



## Monterey County Board of Supervisors

### Board Order

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066

Upon motion of Supervisor Phillips, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

- a. Acknowledged receipt of the California Coastal Commission resolution approving the Monterey County Local Coastal Program (LCP) Amendment No. LCP-3-MCO-18-0004-1 (Commercial Cannabis Ordinance);
- b. Found the project is the adoption of local commercial cannabis regulations that require subsequent discretionary permits that are themselves subject to CEQA review, and therefore is statutorily exempt from CEQA pursuant to Business and Professions Code Section 26055(h);
- c. Adopted Ordinance 5299 amending the Monterey County Coastal Implementation Plan, Part 1 and Part 2 (Title 20, coastal zoning ordinance) of the Monterey County Code to regulate commercial cannabis activities in the coastal zone of unincorporated Monterey County;
- d. Adopted Resolution 18-071 amending the text of the North County Land Use Plan to allow permitting of commercial cannabis activities at the former Kaiser National Refractories site located at 7697 Highway 1, Moss Landing, notwithstanding the coastal-dependent industrial land use designation on the site;
- e. Adopt Ordinance 5300 amending Title 21 (non-coastal zoning ordinance) of the Monterey County Code to remove the 600-foot setback from drug recovery facilities and public parks, and add a 600-foot setback from playgrounds, child care centers and youth centers for all types of commercial cannabis activities;
- f. Adopted Resolution of Intent 18-070 to adopt an ordinance amending the Monterey County Coastal Implementation Plan, Part 1 (Title 20 coastal zoning ordinance) remove the 600-foot setback from drug recovery facilities and public parks, and add a 600-foot setback from playgrounds, child care centers, and youth centers for all types of commercial cannabis activities;
- g. Certified that the amendments to the Local Coastal Program (action items "c" and "d" above), and the Resolution of Intent to amend the Implementation Plan, Part 1 (Title 20 coastal zoning ordinance) modifying setbacks (action item "f" above) are intended to be carried out in a manner fully in conformity with the Coastal Act;
- h. Directed staff to transmit the amendments to the Local Coastal Program (action items "c" and "d" above) for confirmation that the amendments are consistent with the action taken by the Coastal Commission of February 7, 2018 approving Local Coastal Plan Amendment number LCP-3-MCO-18-0004-1; and
- i. Directed staff to transmit the Resolution of Intent to modify the Coastal Implementation Plan, Part 1 to the Coastal Commission for certification (action item "f" above).

PASSED AND ADOPTED on this 20th day of March 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Salinas, Phillips, Parker and Adams  
NOES: None  
ABSENT: None

I, Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 80 for the meeting March 20, 2018.

Dated: March 20 2018  
File ID: RES 18-029

Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors  
County of Monterey, State of California

By   
Deputy

**ORDINANCE NO. 5299**

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,  
AMENDING TITLE 20 (COASTAL ZONING) OF THE MONTEREY COUNTY CODE  
RELATING TO CANNABIS USES**

**County Counsel Summary**

*This ordinance amends Title 20 (coastal zoning) of the Monterey County Code to regulate commercial cannabis activities in the coastal unincorporated area of Monterey County consistent with state law. This ordinance establishes certain specified commercial cannabis activities, including cultivation within greenhouses and industrial buildings as well as manufacturing, testing, retail, delivery, and distribution as uses allowed subject to a Coastal Development Permit in each case within the specified zoning districts. These zoning districts include the Coastal General Commercial, Moss Landing Commercial, Light Industrial, Heavy Industrial, Agricultural Industrial, Agricultural Conservation, and Coastal Agricultural Preserve with allowance of the particular use within each zoning district subject to factors specified by the ordinance. This ordinance also defines terms and adds Chapter 20.67 to the Monterey County Code to establish regulations governing the issuance of Coastal Development Permits for commercial cannabis activities. This ordinance also amends the Monterey County Coastal Implementation Plan Part 2, Regulations for Development in the North County Land Use Plan Area, to specify that limited agricultural uses, including commercial cannabis activities, may be permitted within existing industrial infrastructure at the former Kaiser National Refractories site subject to a Coastal Development Permit until a long-range master plan is completed that governs the site (i.e., through an updated certified Moss Landing Community Plan) or until January 1, 2023, whichever occurs first, notwithstanding the coastal dependent land use designation for the site.*

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

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

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

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

G. On July 12, 2016, the Monterey County Board of Supervisors 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. Hence, Chapter 21.67 became operative in the inland unincorporated area on December 13, 2016. 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. Also on July 12, 2016, the Monterey County Board of Supervisors adopted a resolution of intent (Resolution No. 16-210) to adopt coastal zoning regulations to establish criteria for local land use permits pursuant to MMRSA. The County submitted the regulations to the California Coastal Commission for certification, but the County subsequently withdrew the proposed regulations because of discussions with Coastal Commission staff on revisions and recent changes to state law. This ordinance updates these previous draft regulations and adds adult-use commercial activities as a permitted use.

I. 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.

J. 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.

K. 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.

L. 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.

M. This ordinance provides regulations for the local permitting of commercial cannabis operations under specified conditions in the coastal zone of the unincorporated areas of the County. The Board of Supervisors is acting on a separate similar ordinance to update the County regulations for commercial cannabis activities in the non-coastal unincorporated areas of the County.

N. This ordinance, together with the ordinances amending Chapters 7.90 and 7.02 to the Monterey County Code requiring a Commercial Cannabis Business Permit and a Business License, 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.

O. The County intends to carry out the amendments in a manner fully in conformity with the Coastal Act.

P. This ordinance amends the Monterey County Coastal Implementation Plan, which is part of the County’s Local Coastal Program. Pursuant to the Coastal Act, the County may amend the certified Local Coastal Program provided the County follows certain procedures. The procedures include the following: the County’s Planning Commission holds a notice public hearing and make a recommendation to the Board of Supervisors on the proposed amendment; the Board of Supervisors holds a noticed public hearing, adopts a resolution of intent, and submits the proposed amendment to the California Coastal Commission for certification together with materials sufficient for a thorough and complete review; the Coastal Commission certifies the amendment; the Board of Supervisors takes subsequent final action on the ordinance after the Coastal Commission acts; and the Coastal Commission confirms the County’s action.

Accordingly, the ordinance will not go into effect until after the Coastal Commission certifies the amendment and confirms the Board's action.

Q. This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to California Business and Professions Code section 26055(h) which provides a statutory exemption from CEQA for the adoption by local jurisdictions of ordinances that require discretionary review of permits, including applicable environmental review under CEQA, to engage in commercial cannabis activity. This ordinance requires a Coastal Development Permit for all commercial cannabis activities, and each Coastal Development Permit would be individually subject to applicable environmental review under CEQA.

SECTION 2. Section 20.06.152 is added to the Monterey County Code to read as follows:

**20.06.152 - 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 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 Title, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

SECTION 3. Section 20.06.196 is added to the Monterey County Code to read as follows:

**20.06.196 – Commercial cannabis activity**

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

SECTION 4. Subsection A of Section 20.18.050 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 cannabis activities that are allowed under Section 20.18.060 shall require a Coastal Development Permit in each case.

SECTION 5. Subsection QQ is added to Section 20.18.060 to read as follows:

QQ. Cannabis retailer pursuant to Chapter 20.67.

SECTION 6. Subsection A of Section 20.20.050 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 cannabis activities that are allowed under Section 20.20.060 shall require a Coastal Development Permit in each case.

SECTION 7. Subsection W is added to Section 20.20.060 of the Monterey County Code to read as follows:

W. Cannabis retailer pursuant to Chapter 20.67.

SECTION 8. Subsection A of Section 20.24.050 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 cannabis activities that are allowed under Section 20.24.060 shall require a Coastal Development Permit in each case.

