

ORDINANCE NO. __ C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

**APPROVING AMENDMENTS TO THE CITY CODE AND ZONING ORDINANCE
TO AUTHORIZE AND REGULATE A LIMITED NUMBER AND TYPE
OF CANNABIS BUSINESSES**

THE CITY COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN AS FOLLOWS:

SECTION 1:

WHEREAS, this article is adopted pursuant to the authority granted to the city by Section 7 of Article XI of the California Constitution, California Government Code sections 50022.1-50022.8 and 50022.10, Title 4, Division 19 of the California Code of Regulations, and the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”);

WHEREAS, all forms of cannabis businesses are prohibited in the city, except for cannabis testing laboratories, which were first authorized at a public hearing held on January 21, 2020, where the City Council interpreted the City Code as allowing that use in the I-R Industrial, Administration, and Research District. The city’s prohibition on cannabis businesses was upheld by the Sixth District Court of Appeals in City of Monterey v. Jhonrico Carrnshimba et al., (2013) 215 Cal.App.4th 1068. This ordinance authorizes certain types of cannabis businesses to operate in the city;

WHEREAS, on September 30, 2020, cannabis policy was discussed at a City Council Study Session;

WHEREAS, on December 1, 2020, staff proposed a plan and timeline for authorizing cannabis businesses in the city;

WHEREAS, on December 15, 2020, the City Council adopted Ordinance 3634 to formalize its January 21, 2020 interpretation that cannabis testing laboratories are principally permitted in the I-R zone;

WHEREAS, on December 21, 2021, the City Council directed staff to develop regulations allowing no more than three cannabis retail permits, one each in Downtown, Lighthouse, and Cannery Row;

WHEREAS, community outreach meetings were held on January 26, 2021 and January 28, 2021 to discuss cannabis policy. Online and postcard surveys were conducted in January - February 2021 to receive public input on cannabis policy and additional City Council discussions were held on February 24, 2021, April 13, 2021, May 4, 2021, and August 17, 2021;

WHEREAS, on July 25, 2022, the City Council approved Resolution 22-097, placing a Cannabis Business License Tax on the ballot for the November 2022 election;

WHEREAS, Measure J, the city’s Cannabis Business License Tax, passed on November 8, 2022, with more than 65% of the voters voting in the election approving the measure;

WHEREAS, the city intends to restrict access to retail storefront facilities, whether adult use, or medical, or both, to ages 21 and older;

WHEREAS, the city intends to authorize deliveries of medicinal cannabis to individuals 18 years and older to facilitate access to medicinal cannabis consistent with SB 1186 (Weiner);

WHEREAS, the city intends to authorize one non-storefront retailer requiring delivery of medicinal cannabis to be consistent with SB 1186 (Weiner);

WHEREAS, on May 2, 2023 the City Council considered the project description and on June 6, 2023, the City Council approved it as modified by including an additional storefront retailer and up to five temporary cannabis events to guide environmental review;

WHEREAS, at a public hearing on _____, 2023, the Planning Commission considered and recommended the amendments to the zoning code set forth in Sections 18 and 19;

WHEREAS, [INSERT CEQA];

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 3: Monterey City Code, Chapter 19, Licenses, Fees and Charges is hereby renamed as follows:

Chapter 19. Business Licenses, Fees, and Charges

SECTION 4: Chapter 7, Reserved, is hereby renamed as follows:

Chapter 7. Health and Safety Business Regulations

SECTION 5: Monterey City Code, Chapter 19, Article 3, Sections 19-90 through 19-100 are hereby recodified as Monterey City Code, Chapter 7, Article 1, Health Permits, Section 7-1.00 through 7-1.10.

SECTION 6: Monterey City Code, Chapter 19, Article 5, Sections 19-105 through 19-121 are hereby recodified as Monterey City Code, Chapter 7, Article 2, Tobacco Retail License, Section 7-2.00 through 7-2.16.

SECTION 7: Monterey City Code, Chapter 22, Article 1, Sections 22-31 through 22-31.16 are hereby recodified as Monterey City Code, Chapter 7, Article 3, Massage Establishments and Massage Therapists, Section 7-3.00 through 7-3.16.

SECTION 8: Monterey City Code, Chapter 22, Article 4, Section 22-39, Prohibiting Medical Marijuana Dispensaries, Delivery, and Cultivation, and Marijuana Dispensaries and Marijuana Sales, is hereby repealed in its entirety.

SECTION 9: Monterey City Code, Chapter 22, Article 1, Section 22-32 is hereby renumbered and recodified as Monterey City Code, Chapter 7, Article 5, Second Hand Dealers, Section 7-5.00.

SECTION 10: Monterey City Code, Chapter 22, Article 1, Section 22-34 is hereby renumbered and recodified as Monterey City Code, Chapter 7, Article 6, Regulation of Escort Services, Section 7.6.00.

SECTION 11: Monterey City Code, Chapter 38, Article 8, Section 38-41(H) through 38-41(J), are hereby repealed.

SECTION 12: Chapter 7, Article 7 is added to read as follows:

ARTICLE 7. CANNABIS BUSINESS REGULATIONS

Sec. 7-7.00. Title.

This article shall be known as the Cannabis Business Regulations Ordinance of the City of Monterey.

Sec. 7-7.01. Purpose and Intent.

It is the purpose and intent of this article to: regulate commercial cannabis activity in the city, whether the cannabis is for medicinal or adult-use; to limit youth access and exposure to cannabis and cannabis products; allow cannabis businesses while imposing sensible regulations on commercial activities to protect the city's residents, neighborhoods, and businesses from disproportionately negative impacts; create jobs and tax revenue for the city; and to protect the public's health, safety, and welfare.

The provisions of this article are not intended to and shall not regulate the cultivation or possession of cannabis for personal use in full compliance with all applicable state laws at a person's primary residence located in a zoning district that allows for residential uses.

