

Attachment 1

This page intentionally left blank.

Chapter 21.69 - OUTDOOR COMMERCIAL CANNABIS CULTIVATION PILOT PROGRAM

21.69.010 - 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 Chapters 21.06 and 21.67 shall otherwise apply.

- A. "Cannabis site" means the location or area specified in the permit issued pursuant to this Chapter, that is owned, leased, or otherwise held under the control of the applicant or permittee where outdoor cultivation and outdoor cultivation ancillary uses will be conducted. The cannabis site shall be on one lot and shall only be occupied by one permittee.
- B. "Lot" shall have the same meaning as in Section 21.06.760 of this Title.
- C. "Outdoor cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis without the use of artificial lighting or light deprivation in the canopy area at any point in time.
- D. "Outdoor cultivation ancillary uses" means supportive nursery, self-distribution, and self-processing activities as those terms are defined in this Chapter.
- E. "Pilot program" means the outdoor commercial cannabis cultivation pilot program established in this Chapter.
- F. "Self-distribution" means the transport of cannabis grown onsite and nonmanufactured cannabis products produced onsite to another permitted and licensed cannabis business at an offsite facility.
- G. "Self-processing" means all activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of cannabis or nonmanufactured cannabis products grown or produced onsite.
- H. "Supportive nursery" means all activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of outdoor cannabis cultivation onsite. Artificial lighting is permissible only to maintain immature plants in a supportive nursery.

(Ord. No. 5311, § 2, 6-18-2019)

21.69.020 - Purpose.

The purpose of this Chapter is to achieve the following:

- A.

To establish a pilot program to provide uniform procedures for consideration of permits for outdoor cultivation and outdoor cultivation ancillary uses in the Carmel Valley Master Plan and Cachagua Area Plan areas;

- B. To gather data and information related to outdoor cultivation and outdoor cultivation ancillary uses to enable the County to evaluate the establishment of long-term regulations;
- C. To provide those who historically cultivated cannabis within the Carmel Valley Master Plan and Cachagua Area Plan areas an opportunity to participate in the legalized commercial cannabis industry;
- D. To reduce negative impacts to the environment; and
- E. To provide for protection of public health, safety and welfare of residents, visitors, and persons engaged in outdoor cultivation and outdoor cultivation ancillary uses under this pilot program.

(Ord. No. 5311, § 2, 6-18-2019)

21.69.030 - Applicability and duration.

- A. Notwithstanding the provisions of Chapter 21.67 of this Title, the provisions of this Chapter are applicable to outdoor cultivation and outdoor cultivation ancillary uses within the Carmel Valley Master Plan and the Cachagua Area Plan. Chapter 21.67 shall apply to all other commercial cannabis activities not covered in this Chapter.
- B. The duration of the pilot program shall be June 18, 2026, eight years from the effective date of the ordinance enacting this Chapter.

(Ord. No. 5311, § 2, 6-18-2019; Ord. No. 5350, § 3, 5-18-2021)

21.69.040 - Permits required.

- A. Except as provided in Section 21.67.090 of this Title, commercial cannabis activities shall not be allowed in the unincorporated non-coastal areas of Monterey County without first securing all permits, licenses, or other entitlements required by state law and County regulation.
- B. An administrative permit shall be required for all outdoor cultivation and outdoor cultivation ancillary uses provided for in this pilot program. The application for an administrative permit, and for amendments thereto and extensions thereof, shall be processed in accordance with Chapter 21.70 of this Title. The Chief of Planning is the appropriate authority to consider issuance, extension of, and amendment to such permits. Appeals from the decision of the Chief of Planning shall be governed by Chapter 21.86 of this Title. Notwithstanding the foregoing, the procedures for suspension and revocation of an administrative permit granted under this pilot program shall be as set forth in Sections 21.67.110 and 21.67.120 of this Title.