SECTION 9. Subsections JJ, KK, LL, and MM are added to Section 20.24.060 of the Monterey County Code to read as follows:

JJ. Indoor, mixed light, or nursery cannabis cultivation pursuant to Chapter 20.67.

KK. Non-volatile cannabis manufacturing pursuant to Chapter 20.67.

LL. Cannabis distribution facilities pursuant to Chapter 20.67.

MM. Cannabis testing facilities pursuant to Chapter 20.67.

SECTION 10. Subsection A of Section 20.26.050 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 cannabis activities that are allowed under Section 20.26.060 shall require a Coastal Development Permit in each case.

SECTION 11. Subsections DD, EE, FF, GG, and HH are added to Section 20.26.060 of the Monterey County Code to read as follows:

DD. Indoor, mixed-light, or nursery cannabis cultivation pursuant to Chapter 20.67.

EE. Non-volatile cannabis manufacturing pursuant to Chapter 20.67.

FF. Cannabis distribution facilities pursuant to Chapter 20.67.

GG. Cannabis testing facilities pursuant to Chapter 20.67.

SECTION 12. Subsection A of Section 20.28.050 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 cannabis activities that are allowed under Section 20.28.060 shall require a Coastal Development Permit in each case.

SECTION 13. Subsections NN, OO, PP, QQ, and RR are added to Section 20.28.060 of the Monterey County Code to read as follows:

- NN. Indoor, mixed-light, or nursery cannabis cultivation pursuant to Chapter 20.67.
- OO. Non-volatile cannabis manufacturing pursuant to Chapter 20.67.
- PP. Volatile cannabis manufacturing pursuant to Chapter 20.67.
- QQ. Cannabis distribution facilities pursuant to Chapter 20.67.
- RR. Cannabis testing facilities pursuant to Chapter 20.67.

SECTION 14. Subsections EE, FF, and GG are added to Section 20.30.050 of the Monterey County Code to read as follows:

- EE. Indoor, mixed-light, or nursery cannabis cultivation pursuant to Chapter 20.67.
- FF. Non-volatile cannabis manufacturing pursuant to Chapter 20.67.

SECTION 15. Subsections II, JJ, and KK are added to Section 20.32.050 of the Monterey County Code to read as follows:

- II. Indoor, mixed-light, or nursery cannabis cultivation pursuant to Chapter 20.67.
- JJ. Non-volatile cannabis manufacturing pursuant to Chapter 20.67

SECTION 16. Chapter 20.67 is added to the Monterey County Code to read as follows:

## **Chapter 20.67 COMMERCIAL CANNABIS ACTIVITIES**

### **Sections:**

- 20.67.010 – Definitions**
- 20.67.020 – Purpose**
- 20.67.030 – Permits Required**
- 20.67.040 – Cannabis Retailers**
- 20.67.050 – Cannabis Cultivation**
- 20.67.060 – Cannabis Manufacturing**
- 20.67.070 – Cannabis Testing Facilities**
- 20.67.080 – Cannabis Distribution**
- 20.67.090 – Exemptions**



**20.67.100 – Application Requirements**  
**20.67.110 – Grounds for Suspension or Revocation**  
**20.67.120 – Procedure for Suspension or Revocation**  
**20.67.130 – Enforcement**

**20.67.010 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 20.06 shall otherwise apply.

A. “Bureau” means the Bureau of Cannabis Control within the California Department of Consumer Affairs.

B. “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate 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.

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

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 cannabis. Within the definition of cultivation, the following specific Permit Types, corresponding to state cultivator license types set forth in California Business and Professions Code Section 26061, apply:

1. Type 1A or “specialty indoor” means indoor cultivation using exclusively artificial lighting of between five hundred one (501) and five thousand (5,000) square feet of total canopy size on one premises;

2. Type 1B or “specialty mixed-light” means cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between two thousand five hundred one (2,501) and five thousand (5,000) square feet of total canopy size on one premises;

3. Type 1C, or “specialty cottage,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by

the licensing authority, of two thousand five hundred (2,500) square feet or less of total canopy size for mixed-light cultivation, or five hundred (500) square feet or less of total canopy size for indoor cultivation, on one premises;

4. 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 on one premises;

5. 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 on one premises;

6. 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 on one premises;

7. 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 on one premises; and

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

G. “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.

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

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

J. “Edible cannabis product” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. 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 any person holding a state license under California Business and Professions Code Sections 26000, *et seq.*

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

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 cannabis or cannabis products either 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. "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 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation.

S. "Nursery" means a permittee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

T. "One ownership" and "owner" have the same definition as set forth in Chapter 20.06 of this Title.

U. “Permittee” means a person issued a Coastal Development Permit under this Chapter.

V. “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.

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

X. “Public park” means an area created, established, designated, or maintained by 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.

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

Z. “Retailer” and “retail facility” shall have the same meaning as “Dispensary.”

AA. “State” means the State of California.

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

CC. “Testing laboratory” means a facility, entity, or site in the state that offers or performs test of cannabis or 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 cannabis activities in the state; and
2. Licensed by the Bureau.

DD. “Transport” or “transportation” mean the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to the California Business & Professions Code Sections 26000, *et seq.*

EE. “Volatile Manufacturing” means a manufacturing site that manufactures cannabis products using volatile solvents.

FF. “Volatile solvents” shall have the same meaning as in paragraph (3) of subsection (b) of Section 11362.3 of the California Health and Safety Code, unless otherwise provided by law or regulation.

## **20.67.020 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 cannabis activities. Commercial cannabis activity, as defined pursuant to Section 20.06.196 of Title 20, includes the cultivation, possession, manufacture, processing, storing, laboratory testing, packaging, labeling, transporting, distribution, or sale of cannabis or a cannabis product. This Chapter recognizes that commercial cannabis activities require land use controls due to the unique federal and state legal constraints on commercial cannabis activity, and the potential environmental and social impacts associated with commercial cannabis activity.

## **20.67.030 Permits Required**

Except as provided in Section 20.67.090 of this Chapter, commercial cannabis activities shall not be allowed in the unincorporated areas in the coastal zone of Monterey County without first securing all permits, licenses, or other entitlements required by County regulation and state law and regulation.

A. A Coastal Development Permit shall be required for all commercial cannabis activities. The application for a Coastal Development Permit, and for amendments thereto and extensions thereof, shall be processed in accordance with Chapter 20.70 of the Monterey County Code. The Planning Commission is the Appropriate Authority to consider a Coastal Development Permit for commercial cannabis activities and to consider extensions of and amendments to such Permits. Appeals from the decision of the Planning Commission shall be governed by Chapter 20.86 of the Monterey County Code. Notwithstanding the foregoing, the procedures for suspension and revocation of a Coastal Development Permit granted under this Chapter shall be as set forth in sections 20.67.110 and 20.67.120 of this Chapter.

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

C. Upon implementation of state regulations pursuant to California Business and Professions Code Section 26012, a valid license from the State shall be required to operate any commercial cannabis activity.

D. The owner shall post or cause to be posted on site the Coastal Development 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 cannabis or cannabis products.

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 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.

#### **20.67.040 Regulations for Cannabis Retailers.**

A. **Applicability:** The provisions of this Section are applicable in Coastal General Commercial (CGC) and Moss Landing Commercial (MLC) zoning districts. Cannabis retailers shall not be allowed in any other zoning district.

B. **Regulations.** Cannabis retailers shall meet the following minimum requirements:

1. Retail facilities shall be located only in zoning districts that specifically provide for this use and the retail facility shall be consistent with all land use designations.

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

3. Retail facilities shall not be located within one thousand five hundred (1,500) feet of another retail facility.

4. Retailers shall keep accurate records of all business operations and provide such records for inspection consistent with Section 26160 of the California Business and Professions Code.