Sec. 7-7.02. Definitions.

For purposes of this article, the following words shall have the meanings ascribed to them by this section unless the context makes apparent another meaning was intended. Any reference to state statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

A. "Applicant" means a person, or any officer, director, partner, or other duly authorized representative of an entity applying for a cannabis business permit.

B. "Cannabis" means all or parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds of such plants. "Cannabis" also means cannabis as defined by Business and Professions Code section 26001(f), Health and Safety Code section 11018, and by other state law.

C. "Cannabis business" means the activity of any natural or legal person, business, or collective in the City relating to cannabis, including but not limited to transportation, distribution, manufacture, compounding, conversion, processing, preparation, testing, storage, packaging, event organizing, delivery and sales (including both wholesale and retail sales) of cannabis, cannabis products, or cannabis accessories, whether or not carried on for gain or profit, whether

for medical or adult use, and whether or not such business is licensed by the State. A cannabis business does not include any business the only relationship of which to cannabis or cannabis products is the production or sale of cannabis accessories. A cannabis business does not include cannabis cultivation.

D. “Cannabis business permit” means a regulatory license issued by the city to a cannabis business.

E. “Cannabis product” means any product containing cannabis or its derivatives, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles, and products described in Health & Safety Code section 11018.1.

F. “City Manager” shall mean the City of Monterey City Manager or their designee.

G. “Competitive application” means the screening and selection process used when the number of retail cannabis business applications exceed the maximum number of retail cannabis business permits authorized.

H. “Delivery” means the transfer for any form of compensation of cannabis or cannabis products to a customer or caregiver at a location that is not a dispensary.

I. “Dispensing” means any activity involving the retail sale of cannabis or cannabis products from a retailer.

J. “Distributor” means a person engaged in procuring cannabis and/or cannabis products for sale to a dispensary, to a business engaged in delivery, or at another point of retail sale. “Distribution” means engaging in that conduct and a “distribution facility” is any real estate, whether or not improved, used in such conduct.

K. “Employee” means persons who are participating, whether directly or indirectly, in the cannabis business regulated under this article.

L. “Event organizer” means a person or commercial cannabis business who engages in the organizing and operating of a temporary cannabis event.

M. “Limited-access area” means an area in which cannabis is stored or held and is only accessible to a licensee and authorized personnel.

N. “Manager” means any person(s) designated by the commercial cannabis business to act as the representative or agent of the commercial cannabis business in managing day-to-day operations with corresponding liabilities and responsibility and/or the person in apparent charge of the premises where the commercial cannabis business is located. Evidence of management includes, but is not limited to, evidence that the individual has the power to direct, supervise, hire, and dismiss employees, control hours of operations, provides strategic direction, creates policy rules, and purchases supplies.

O. “Medicinal cannabis” or “Medicinal cannabis product” shall have the same meaning as that appearing in Business and Professions Code section 26001(ak)(1).

P. “Owner” means any of the following, or a group or combination of any of the following, acting as a unit: a person with an aggregate ownership interest of 5 percent or more in the cannabis business applying for a permit under this article, whether a partner, shareholder,

principal, member, or the like, unless the interest is solely a security, lien or encumbrance. For purposes of this section, “aggregate” means the total ownership interest held by a single person through any combination of individually held ownership interests in a cannabis business and ownership interests in an entity that has an ownership interest in the same cannabis business. For example, a person who owns 2.5 percent of the stock in a cannabis business as an individual shareholder and 100 percent of the stock in an entity that owns 2.5 percent of the stock in the same cannabis business has a 5 percent aggregate ownership interest in the cannabis business.

Q. “Permittee” means a person or entity that has received a cannabis business permit and/or a temporary cannabis event permit from the city.

R. “Premises” all have the same meaning as that appearing in Business and Professions Code section 26001(as).

S. “Retailer” shall have the same meaning as that contained in Business and Professions Code section 26001(av).

T. “State license” means a license issued by the State of California Department of Cannabis Control (“DCC”), or other authorized state agency, under the MAUCRSA and any subsequent related State of California legislation, to engage in cannabis activity.

U. “Temporary cannabis event” means an event of limited duration, and located in a specific area, which allows the on-site sale and/or consumption of cannabis at the event, in compliance with Business and Professions Code section 26200(e) and this article.

V. “Temporary cannabis event permit” means a permit issued by the city to a DCC Type 14 license holder authorizing a temporary cannabis event at the Monterey County Fairgrounds.

Sec. 7-7.03. Cannabis Businesses Prohibited Unless Specifically Authorized.

A. Except as specifically authorized by this article, or expressly made exempt from city regulation by state law, cannabis businesses are prohibited anywhere in the city.

B. No person shall engage in, conduct, or operate a cannabis business, or cause, allow, permit, or maintain a cannabis business on any real property within the city except as specifically authorized by this article and Chapter 38, Article 16D.

Sec. 7-7.04. Compliance with State and Local Laws.

Nothing in this article shall be construed as authorizing any actions that violate state law or local law with respect to engaging in, or in the operation of, a cannabis business. It shall be the responsibility of the permittees, owners, employees, and managers of a cannabis business to ensure that a cannabis business is, always, operating in a manner compliant with all applicable state and local laws, including any subsequently enacted state and local laws, or regulatory, licensing, certification standards or requirements, and any specific additional operating procedures or requirements.

Sec. 7-7.05 Cannabis Business Permit Required.

