**
- 21.67.050 – Medical Cannabis Cultivation**
- 21.67.060 – Medical Cannabis Manufacturing**
- 21.67.070 – Medical Cannabis Testing Facilities**
- 21.67.080 – Medical Cannabis Transport and Distribution**
- 21.67.090 – Exemptions**
- 21.67.100 – Application Requirements**
- 21.67.110 – Grounds for Suspension or Revocation**
- 21.67.120 – Procedure for Suspension or Revocation**
- 21.67.130 – Enforcement**
- 21.67.140 – Operative Date of Chapter 21.67**

## **21.67.010 Definitions**

For the purpose of this Chapter, unless the context otherwise requires, certain terms used in this Chapter shall be as defined below. The definitions in Chapter 21.06 shall otherwise apply.

- A. “Bureau” means the Bureau of Medical Marijuana Regulation within the California Department of Consumer Affairs.
- B. “Cannabinoid” or “phytocannabinoid” means a chemical compound that is unique to and derived from cannabis.
- C. “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency.
- D. “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.
- E. “Certificate of accreditation” means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.
- F. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis. Within the definition of cultivation, the following specific License Types, corresponding to state cultivator license types set forth in California Business and Professions Code section 19332(g), apply:
  - 1. Type 1 or “specialty outdoor” means outdoor cultivation using no artificial lighting and having no more the fifty (50) mature plants or five thousand (5,000) square feet of total canopy size whichever is less;
  - 2. Type 1A or “specialty indoor” means cultivation using exclusively artificial lighting, is entirely contained within a structure, and having no more than five thousand (5,000) square feet of total canopy size;
  - 3. Type 1B or “specialty mixed-light” means cultivation using a combination of natural and supplemental artificial lighting and having no more than five thousand (5,000) square feet of total canopy size;
  - 4. Type 2 or “small outdoor” means outdoor cultivation using no artificial lighting and having a total canopy size between five thousand one (5,001) and ten thousand (10,000) square feet;
  - 5. Type 2A or “small indoor” means indoor cultivation exclusively using artificial lighting and having a total canopy size between five thousand one (5,001) and ten thousand (10,000) square feet;



6. Type 2B or “small mixed-light” means cultivation using a combination of natural and supplemental artificial lighting and having a total canopy size between five thousand one (5,001) and ten thousand (10,000) square feet;

7. Type 3 or “outdoor” means outdoor cultivation using no artificial lighting and having a total canopy area between ten thousand one (10,001) square feet and one (1) acre;

8. Type 3A or “indoor” means indoor cultivation using exclusively artificial lighting and having a total canopy area between ten thousand one (10,001) and twenty two thousand (22,000) square feet;

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

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

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

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

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

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

K. “Greenhouse” means a fully enclosed permanent structure that is clad in transparent material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental artificial lighting for cultivation.

L. “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.

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

N. “Licensee” means a person issued a state license under Chapter 3.5 (commencing with Section 19300) of the California Business and Professions Code, to engage in a commercial medical cannabis activity.

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

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

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

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

S. “One ownership” and “owner” have the same definition as set forth in Chapter 21.06 of this Title.

T. “Permittee” means a person issued a commercial medical cannabis permit under Chapter 7.90.

U. “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.

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

W. “Public park” means an area created, established, designated, or maintained by the a special district, a County, the State, or the Federal government for public play, recreation, or enjoyment or for the protection of natural resources and features at the site.

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

Y. “State” means the State of California.

Z. “State license,” “license,” or “registration” means a state license issued pursuant to California Business & Professions Code Sections 19300, *et seq.*

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

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

BB. “Transport” means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial medical cannabis activity authorized pursuant to the California Business & Professions Code Sections 19300, *et seq.*

## **21.67.020 Purpose**

The purpose of this Chapter is to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls in compliance with state law and federal enforcement guidelines, protect neighborhood character, and minimize potential for negative impacts on people, communities, and the environment in the unincorporated areas of Monterey County by establishing minimum land use requirements for commercial medical cannabis activities. Commercial medical cannabis activity, as defined pursuant to Section 21.06.192 of Title 21, includes the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product. Although cultivation of medical cannabis is not “development” within the meaning of the 2010 General Plan, this Chapter recognizes that commercial medical cannabis activities require land use controls due to the unique federal and state legal constraints on commercial medical cannabis activity, and the potential environmental and social impacts associated with commercial medical cannabis activity.

### **21.67.030 Permits Required**

Except as provided in Section 21.67.090 of this Chapter, commercial medical cannabis activities shall not be allowed in the unincorporated areas of Monterey County without first securing all permits, licenses, or other entitlements required by County regulation and state law and regulation.