5. Retailers 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 26070 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 retailer if they are not engaging in activity expressly related to the operations of the retailer;

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. Onsite security shall not carry firearms or other lethal weapons.
6. If the retailer operations are proposed to include delivery, all employees of a retailer delivering cannabis or 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 retailer'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. Retailers 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. Retailers shall not distribute any cannabis or cannabis product unless the cannabis and cannabis products are labeled and in a tamper-evident package in compliance with Section 26120 of the California Business and Professions Code and any additional rules promulgated by the licensing authority.
9. Retailers 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 retailer;
  - c. The loss or unauthorized alteration of records related to cannabis, patients, or retailer 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 Coastal Development Permit for a cannabis retailer shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence:

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

2. The retail facility 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 retail facility.

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

4. The retailer 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 Coastal Development Permit's limits on hours of operation.

5. The retailer 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 cannabis and 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 cannabis retailer:

1. The cannabis retailer shall allow access to 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 retail 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 cannabis activity.



4. Any person operating a cannabis retail facility shall obtain a valid and fully executed commercial 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 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 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 Coastal Development Permit pursuant to Section 20.67.120 of the Monterey County Code.

6. The retailer 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 retail facility to begin no earlier than 8:00 a.m. and to end no later than 8:00 p.m.

#### **20.67.050 – Regulations for Cannabis Cultivation.**

A. Applicability: Except as provided in Section 20.67.090 of this Chapter, cannabis cultivation may only be permitted in the Light Industrial (LI), Heavy Industrial (HI), Agricultural Industrial (AI), Agricultural Conservation (AC), or Coastal Agricultural Preserve (CAP) zoning districts with a Coastal Development Permit in each case and as may be further restricted by this Section. Outdoor cannabis cultivation is prohibited in all zones within the unincorporated areas of Monterey County except as provided in Section 20.67.090 of this Chapter. The table below summarizes the zoning districts where cultivation may be considered with a Coastal Development Permit.

	Type 1A	Type 1B	Type 1C*	Type 2A	Type 2B	Type 3A	Type 3B	Type 4
LI	CDP	CDP	CDP	CDP	CDP			
HI	CDP	CDP	CDP	CDP	CDP	CDP	CDP	CDP
AI	CDP	CDP	CDP	CDP	CDP	CDP	CDP	CDP
CAP	CDP	CDP	CDP	CDP	CDP	CDP	CDP	CDP
AC	CDP	CDP	CDP	CDP	CDP	CDP	CDP	CDP

CDP = Coastal Development Permit pursuant to Chapter 21.70

\* For Type 1C “Specialty Cottage” only mixed-light and indoor cultivation are permitted. “Specialty Cottage” outdoor cultivation is prohibited in Monterey County.

**B. Regulations: 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 Agricultural Conservation (AC) and Coastal Agricultural Preserve (CAP) zoning districts, indoor and mixed-light cannabis cultivation and cannabis nurseries (Type 1A, 1B, 1C, 2A, 2B, 3A, 3B, and 4 state license types) may be permitted with a Coastal Development Permit in each case provided that cultivation is consistent with all land use designations and, within the Agricultural Conservation (AC) and Coastal Agricultural Preserve (CAP) zoning districts, 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 cannabis cultivation or cannabis nurseries (Type 1A, 1B, 1C, 2A, 2B, 3A, 3B, or 4 state license types) may be allowed subject to a Coastal Development 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 is consistent with all land use designations and 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 cannabis.

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

5. Until a track and trace program for the identification of permitted cannabis plants at a cultivation site is created by the California Department of Food and Agriculture, cultivators shall implement 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 cannabis or 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 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, 1C, 2A, 3A and 4 state license types) 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 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 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.

12. Unless restricted under the terms or conditions of a Coastal Development Permit, permittees who hold a Coastal Development Permit for cannabis cultivation or nursery operations may transport their own cannabis grown onsite to another permitted and licensed cannabis business at an offsite facility provided the cultivation or nursery permittee holds a Type 11 state license or other applicable state license that allows for the transportation of cannabis. A separate Coastal Development Permit under this Section shall not be required for permittees that transport their own cannabis grown onsite to another permitted and licensed cannabis business at an offsite facility. Failure to adhere to County or State laws and regulations for cannabis transportation may be grounds for suspension or revocation of a Coastal Development Permit pursuant to Section 20.67.110 of the Monterey County Code.

C. Required Findings. A Coastal Development Permit for 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 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 cannabis cultivation at the site.

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

6. The cultivation includes adequate quality control measures to ensure 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 cannabis and 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 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 cannabis activity.

4. Any person cultivating cannabis shall obtain a valid and fully executed commercial 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 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 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 Coastal Development pursuant to Section 20.67.120 of the Monterey County Code.

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

#### **20.67.060 –Cannabis Manufacturing**

A. Applicability: Non-volatile cannabis manufacturing facilities (requiring a Type 6 state license) may be permitted in the Light Industrial (LI), Heavy Industrial (HI), Agricultural Industrial (AI), Agricultural Conservation (AC), or in Coastal Agricultural Preserve (CAP) zoning districts. Non-volatile manufacturing may only be permitted in the AC and CAP zoning districts when combined with a cannabis cultivation permit, and subject to a Coastal Development 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 Coastal Development Permit in each case. Except as provided in Section 20.67.090 of this Chapter, cannabis manufacturing shall be subject to the requirements contained in this Section.

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

1. Cannabis manufacturing facilities shall be located only in zoning districts that specifically provide for this use and the manufacturing facilities shall be consistent with all land use designations.
2. 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” as defined by the State.
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 cannabis or 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 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.

7. Unless restricted under the terms or conditions of a Coastal Development Permit, permittees who hold a Coastal Development Permit for cannabis manufacturing may transport their own cannabis products manufactured onsite to another permitted and licensed cannabis business at an offsite facility provided the manufacturing permittee holds a Type 11 state license or other applicable state license that allows for the transportation of cannabis products. A separate Coastal Development Permit under this Section shall not be required for permittees that transport their own cannabis products manufactured onsite to another permitted and licensed cannabis business at an offsite facility. Failure to adhere to County or State laws and regulations for manufactured cannabis transportation may be grounds for suspension or revocation of a Coastal Development Permit pursuant to Section 20.67.110 of the Monterey County Code.

C. Required Findings. A Coastal Development Permit for 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 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 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 cannabis and 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 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 cannabis activity.

4. Any person operating a cannabis manufacturing facility shall obtain a valid and fully executed commercial 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 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 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 Coastal Development Permit pursuant to Section 20.67.120 of this Chapter.

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

#### **20.67.070 –Cannabis Testing Facilities**

A. Applicability: Cannabis testing facilities (requiring a Type 8 state license) may be permitted in the Light Industrial (LI), Heavy Industrial (HI), and Agricultural Industrial (AI)

zoning districts subject to a Coastal Development Permit in each case. Testing facilities shall be subject to the requirements of this Section.

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

1. Cannabis testing facilities shall be located only in zoning districts that specifically provide for this use and the testing facilities shall be consistent with all land use designations.
2. Cannabis testing facilities shall not be located within six hundred (600) feet from any school, public park, or a drug recovery facility.
3. Cannabis testing facilities shall be independent from all other persons and entities involved in the cannabis industry.
4. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or 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. Cannabis testing facilities shall adopt standard operating procedure 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 cannabis and cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.
6. Cannabis testing facilities shall obtain samples for testing according to a statistically valid sampling method.
7. 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 cannabis testing facility shall follow a standard operating procedure to confirm or refute the original result.

9. Cannabis testing facilities shall destroy the remains of any samples of cannabis or 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 specification for odor and appearance.

C. Required Findings. A Coastal Development Permit for 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 testing of cannabis or cannabis products.

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

3. The 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 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 cannabis and 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 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 cannabis activity.

4. Any person operating a cannabis testing facility shall obtain a valid and fully executed commercial 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 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 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 Coastal Development Permit pursuant to Section 20.67.120 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.