A. It shall be unlawful to engage in any cannabis business within the city unless the person has:

1. A valid cannabis business permit issued by the city pursuant to this article;
 2. A valid state license issued by the DCC;
 3. A valid cannabis business license tax registration certificate issued by the city pursuant to Monterey City Code, Chapter 19, Article 6;
 4. A city zoning clearance for retail and testing laboratory cannabis businesses pursuant to Monterey City Code, Chapter 38, Article 16D;
 5. A temporary cannabis event permit issued by the city for a temporary cannabis event;
 6. Paid in full all required fees and charges which shall be established by resolution of the City Council; and
 7. Obtained any other applicable approvals, such as a city building permit.
- B. It shall be unlawful to rent, lease, license, or otherwise permit any cannabis business at any location, structure, or vehicle in the city by a person that:
1. Does not have a valid cannabis business permit and/or temporary cannabis event permit issued by the city;
 2. Does not have a valid state license issued by the DCC; or
 3. Is not in compliance with all applicable State and local laws and regulations pertaining to the cannabis activity.

Sec. 7-7.06 DCC License Types and Number Authorized.

- A. The following DCC cannabis license types are authorized to operate in the city:
1. Storefront Retailer: Type 10A (adult-use) and/or Type 10M (medicinal).
 2. Non-storefront Retailer: Type 9M (medicinal cannabis delivery required) or Type 9M and Type 9A.
 3. Testing Laboratory: Type 8.
 4. Distributor: Type 11 (authorized use is limited to distribution facility located outside of the city and distributing into the city).
 5. Cannabis Event Organizer: Type 14 and Temporary Cannabis Events.
- B. Cannabis license types not identified in Section 7-7.06(A) are prohibited in the city.
- C. Number of Cannabis Businesses and Temporary Events Authorized.
1. Type 10 retail permits (adult use, medicinal, or both) are authorized to operate at no more than four locations in the city.

2. One Type 9 non-storefront retail permit is authorized to operate in the city and shall be required to deliver medicinal cannabis.
3. There is no limit on the number of Type 8 cannabis testing laboratory businesses allowed in the city.
4. There is no limit on the number of distributors (Type 11) with distribution facilities located outside of the city that distribute into the city.
5. There is no limit on the number of delivery (Type 10 or Type 9) businesses with retail stores located outside of the city that deliver into the city.
6. There is no limit on the number of cannabis event organizer (Type 14) businesses allowed in the city.
7. No more than five temporary cannabis event permits may be issued by the city per calendar year. Two of the five event permits shall be designated to occur in connection with the California Roots Festival and the Rebels and Renegades Music Festival. The remaining three permits shall not be for more than one day each.

C. Each year following the city's initial award of cannabis permits, if any, or at any time thereafter in the City Council's discretion, the City Council may eliminate, increase, or decrease the number of permits which are authorized for issuance by amending this ordinance.

E. No person may have an ownership interest in more than one commercial cannabis business in the same DCC license category within the city.

Sec. 7-7.07. Location Limitations.

A. Cannabis retail and testing laboratory businesses shall only locate in those zoning districts set forth in City Code Chapter 38, Article 16D (Zoning, Part III – Overlay District Regulations) and pursuant to the development standards set forth therein.

B. A zone clearance shall be obtained for retail and testing laboratory businesses before the city will issue a cannabis permit. Zone clearances shall be reviewed by the Community Development Department on a first-come, first-served basis. The city will notify any remaining applicants when a zone is no longer available, until all four zones have one storefront retail cannabis business permittee.

C. Temporary cannabis events are only authorized to be held at the Monterey County Fairgrounds, located at 2000 Fairgrounds Road, Monterey.

Sec. 7-7.08. City Manager Authority.

The City Manager shall have the authority to adopt rules, regulations, and forms governing the implementation of this article. Cannabis businesses shall be required to comply with any rules, regulations, or standards adopted by the City Manager.

Sec 7-7.09. Retail and Testing Laboratory Permit Application.

A. Every owner of a proposed retail or testing laboratory cannabis business shall complete an application furnished by the City Manager's Office. The person(s) authorized to sign on behalf of and legally bind the cannabis business shall print their name and sign the application under penalty of perjury. All applications shall be filled out completely and include the following:

1. Payment of fees.
2. Business plan. Describe the business operation plans and philosophy. Describe the quality of cannabis strains and derivative product offerings.
3. The address of the property on which the proposed business shall be located. Applications may be accepted without having secured a physical business location; however, a physical location shall be required prior to the issuance of a zone clearance or a cannabis business permit by the city.
4. The name, address, and contact information for the business owners(s) and the percentage of ownership interest held in the applicant entity. If the owner is a corporation, limited liability company, partnership or other type of entity, legal documents outlining the business structure shall be provided, along with the name, address, and phone number for each officer. The following documents, if applicable to the business structure, shall be provided: Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, Statement of Partnership Authority, and/or Fictitious Name Statements. All entities and individuals with a financial interest in the entity shall be disclosed to the city and may be considered owners of the cannabis business. Ownership of any cannabis business operating in the city is a matter of public record.
5. Security plan. Provide a detailed security plan, which includes measures to be used to prevent unauthorized access, protect the physical safety of employees and surrounding properties, and protect against theft/loss of cannabis, cannabis products, and all other related materials and equipment. Identify surveillance equipment and locations, physical barriers, alarm systems, and storage of samples and records.
6. Transportation plan. Each cannabis business shall have a storage and transportation plan and describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, any hazardous materials that may be used by the business, and any currency.
7. Experience. Previous experience in a cannabis business that was subject to state cannabis regulation, or experience in a similarly state-regulated activity (by way of example and not limitation, alcohol sales).
8. Employee training, wages, and benefits, and compliance with local, state, and federal employee non-discrimination policies.
9. Ability to conform with the city's general plan, any applicable specific plans, and design standards.
10. Steps the cannabis business will take to ensure the cannabis it receives is sourced from cultivators that provide safe working conditions and pay wages to laborers for work performed.

