

Attachment B

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**ATTACHMENT B
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ORDINANCE NO. _____

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

County Counsel Summary

This ordinance amends 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 changes the type of land use permit required for commercial cannabis activities from a conditional use allowed subject to a use permit in each case within specified zoning districts to a principal use allowed subject to an administrative permit in each case within the same specified zoning districts. This ordinance also provides that the 1500-foot setback required between commercial cannabis retailers may be reduced if findings are made to support a Use Permit. Findings required to reduce the required setback between dispensaries include finding that special circumstances are applicable to the project, the project would not result in disproportionate impacts to low income communities or communities with a high percentage of youth population, and the project would not result in adverse impacts because of excessive concentrations of retailers. The Planning Commission is designated as the Appropriate Authority to consider such permits.

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

SECTION 1. Subsection A of Section 21.18.040 of the Monterey County Code is amended to read as follows:

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

SECTION 2. Subsection BB is added to Section 21.18.050 of the Monterey County Code to read as follows:

BB. Cannabis retailer pursuant to Chapter 21.67.

SECTION 3. Subsection HH of Section 21.18.060 of the Monterey County Code is repealed.

SECTION 4. Subsection A of Section 21.20.040 of the Monterey County Code is amended to read as follows:

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

SECTION 5. Subsections V, W, X, and Y are added to Section 21.20.050 of the Monterey County Code to read as follows:

- V. Cannabis retailer pursuant to Chapter 21.67;
- W. Non-volatile cannabis manufacturing pursuant to Chapter 21.67;
- X. Cannabis distribution facilities pursuant to Chapter 21.67;
- Y. Cannabis testing facilities pursuant to Chapter 21.67.

SECTION 6. Subsections OO, PP, QQ, and RR of Section 21.20.060 of the Monterey County Code are repealed.

SECTION 7. Subsection A of Section 21.24.040 of the Monterey County Code is amended to read as follows:

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

SECTION 8. Subsections O, P, Q, and R are added to Section 21.24.050 of the Monterey County Code to read as follows:

- O. Indoor, mixed-light, or nursery cannabis cultivation pursuant to Chapter 21.67;
- P. Non-volatile cannabis manufacturing pursuant to Chapter 21.67;
- Q. Cannabis distribution facilities pursuant to Chapter 21.67;
- R. Cannabis testing facilities pursuant to Chapter 21.67.

SECTION 9. Subsections EE, FF, GG, and HH of Section 21.24.060 of the Monterey County Code are repealed.

SECTION 10. Subsection A of Section 21.26.040 of the Monterey County Code is amended to read as follows:

A. Change of light industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; however, new commercial cannabis activities shall require an administrative permit in each case.

SECTION 11. Subsections BB, CC, DD, and EE are added to Section 21.26.050 of the Monterey County Code to read as follows:

- BB. Indoor, mixed-light, or nursery cannabis cultivation pursuant to Chapter 21.67;
- CC. Non-volatile cannabis manufacturing pursuant to Chapter 21.67;
- DD. Cannabis distribution facilities pursuant to Chapter 21.67;

EE. Cannabis testing facilities pursuant to Chapter 21.67.

SECTION 12. Subsections II, JJ, KK, and LL of Section 21.26.060 of the Monterey County Code are repealed.

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

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

SECTION 14. Subsections X, Y, Z, AA, and BB are added to Section 21.28.050 of the Monterey County Code to read as follows:

- X. Indoor, mixed-light, or nursery cannabis cultivation pursuant to Chapter 21.67;
- Y. Non-volatile cannabis manufacturing pursuant to Chapter 21.67;
- Z. Volatile cannabis manufacturing pursuant to Chapter 21.67;
- AA. Cannabis distribution facilities pursuant to Chapter 21.67;
- BB. Cannabis testing facilities pursuant to Chapter 21.67.

SECTION 15. Subsections KK, LL, MM, NN, and OO of Section 21.28.060 of the Monterey County Code are repealed.

SECTION 16. Subsections I and J are added to Section 21.30.040 of the Monterey County Code to read as follows:

- I. Indoor, mixed-light, or nursery cannabis cultivation pursuant to Chapter 21.67;
- J. Non-volatile cannabis manufacturing pursuant to Chapter 21.67.