#### **20.67.080 –Cannabis Distribution**

A. Applicability: Except as provided in Section 20.67.090, cannabis distribution facilities (requiring a Type 11 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 Coastal Development Permit in each case. Cannabis distribution facilities shall be subject to a to all of the requirement contained in this Section.

B. Regulations: Cannabis distribution facilities shall comply with all of the following requirements.

1. Cannabis distribution facilities shall be located only in zoning districts that specifically provide for this use and the distribution facilities shall be consistent with all land use designations.

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

3. Cannabis and cannabis products shall only be transported between permitted and licensed commercial medical cannabis operations.

4. Prior to transporting cannabis or cannabis products, the transporting distributor 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 cannabis and 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 cannabis or 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 cannabis or cannabis products are tested by a licensed testing facility prior to distribution.

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

10. Cannabis and 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 cannabis transportation fleet.

12. The driver of a vehicle transporting cannabis and cannabis products shall be directly employed by persons holding all required permits, licenses, and entitlements for a cannabis distributor.

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

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

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

3. The cannabis 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 cannabis and 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 cannabis distribution facility:

1. The owner and permittees of a 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 a 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 cannabis activity.

4. Any person operating a cannabis distribution facility shall obtain a valid and fully executed commercial 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 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 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 Coastal Development Permit pursuant to Section 20.67.120 of the Monterey County Code.

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

## **20.67.090 Exemptions from Permit Requirements.**

All the following cannabis activities are exempt from the Coastal Development Permit requirements of this Chapter in all zoning districts, provided the activity does not include any form of non-exempt development pursuant to this Title:

A. 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 that 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. Further, the possession, storage, manufacture, transportation, or cultivation activities must not involve development as defined in Section 20.06.310 of the Monterey County Code. 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.

B. 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 that the primary caregiver does not receive remuneration for these activities except for compensation in full compliance with Section 11362.765(c) of the California Health and Safety Code and the possession, storage, manufacture, transportation, or cultivation activities do not involve development as defined in Section 20.06.310 of the Monterey County Code. Primary caregivers shall, upon request, provide appropriate documentation to law enforcement demonstrating that they are a primary caregiver for a qualified patient.

C. 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.

D. 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.

## **20.67.100 Application Requirements**

All applications for a Coastal Development Permit for a commercial cannabis activity shall be filed with the Resource Management Agency on the form and in the manner prescribed by the Director of the Resource Management Agency or the Chief of Planning, or his or her designee. 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 cannabis activity on the subject property.

B. The name and address of all persons and entities responsible for the operation of the commercial 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 cannabis activity.

C. Site plans, floor plans, conceptual improvement plans, and a general description of the nature, size, and type of commercial 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 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 when applicable 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 the Resource Management Agency or the Chief of Planning, or his or her designee may require.

E. Additional application requirements: Based on the type of commercial cannabis activities proposed, the following additional information may be required by the Director of the Resource Management Agency or the Chief of Planning, or his or her designee:

1. Cannabis retailer: In reviewing an application for a Coastal Development Permit to dispense cannabis or cannabis products, the Director of the Resource Management Agency or the Chief of Planning, or his or her designee may request operational plans detailing how operations will comply with federal enforcement priorities.

2. Cannabis cultivation: In reviewing an application for a Coastal Development Permit to cultivate cannabis, the Director of the Resource Management Agency or the Chief 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 description of the proposed method of physically delineating those boundaries at the site.

3. Cannabis manufacturing: In reviewing an application for a Coastal Development Permit to operate a cannabis manufacturing facility, the Director of the Resource Management Agency or the Chief 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 the Resource Management Agency or the Chief of Planning, or his or her designee.



4. Medical cannabis testing facilities: In reviewing an application for a Coastal Development Permit to operate a cannabis testing facility, the Director the Resource Management Agency or the Chief 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. Cannabis transportation and distribution facility: In reviewing an application for a Coastal Development Permit to operate a cannabis transportation and/or distribution facility, the Director of the Resource Management Agency or the Chief 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 the Resource Management Agency or the Chief of Planning, or his or her designee.

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

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

Any of the following shall be grounds for suspension or revocation of the Coastal Development Permit, based on substantial evidence and following notice and public hearing pursuant to Section 20.67.120:

A. Failure to comply with one or more of the conditions of the Coastal Development Permit;

B. The Coastal Development 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 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 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 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.

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

A. If the Director of the Resource Management Agency or the Chief of Planning, or his or her designee determines that grounds for suspension or revocation of the Coastal Development Permit exist pursuant to section 20.67.110, the Director of the Resource Management Agency or the Chief of Planning, or his or her designee shall issue a written Notice of Intention to revoke or suspend the Coastal Development 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 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 Coastal Development 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 Coastal Development 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 Coastal Development Permit and a failure to exhaust administrative remedies. If the hearing is not timely requested, the Director of the

Resource Management Agency or the Chief of Planning, or his or her designee may suspend or revoke the Coastal Development Permit in accordance with the Notice of Intention.

C. Upon receipt of a timely written request for a hearing, the Director of the Resource Management Agency or the Chief of Planning, or his or her designee 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 Coastal Development 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.

## **20.67.130 – 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, 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 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 activity or persons related thereto, or associated with, the commercial cannabis activity.

SECTION 17. Section 20.144.160.C.1.k of the Monterey County Coastal Implementation Plan, Part 2 (Regulations for Development in the North County Land Use Plan Area) is amended to read as follows:

k. All new heavy industry must be coastal-dependent (Ref. Policy 5.5.2.2 Moss Landing Community Plan). Notwithstanding the coastal dependent designation, limited agricultural uses, including commercial cannabis activities, may be permitted within existing industrial infrastructure at the former Kaiser National Refractories site subject to a Coastal Development Permit. Limited agricultural uses, including commercial cannabis activities, at the former Kaiser National Refractories site may be permitted only until such time as a long-range master plan is completed that governs the site (i.e., through an updated certified Moss Landing Community Plan) or until January 1, 2023, whichever occurs first. Extensions to the use of existing infrastructure for limited agricultural uses may be considered after January 1, 2023, subject to a separate Coastal Development Permit.

SECTION 18. 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 19. This Ordinance shall become effective on the thirty-first day following its adoption or upon California Coastal Commission confirmation that County's ordinance satisfies the Coastal Commission's certification order, whichever occurs later.

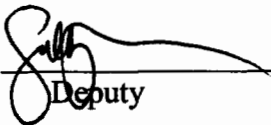
PASSED AND ADOPTED on this 20 day of March, 2018, by the following vote:

AYES: Supervisors Alejo, Phillips, Salinas, Parker, and Adams  
NOES: None  
ABSENT: None  
ABSTAIN: None

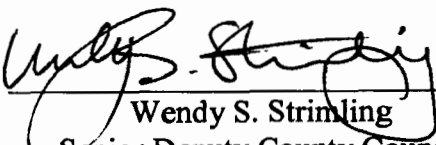
  
\_\_\_\_\_  
Luis A. Alejo, Chair  
Monterey County Board of Supervisors

A T T E S T:

Nicholas E. Chiulos  
Interim Clerk of the Board of Supervisors

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

APPROVED AS TO FORM BY:

  
\_\_\_\_\_  
Wendy S. Strimling  
Senior Deputy County Counsel

**Before the Board of Supervisors in and for the  
County of Monterey, State of California**

**Resolution No. 18-071**

Resolution of the Monterey County Board of )  
Supervisors to amend the text of the North )  
County Land Use Plan to allow permitting of )  
commercial cannabis activities at the former )  
Kaiser National Refractories site located at )  
7697 Highway 1, Moss Landing, )  
notwithstanding the coastal-dependent )  
industrial land use designation on the site..... )

An amendment to the North County Land Use Plan came on for public hearing before the Monterey County Board of Supervisors on March 20, 2018. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