11. Steps the cannabis business will take to reduce the carbon footprint of cannabis by reducing greenhouse gas emissions.
 12. Community engagement including past, present, or planned activities that demonstrate how the cannabis business plans to integrate into the community, and involvement in local non-profits/charitable/volunteer organizations.
 13. Description of accounting software system to provide point of sale data and audit trails of both product and cash.
 14. Demonstrate how compliance with the state's track and trace system for cannabis and cannabis products will be achieved.
 15. Additional information that demonstrates a connection to the city, ability to serve the city, familiarity with the city, and innovative business models consistent with the city's community.
 16. An executed release of liability and hold harmless in the form set forth in the city's application form.
- B. All information submitted by applicants shall be true, correct, whole, and free of any material misrepresentation or omission.
- C. If any items required by the application are not met or provided, the City Manager may notify the applicant of the deficiency in writing, after which the applicant will have 10 business days from the date of the notice to correct the deficiency.
- D. The city reserves the right to reject any or all applications for a cannabis permit. Persons submitting applications assume the risk that all or any part of this code authorizing cannabis businesses may be repealed at any time prior to license issuance.
- E. Pursuant to California Penal Code sections 11105(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for cannabis employment, licensing, or certification purposes and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner or employee must submit fingerprints and other information deemed necessary by the Chief of Police or their designee for a background check by the City of Monterey Police Department.

Sec. 7-7.10. Retail and Testing Laboratory Application Period

- A. Cannabis Testing Laboratories. Cannabis testing laboratory applications may be accepted at any time.
- B. Storefront and Non-Storefront Retail Sales. There shall be an initial 45-day storefront and non-storefront retail application screening period to be determined by the City Manager. Subsequent screening application periods shall commence upon certification by the City Manager that additional cannabis permits are available and shall close 45 days after such certification. Should the number of applications submitted during the initial 45-day permit screening period exceed the maximum number of storefront and/or non-storefront retail

cannabis business permits authorized, the competitive procedure set forth in Section 7-7.11 shall be utilized to award those permits.

Sec. 7-7.11. Retail Competitive Application Review, Selection, and Waitlist

A. Prior to cannabis business permit issuance, the city may modify, postpone, or cancel any request for applications, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California law. Persons submitting applications assume the risk that all or any part of the cannabis business permit program, or any category of cannabis business potentially authorized under this article, may be cancelled at any time prior to permit issuance. The city further reserves the right to request and obtain additional information from any candidate applying.

B. Applications that meet the criteria for permit approval set forth in Section 7-7.12 shall be reviewed and scored by a qualified consulting firm. The consulting firm will rank up to eight storefront cannabis retail applications and up to three non-storefront retail (with mandatory medicinal cannabis delivery) to a Final Selection Committee for consideration. The Final Selection Committee shall be comprised of the Mayor, Vice Mayor, and City Manager. The Final Selection Committee will select the final four storefront cannabis retailers and one non-storefront retailer. The Final Selection Committee shall score each application based on the general criteria listed under subsection (B). The specific criteria and weighting (points per criteria) will be determined prior to the commencement of the initial screening application period and posted publicly. Each application will be independently scored by the consulting firm and the Final Selection Committee members utilizing a point system scale. There shall be no right to appeal the ranking and/or scoring of applications.

C. General Ranking Criteria. The objective review criteria shall include at a minimum the following elements and the City Manager may establish additional elements in their discretion to be included in the objective review criteria to select the most qualified applicants:

1. Community engagement;
2. Local business partnerships; and
3. Sustainable business practices that will reduce greenhouse gas emissions.

The City Manager may establish additional elements in their discretion to be included in the objective review criteria to select qualified applicants.

D. The scores awarded by the application evaluation committee shall be totaled and averaged for each applicant. The applicants shall then be ranked from highest to lowest based on their scores.

E. The top four applicants for storefront retail, and top applicant for non-storefront retail, based on points, or applicants applying for vacated licenses, are required to apply for and obtain a zone clearance from the city's Community Development Department – Planning Office.

F. The top ranked four storefront retail applicants, and the top ranked applicant for non-storefront retail, that have obtained a zone clearance from the city are required to be reviewed and approved by the City Manager prior to issuance of a cannabis permit by the city. Any permit

awarded under this section may include conditions of approval requiring the cannabis business permittee to comply with the objective review criteria set forth in its application.

G. If any of the selected storefront or non-storefront retail applicants fail to exercise a cannabis business permit under the time specified in Section 7-7.12(E), all rights to the permit shall terminate and be forfeited.

H. If the City Council authorizes additional cannabis businesses, or if any of the top four ranked applicants have not exercised a storefront or non-storefront retail commercial cannabis permit within 12 months after selection, or within 18 months if the City Manager granted an extension under Section 7-7.12(E), the City Manager shall invite the next ranked applicant from the results of the City's initial screening application process in the applicable license category to apply for a cannabis permit; however, the waitlist shall expire on January 1, 2026. Once the waitlist applicant is notified of the right to apply for a vacant permit, the applicant shall secure a permit within the time frame specified in Section 7-7.12(E). If the waitlist applicant fails to exercise a cannabis business permit within that time, they are removed from the waitlist.

Sec. 7-7.12. Retail and Testing Laboratory Cannabis Business Permit Issuance.

A. The City Manager, after receiving the application and the required information, and except for competitive applications, shall grant the retail or testing laboratory permit if they find all the following:

1. Granting the permit would not exceed the number of cannabis businesses authorized under Section 7-7.06(C).
2. The applicant has not knowingly made a material misrepresentation or omission in the application.
3. The applicant has not had a cannabis business permit denied or revoked by the state, county, city, city and county, or any other state within five years of the date of the application.
4. The cannabis business, as proposed by the applicant, would comply with all applicable provisions of state law and this code, including but not limited to this article, and all health, zoning, fire, and safety requirements.
5. No grounds for denial exist under Section 7-7.13.
6. Competitive applications for which the City Manager has decided are compliant with this article shall be reviewed pursuant to the competitive application selection process described in Section 7-7.11.