SECTION 17. Subsections JJ and KK of Section 21.30.050 of the Monterey County Code are repealed.

SECTION 18. Section 21.67.010 of the Monterey County Code is amended to read as follows:

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

G. “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.

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. “Large shopping center” means a shopping center or contiguous shopping centers where all of the following are met:

1. The shopping center(s) are designed, planned, and managed to serve regional shopping needs;

2. The shopping center(s) consist of at least twelve (12) retail stores and service establishments connected by parking areas and common walkways; and

3. The shopping center(s) are located on at least two acres of land inclusive of parking areas.

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

Q. “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.

R. “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.

S. “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.

T. “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.

U. “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.

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

W. “Permittee” means a person issued an Administrative Permit under this Chapter.

X. “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.

Y. “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.

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

AA. “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.

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

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

DD. “State” means the State of California.

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

FF. “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.

GG. “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.*

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

II. “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.

JJ. “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 19. Subsection A of Section 21.67.030 of the Monterey County Code is amended to read as follows:

A. An administrative permit shall be required for all commercial cannabis activities. The application for an administrative permit, and for amendments thereto and extensions thereof, shall be processed in accordance with Chapter 21.70 of the Monterey County Code. The Chief of Planning is the Appropriate Authority to consider an administrative permit for commercial cannabis activities and to consider extensions of and amendments to such permits unless the matter is referred to public hearing under Section 21.70.060 of this Chapter. Appeals from the decision of the Chief of Planning shall be governed by Chapter 21.80 of the Monterey County Code. Notwithstanding the foregoing, the procedures for suspension and revocation of an administrative permit granted under this Chapter shall be as set forth in Sections 21.67.110 and 21.67.120 of this Chapter.

SECTION 20. Subsection B of Section 21.67.030 of the Monterey County Code is amended to read as follows:

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

SECTION 21. Subsection D of Section 21.67.030 of the Monterey County Code is amended to read as follows:

D. The owner shall post or cause to be posted on site the administrative 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.

SECTION 22. Subsection B.3 of Section 21.67.040 of the Monterey County Code is amended to read as follows:

3. Retail facilities shall not be located within one thousand five hundred (1,500) feet of another approved retail facility. The 1,500 foot setback is established once an entitlement is granted by the Appropriate Authority. Entitlements for commercial cannabis retailers shall be considered in the order that the application for the entitlement is deemed complete. A use permit

pursuant to Subsection E of this Section shall be required for a proposed retail facility that does not comply with the 1,500 foot setback from another approved retail facility.

SECTION 23. Subsection C of Section 21.67.040 of the Monterey County Code is amended to read as follows:

C. Required Findings. An administrative 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:

SECTION 24. 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, and the retail facility will not be located within one thousand five hundred (1,500) feet of another retail facility.

SECTION 25. Subsection C.4 of Section 21.67.040 of the Monterey County Code is amended to read as follows:

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 off site, minimizing the effects of loitering, providing adequate security measures, and not exceeding the permit's limits on hours of operation.

SECTION 26. Subsection D.5 of Section 21.67.040 of the Monterey County Code is amended to read as follows:

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 an administrative or a use permit pursuant to Sections 21.67.110 and 21.67.120 of this Chapter.

SECTION 27. Subsection E is added to Section 21.67.040 of the Monterey County Code to read as follows:

E. Modification to setback. The one thousand five hundred (1,500) foot setback required between retail facilities may be modified with a use permit. The Planning Commission is the Appropriate Authority to consider said permit, and the decision of the Planning Commission may be appealed to the Board of Supervisors pursuant to Chapter 21.80 of this Title. As part of the review of such a use permit, the Appropriate Authority shall consider a

written report from the Monterey County Health Department concerning public health impacts that may result from the proposed activity. To grant the use permit, the Appropriate Authority must make all applicable findings required by Title 21, the findings required for a cannabis retailer under Subsection C of section 21.67.040, except for the 1,500 setback requirement, and the following findings based on substantial evidence:

1. The applicant for the proposed retail facility has demonstrated there are special circumstances applicable to the subject property and within the project vicinity, including but not limited to, location within a community area, rural center, or large shopping center.
2. The applicant for the proposed retail facility has demonstrated that the proposed retail facility will not result in a density of retailers in the community, as compared to the density of retail facilities existing in other communities, that would do any of the following:
 - a. Disproportionately impact a low-income community;
 - b. Disproportionately impact a community with a high proportion of youth; or
 - c. Adversely impact the public health of persons residing or working in the community.