A. A Use Permit shall be required for all commercial medical cannabis activities. The application for a Use Permit, and for amendments thereto and extensions thereof, shall be processed in accordance with Chapter 21.74 of Title 21. The Planning Commission is the Appropriate Authority to consider a Use Permit for commercial medical cannabis activities and to consider extensions of and amendments to such Use Permits. Appeals from the decision of the Planning Commission shall be governed by Chapter 21.80 of Title 21. Notwithstanding the foregoing, the procedures for suspension and revocation of a Use Permit granted under this Chapter shall be as set forth in sections 21.67.110 and 21.67.120 of this Chapter.

B. In addition to a Use Permit, a commercial medical cannabis permit pursuant to Chapter 7.90 of the Monterey County Code shall be required for all commercial medical cannabis activities.

C. Upon implementation of state regulations pursuant to California Business and Professions Code Section 19320, a valid license from the State shall be required to operate any commercial medical cannabis activity.

D. The owner shall post or cause to be posted on site the Use Permit and all required County and state permits and licenses required to operate. Such posting shall be in a central location, visible to the patrons, at the operating site, and in all vehicles that deliver or transport medical marijuana.

E. The owner and all permittees shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. The County shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County upon request

F. The owner and all permittees shall conduct medical commercial cannabis activities in compliance with all required County permits, state licenses, County regulation, and state law and regulation. The owner shall be responsible for the payment of all required inspection fees, permit fees, and taxes.

G. Commercial medical cannabis activities that were legally established prior to effective date of Ordinance No. \_\_ enacting this Chapter shall have one (1) year from the effective date of the Ordinance to obtain all required County permits, licenses, and entitlements, or to terminate their operations.

## **21.67.040 Regulations for Medical Cannabis Dispensaries.**

A. Applicability: The provisions of this Section are applicable in Light Commercial (LC) and Heavy Commercial (HC) zoning districts. Medical cannabis dispensaries shall not be allowed in any other zoning district.

B. Regulations. Medical cannabis dispensary shall meet the following minimum requirements:

1. Dispensaries shall be located only in zoning districts that specifically provide for this use.
2. Dispensaries shall not be located within six hundred (600) feet from any school, public park, or a drug recovery facility.
3. Dispensaries shall not be located within one thousand five hundred (1,500) feet of another dispensary.
4. Dispensaries shall keep accurate records of all business operations and provide such records for inspection consistent with Section 19327 of the California Business and Professions Code.
5. Dispensaries shall implement and maintain sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products in compliance with Section 19334 of the California Business and Professions Code and any rules promulgated by the licensing authority. Security measures shall include, but are not limited to, the following:
  - a. Prevent individuals from loitering on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary;
  - b. Establish limited access areas accessible only to authorized dispensary personnel;
  - c. Store all cannabis and cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis and cannabis products used for display purposes, samples or immediate sale;
  - d. Install security cameras on site; and
  - e. Provide for on-site security personnel meeting the requirements and standards contained within Chapter 7.30 of the Monterey County Code. On-site security shall not carry firearms or other lethal weapons.

6. If the dispensary operations are proposed to include delivery, all employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the documentation listed below when making deliveries. This information shall be provided upon request to law enforcement officers and to employees of state and local agencies enforcing this Chapter.

- a. A copy of the dispensary's current permits, licenses, and entitlements authorizing them to provide delivery services;
- b. The employee's government-issued identification;
- c. A copy of the delivery request; and
- d. Chain of custody records for all goods being delivered.

7. Dispensaries shall ensure that all cannabis and cannabis products at the dispensary are cultivated, manufactured, transported, distributed, and tested by licensed and permitted facilities that maintain operations in full conformance with state and local regulations.

8. Dispensaries shall not distribute any medical cannabis or medical cannabis product unless the medical cannabis and medical cannabis products are labeled and in a tamper-evident package in compliance with Section 19347 of the California Business and Professions Code and any additional rules promulgated by the licensing authority.

9. Dispensaries shall notify the Monterey County Sheriff's Office and the licensing authority within 24 hours after discovering any of the following:

- a. Significant discrepancies identified during inventory;
- b. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary;
- c. The loss or unauthorized alteration of records related to cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents; or
- d. Any other breach of security.

10. Possession or delivery of any other form of illegal drugs without proper legal authorization shall be grounds for revocation of permits.

C. Required Findings: A Use Permit for a medical cannabis dispensary shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence:

1. The dispensary, as proposed, has demonstrated that it can and will comply with all of the requirements of the State and County to operate a medical cannabis dispensary.

2. The dispensary will not be located within six hundred (600) feet from any school, public park, or drug recovery facility, or within one thousand five hundred (1,500) feet of another dispensary.

3. The dispensary, as approved and conditioned, will not result in significant unavoidable impacts on the environment.

4. The dispensary includes adequate measures that minimize, to the extent feasible, nuisances to the immediate neighborhood and community including minimizing the detection of odor from offsite, minimizing the effects of loitering, providing adequate security measures, and not exceeding the Use Permit's limits on hours of operation.