B. To the fullest extent permitted by law, the city shall not assume any liability whatsoever with respect to having issued a cannabis business permit pursuant to this article or otherwise approving the operation of any cannabis business. As a condition to the approval of any cannabis business permit, the applicant shall be required to meet all the following conditions prior to receiving the cannabis business permit:

1. Execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Monterey,

and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the city's issuance of the cannabis business permit, the city's decision to approve the operation of the cannabis business or activity, the process used by the city in making its decision, or the alleged violation of any federal, state or local laws by the cannabis business or any of its officers, employees or agents. The permittee will sign an acknowledgement that the permit is expressly limited in term without a right to renewal.

2. Maintain insurance at coverage limits determined necessary and appropriate from time to time by the City's Risk Manager or designee.

3. Reimburse the city for all costs and expenses, including but not limited to legal fees and court costs, which the city may be required to pay because of any legal challenge related to the city's approval of the applicant's cannabis business permit or related to the city's approval of a cannabis activity. The city, at its sole discretion, may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any of the obligations imposed hereunder.

C. Duration.

1. A cannabis business permit is valid for one year from the date of issuance and renewal of the permit is not guaranteed.

2. A cannabis business permit must be renewed by the permittee annually. A permittee may apply for a renewal of a permit 60 calendar days prior to the expiration of the permit.

3. Permit renewals shall be granted if the information upon which the original application was granted remains unchanged, no violations of this article have been committed, the renewal fee is paid, and the City Council has not reduced the number or eliminated cannabis businesses as an authorized use. In all other situations, the City Manager shall approve or deny the application within 60 calendar days. A cannabis business may continue to operate under the terms of the previous permit if a timely renewal application has been received and is awaiting a determination by the City Manager.

4. If a renewal cannabis business permit application is not timely filed, or the required fees are not paid prior to the expiration date of the permit, the permit shall be deemed expired and no privilege to operate a cannabis business shall exist after the expiration date.

5. The City Manager is authorized to impose additional conditions to a renewal license to ensure compliance with state or local laws or to preserve the public health, safety, or welfare.

6. If a renewal application is denied, one year from the date of the denial, a person may file a new application at the next permit application screening period set forth in Section 7-7.10(B).

D. Cannabis permits issued under this article are valid only as to the approved permittee at the specified approved location, and is nontransferable to other persons, entities,

projects, or locations. The assignment of or the attempt to assign any permit issued pursuant to this article is unlawful and any such assignment or attempt to assign a permit shall render the permit null and void. A cannabis business shall be deemed to have transferred to a new owner within the meaning of this section if person(s) or entities with controlling interest at the time the cannabis business permit was first issued ceases at any time to possess or control ownership interest and/or an ownership interest of less than 51%.

E. A cannabis business permit shall be exercised within 12 months of issuance. Upon a showing of significant and diligent progress towards exercising the cannabis business permit, the City Manager may provide one six-month extension of time. A cannabis business permit shall be considered exercised when any of the following occur:

1. A Certificate of Occupancy has been issued.
2. The permitted use has commenced on the site.
3. A city Building Permit is secured, and construction lawfully commenced.

F. Prior to commencing operations, a cannabis business permittee shall be subject to a mandatory building inspection.

G. The permittee may apply to amend the permit on a form provided by the City Manager. The application shall not be granted unless the city determines that the terms of the amended permit comply with all requirements of this article and all other state and local laws. An amended permit shall retain its original expiration date. A cannabis business may continue to operate under the terms of the previous permit while an application for an amended permit is awaiting a determination.

H. No permittee may operate a commercial cannabis business under any name other than the name specified in the permit and business license certification without first obtaining approval to amend the permit pursuant to Section 9-7.12(G).

Sec. 7-7.13. Retail and Testing Laboratory Cannabis Business Permit Denial.

An application for a retail or testing laboratory cannabis business permit shall be denied by the City Manager if any of the following findings are made:

- A. It contains false or misleading information.
- B. It does not meet the requirements of the city code or other applicable laws.
- C. It was received after the submission deadline.
- D. It was not fully responsive to the request for a permit application.
- E. Applicant failed to exercise a cannabis business permit within the time frame established in Section 7-7.12(E).
- F. The applicant, or any existing or prospective manager, is not at least 21 years of age.
- G. The applicant, or any existing or prospective manager, has had a similar type of license previously revoked or denied within five years immediately preceding the permit

application.

H. The applicant, or any existing or prospective manager, was notified within five years immediately preceding the permit application by the state, county, city, or city and county, that it was conducting cannabis activity in violation of state or local laws and failed to cure the violation in a timely manner.

I. The applicant, or any existing or prospective manager, is delinquent in payment of federal, state, or local taxes and/or fees.

J. Pursuant to California Penal sections 11105(b)(11) and 13300(b)(11), which requires exclusion from cannabis employment, licensing or certification based on specific criminal conduct on the part of the subject of the record, no person shall be issued a permit to operate a cannabis business or be allowed to work in a cannabis business unless they have first cleared the background check, as determined by the Chief of Police or their designee(s). Evidence of a conviction of any of the offenses enumerated in Business and Professions Code section 26057(b)(4), absent the issuance of a Certificate of Rehabilitation pursuant to Penal Code section 4852.05, shall be grounds for immediate disqualification of the applicant.

K. If an applicant is denied a license due to a disqualifying factor including, but not limited to, failing a background check or not complying with any state, or local jurisdictions regulatory requirements in which legal or administrative action has been taken, a new application may not be filed by the applicant for one (1) year from the date of the denial. This section shall not apply to an approved applicant not awarded a license resulting from the city not selecting them in an application process with a finite number of available licenses.

Sec. 7-7.14. Modification, Suspension, or Revocation of Cannabis Business Permits.