- C. All administrative permits issued pursuant to this pilot program shall expire within five years from the approval date or upon the termination of the pilot program, whichever occurs first. On or before the five year expiration of this pilot program, the County shall evaluate the pilot program to determine if the program should be terminated, extended, or modified. Permits approved pursuant to this Chapter shall not survive or have continuing application beyond the expiration of the pilot program unless the program is extended or modified by the Board of Supervisors. Approval of Administrative Permits pursuant to this pilot program and commencement of allowed uses shall not establish a non-conforming use. If the pilot program is extended or modified, new land use entitlements, as may be specified in the extended or modified regulations, must be obtained.
- D. In addition to an administrative permit, pursuant to Chapters 7.02 and 7.90 of the Monterey County Code, a Business License and a Commercial Cannabis Business Permit shall be required for all outdoor cultivation and outdoor cultivation ancillary uses.
- E. Pursuant to California Business and Professions Code section 26000 et seq., a valid license from the State shall be required for all outdoor cultivation and outdoor cultivation ancillary uses.
- F. The owner shall post or cause to be posted on the cannabis site all required County and state permits and licenses required to operate. Such posting shall be located in a conspicuous location at or near the location where the outdoor cultivation and outdoor cultivation ancillary uses occur, and a copy of the permits and licenses shall be kept in all vehicles that transport cannabis or nonmanufactured cannabis products.
- G. The owner and all permittees shall maintain clear and adequate records and documentation demonstrating that all cannabis or nonmanufactured 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.
- H. The owner and all permittees shall conduct outdoor cultivation and outdoor cultivation ancillary uses in compliance with all required County permits and state licenses, and in compliance with state law and County law. The owner and all permittees shall be responsible for the payment of all required inspection fees, permit fees, and taxes.

(Ord. No. 5311, § 2, 6-18-2019)

21.69.050 - Qualified properties.

- A. Only qualified properties shall be eligible for permitting under this Chapter.
- B. Qualified properties are required to provide evidence to the satisfaction of the Appropriate Authority that all of the following criteria are met:
 - 1.

The cannabis site is located within the Carmel Valley Master Plan area or the Cachagua Area Plan area.

2. The cannabis site is within an area designated on the Sectional District Zoning Map as:
 - a. Rural Density Residential in the Carmel Valley Master Plan; or
 - b. Resource Conservation or Permanent Grazing in the Cachagua Area Plan.
 3. The cannabis site is located on a lot where proof of prior cultivation is demonstrated per Subsection C of this Section.
- C. Qualified properties are required to provide evidence to the satisfaction of the appropriate authority that they were engaged in medicinal cannabis cultivation on the lot prior to January 1, 2016. For the purposes of this Subsection, cultivation of six or fewer plants shall not be sufficient evidence of prior cultivation. Such evidence shall include at least two of the following:
1. Photographs of cultivation that existed on the lot prior to January 1, 2016, including aerial views from Google Earth, Big Maps, Terraserver, or a comparable service showing both the entire lot and the cultivation site in more detail. The date these images were captured shall be noted.
 2. Documentary evidence that medicinal cannabis was cultivated on the lot on behalf of a collective or cooperative dated prior to January 1, 2016.
 3. Any other form of evidence acceptable to the appropriate authority that cultivation occurred on the lot prior to January 1, 2016.
- D. This pilot program only applies to the specified areas of the Carmel Valley Master Plan and Cachagua Area Plan as restricted by this Chapter, and in the Big Sur Land Use Plan as restricted by Chapter 20.69 of the Monterey County Code. The uses permitted under this pilot program are expressly prohibited in all other unincorporated areas of Monterey County.

(Ord. No. 5311, § 2, 6-18-2019; Ord. No. 5350, § 4, 5-18-2021)

21.69.060 - Regulations.

Permits for outdoor cultivation and outdoor cultivation ancillary uses shall comply with all of the following regulations:

- A. Activities allowed pursuant to this pilot program shall be limited to outdoor cultivation and outdoor cultivation ancillary uses. Indoor and mixed-light cultivation, and any form of manufacturing, testing, and retail operations are excluded from this pilot program.
- B. Outdoor cultivation and outdoor cultivation ancillary uses shall obtain and maintain a permit required pursuant to Section 21.69.040 of this Chapter prior to recommencement of activities, and shall establish and maintain all activities in accordance with all requirements, regulations, limitations, and conditions established in this Chapter and as may be applied to a permit approved pursuant to this Chapter.