**I. RECITALS**

1. 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.
2. Section 30500 of the Public Resources Code requires each county and city to prepare a Local Coastal Program (LCP) for that portion of the coastal zone within its jurisdiction.
3. On April 28, 1982, the Board of Supervisors adopted the North County Land Use Plan (LUP) as part of the LCP in the Coastal Zone pursuant to the California Coastal Act.
4. On June 4, 1982, the California Coastal Commission certified the North County LUP as part of Monterey County's LCP.
5. Pursuant to Public Resources Code sections 30000 *et seq.*, and Title 20 of the Monterey County Code, the County may amend the certified Local Coastal Program, provided the County follows certain procedures. The procedures include: the County's Planning Commission hold a noticed public hearing and make a recommendation to the Board of Supervisors; the Board of Supervisors hold a noticed public hearing, adopt a resolution of intent, and submit the proposed amendment to the California Coastal Commission for certification together with materials sufficient for a thorough and complete review; the Board of Supervisors take subsequent final action on the ordinance and/or resolution after the Coastal Commission acts; and the Coastal Commission confirm the County's action. The procedures have been followed for the proposed amendment to the LUP and upon confirmation by the Coastal Commission the amendment will take effect.
6. The Controlled Substances Act (21 U.S.C. §§ 801, *et seq.*) prohibits, except for certain research purposes, the possession, distribution, and manufacture of cannabis, and there is

no medical necessity exception to prosecution and conviction under the Controlled Substances Act.

7. In recent years, the federal government has taken a hands-off approach with regard to states and local governments that have enacted laws authorizing cannabis related conduct, as long as the local agencies have established strong and effective regulatory and enforcement systems that address the threats that cannabis activity could pose to public safety, public health, and other law enforcement interests.
8. 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.
9. 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.
10. 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.
11. 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.
12. On July 12, 2016, the Monterey County Board of Supervisors adopted a resolution of intent to adopt coastal zoning regulations to establish criteria for local land use permits pursuant to MMRSA. These regulations were sent to the California Coastal Commission for certification, but the County withdrew the request for certification of these regulations because of discussions with Coastal Commission staff on revisions to the regulation language and intent.
13. On November 8, 2016, by statewide initiative, the voters enacted the Control, Regulate and Tax Adult of Marijuana Act (“AUMA”). AUMA created a state licensing program for commercial adult-use cannabis activities.
14. 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.
15. On November 15, 2017, the Monterey County Planning Commission held a duly noticed public hearing to consider and make a recommendation to the Board of Supervisors

regarding approving an amendment to the text of the North County Land Use Plan to allow permitting of commercial cannabis activities at the former Kaiser National Refractories site. At least 10 days before the first public hearing date, notices of the hearing before the Planning Commission were published in the Monterey County Herald and the Salinas Californian. The Planning Commission recommended that Board of Supervisors remove the required setbacks from public parks from the draft ordinances amending Part 1 of the Coastal Implementation Plan, adopt the ordinance establishing regulations for commercial cannabis activities with the suggested modification, and consider the text amendment to the LUP and the amendment to the Coastal Implementation Plan, Part 2 affecting the property located at 7697 Highway 1, Moss Landing (the Former Kaiser National Refractories site) separately from the ordinance amending the Coastal Implementation Plan, Part 1.

16. On December 5, 2017, the Monterey County Board of Supervisors held a duly noticed public hearing and adopted a Resolution of Intent to adopt an ordinance amending the Monterey County Coastal Implementation Plan, Parts 1 and Part 2 (Title 20, coastal zoning ordinance) of the Monterey County Code to regulate commercial cannabis activities in the coastal zone of unincorporated Monterey County consistent with MAUCRSA; and to amend the text of the North County Land Use Plan to allow permitting of commercial cannabis activities at the former Kaiser National Refractories site located at 7697 Highway 1, Moss Landing, notwithstanding the coastal-dependent industrial land use designation on the site. At least 10 days before the public hearing date, notices of the hearing before the Board of Supervisors were published in the Monterey County Weekly. Following adoption by the Board of Supervisors, the Resolution of Intent was transmitted to the California Coastal Commission for certification.
17. On February 7, 2018, the California Coastal Commission approved Monterey County LCP Amendment number LCP-3-MCO-18-0004-1 (Commercial Cannabis Ordinance) as submitted by the County.
18. Pursuant to state regulations and pursuant to Section 20.94.030.D.7 of the Monterey County Code, in order for the LCP amendments to take effect, the Board must acknowledge receipt of the Coastal Commission certification of the amendments, formally adopt the certified amendments, and transmit the amendments back to the California Coastal Commission for confirmation.
19. The proposed North County Land Use Plan text, as proposed to be amended, in a redline version and a clean version, are attached hereto as Exhibit 1 and Exhibit 2 respectively and are incorporated herein by reference. The Board of Supervisors is considering adoption of the proposed ordinance amending the Coastal Implementation Plan, Parts 1 and 2 by separate action concurrent herewith.
20. This amendment is intended to be carried out in a manner fully in conformity with the California Coastal Act.
21. State law (MAUCRSA) provides a statutory exemption from the California Environmental Quality Act (CEQA) for consideration and adoption of local commercial cannabis regulations that require subsequent discretionary permits which are themselves subject to CEQA review (Business and Professions Code Section 26055(h)). The County's ordinance requires a Coastal Development Permit for all commercial cannabis activities in the



County. Coastal Development Permits are individually subject to CEQA review. Therefore, the County's updated regulations are statutorily exempt from CEQA review pursuant to Business and Professions Code Section 26055(h) and Section 15282 of the CEQA Guidelines.

22. On March 20, 2018, the Board of Supervisors held a duly noticed public hearing to consider the proposed amendments to the LUP. At least 10 days before the hearing date, a notice of the hearing before the Board of Supervisors was published in the Monterey County Weekly.

## II. DECISION

NOW, THEREFORE, BASED ON ALL OF THE ABOVE FINDINGS, BE IT RESOLVED, That the Board of Supervisors does hereby:

- a. Acknowledge receipt of the California Coastal Commission resolution approving the Monterey County Local Coastal Program (LCP) Amendment No. LCP-3-MCO-18-0004-1 (Commercial Cannabis Ordinance);
- b. Find the project is the adoption of local commercial cannabis regulations that require subsequent discretionary permits that are themselves subject to CEQA review, and therefore is statutorily exempt from the California Environmental Quality Act pursuant to Business and Professions Code Section 26055(h);
- c. Adopt a resolution to amend the text of the North County Land Use Plan to allow permitting of commercial cannabis activities at the former Kaiser National Refractories site located at 7697 Highway 1, Moss Landing, notwithstanding the coastal-dependent industrial land use designation on the site;
- d. Certify that the amendments are intended to be carried out in a manner fully in conformity with the Coastal Act; and
- e. Direct staff to transmit the amendments to the California Coastal Commission for confirmation that the amendments are consistent with the February 7, 2018 action taken by the Coastal Commission approving Local Coastal Plan Amendment number LCP-3-MCO-18-0004-1.

**PASSED AND ADOPTED** upon motion of Supervisor Salinas, seconded by Supervisor Phillips and carried this 20th day of March 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams

NOES: None

ABSENT: None

I, Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 80 for the meeting on March 20, 2018.

Dated: May 21, 2018  
File Number: RES 18-029

Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors  
County of Monterey, State of California

By Denise Hancock  
Deputy

## **Amendments to North County Land Use Plan**

1. Section 4.3.6.F.1 is amended to read as follows:

1. Lands designated for Heavy and Light industrial use in the North County Coastal Zone, shall be reserved for coastal dependent industry as defined in Sections 4.3.1.L and M., and in the glossary of this plan. New heavy or light Industrial manufacturing or energy related facilities shall be located only in areas designated for these uses in this plan. Notwithstanding the coastal dependent designation, limited agricultural uses, including commercial cannabis activities, may be permitted within existing industrial infrastructure at the former Kaiser National Refractories site [refer to the Moss Landing Community Plan for more details].