5. The dispensary will provide adequate measures that address the federal enforcement priorities for cannabis activities including providing for restrictions on drugged driving, restricting access to minors, prohibiting use or possession of firearms for security purposes at the premises, and ensuring that medical cannabis and medical cannabis products are supplied from permitted and licensed sources.

D. In addition to any other required conditions and mitigation measures approved by the Appropriate Authority, all of the following conditions shall apply to all permits for a medical cannabis dispensary:

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

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

3. The applicant for the dispensary facility and property owner shall indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the permit or relating to any damage to property or persons stemming from the commercial medical cannabis activity.

4. Any person operating a medical cannabis dispensary shall obtain a valid and fully executed commercial medical cannabis permit pursuant to Chapter 7.90 of the Monterey County Code prior to commencing operations and must maintain such permit in good standing in order to continue operations.

5. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Monterey County Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a Use Permit pursuant to Section 21.67.120 of the Monterey County Code.

6. The dispensary shall operate only in accordance with the operating plans reviewed and approved by the County. The County shall limit the hours of operation for a dispensary to begin no earlier than 8:00 a.m. and to end no later than 8:00 p.m.

#### **21.67.050 – Regulations for Medical Cannabis Cultivation.**

A. Applicability: Except as provided in Section 21.67.090 of this Chapter, medical cannabis cultivation may only be permitted in the Light Industrial (LI), Heavy Industrial (HI), Agricultural Industrial (AI), or Farmland zoning districts with a Use Permit in each case and as may be further restricted by this Section. Medical cannabis cultivation is considered an agricultural activity but is not considered a “routine and ongoing agricultural activity” as that term is defined in the 2010 General Plan and is therefore not exempt from permitting requirements for such activities. Outdoor medical 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. The table below summarizes the zoning districts where cultivation may be considered with a Use Permit.

	Type 1	Type 1A	Type 1B	Type 2	Type 2A	Type 2B	Type 3	Type 3A	Type 3B	Type 4
LI		UP	UP		UP	UP				
HI		UP	UP		UP	UP		UP	UP	UP
AI		UP	UP		UP	UP		UP	UP	UP
F		UP	UP		UP	UP		UP	UP	UP

UP = Use Permit pursuant to Chapter 21.74

B. Regulations: Medical cannabis cultivation shall comply with all of the following regulations:

1. It is the intent of the County to provide for the adaptive reuse of greenhouses in Monterey County and to restrict the proliferation of greenhouses or other structures on productive agricultural lands. To this end, within the Farmland (“F”) zoning district, indoor and mixed-light medical cannabis cultivation and medical cannabis



nurseries (Type 1A, 1B, 2A, 2B, 3A, 3B, and 4 state license types) may be permitted with a Use Permit in each case provided that within the Farmland (F) zoning district, the cultivation occurs only within a greenhouse or industrial building that was permitted or legally established prior to January 1, 2016. Greenhouses and industrial buildings may be improved for cannabis activities after January 1, 2016 provided that the footprint of the existing greenhouse(s) or industrial building(s) does not change.

2. Within the Light Industrial (“LI”), Heavy Industrial (“HI”), and Agricultural Industrial (“AI”) zoning districts, indoor or mixed-light medical cannabis cultivation or medical cannabis nurseries (Type 1A, 1B, 2A, 2B, 3A, 3B, or 4 state license types) may be permitted subject to a Use Permit in each case, except that type 3A, 3B and 4 cultivation types shall not be permitted in the Light Industrial (“LI”) zoning district, and provided that the cultivation occurs only within a greenhouse or industrial building that was permitted or legally established prior to January 1, 2016. Subject to other permit requirements of this Title, greenhouses and industrial buildings may be improved for cannabis activities after January 1, 2016 provided that the footprint of the existing greenhouse(s) or industrial building(s) does not change.

3. In no case shall a building intended for residential use be used for the cultivation of medical cannabis.

4. Medical cannabis cultivation shall not be located within six hundred (600) feet of a school, public park, or drug recovery facility.

5. Until a program for the identification of permitted medical marijuana plants at a cultivation site is created by the California Department of Food and Agricultural, cultivators shall implement a County approved unique identification protocol. Unique identifiers shall be attached at the base of each plant and shall be traceable through the supply chain back to the cultivation site. Once a state program has been established, all cultivation activities permitted under this Chapter shall comply with the state requirements for unique identifiers and the trace and track program.

6. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of medical cannabis or medical cannabis products shall be provided and maintained. If on-site security is utilized, such on-site security shall not use or possess firearms or other lethal weapons.

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

8. Water conservation measures, water capture systems, or grey water systems shall be incorporated in medical cannabis cultivation operations in order to minimize use of water where feasible.

9. On-site renewable energy generation shall be required for all indoor (cultivation activities using artificial lighting only including Type 1A, 2A, 3A and 4 state

license types) medical cannabis cultivation activities. Renewable energy systems shall be designed to have a generation potential equal to or greater than one half (1/2) of the anticipated energy demand.