A. Any cannabis business permit issued pursuant to this Article may be modified, suspended, or revoked when the City Manager finds that any of the following have occurred on even a single occasion:

1. For any violation of this article, any state or local laws, rules, and/or any standards, policies, procedures, or regulations adopted pursuant to this article relating to the cannabis businesses.
2. Where the permittee, cannabis business, and/or any owner, manager, or employee has violated the terms and provisions of the cannabis business permit.
3. The permittee or any person employed or retained by the commercial cannabis business has been convicted of any of the offenses enumerated in Business and Professions Code section 26057(b)(4), absent a Certificate of Rehabilitation.
4. The permittee has been subject to a temporary or permanent injunction against the conducting or maintaining of a nuisance pursuant to the City Code or Section 11225 through 11235 of the California Penal Code, or any similar provision of law.
5. A permit has been granted on false or fraudulent evidence, testimony, or application.
6. The permittee or any employee of the cannabis business has

engaged in fraud or misrepresentation or has knowingly made a misstatement of material fact while working in or for the cannabis business.

7. The permittee has continued to operate the cannabis business after the permit has expired or been suspended.

8. When the City Manager determines there to be an imminent threat to public health, safety or welfare, the City Manager may take immediate action to temporarily suspend a Cannabis Business License issued by the city.

9. When the preservation of the public health, safety, or welfare necessitate revocation of the permit.

10. The failure of a cannabis retail or testing laboratory cannabis business to operate for 120 continuous days for any reason. If the cannabis business has not been in regular and continuous operation in the preceding 120 days at the permitted location, the cannabis business permit shall be deemed to be not in good standing, abandoned, and null and void.

B. A decision of the city to modify, suspend, or revoke a cannabis business permit is appealable as set forth in Section 7-7.17.

Sec. 7-7.15. Effect of State License Suspension, Revocation or Expiration.

A. Suspension, revocation, or expiration of a DCC license shall immediately suspend the ability of that cannabis business to operate within the city and shall serve to suspend the cannabis business permit. Should the DCC license remain suspended or expired for 120 days or longer, the cannabis permit shall expire and be of no further force and effect. Should the DCC revoke or terminate the license of a cannabis business for cause, such revocation or termination shall also serve to revoke or terminate the city issued cannabis business permit and the ability of the permittee, including any owner or manager thereof, to operate any cannabis business within the city for a period of five years from the date of such revocation or termination. If the DCC reinstates or reissues the license within 120 days of the DCC suspension or expiration, the cannabis business may seek reinstatement of its city permit if the business can demonstrate that the grounds for suspension or revocation of the license by the DCC no longer exist or that the underlying deficiency has otherwise been cured. Any cannabis business permittee shall inform the City Manager of any suspension or revocation of a state license within two days.

B. A permittee shall have no right to appeal the suspension or revocation of a cannabis business permit that is based on the status of their state license, provided, however, an owner or manager thereof may appeal the term of their prohibition from operating another cannabis business in the city. Such appeal shall be based on the hearing procedures set forth in Section 7-7.17. The burden shall always be on the appellant to show good cause why the term of the prohibition should be less than five years.

Sec. 7-7.16. Effect of DCC Revocation or Nonrenewal on Property Owner.

If a retail or testing laboratory cannabis business permit is revoked or not renewed because of violations, no cannabis business permit may be issued at that location for a period of five years from the date of the revocation or nonrenewal. A property owner may appeal their prohibition from operating another cannabis business in the city at that location. Such appeal shall be based on the hearing procedures set forth in Section 7-7.17. The burden shall at all times be on

the appellant to show good cause why the prohibition should be reversed or modified.

Sec. 7-7.17. Notice, hearing, and appeal.

A. Appeals relating to denial of an application, the decision of the city to revoke, suspend or modify a permit, or to deny renewal of an application for a permit; or to add conditions to a permit, or under Sections 7-7.15 or 7-7.16 shall be conducted as prescribed in this section. There is no right to appeal the ranking and/or screening of applications under Section 7-7.11.

B. Any person who has been denied a cannabis business permit; any person whose application for an amended cannabis business permit has been denied; or any person whose privilege to operate a cannabis business has been modified, suspended, or revoked shall be notified in writing by means of registered mail, certified mail, email, or hand delivery of the City Manager's decision as well as the person's right to request a hearing under subsection (D) of this section.

C. Notwithstanding the foregoing, the City Manager may immediately suspend a cannabis business permit without a prior hearing if they determine that the operation of the cannabis business constitutes an immediate and significant threat to the public health, safety, or welfare. In such a case, if requested, the Appeals Hearing Board shall conduct the hearing following the suspension.

D. A request for a hearing before the Appeals Hearing Board shall be in writing and shall be made within 10 calendar days from the date of the decision to deny, suspend, revoke, or modify the permit. If no hearing request is made within this time period, the City Manager's notice of denial, revocation, suspension, or modification shall become final and shall go immediately into full force and effect.

E. Upon receiving a written request for hearing, the Appeals Hearing Board shall set a time and place for the hearing not less than 10 days or more than 60 days thereafter. The applicant or permittee shall be notified of the hearing by means of registered mail, certified mail, email, or hand delivery at least five days before the hearing date.

1. Apart from an immediate suspension under subsection (C), in the event a written notice of appeal is timely filed, the nonrenewal, suspension, or revocation shall not become effective until a final decision has been rendered and issued by the Appeals Hearing Board. Notices of appeal not served in a timely manner or served by non-operational business shall not serve to allow such business to operate pending appeal.

2. If no appeal is timely filed in the event of a decision of nonrenewal, the cannabis businesses permit shall expire at the conclusion of the term of the permit. If no appeal is timely filed in the event of a decision supporting modification, suspension, or revocation, the decision shall become effective upon the expiration of the period for filing a written notice of appeal.

F. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues, to be represented by counsel, and to confront and cross-examine witnesses. Formal rules of evidence shall not apply; any relevant evidence may be admitted if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Except for appeals under Section 7-7.15 and 7-7.16, where the appellant carries the burden of proof, the city shall have the burden of proof of any violations by a preponderance of the evidence. Any hearing under this section may be continued for a

reasonable time for the convenience of a party or witness. If the applicant or permittee fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for the denial, suspension, revocation, or restriction of the permit shall be considered conclusively established.