2. Paragraph 5 of Section 5.2.1.A.2 is amended to read as follows:

As with PG&E facility, major changes in the next twenty years at Kaiser can be accommodated on-site. An option available to Kaiser is the use of existing industrial infrastructure for limited agricultural uses including commercial cannabis activities. Such use shall be regulated by a Coastal Development permit. On-site circulation system and land use changes are planned, and primary access from Highway One will be closed and shifted to Dolan Road. Major changes in primary access to PG&E and Kaiser shall be approved only upon the condition that comprehensive landscaping programs are completed around the perimeter of all properties fronting on public roads. Policy recommendations for the modernization proposals are presented in Section 5.5.

## **Amendments to the Moss Landing Community Plan**

3. Section 5.5.2.10 is amended to read as follows:

10. All new heavy industry shall be coastal dependent, except that limited agricultural uses, including commercial cannabis activities may be permitted within existing industrial infrastructure at the former Kaiser National Refractories site. Such use shall be regulated by permit.

# **DRAFT AMENDMENTS TO NORTH COUNTY LAND USE PLAN**

(proposed amendments shown in strikethrough and underline)

## **Amendments to North County Land Use Plan**

1. Section 4.3.6.F.1 is amended to read as follows:

1. Lands designated for Heavy and Light industrial use in the North County Coastal Zone, shall be reserved for coastal dependent industry as defined in Sections 4.3.1.L and M., and in the glossary of this plan. New heavy or light Industrial manufacturing or energy related facilities shall be located only in areas designated for these uses in this plan. Notwithstanding the coastal dependent designation, limited agricultural uses, including commercial cannabis activities, may be permitted within existing industrial infrastructure at the former Kaiser National Refractories site [refer to the Moss Landing Community Plan for more details].

2. Paragraph 5 of Section 5.2.1.A.2 is amended to read as follows:

As with PG&E facility, major changes in the next twenty years at Kaiser can be accommodated on-site. An ~~primary~~ option available to Kaiser is the use of existing industrial infrastructure for limited agricultural uses including commercial cannabis activities. Such use shall be regulated by a Coastal Development permit. ~~replacement of the present gas and fuel oil as furnace fuels by refinery coke. In addition, increased pressurized filtering of products before firing would remove further water and decrease the fuel requirement per pound of finished product.~~ On-site circulation system and land use changes are planned, and primary access from Highway One will be closed and shifted to Dolan Road. Major changes in primary access to PG&E and Kaiser shall be approved only upon the condition that comprehensive landscaping programs are completed around the perimeter of all properties fronting on public roads. Policy recommendations for the modernization proposals are presented in Section 5.75.

## **Amendments to the Moss Landing Community Plan**

3. Section 5.5.2.10 is amended to read as follows:

10. All new heavy industry shall be coastal dependent, except that limited agricultural uses, including commercial cannabis activities may be permitted within existing industrial infrastructure at the former Kaiser National Refractories site. Such use shall be regulated by permit.

**ORDINANCE NO. 5300**

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,  
AMENDING CHAPTER 21.67 OF TITLE 21 (NON-COASTAL ZONING) OF THE  
MONTEREY COUNTY CODE RELATING TO COMMERCIAL CANNABIS  
ACTIVITIES**

**County Counsel Summary**

*This ordinance amends Chapter 21.67 of Title 21 (non-coastal zoning) of the Monterey County Code related to regulation of commercial cannabis activities in the inland unincorporated area of Monterey County. This ordinance removes the 600-foot setback from public parks for all types of commercial cannabis activities. This ordinance adds a 600-foot setback from playgrounds, child care centers, and youth centers for all types of commercial cannabis activities. Playground is defined to include any park or recreational area specifically designed to be used by children that has play equipment installed. The ordinance maintains the 600-foot setback from schools.*

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

SECTION 1. Section 21.67.010 of the Monterey County Code is amended to read as follows:

**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 Cannabis Control within the California Department of Consumer Affairs.

B. "Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate 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.

C. "Cannabis product" has the same meaning as in Section 11018.1 of the California Health and Safety Code.

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 cannabis. Within the definition of cultivation, the following specific Permit Types, corresponding to state cultivator license types set forth in California Business and Professions Code Section 26061 apply:

1. Type 1A or “specialty indoor” means indoor cultivation using exclusively artificial lighting of between five hundred one (501) and five thousand (5,000) square feet of total canopy size on one premises;

2. Type 1B or “specialty mixed-light” means cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between two thousand five hundred one (2,501) and five thousand (5,000) square feet of total canopy size on one premises;

3. Type 1C, or “specialty cottage,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of two thousand five hundred (2,500) square feet or less of total canopy size for mixed-light cultivation, or five hundred (500) square feet or less of total canopy size for indoor cultivation, on one premises;

4. 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 on one premises;

5. 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 on one premises;

6. 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 on one premises;

7. 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 on one premises; and

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

G. “Child care center” means any child day care facility other than a family day care home, and includes infant centers, preschools, extended child care facilities, transitional kindergartens, and school age child care centers.

H. "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.

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

J. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities licensed pursuant to this Chapter.

K. "Edible cannabis product" means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. 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

L. "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.

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. "Licensee" means any person holding a state license under California Business and Professions Code Sections 26000, *et seq.*

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

Q. “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.

R. “Manufacturing site” means a location that produces, prepares, propagates, or compounds cannabis or cannabis products either 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.

S. “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 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

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

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

V. “Permittee” means a person issued a Use Permit under this Chapter.

W. “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.

X. “Playground” means any park or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, football, soccer, or basketball, or any similar facility located on public or private school grounds, or on city, county, or state parks.

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

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

AA. “Retailer” and “retail facility” shall have the same meaning as “Dispensary.”

BB. “State” means the State of California.

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

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

1. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activities in the state; and
2. Licensed by the Bureau.

EE. “Transport” or “transportation” mean the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to the California Business & Professions Code Sections 26000, *et seq.*

FF. “Volatile Manufacturing” means a manufacturing site that manufactures cannabis products using volatile solvents.

GG. “Volatile solvent” shall have the same meaning as in paragraph (3) of subsection (b) of Section 11362.3 of the Health and Safety Code, unless otherwise provided by law or regulation.

HH. “Youth center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

SECTION 2. Subsection B.2 of Section 21.67.040 of the Monterey County Code is amended to read as follows:

2. Retail facilities shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority. The distance specified in this section shall be measured from property line to property line, except for playgrounds, which will be measured from the boundary of the playground facility.

SECTION 3. Subsection C.2 of Section 21.67.040 of the Monterey County Code is amended to read as follows:

2. The retail facility will not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority.



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

4. Cannabis cultivation shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority. The distance specified in this section shall be measured from property line to property line, except for playgrounds, which will be measured from the boundary of the playground facility.

SECTION 5. Subsection C.2 of Section 21.67.050 of the Monterey County Code is amended to read as follows:

2. The cultivation will not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority.

SECTION 6. Subsection B.2 of Section 21.67.060 of the Monterey County Code is amended to read as follows:

2. Cannabis manufacturing facilities shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority. The distance specified in this section shall be measured from property line to property line, except for playgrounds, which will be measured from the boundary of the playground facility.

SECTION 7. Subsection C.2 of Section 21.67.060 of the Monterey County Code is amended to read as follows:

2. The manufacturing facility will not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority.

SECTION 8. Subsection B.2 of Section 21.67.070 of the Monterey County Code is amended to read as follows:

2. Cannabis testing facilities shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority. The distance specified in this section shall be measured from property line to property line, except for playgrounds, which will be measured from the boundary of the playground facility.