10. Cannabis plants shall not be visible from offsite. No visual markers indicating that cannabis is cultivated on the site shall be visible from offsite.

11. The owner shall ensure that the total canopy size of medical cannabis cultivated at the site does not exceed the cumulative canopy size authorized by State law or regulation. The owner and its licensees and permittees, operating on a site permitted pursuant to this Chapter, and with a commercial medical cannabis permit required pursuant to Chapter 7.90 of the Monterey County Code, shall ensure that the total canopy size of cannabis cultivation does not individually exceed the amounts authorized by County permits and State law.

C. Required Findings. A Use Permit for medical cannabis cultivation shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence:

1. The cultivation, as proposed, will comply with all of the requirements of the State and County for the cultivation of medical cannabis.

2. The cultivation will not be located within six hundred (600) feet from any school, public park, or drug recovery facility.

3. The cultivation, as approved and conditioned, will not result in significant unavoidable impacts on the environment.

4. The cultivation includes adequate measures that minimize use of water for medical cannabis cultivation at the site.

5. The cultivation includes adequate measures to address the projected energy demand for medical cannabis cultivation at the site.

6. The cultivation includes adequate quality control measures to ensure medical cannabis cultivated at the site meets industry standards.

7. The cultivation includes adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors, prohibiting use or possession of firearms for security purposes at the premises, and ensuring that medical cannabis and medical cannabis products are not supplied to unlicensed and unpermitted persons within the State and not distributed out of state.

D. Required Conditions: In addition to any other conditions and mitigation measures required by the Appropriate Authority, all of the following conditions shall apply to all permits for medical cannabis cultivation:

1. The owner and permittees shall allow access to cultivation sites and access to records if requested by the County, its officers, or agents, and shall pay for an annual inspection and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.

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

3. The applicant for the cultivation and the owner shall indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the permit or relating to any damage to property or persons stemming from the commercial medical cannabis activity.

4. Any person cultivating medical cannabis shall obtain a valid and fully executed commercial medical cannabis permit pursuant to Chapter 7.90 of the Monterey County Code prior to commencing operations and must maintain such permit in good standing in order to continue operations.

5. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Monterey County Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a Use Permit pursuant to Section 21.67.120 of the Monterey County Code.

6. The cultivation activities shall be maintained in accordance with the operating plans as approved by the County.

#### **21.67.060 – Medical Cannabis Manufacturing**

A. Applicability: Non-volatile cannabis manufacturing facilities (requiring a Type 6 state license) may be permitted in the Heavy Commercial (“HC”), Light Industrial (“LI”), Heavy Industrial (“HI”), Agricultural Industrial (“AI”), or in Farmland (“F”) zoning districts when combined with a medical cannabis cultivation permit, subject to a Use Permit in each case. Cannabis manufacturing facilities involving volatile processes or substances (requiring a Type 7 state license) shall only be permitted in the Heavy Industrial (“HI”) zoning district with a Use Permit in each case. Except as provided in Section 21.67.090 of this Chapter, medical cannabis manufacturing shall be subject to the requirements contained in this Section.

B. Regulations: Medical cannabis manufacturing shall comply with all of the following regulations:

1. Medical cannabis manufacturing facilities shall be located only in zoning districts that specifically provide for this use.

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

3. The Director of the Monterey County Environmental Health Bureau or his/her designee is the appropriate authority to determine if manufacturing operations are “volatile.”

4. All cannabis manufacturing operations shall ensure that cannabis is obtained from permitted and licensed cultivation sources and shall implement best practices to ensure that all manufactured cannabis products are properly stored, labeled, transported, and inspected prior to distribution at a legally permitted and licensed dispensary.

5. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of medical cannabis or medical cannabis products shall be provided and maintained. Security measures shall include, but are not limited to, the following:

- a. Prevent individuals from loitering on the premises of the manufacturing facility if they are not engaging in activity expressly related to the operations of the manufacturing facility;
- b. Store all cannabis and cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss;
- c. Install security cameras on site; and
- d. Provide for on-site security personnel meeting the requirements and standards contained within Chapter 7.30 of the Monterey County Code. On-site security shall not use or possess firearms or other lethal weapons.

6. Any employees of a medical cannabis manufacturing facilities operating potentially hazardous equipment shall be trained on the proper use of equipment and on the proper hazard response protocols in the event of equipment failure. In addition, employees handling edible cannabis products or ingredients shall be trained on proper food safety practices.

C. Required Findings. A Use Permit for medical cannabis manufacturing shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence:

1. The manufacturing facility, as proposed, will comply with all of the requirements of the State and County for the medical cannabis manufacturing.
2. The manufacturing facility will not be located within six hundred (600) feet from any school, public park, or drug recovery facility.
3. The manufacturing, as approved and conditioned, will not result in significant unavoidable impacts on the environment.
4. The manufacturing includes adequate quality control measures to ensure medical cannabis manufactured at the site meets industry standards.
5. The manufacturing facility does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids, or substances.
6. The manufacturing operations plan includes adequate measures that address the federal enforcement priorities for cannabis activities including providing restrictions on access to minors, prohibiting use or possession of firearms for security purposes at the premises, and ensuring that medical cannabis and medical cannabis products are obtained from and supplied only to other permitted licensed sources within the State.