G. Within 30 days of the hearing, the Board shall issue a written decision specifying the reasons for the decision, which shall be delivered by either registered mail, certified mail, email, or hand delivery to the applicant or permittee. The decision of the Board shall be final and shall be subject to judicial review according to the provisions and time limits set forth in Code of Civil Procedure section 1094.6.

Sec. 7-7.18. Retail and Testing Laboratory Cannabis Business Operational Requirements.

A. General Operating Requirements.

1. Restriction on Sales and Consumption. Cannabis shall not be consumed by any person on the premises of cannabis businesses.
2. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages or tobacco on or about the premises of the cannabis business.
3. No persons under the age of 21 years shall be allowed on the premises of a cannabis business.
4. Inspections. The investigating officials of the city shall have the right as otherwise provided for by law to inspect a cannabis business during regular business hours, without notice and without a search or inspection warrant, to ascertain whether there is compliance with the provisions of this article and state law.
5. Records.
 - a. Each owner and operator of a cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities for a period not less than seven (7) years. On no less than an annual basis (at or before the time of the renewal of a cannabis business tax registration certificate issued pursuant Chapter 19, Article 7), or at any time upon reasonable request of the city, each cannabis business shall file a sworn statement detailing the number and amount of sales by the cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes and/or fees paid or due to be paid. On an annual basis, each owner and operator shall submit to the city a financial audit of the business's operations conducted by an independent certified public accountant. Each licensee shall be subject to a regulatory compliance review and a gross receipts financial audit, where applicable, as determined by the city.
 - b. Each owner and operator of a cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents, and

volunteers currently employed or otherwise engaged by the cannabis business. The register required by this paragraph shall be provided to the City Manager upon request.

6. Security. The cannabis business permittee shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products and to deter and prevent the theft of cannabis or cannabis products at the premises. Except as may otherwise be determined by the City Manager, these security measures shall include, but shall not be limited to, all the following:

- a. Sensors installed to detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- b. Panic buttons with direct notification to the Police Department dispatch and shall be configured to immediately alert dispatch for the Police Department.
- c. A professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services. The permittee shall be required to obtain an alarm permit from the Police Department. Upon request, permittee shall make available to the Police Department all information related to the alarm system, monitoring, and alarm activity.
- d. Windows and roof hatches shall be secured from the inside with effective means so as to prevent unauthorized entry and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of an emergency.
- e. Each cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- f. Secured Doors. All areas of the business that are not open to the public shall be secured from unauthorized entry by closed and locked doors during public operating hours.
- g. Surveillance records shall be maintained for a minimum of one year and shall be made available within 24 hours at the request of the City Manager, Police Chief, or their designee.
- h. Each cannabis business shall identify a designated security representative/liaison to the City, who shall be reasonably available to meet with the City Manager regarding any security related measures and/or operational issues.
- i. A cannabis business shall notify the Monterey Police Department within 24 hours after discovering any of the following:
 - i. Significant discrepancies identified during inventory. The level of

significance shall be determined by the regulations promulgated by the City Manager.

- ii. Diversion, theft, loss, or any criminal activity involving or perpetrated against the cannabis business or any agent or employee of the cannabis business or at the cannabis business.
 - iii. The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the cannabis business.
 - iv. Any other breach of security.
7. Emergency Contact. Each cannabis business shall provide the City Manager with the name and telephone number (both land line and mobile) of an on-site manager or owner to whom emergency notice can be provided at any hour of the day or night.
8. Signs and Notices.
 - a. Business identification signage for a cannabis business shall conform to the requirements of Chapter 31 Signs, including, but not limited to, seeking the issuance of a City sign permit.
 - b. Each entrance to a cannabis business shall visibly post a sign that persons under the age of 21 years are not permitted to enter the premises.
 - c. Each entrance to a cannabis business shall visibly post a sign, consistent with City Code section 22-29(d), that smoking within 20 feet of the areas adjacent to the cannabis business is prohibited.
 - d. The cannabis business permit issued by the city pursuant to this article and the city-issued cannabis business license certificate shall be posted inside the cannabis business in a conspicuous and public location.
9. Odor control. All cannabis business shall provide an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected on adjacent properties or public rights-of-way, or within any other unit located within the same building as the cannabis business if the cannabis business occupies only a portion of a building.
10. Background check. Every owner, manager, supervisor, or employee of the cannabis business must submit fingerprints and other information necessary deemed by the City Manager for a background check by the Police Department to verify that person's criminal history pursuant to the requirements of this article.
11. No cannabis business shall provide or cause to be provided any free samples of cannabis goods to any person within the city.
12. Each cannabis operator shall establish minimum training standards for all employees. The City Manager shall have the discretion to require other training for the business operations should the City identify deficiencies or non-compliance issues with

City or state requirements.

13. Each cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the cannabis business can be provided. Each cannabis business shall also provide the above information to all businesses and residences located within three hundred (300) feet of the cannabis business within 30 days of commencing operations.

14. Each cannabis business shall have an on-site manager present during business hours.

B. Additional Operating Requirements for Storefront Retail Sales. In addition to requirements set forth in subsection (A) (General Operating Requirements), every storefront retail sales cannabis business shall comply with the following:

1. A storefront retailer shall not conduct sales exclusively by delivery.

2. A storefront retailer retail shall not provide cannabis to an individual in excess of the amount that is consistent with personal possession and use limits allowed by the state.

3. Ancillary manufacturing and cultivation at the premises are not permitted.

4. Retailers may have only that quantity of cannabis and cannabis products to meet the daily demand readily available for sale on-site in the retail sales area of the retailer. Additional product may be stored in a secured, locked area to which customers, vendors, and visitors shall not have access.