SECTION 28. Subsection A of Section 21.67.050 of the Monterey County Code is amended to read as follows:

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

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

AP = Administrative permit pursuant to Chapter 21.70

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

SECTION 29. Subsection B.1 of Section 21.67.050 of the Monterey County Code is amended to read as follows:

1. It is the intent of the County to provide for the adaptive reuse of greenhouses in Monterey County and to restrict the proliferation of greenhouses or other structures on

productive agricultural lands. To this end, within the Farmland (F) zoning district, indoor and mixed-light cannabis cultivation and cannabis nurseries (Type 1A, 1B, 1C, 2A, 2B, 3A, 3B and 4 state license types) may be permitted with an administrative permit in each case provided that within the Farmland (F) zoning district, the cultivation occurs only within a greenhouse or industrial building that was permitted or legally established prior to January 1, 2016. Greenhouses and industrial buildings may be improved for cannabis activities after January 1, 2016 provided that the footprint of the existing greenhouse(s) or industrial buildings does not change.

SECTION 30. Subsection B.2 of Section 21.67.050 of the Monterey County Code is amended to read as follows:

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

SECTION 31. Subsection B.12 of Section 21.67.050 of the Monterey County Code is amended to read as follows:

12. Unless restricted under the terms or conditions of an administrative permit, permittees who hold an administrative permit for cannabis cultivation or nursery operations may transport their own cannabis grown on site to another permitted and licensed cannabis business at an off-site facility provided the cultivation or nursery permittee hold a Type 11 state license or other applicable state license that allows for the transportation of cannabis. A separate administrative permit under this Section shall not be required for permittees that transport their own cannabis grown on site to another permitted and licensed cannabis business at an off-site facility. Failure to adhere to County or state laws and regulations for cannabis transportation may be grounds for suspension or revocation of an administrative permit pursuant to Sections 21.67.110 and 21.67.120 of this Chapter.

SECTION 32. Subsection C of Section 21.67.050 of the Monterey County Code is amended to read as follows:

C. Required Findings. An administrative permit for cannabis cultivation shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence:

SECTION 33. Subsection D.5 of Section 21.67.050 of the Monterey County Code is amended to read as follows:

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 an administrative permit pursuant to Sections 21.67.110 and 21.67.120 of this Chapter.

SECTION 34. Subsection A of Section 21.67.060 of the Monterey County Code is amended to read as follows:

A. Applicability. Non-volatile cannabis manufacturing facilities (requiring a Type 6 state license) may be permitted in the Heavy Commercial (HC), Light Industrial (LI), Heavy Industrial (HI), Agricultural Industrial (AI), or in Farmland (F) zoning districts when combined with a cannabis cultivation permit, subject to an administrative 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 an administrative permit in each case. Except as provided in Section 21.67.090 of this Chapter, cannabis manufacturing shall be subject to the requirements contained in this Section.

SECTION 35. Subsection B.7 of Section 21.67.060 of the Monterey County Code is amended to read as follows:

7. Unless restricted under the terms or conditions of an administrative permit, permittees who hold an administrative permit for cannabis manufacturing may transport their own cannabis products manufactured on site to another permitted and licensed cannabis business at an off-site 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 administrative permit under this Section shall not be required for permittees that transport their own cannabis products manufactured on site to another permitted and licensed cannabis business at an off-site facility. Failure to adhere to County or state laws and regulations for manufactured cannabis transportation may be grounds for suspension or revocation of an administrative permit pursuant to Sections 21.67.110 and 21.67.120 of this Chapter.