D. Required Conditions: In addition to any other conditions and mitigation measures required by the Appropriate Authority, all of the following conditions shall apply to all permits for medical cannabis manufacturing:

1. The owner and permittees shall allow access to the facility and access to records if requested by the County, its officers, or agents, and shall pay for an annual inspection and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.
2. The applicant, owner, and permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine compliance with this Chapter from any enforcement officer of the County or their designee.
3. The applicant for the manufacturing facility and the owner shall indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the permit or relating to any damage to property or persons stemming from the commercial medical cannabis activity.
4. Any person operating a medical cannabis manufacturing facility shall obtain a valid and fully executed commercial medical cannabis permit pursuant to Chapter 7.90 of the Monterey County Code prior to commencing operations and must maintain such permit in good standing in order to continue operations.

5. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Monterey County Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a Use Permit pursuant to Section 21.67.120 of this Chapter.

6. The manufacturing facilities and activities shall be maintained in accordance with the operating plans approved by the County.

#### **21.67.070 – Medical Cannabis Testing Facilities**

A. Applicability: Cannabis testing facilities (requiring a Type 8 state license) may be permitted in the Heavy Commercial (“HC”), Light Industrial (“LI”), Heavy Industrial (“HI”), and Agricultural Industrial (“AI”) zoning districts subject to a Use Permit in each case. Testing facilities shall be subject to the requirements of this Section.

B. Regulations: Medical cannabis testing facilities shall comply with all of the following regulations:

1. Medical cannabis testing facilities shall be located only in zoning districts that specifically provide for this use.

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

3. Medical cannabis testing facilities shall be independent from all other persons and entities involved in the medical cannabis industry.

4. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of medical cannabis or medical cannabis products shall be provided and maintained. Security measures shall include, but are not limited to, the following:

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

b. Store all cannabis and cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss;

c. Install security cameras on site; and

- d. Provide for on-site security personnel meeting the requirements and standards contained within Chapter 7.30 of the Monterey County Code. On-site security shall not use or possess firearms or other lethal weapons.
5. Medical cannabis testing facilities shall adopt standard operating procedures using methods consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test medical cannabis and medical cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.
6. Medical cannabis testing facilities shall obtain samples for testing according to a statistically valid sampling method.
7. Medical cannabis testing facilities shall analyze samples according to either the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia or a scientifically valid methodology that is demonstrably equal or superior to the most recent cannabis inflorescence monograph.
8. If a test result falls outside the specifications authorized by law or regulation, the medical cannabis testing facility shall follow a standard operating procedure to confirm or refute the original result.
9. Medical cannabis testing facilities shall destroy the remains of any samples of medical cannabis or medical cannabis product tested upon completion of the analysis.
10. A licensed testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:
  - a. Whether the chemical profile of the lot conforms to the specifications of the lot for compounds, including, but not limited to, all of the following:
    - i. Tetrahydrocannabinol (THC).
    - ii. Tetrahydrocannabinolic Acid (THCA).
    - iii. Cannabidiol (CBD).
    - iv. Cannabidiolic Acid (CBDA).
    - v. The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

- vi. Cannabigerol (CBG).
- vii. Cannabinol (CBN).
- viii. Any other compounds required by the Department of Public Health.

b. That the presence of contaminants does not exceed the levels that are the lesser of either the most current version of the American Herbal Pharmacopoeia monograph or those set by the California Department of Public Health. For purposes of this paragraph, contaminants include, but are not limited to, all of the following:

- i. Residual solvent or processing chemicals.
- ii. Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.
- iii. Microbiological impurity, including total aerobic microbial count, total yeast mold count, *P.aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.
- iv. Whether the batch is within specifications for odor and appearance.

C. Required Findings. A Use Permit for a medical cannabis testing facility shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence:

- 1. The testing facility, as proposed, will comply with all of the requirements of the State and County for the medical cannabis manufacturing.
- 2. The testing facility will not be located within six hundred (600) feet from any school, public park, or drug recovery facility.
- 3. The medical cannabis testing, as approved and conditioned, will not result in significant unavoidable impacts on the environment.
- 4. The owners, permittees, operators, and employees of the testing facility will not be associated with any other form of commercial medical cannabis activity.
- 5. The testing facility is accredited by an appropriate accrediting agency.
- 6. Plans for the testing facility demonstrate proper protocols and procedures for statistically valid sampling methods and accurate certification of medical cannabis



and medical cannabis products for potency, purity, pesticide residual levels, mold, and other contaminants according to adopted industry standards.