- C. Outdoor cultivation and outdoor cultivation ancillary uses shall conform to all of the following minimum setback requirements:
1. The lot on which a cannabis site is located shall not be within one thousand (1,000) feet 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 a permit by the appropriate authority. The distance specified in this Section shall be measured in a straight line from the nearest point of the property line of the lot that contains the outdoor cultivation and outdoor cultivation ancillary uses, to the nearest point of the property line of the enumerated use(s).
 2. The cannabis site shall be setback a minimum of fifty (50) feet from any public road.
 3. The cannabis site shall be setback a minimum of two hundred fifty feet (250) feet from the nearest offsite structure. This setback does not apply to non-habitable sheds, outbuildings, and similar non-habitable accessory structures. The distance specified in this Section shall be measured in a straight line from the nearest point of the cannabis site to the nearest applicable structure on adjoining properties.
 4. The cannabis site shall be setback a minimum of one hundred fifty (150) feet from a stream, river, or watercourse.
- D. Exceptions to setbacks from the nearest offsite structure may be considered by the appropriate authority. The following criteria may be used in consideration of such an exception: weather patterns; existence of topographical features; trees and shrubs; and possible development of landscape berms to separate cannabis uses from nearby residential uses on a neighboring lot. Setbacks may also be reduced for supportive nursery cannabis sites and for outdoor cultivation ancillary uses, provided that such uses are located entirely within an approved structure that incorporates adequate odor mitigation technologies. In no case shall the setback from a school, playground, youth center, child care center, or drug recovery facility be less than a one thousand (1,000) foot radius. This Subsection does not restrict the ability of the appropriate authority to consider odor mitigation techniques, including but not limited to, landscape vegetation strips which may include other fragrant vegetation to mask the odors, odor neutralizing technologies, or relocation of cannabis sites as part of the consideration of a permit required pursuant to this Chapter.
- E. Outdoor cultivation and outdoor cultivation ancillary uses shall be located only within a permitted cannabis site. Cannabis sites shall be located in areas where prior cultivation activities occurred on the lot, except when previously utilized areas or structures on the qualified property do not conform to one or more standards contained herein or cannot comply with other applicable state or local regulations. In such cases, reconfiguration of the cannabis sites and associated

infrastructure may be permitted provided that the reconfiguration results in compliance with the terms of this pilot program and will not conflict with other applicable provisions of state and County law including the applicable provisions of the General Plan.

- F. Outdoor cultivation and outdoor cultivation ancillary uses shall be subject to applicable use of private road regulations contained in the Monterey County Code.
- G. Outdoor cultivation and outdoor cultivation ancillary uses shall not take place on federal or state lands, or on lots where the only access is through federal land.
- H. In no case shall a building built as a single-family dwelling or multiple family dwelling be used for outdoor cultivation and outdoor cultivation ancillary uses, except that the dwelling may be used for offices related to the permitted cannabis activities, or for the purposes of providing sanitary facilities and break areas for employees employed onsite.
- I. No visual indications that outdoor cultivation and outdoor cultivation ancillary uses occur on the site shall be visible from offsite, including but not limited to cannabis plants, markers, and similar indicators of cannabis activities.
- J. The canopy of outdoor cultivation shall be limited to two and one half percent (2.5%) of the total square footage of the lot, not to exceed twenty thousand (20,000) square feet of canopy on any one lot.
- K. 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 onsite security is utilized, such onsite security shall not use or possess firearms or other lethal weapons. Fencing is only required where other reasonable limitations to access to the cannabis site cannot be provided. Fencing and other structures and improvements for the purposes of providing security shall be subject to the applicable permit(s), including siting and design criteria for the site.
- L. Pesticides and fertilizers shall be properly labeled, stored, and applied to avoid and prevent contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife. Approved outdoor cultivation operations using pesticides shall obtain the appropriate permits, licenses, or clearances from the Monterey County Agricultural Commissioner and the Environmental Health Bureau, as applicable.
- M. Lighting inside and outside of all structures shall be unobtrusive and constructed or located so that only the area intended is illuminated, long range visibility is reduced, the lighting source is not visible from offsite, and glare is fully controlled.
- N. All necessary fire prevention measures, as determined by the appropriate fire district personnel, shall be provided and maintained onsite.
- O. Adequate water supply sources to meet all onsite uses shall be provided. Water use includes, but is not limited to, irrigation water, and permanent potable water for all employees. Water transported by vehicle from offsite shall not be considered an adequate water supply source.

- P. All necessary waste water facilities, as determined by the Monterey County Environmental Health Bureau, shall be provided.
- Q. The following additional plans and information shall be created, reviewed, permitted and implemented, as applicable, during operations:
 - 1. A water management plan including the proposed water supply, written permission to access to water if the source is a water system or surface diversion, proposed water conservation measures, and any water offset.
 - 2. Information regarding stormwater control and wastewater discharge. Such plans shall be sufficient to prevent erosion and other water quality impacts on or offsite.
 - 3. A storage and hazard response plan for all pesticides, fertilizers, and any other hazardous materials kept on site.
 - 4. All power source(s) for commercial cannabis activities at the site including any proposed energy offsets. Generators shall not be permitted as the permeant power source.
 - 5. A cannabis waste management plan including the method(s) for managing cannabis waste. Acceptable methods include onsite composting provided the composting site is clearly defined and approved as part of a permit pursuant to this pilot program, collection and processing of cannabis waste by an approved waste hauler in Monterey County, or self-haul of cannabis waste to a permitted solid waste or composting facility.
 - 6. All permits shall also be subject to the policies contained in the General Plan.

(Ord. No. 5311, § 2, 6-18-2019; Ord. No. 5350, §§ 5—7, 5-18-2021)

21.69.070 - Required findings.