SECTION 36. Subsection C of Section 21.67.060 of the Monterey County Code is amended to read as follows:

C. Required Findings. An administrative permit for cannabis manufacturing shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence:

SECTION 37. Subsection D.5 of Section 21.67.060 of the Monterey County Code is amended to read as follows:

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 an administrative permit pursuant to Sections 21.67.110 and 21.67.120 of this Chapter.

SECTION 38. Subsection A of Section 21.67.070 of the Monterey County Code is amended to read as follows:

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

SECTION 39. Subsection C of Section 21.67.070 of the Monterey County Code is amended to read as follows:

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

SECTION 40. Subsection D.5 of Section 21.67.070 of the Monterey County Code is amended to read as follows:

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 an administrative permit pursuant to Sections 21.67.110 and 21.67.120 of this Chapter.

SECTION 41. Subsection A of Section 21.67.080 of the Monterey County Code is amended to read as follows:

A. Applicability. Except as provided in Section 21.67.090, 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 an administrative permit in each case. Cannabis distribution facilities shall be subject to all of the requirements contained in this Section.

SECTION 42. Subsection C of Section 21.67.080 of the Monterey County Code is amended to read as follows:

C. Required Findings. An administrative 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:

SECTION 43. Subsection D.5 of Section 21.67.080 of the Monterey County Code is amended to read as follows:

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 suspension or revocation of an administrative permit pursuant to Sections 21.67.110 and 21.67.120 of this Chapter.

SECTION 44. Section 21.67.090 of the Monterey County Code is amended to read as follows:

All of the following cannabis activities are exempt from the administrative permit requirements of this Chapter in all zoning districts:

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 the qualified patient, possesses, stores, manufactures, transports, or cultivates cannabis exclusively for his or her personal medical use, and does not provide, donate, sell, or distribute cannabis to any other person. Qualified patients shall, upon request, provide appropriate documentation to law enforcement demonstrating that they have a valid doctor's recommendation to use cannabis for medicinal purposes.

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 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. 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.

SECTION 45. Section 21.67.100 of the Monterey County Code is amended to read as follows:

All applications for a permit for a commercial cannabis activity under this Chapter 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. Onsite 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 an administrative or use 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 an administrative 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 a description of the proposed method of physically delineating those boundaries at the site.

3. Cannabis manufacturing: In reviewing an application for an administrative 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. Cannabis testing facilities: In reviewing an application for an administrative permit to operate a cannabis testing 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. 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 the Resource Management Agency or the Chief of Planning, or his or her designee.

5. Cannabis transportation and distribution facility: In reviewing an application for an administrative 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.

SECTION 46. Section 21.67.110 of the Monterey County Code is amended to read as follows:

Any of the following shall be grounds for suspension or revocation of a use permit, or administrative permit granted for a commercial cannabis activity based on substantial evidence and following notice and public hearing pursuant to Section 21.67.120:

A. Failure to comply with one or more of the conditions of the use permit or administrative permit;

B. The use permit or administrative 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.

SECTION 47. Subsection A of Section 21.67.120 of the Monterey County Code is amended to read as follows:

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 use permit or administrative permit exist pursuant to section 21.67.110, 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 use permit or administrative 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 use permit or administrative permit, the grounds for revocation or suspension, the action necessary to abate the violation, the time limit for compliance, and the right to a hearing. The Notice of Intention shall notify the owner and permittees of the opportunity to request a hearing before a Hearing Officer to present evidence as to why the use permit or administrative permit should not be suspended or revoked and shall notify them of the 10-day deadline to submit a written request for a hearing.

SECTION 48. Subsection B of Section 21.67.120 of the Monterey County Code is amended to read as follows:

B. The owner and permittees shall have ten (10) calendar days from the service of the Notice of Intention to submit a written request for a hearing before the Hearing Officer. Failure to submit the written request for a hearing shall be deemed a waiver of the right to challenge the suspension or revocation of the use permit or administrative 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 use permit or administrative permit in accordance with the Notice of Intention.

SECTION 49. Subsection D.1 of Section 21.67.120 of the Monterey County Code is amended to read as follows:

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

SECTION 50. 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 51. This ordinance shall become effective on the thirty-first day following its adoption.

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:

Valerie Ralph
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM BY:

Wendy S. Strimling
Senior Deputy County Counsel