D. Required Conditions: In addition to any other conditions and mitigation measures required by the Appropriate Authority, all of the following conditions shall apply to all permits for a medical cannabis testing facility:

1. The owner and permittees of the testing facility shall allow access to the facility and access to records if requested by the County, its officers, or agents, and shall pay for an annual inspection and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.

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

3. The applicant for the testing facility and the owner shall indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the permit or relating to any damage to property or persons stemming from the commercial medical cannabis activity.

4. Any person operating a medical cannabis testing facility shall obtain a valid and fully executed commercial medical cannabis permit pursuant to Chapter 7.90 of the Monterey County Code prior to commencing operations and must maintain such permit in good standing in order to continue operations.

5. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Monterey County Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a Use Permit pursuant to Section 21.67.120 of the Monterey County Code.

6. The testing facilities and related activities shall be maintained in accordance with the operating plans approved by the County.

#### **21.67.080 – Medical Cannabis Transportation and Distribution**

A. Applicability: Except as provided in Section 21.67.090, medical cannabis transportation and distribution facilities may be permitted in the Heavy Commercial (HC), Light Industrial (LI), Heavy Industrial (HI), and Agricultural Industrial (AI) zoning districts subject to a Use Permit in each case. Cannabis transportation and distribution facilities shall be subject to all of the requirements contained in this Section.

B. Regulations: Medical cannabis transportation and distribution facilities shall comply with all of the following requirements.

1. Medical cannabis transportation and distribution facilities shall be located only in zoning districts that specifically provide for this use.
2. Medical cannabis transportation and distribution facilities shall not be located within six hundred (600) feet from any school, public park, or a drug recovery facility.
3. Medical cannabis and medical cannabis products shall only be transported between permitted and licensed commercial medical cannabis operations.
4. Prior to transporting medical cannabis or medical cannabis products, the transporter shall complete an electronic shipping manifest. The shipping manifest shall include the unique identifier information from the cultivation source.
5. A physical copy of the shipping manifest shall be maintained during transportation and shall be made available upon request to law enforcement or any agents of the State or County charged with enforcement of this Chapter.
6. Distribution facilities shall maintain appropriate records of transactions and shipping manifests. An organized and clean method of storing and transporting medical cannabis and medical cannabis products shall be provided to maintain a clear chain of custody.
7. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of medical cannabis or medical cannabis products shall be provided and maintained. Security measures at distribution facilities shall include, but are not limited to, the following:
  - a. Prevent individuals from loitering on the premises of the distribution facility if they are not engaging in activity expressly related to the operations of the distribution facility;
  - b. Store all cannabis and cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss;
  - c. Install security cameras on site; and
  - d. Provide for on-site security personnel meeting the requirements and standards contained within Chapter 7.30 of the Monterey County Code. On-site security shall not use or possess firearms or other lethal weapons.

8. Distributors shall ensure that appropriate samples of medical cannabis or medical cannabis products are tested by a licensed testing facility prior to distribution.

9. Prior to distribution, the distributor shall inspect medical cannabis or medical cannabis products for quality assurance.

10. Medical cannabis and medical cannabis products shall be packaged and labeled in accordance with the requirements of state law.

11. Alternative fuel vehicles shall be provided as part of a medical cannabis transportation fleet.

C. Required Findings. A Use Permit for medical cannabis transportation and distribution facility shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence:

1. The transportation and distribution facility, as proposed, will comply with all of the requirements of the State and County for the medical cannabis transportation and distribution.

2. The facility will not be located within six hundred (600) feet from any school, public park, or drug recovery facility.

3. The medical cannabis transportation and distribution as approved and conditioned, will not result in significant unavoidable impacts on the environment.

4. Plans for the distribution facility demonstrate proper protocols and procedures that address the federal enforcement priorities for cannabis activities including providing restrictions on access to minors, prohibiting use or possession of firearms for security purposes at the premises, and ensuring that medical cannabis and medical cannabis products are obtained from and supplied only to other permitted licensed sources within the State.

D. Required Conditions: In addition to any other conditions and mitigation measures required by the Appropriate Authority, all of the following conditions shall apply to all permits for a medical cannabis transportation and distribution facility:

1. The owner and permittees of the transportation and distribution facility shall allow access to the facility and access to records if requested by the County, its officers, or agents, and shall pay for an annual inspection and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.

2. The applicant, owner, and permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine

compliance with this Chapter from any enforcement officer of the County or their designee.

3. The applicant for the transportation and distribution facility and the owner shall indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the permit or relating to any damage to property or persons stemming from the commercial medical cannabis activity.

4. Any person operating a medical cannabis transportation or distribution facility shall obtain a valid and fully executed commercial medical cannabis permit pursuant to Chapter 7.90 of the Monterey County Code prior to commencing operations and must such permit in good standing in order to continue operations.

5. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with permits and licenses required by the Monterey County Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the County or State shall be grounds for the modification or revocation of a Use Permit pursuant to Section 21.67.120 of the Monterey County Code.