SECTION 9. Subsection C.2 of Section 21.67.070 of the Monterey County Code is amended to read as follows:

2. The testing facility will not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority.

SECTION 10. Subsection B.2 of Section 21.67.080 of the Monterey County Code is amended to read as follows:

2. Cannabis distribution facilities shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority. The distance specified in this section shall be measured from property line to property line, except for playgrounds, which will be measured from the boundary of the playground facility.

SECTION 11. Subsection C.2 of Section 21.67.080 of the Monterey County Code is amended to read as follows:

2. The distribution facility will not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority.

SECTION 12. 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 13. This ordinance shall become effective on the thirty-first day following its adoption.

**PASSED AND ADOPTED** on this 20<sup>th</sup> day of March 2018, by the following vote:

AYES: Supervisors  
Alejo, Phillips, Salinas, Pakker, Adams  
NOES: None  
ABSENT: None  
ABSTAIN: None



Luis A. Alejo, Chair  
Monterey County Board of Supervisors

A T T E S T:

Nicholas E. Chiulos  
Interim Clerk of the Board of Supervisors

By: Donise Hancock  
Deputy, ~~DENISE~~ HANCOCK

APPROVED AS TO FORM BY:

Wendy S. Strimling  
Wendy S. Strimling  
Senior Deputy County Counsel

**Before the Board of Supervisor in and for the  
County of Monterey, State of California**

**Resolution No. 18-070****REF160042/Commercial Cannabis Setback Ordinances**

Resolution of the Monterey County Board of Supervisors to:

- a) Find the adoption of an ordinance amending setback requirements for commercial cannabis activities statutorily exempt pursuant to Business and Professions Code Section 26055(h) [CEQA exemption for the adoption of local commercial cannabis regulations that require subsequent discretionary permits that are themselves subject to CEQA review];
- b) Adopt a Resolution of Intent to adopt an ordinance amending the Monterey County Coastal Implementation Plan, Part 1 (Title 20 coastal zoning ordinance) to remove the 600-foot setback from drug recovery facilities and public parks, and add a 600-foot setback from playgrounds, child care centers, and youth centers for all types of commercial cannabis activities;
- c) Certify that the amendment is intended to be carried out in a manner fully in conformity with the Coastal Act; and
- d) Direct staff to transmit the proposed ordinance to the California Coastal Commission for certification.....

The proposed amendments to Monterey County Coastal Implementation Plan, Part 1 (Title 20 of the Monterey County Code), amending setback requirements for commercial cannabis activities in the unincorporated coastal areas of Monterey County came before the Monterey County Board of Supervisors at a duly noticed public hearing on March 20, 2018. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides the following:

**I. RECITALS**

1. 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.
2. The Controlled Substances Act (21 U.S.C. §§ 801, *et seq.*) prohibits, except for certain research purposes, the possession, distribution, and manufacture of cannabis, and there is no medical necessity exception to prosecution and conviction under the Controlled Substances Act.
3. In recent years, the federal government has taken a hands-off approach with regard to states and local governments that have enacted laws authorizing cannabis related conduct, as long as the local agencies have established strong and effective regulatory and enforcement

systems that address the threats that cannabis activity could pose to public safety, public health, and other law enforcement interests.

4. 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.
5. 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.
6. 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.
7. 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.
8. On July 12, 2016, the Monterey County Board of Supervisors adopted a resolution of intent to adopt coastal zoning regulations to establish criteria for local land use permits pursuant to MMRSA. These regulations were sent to the California Coastal Commission for certification, but the County withdrew the request for certification of these regulations because of discussions with Coastal Commission staff on revisions to the regulation language and intent.
9. On November 8, 2016, by statewide initiative, the voters enacted the Control, Regulate and Tax Adult of Marijuana Act (“AUMA”). AUMA created a state licensing program for commercial adult-use cannabis activities.
10. 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.
11. On December 5, 2017, the Monterey County Board of Supervisors held a duly noticed public hearing and adopted a Resolution of Intent to adopt an ordinance amending the Monterey County Coastal Implementation Plan, Parts 1 and Part 2 (Title 20, coastal zoning ordinance) of the Monterey County Code to regulate commercial cannabis activities in the coastal zone of unincorporated Monterey County consistent with MAUCRSA; and to amend the text of the North County Land Use Plan to allow permitting of commercial cannabis activities at the former Kaiser National Refractories site located at 7697 Highway

1, Moss Landing, notwithstanding the coastal-dependent industrial land use designation on the site (collectively, “amendments”). At least 10 days before the public hearing date, notices of the hearing before the Board of Supervisors were published in the Monterey County Weekly. Following adoption by the Board of Supervisors, the Resolution of Intent was transmitted to the California Coastal Commission for certification.

12. On February 7, 2018, the California Coastal Commission approved Monterey County LCP Amendment number LCP-3-MCO-18-0004-1 (Commercial Cannabis Ordinance) as submitted by the County.
13. On March 20, 2018, prior to adopting this Resolution, the Board of Supervisors acknowledged receipt of the Coastal Commission certification of the amendments, formally adopted the certified amendments, and directed staff to transmit the amendments back to the California Coastal Commission for confirmation.
14. At the direction of the Monterey County Planning Commission and the Board of Supervisors, staff has prepared an ordinance (Attachment 1) amending the Coastal Implementation Plan, Part 1 to modify the setback requirements for commercial cannabis activities in the unincorporated coastal areas of the County. The proposed ordinance is intended to address permit processing challenges, to better align County regulations with state law, and to promote healthy business competition while still being sensitive to health, safety, and social issues that may arise from commercial cannabis activities.
15. On February 14, 2018, the Monterey County Planning Commission held a duly noticed public hearing to consider and make a recommendation to the Board of Supervisors regarding the draft ordinance amending the setback requirements for commercial cannabis activities. At least 10 days before the first public hearing date, notices of the hearing before the Planning Commission were published in the Monterey County Weekly. At the hearing, the Planning Commission suggested modifying the draft ordinances to: require consideration of a report from the Monterey County Health Department for all retailer permits; change the term “day care center” to “child care center”; add transitional kindergartens to the definition of “child care center”; remove the 600-foot setback from “public parks” and replace it with “playgrounds” for all commercial cannabis activities; and amend the distance measurement from the boundary of a playground rather than from the property line. With these amendments incorporated, the Planning Commission recommended that the Board of Supervisors adopt the Resolution of Intent to amend the coastal zoning ordinance (Title 20) by a vote of 7 ayes, 2 noes, and 1 abstention. Edits suggested by the Monterey County Planning Commission have been incorporated in the proposed ordinance attached hereto as Attachment 1 and incorporated herein.
16. Pursuant to Public Resources Code sections 30000 *et seq.*, and Title 20 of the Monterey County Code, the County may amend the certified Local Coastal Program, provided the County follows certain procedures. The procedures include: the County’s Planning Commission hold a noticed public hearing and make a recommendation to the Board of Supervisors; the Board of Supervisors hold a noticed public hearing, adopt a resolution of intent, and submit the proposed amendment to the California Coastal Commission for certification together with materials sufficient for a thorough and complete review; the Board of Supervisors take subsequent final action on the ordinance after the Coastal Commission acts; and the Coastal Commission confirm the County’s action. Accordingly,

the ordinance amending Part 1 of the Coastal Implementation Plan will not go into effect until after certification by the Coastal Commission and subsequent formal adoption by the Board of Supervisors at a duly noticed public hearing, and it will not become operative until the Coastal Commission's certification is final and effective.