An administrative permit for the cannabis activities allowed pursuant to this pilot program shall not be granted by the appropriate authority unless all of the following findings are made based on substantial evidence:

- A. The outdoor cultivation and outdoor cultivation ancillary uses, as proposed, comply with all of the requirements of Chapter 21.69.
- B. Adequate energy, sewer, and water services exist or can be provided for the use(s) proposed.
- C. The location of the cannabis site(s) and the establishment or operation of outdoor cultivation and outdoor cultivation ancillary uses are consistent with the text, policies and regulations of the General Plan.
- D. Any environmental impacts considered potentially significant are mitigated.
- E. The plans include adequate facilities and operational measures to address security, health and safety standards, and other standards that minimize or avoid nuisances and impacts on the lot and in the neighborhood where the activities are proposed.

(Ord. No. 5311, § 2, 6-18-2019)

21.69.080 - 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 outdoor cultivation and outdoor cultivation ancillary uses:

- A. The owner and permittees shall allow access to the cannabis site and access to records if requested by the County, its officers, or agents, and shall pay for an annual inspection of the cannabis site and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.
- B. The applicant, owner, and permittees 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.
- C. Any person engaged in the cannabis activities allowed pursuant to the pilot program shall obtain and maintain all required state and County permits and licenses, including a valid and fully executed Business License and Commercial Cannabis Business Permit pursuant to Chapters 7.02 and 7.90 of the Monterey County Code.
- D. 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 state law and the Monterey County Code. Failure to take appropriate actions to evict or otherwise remove permittees and persons conducting commercial cannabis activities at the site who do not maintain permits or license in good standing with the state or County shall be grounds for the suspension or revocation of permits pursuant to Sections 21.67.110 and 21.67.120 of the Monterey County Code.

(Ord. No. 5311, § 2, 6-18-2019)

21.69.090 - Application requirements.

All applications for an administrative permit for outdoor cultivation and outdoor cultivation ancillary uses shall be filed with the Resource Management Agency on the form and in the manner prescribed by 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 activities on the subject property.
- B. A site plan containing the following minimum information:

1. Boundaries of lot and the cannabis site(s) wherein each of the proposed cannabis activities will occur;
 2. Access roads and driveways to the lot from the nearest public road;
 3. Entrances and exits to and from all proposed cannabis sites;
 4. All existing and proposed structures, wells, septic systems, parking areas, and utilities at the lot;
 5. All easements and all water bodies on the lot;
 6. Assessor's Parcel Number;
 7. Property boundaries and distance from all cannabis sites to structures on neighboring properties, if structures are located within one thousand five hundred (1,500) feet of the cannabis site(s);
 8. Topographic information including areas of the property containing slopes greater than twenty-five (25) percent; and
 9. The diagram shall be to scale.
- C. A cultivation plan containing a cannabis site diagram showing all boundaries and dimensions in feet of the following proposed areas to scale:
1. Location of and aggregate square footage of canopy area(s) for all outdoor cultivation on the lot;
 2. Location of and aggregate square footage of canopy areas for all supportive nursery operations on the lot;
 3. Designated pesticide and other agricultural chemical storage area(s);
 4. Designated self-processing area(s), if processing will occur on site;
 5. Designated composting area(s), if composting will occur on site or designated secured area(s) for cannabis waste if composting does not occur on site;
 6. Designated area(s) for harvested cannabis storage;
 7. Common use area(s) such as hallways, bathrooms, or break rooms; and
 8. The Geospatial Positioning System (GPS) Coordinates for the boundaries of each cannabis site.
- D. An operations plan including at a minimum, the following information:
1. Onsite security plan including both physical and operation measures;
 2. Odor management plan, including progressive measures that will be taken if needed to address odor complaints;
 3. Proposed hours of operation;
 4. Employee safety and training plan;

5. Water management plan, including the proposed water supply and proposed conservation measures, and if water is obtained from a domestic water system, then proof of approval of use from the water system;
 6. Waste management plan;
 7. Sustainability measures including energy source and proposed energy efficiency measures;
 8. Parking plan;
 9. Hazardous waste storage plan and hazard response plan;
 10. Stormwater control plans; and
 11. Fuel and fire management plan.
- E. A cross connection control survey completed by a qualified professional confirming that no cross connections will exist between potable water and irrigation uses.
- F. Such other information as the Chief of Planning, or his or her designee, may require.

(Ord. No. 5311, § 2, 6-18-2019)

21.69.100 - Suspension, revocation, and enforcement.

Grounds and procedures for suspension revocation and enforcement shall be as set forth in Sections 21.67.110, 21.67.120, and 21.70.130 of this Title.

(Ord. No. 5311, § 2, 6-18-2019)