6. The transportation and distribution facilities and activities shall be maintained in accordance with the operating plans approved by the County.

#### **21.67.090 Exemptions from Permit Requirements.**

A. Applicability: The provisions of this Section are applicable in all zoning districts. This Section applies to a qualified patient cultivating cannabis if the area he or she uses to cultivate cannabis does not exceed one hundred (100) square feet and he or she cultivates cannabis for his or her personal medical use and does not sell, distribute, donate, or provide cannabis to any other person or entity. This Section also applies to a primary caregiver cultivating cannabis if the area he or she uses to cultivate cannabis does not exceed one hundred (100) square feet in any case, and he or she cultivates cannabis for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver. Cultivation of cannabis exceeding one hundred (100) square feet shall be subject to the regulations contained in Section 21.67.050 and any other applicable section of this Chapter.

#### **B. Regulations:**

1. Possession, storage, manufacturing, or transportation of medical cannabis, or cultivation of up to one hundred (100) square feet total canopy area of medical cannabis by a qualified patient, as that term is defined in Section 11362.7 of the California Health and Safety Code, is exempt from the Use Permit requirements contained in this Chapter if 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 medical purposes.

2. Possession, storage, manufacturing, transportation of medical cannabis, or cultivation of up to one hundred (100) square feet of canopy area of medical 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, is exempt from the Use Permit requirements contained in this Chapter, provided the primary caregiver does not receive remuneration for these activities except for compensation in full compliance with subdivision (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.

#### **21.67.100 Application Requirements**

All applications for a Use Permit for a commercial medical cannabis activity shall be filed with the Resource Management Agency/Planning on the form and in the manner prescribed by the Director of Planning. In all cases the application shall contain, without limitation, the following documentation:

A. Notarized, written authorization from all persons and entities having a right, title or interest in the property that is the subject of the application consenting to the application and the operation of the proposed commercial medical cannabis activity on the subject property.

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

C. Site plans, floor plans, conceptual improvement plans, and a general description of the nature, size, and type of commercial medical cannabis activity(ies) being requested.

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

1. On-site security measures both physical and operational and, if applicable, security measures for the delivery of cannabis associated with the commercial medical cannabis business;

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

3. Proposed hours of operation;

4. Waste disposal information;

5. A water management plan including the proposed water supply and proposed conservation measures;
6. Medical recommendation verification and youth access restriction procedures;
7. Product supply chain including information on where cultivation occurs, where the product is processed or manufactured, any required testing of cannabis or cannabis products, transportation, and packaging and labeling criteria;
8. Record keeping policy;
9. Track and trace measures;
10. Sustainability measures including water efficiency measures, energy efficiency measures, high efficiency mechanical systems, and alternative fuel transportation methods;
11. Odor prevention devices;
12. Size, height, colors, and design of any proposed signage at the site;
13. Parking plan; and
14. Such other information as the Director of Planning may require.

E. Additional application requirements: Based on the type of commercial medical cannabis activities proposed, the following additional information may be required by the Director of Planning:

1. Medical cannabis dispensary: In reviewing an application for a Use Permit to dispense medical cannabis or medical cannabis products, the Director of Planning or his or her designee may request operational plans detailing how operations will comply with federal enforcement priorities.
2. Medical cannabis cultivation: In reviewing an application for a Use Permit to cultivate medical cannabis, the Director of Planning or his or her designee may request the following additional information:
  - a. Water conservation measures;
  - b. Projected energy demand and proposed renewable energy generation facilities;
  - c. Unique identifier, inventory, and quality control procedures; and
  - d. A floor plan identifying the location, dimensions, and boundaries of all proposed canopy areas taking into account space needed for ongoing care of

plants and a description of the proposed method of physically delineating those boundaries at the site.

3. Medical cannabis manufacturing: In reviewing an application for a Use Permit to operate a cannabis manufacturing facility, the Director of Planning or his or her designee may request the following additional information:

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

4. Medical cannabis testing facilities: In reviewing an application for a Use Permit to operate a cannabis testing facility, the Director of Planning or his or her designee may request the following additional information:

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

5. Medical cannabis transportation and distribution facility: In reviewing an application for a Use Permit to operate a cannabis transportation and/or distribution facility, the Director of Planning or his or her designee may request any following additional information:

- a. An operations plan detailing how, and from where, cannabis and cannabis products will be received, how any storage, distribution, and transportation operations will be secured to prevent theft and trespass, and to whom the product will be distributed;
- b. Quality control inspections and requirements plan;
- c. Truck parking and loading areas;
- d. Storage and handling plans; and

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

F. All required application materials shall be prepared by the applicant and submitted at the time of application.

#### **21.67.110 – Grounds for Suspension or Revocation**

Any of the following shall be grounds for suspension or revocation of the Use Permit, based on substantial evidence and following notice and public hearing pursuant to Section 21.67.120:

- A. Failure to comply with one or more of the conditions of the Use Permit;
- B. The Use 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 an owner or permittee in contravention of the provisions of this Chapter;
- D. Any act or omission by an owner or permittee that results in the denial, revocation or suspension of the owner's or permittee's State License;
- E. Any act or omission that results in the revocation of that owner's or permittee's commercial medical cannabis permit under Chapter 7.90 of the Monterey County Code;
- F. Any act or omission by an owner or permittee in contravention of State law or the Monterey County Code;
- G. An owner's or permittee's failure to take appropriate action to evict or otherwise remove persons conducting commercial medical cannabis activities who do not maintain the necessary permits or licenses in good standing with the County or State;
- H. Possession or delivery of any other form of illegal drugs without proper legal authorization; or
- I. Conduct of the commercial medical cannabis activities in a manner that constitutes a nuisance, where the owner or permittee has failed to comply with reasonable conditions to abate the nuisance.

#### **21.67.120 –Procedure for Suspension or Revocation**

A. If the Director of Planning determines that grounds for suspension or revocation of the Use Permit exist pursuant to section 21.67.110, the Director of Planning shall issue a written Notice of Intention to revoke or suspend the Use Permit, as the case may be. The Notice of Intention shall be served on the owner, as reported on the latest equalized assessment roll, and shall also be served on permittees on the property, as reported on the commercial medical cannabis permits issued pursuant to Chapter 7.90. The Notice of Intention shall be served by either personal delivery or by certified U.S. Mail, postage prepaid, return receipt requested. The Notice of



Intention shall describe the property, the intention to revoke or suspend the Use Permit, the grounds for revocation or suspension, 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 owner and permittees of the opportunity to request a hearing before a Hearing Officer to present evidence as to why the Use Permit should not be suspended or revoked and shall notify them of the 10-day deadline to submit a written request for a hearing.

B. The owner and permittees 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 Use Permit and a failure to exhaust administrative remedies. If the hearing is not timely requested, the Director of Planning may suspend or revoke the Use Permit in accordance with the Notice of Intention.

C. Upon receipt of a timely written request for a hearing, the Director of Planning shall set a date for a hearing to be held within 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 on the owner and permittees, such service to be accomplished by either personal delivery or by certified U.S. Mail, postage prepaid, return receipt requested.

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 Use 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 owner nor any permittee 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.

### **21.67.130 – Enforcement**

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 this 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, and any other relief or remedy available at law or in equity. The County may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial medical cannabis activity or persons related thereto, or associated with, the commercial medical cannabis activity.

### **21.67.140 –Operative Date of Chapter 21.67**

A. This Chapter shall become operative only if the Board of Supervisors submits a County tax on commercial medical cannabis activity to the voters, the voters approve the tax, and the tax is certified by the County pursuant to Section 15372 of the California Elections Code. If this Chapter becomes operative, the operative date shall be the date the County elections official submits the certified statement of the results of the vote on the tax to the Board of Supervisors.

B. If the Board of Supervisors submits a County tax on commercial medical cannabis activity to the voters, the voters approve the tax, and the tax is certified by the County pursuant

to Section 15372 of the California Elections Code, Interim Ordinance No. 5254, as previously amended and extended through February 26, 2017, shall become inoperative as of the operative date of this Chapter in the non-coastal unincorporated area of the County.

C. This Chapter shall be inoperative if the Board of Supervisors does not submit a tax on commercial medical cannabis activity to the voters, the voters do not approve the tax, or the tax is not certified by the County pursuant to Section 15372 of the California Elections Code. If this Chapter is inoperative, Interim Ordinance No. 5254, as previously amended and extended, shall remain in effect through February 26, 2017.

SECTION 17. 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 18. EFFECTIVE DATE AND OPERATIVE DATE.

A. This ordinance shall become effective on the thirty-first day following adoption, but this ordinance shall not become operative unless the Board of Supervisors submits a County tax on commercial cannabis activity to the voters, the voters approve the tax, and the tax is certified by the County pursuant to Section 15372 of the California Elections Code. If this ordinance becomes operative, the operative date shall be the date the County elections official submits the certified statement of the results of the vote on the tax to the Board of Supervisors.

B. As of the operative date of this ordinance, Interim Ordinance No. 5254, as previously amended and extended through February 26, 2017, shall become inoperative in the non-coastal unincorporated area of the County. If the Board of Supervisors does not submit a tax on commercial medical cannabis activity to the voters, the voters do not approve the tax, or the tax is not certified by the County pursuant to Section 15372 of the California Elections Code, Interim Ordinance No. 5254, as previously amended and extended, shall remain in effect through February 26, 2017.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

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Chair,  
Monterey County Board of Supervisors



A T T E S T:

GAIL T. BORKOWSKI  
Clerk of the Board

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

APPROVED AS TO FORM BY:

\_\_\_\_\_  
Leslie J. Girard  
Chief Assistant County Counsel