17. The County intends to carry out the ordinance amending the Coastal Implementation Plan in a manner fully in conformity with the California Coastal Act.
18. State law (MAUCRSA) provides a statutory exemption from the California Environmental Quality Act (CEQA) for consideration and adoption of local commercial cannabis regulations that require subsequent discretionary permits which are themselves subject to CEQA review [Business and Professions Code Section 26055(h)]. The County's ordinances require a Use Permit or Coastal Development Permit for all commercial cannabis activities in the County. Use Permits and Coastal Development Permits are individually subject to CEQA review. Therefore, the County's updated regulations are statutorily exempt from CEQA review pursuant to Business and Professions Code Section 26055(h).
19. On March 20, 2018, the Board of Supervisors conducted a public hearing to consider the proposed ordinance. Notice of the public hearing was published in the Monterey County Weekly at least 10 days prior to the hearing.

## II. DECISION

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors does hereby:

- a) Find the adoption of an ordinance amending setback requirements for commercial cannabis activities statutorily exempt pursuant to Business and Professions Code Section 26055(h) [CEQA exemption for the adoption of local commercial cannabis regulations that require subsequent discretionary permits that are themselves subject to CEQA review];
- b) Adopt a Resolution of Intent to adopt an ordinance amending the Monterey County Coastal Implementation Plan, Part 1 (Title 20 coastal zoning ordinance) to remove the 600-foot setback from drug recovery facilities and public parks, and add a 600-foot setback from playgrounds, child care centers, and youth centers for all types of commercial cannabis activities;
- c) Certify that the amendment is intended to be carried out in a manner fully in conformity with the Coastal Act; and
- d) Direct staff to transmit the proposed ordinance to the California Coastal Commission for certification.

**PASSED AND ADOPTED** upon motion of Supervisor Adams, seconded by Supervisor Salinas and carried this 20th day of March 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams

NOES: None

ABSENT: None

I, Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 80 for the meeting on March 20, 2018.

Dated: May 21, 2018  
File Number: RES 18-029

Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors  
County of Monterey, State of California

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



## County Counsel Summary

*This ordinance amends Chapter 20.67 of Title 20 (coastal zoning) of the Monterey County Code related to regulation of commercial cannabis activities in the coastal unincorporated area of Monterey County. This ordinance removes the 600-foot setback from public parks for all types of commercial cannabis activities. This ordinance adds a 600-foot setback from playgrounds, child care centers, and youth centers for all types of commercial cannabis activities. Playground is defined to include any park or recreational area specifically designed to be used by children that has play equipment installed. The ordinance maintains the 600-foot setback from schools.*

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

SECTION 1. Section 20.67.010 of the Monterey County Code is amended to read as follows:

### **20.67.010 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 20.06 shall otherwise apply.

- A. “Bureau” means the Bureau of Cannabis Control within the California Department of Consumer Affairs.
- B. “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate 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.
- C. “Cannabis product” has the same meaning as in Section 11018.1 of the California Health and Safety Code.
- 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 cannabis. Within the definition of cultivation, the following specific Permit Types, corresponding to state cultivator license types set forth in California Business and Professions Code Section 26061, apply:

1. Type 1A or “specialty indoor” means indoor cultivation using exclusively artificial lighting of between five hundred one (501) and five thousand (5,000) square feet of total canopy size on one premises;

2. Type 1B or “specialty mixed-light” means cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between two thousand five hundred one (2,501) and five thousand (5,000) square feet of total canopy size on one premises;

3. Type 1C, or “specialty cottage,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of two thousand five hundred (2,500) square feet or less of total canopy size for mixed-light cultivation, or five hundred (500) square feet or less of total canopy size for indoor cultivation, on one premises;

4. 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 on one premises;

5. 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 on one premises;

6. 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 on one premises;

7. 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 on one premises; and

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

G. “Child care center” means any child day care facility other than a family day care home, and includes infant centers, preschools, extended child care facilities, transitional kindergartens, and school age child care centers.

H. “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.

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

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

K. “Edible cannabis product” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. 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.

L. “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.

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. “Licensee” means any person holding a state license under California Business and Professions Code Sections 26000, *et seq.*

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

Q. “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.

R. “Manufacturing site” means a location that produces, prepares, propagates, or compounds cannabis or cannabis products either 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.

S. “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 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

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

U. “One ownership” and “owner” have the same definition as set forth in Chapter 20.06 of this Title.

V. “Permittee” means a person issued a Coastal Development Permit under this Chapter.

W. “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.

X. “Playground” means any park or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, football, soccer, or basketball, or any similar facility located on public or private school grounds, or on city, county, or state parks.

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

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

AA. “Retailer” and “retail facility” shall have the same meaning as “Dispensary.”

BB. “State” means the State of California.

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

DD. “Testing laboratory” means a facility, entity, or site in the state that offers or performs test of cannabis or 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 cannabis activities in the state; and
2. Licensed by the Bureau.

EE. “Transport” or “transportation” mean the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to the California Business & Professions Code Sections 26000, *et seq.*

FF. “Volatile Manufacturing” means a manufacturing site that manufactures cannabis products using volatile solvents.

GG. “Volatile solvents” shall have the same meaning as in paragraph (3) of subsection (b) of Section 11362.3 of the California Health and Safety Code, unless otherwise provided by law or regulation.

HH. “Youth center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

SECTION 2. Subsection B.2 of Section 20.67.040 of the Monterey County Code is amended to read as follows:

2. Retail facilities shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority. The distance specified in this section shall be measured from property line to property line, except for playgrounds, which will be measured from the boundary of the playground facility.

SECTION 3. Subsection C.2 of Section 20.67.040 of the Monterey County Code is amended to read as follows:

2. The retail facility will not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority.

SECTION 4. Subsection B.4 of Section 20.67.050 of the Monterey County Code is amended to read as follows:

4. Cannabis cultivation shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority. The distance specified in this section shall be measured from property line to property line, except for playgrounds, which will be measured from the boundary of the playground facility.

SECTION 5. Subsection C.2 of Section 20.67.050 of the Monterey County Code is amended to read as follows:

2. The cultivation will not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority.

SECTION 6. Subsection B.2 of Section 20.67.060 of the Monterey County Code is amended to read as follows:

2. Cannabis manufacturing facilities shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority. The distance specified in this section shall be measured from property line to property line, except for playgrounds, which will be measured from the boundary of the playground facility.

SECTION 7. Subsection C.2 of Section 20.67.060 of the Monterey County Code is amended to read as follows:

2. The manufacturing facility will not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority.

SECTION 8. Subsection B.2 of Section 20.67.070 of the Monterey County Code is amended to read as follows:

2. Cannabis testing facilities shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority. The distance specified in this section shall be measured from property line to property line, except for playgrounds, which will be measured from the boundary of the playground facility.

SECTION 9. Subsection C.2 of Section 20.67.070 of the Monterey County Code is amended to read as follows:

2. The testing facility will not be located within six hundred a (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time the of approval of permits by the Appropriate Authority.

SECTION 10. Subsection B.2 of Section 20.67.080 of the Monterey County Code is amended to read as follows:

2. Cannabis distribution facilities shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority. The distance specified in this section shall be measured from property line to property line, except for playgrounds, which will be measured from the boundary of the playground facility.

SECTION 11. Subsection C.2 of Section 20.67.080 of the Monterey County Code is amended to read as follows:

2. The distribution facility will not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a child care center, a youth center, a playground, or a drug recovery facility that is in existence at the time the of approval of permits by the Appropriate Authority.

SECTION 12. 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 13. This Ordinance shall become effective on the thirty-first day following its adoption or upon California Coastal Commission confirmation that County's ordinance satisfies the Coastal Commission's certification order, whichever occurs later.

PASSED AND ADOPTED on this \_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Luis A. Alejo, Chair  
Monterey County Board of Supervisors

A T T E S T:

Nicholas E. Chiulos  
Interim Clerk of the Board of Supervisors

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

APPROVED AS TO FORM BY:

\_\_\_\_\_  
Wendy S. Strimling  
Senior Deputy County Counsel