5. All restroom facilities shall remain locked and under the control of management.

6. Retailers shall only serve customers who are within the permitted premises, or at a delivery address that meets the requirements of this division.

7. The sale and delivery of cannabis goods shall not occur through a pass-through window or a slide-out tray to the exterior of the premises.

8. Retailers shall not operate as or with a drive-in or drive-through at which cannabis goods are sold to persons within or about a motor vehicle.

9. No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle.

10. Retailers shall record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the retail area, with sufficient clarity to determine identity.

11. Limited Access Areas. A retailer shall establish limited-access areas and permit only authorized individuals to enter the limited-access areas. Authorized individuals include individuals employed by the retailer as well as any outside vendors, contractors, or other individuals conducting business that requires access to the limited access area.

A retailer shall maintain a log of all individuals who are not employees who are granted access to the limited access area. These logs shall be made available to the City Manager, Chief of Police, or their designees upon request.

12. Storefront hours that are open to the public shall be limited to the hours of 9:00 a.m. through 9:00 p.m. seven days a week.

13. Deliveries of Medical Cannabis. Medical cannabis may be delivered to individuals aged 18 and older who possesses a valid government-issued identification card, and either a valid county-issued identification card under Health and Safety Code section 11362.712 or a physician's recommendation for themselves or for a person for whom that person is a primary caregiver.

C. Additional Operating Requirements for Non-Storefront Retail (Delivery Only) Facilities

1. A non-storefront retailer permittee shall be required to deliver medicinal cannabis.

2. The permitted premises of a non-storefront retailer shall be closed to the public.

3. A non-storefront retailer permittee shall comply with all the requirements applicable to retailer permittees, except for those provisions related to public access to the licensed premises and the retail area.

4. Medical cannabis may be delivered to individuals aged 18 and older who possesses a valid government-issued identification card, and either a valid county-issued identification card under Health and Safety Code section 11362.712 or a physician's recommendation for themselves or for a person for whom that person is a primary caregiver.

D. Additional Operating Requirements for Cannabis Testing Laboratories.

1. The permittee shall provide a copy, and make available upon request to the City Manager, all records associated with the permittee's ISO/IED 17025 certificate of accreditation.

2. Cannabis Testing Laboratories shall not be open to the public.

Sec. 7-7.19. Permit and Operating Requirements for Distributors with Distribution Facilities Located Outside of the City and Distributing Inside the City.

Prior to distributing cannabis inside the city, a cannabis distributor business with a distribution facility located outside of city limits shall complete an application furnished by the City Manager and obtain a cannabis business permit from the city by complying with the following requirements:

A. Register pursuant to Monterey City Code, Chapter 19, Article 6 and obtain a cannabis business license tax registration certificate. A copy of this certificate shall be retained by all drivers.

B. The distributor business shall provide the City Manager with evidence of a valid DCC license and local license/permit for a cannabis business on whose authorization the delivery

service is performing the delivery function.

C. Payment of fees.

D. The following sections of this Article apply to cannabis distributor businesses with distribution facilities located outside of the city:

1. Section 7-1.12(B) - indemnity
2. Section 7-7.12(C) – duration
3. Section 7-7.12(D) – permit not transferrable
4. Section 7-1.12(G) – amendments
5. Section 7-1.12(H) – name changes
6. Section 7-7.14 – modification, suspension, or revocation of permit
7. Section 7-7.15 – state permit suspension
8. Section 7-7.17 – notice, hearing, and appeals

Sec. 7-7.20. Permit and Operating Requirements for Retailers with Stores Located Outside of the City and Delivering Inside the City.

Prior to commencing delivery operations inside the city, a cannabis retail business with stores located outside of city limits shall complete an application furnished by the City Manager and obtain a cannabis business permit from the city by complying with the following requirements:

A. Register pursuant to Monterey City Code, Chapter 19, Article 6 and obtain a cannabis business license tax registration certificate. A copy of this certificate shall be retained by all drivers.

B. The retail business operating the delivery service shall provide the City Manager with evidence of a valid DCC license and local license/permit for a cannabis business on whose - authorization the delivery service is performing the delivery function.

C. Payment of fees.

D. The following sections of this Article apply to cannabis distributor businesses with distribution facilities located outside of the city:

1. Section 7-1.12(B) - indemnity
2. Section 7-7.12(C) – duration
3. Section 7-7.12(D) – permit not transferrable
4. Section 7-1.12(G) – amendments
5. Section 7-1.12(H) – name changes
6. Section 7-7.14 – modification, suspension, or revocation of permit
7. Section 7-7.15 – state permit suspension
8. Section 7-7.17 – notice, hearing, and appeals

Sec. 7-7-21. Temporary Cannabis Events

A. Any person applying for a temporary cannabis event permit must obtain a DCC cannabis event organizer license, a DCC temporary cannabis event license, and a valid cannabis business license tax registration certificate issued by the city pursuant to Monterey City Code, Chapter 19, Article 6 prior to the event. All licenses and permits required under state and local

law shall be obtained prior to the event and shall remain in full force and effect throughout the duration of the event.

B. An application for a temporary cannabis event permit shall be submitted by the Cannabis Event Organizer to the City Manager no less than 45 calendar days before the first day of the temporary cannabis event. The application shall contain the list of DCC licensees participating in the event.

C. Conditions. A temporary cannabis event permit holder and all retailers participating in the temporary event shall comply with all conditions required under state and city licenses and permits, in addition to, and not limited to, the following conditions:

1. Follow all state law requirements authorizing onsite cannabis sales and consumption at temporary events. Consumption must be expressly authorized in the DCC license, or the license if only valid for the sale of cannabis by retailers at the event. Only retailers can sell cannabis during an event. All event organizers and retailers must have a valid cannabis business license tax registration certificate issued by the city pursuant to Monterey City Code, Chapter 19, Article 6.
2. Only distributors permitted under Section 7-7.19 can transport cannabis to a temporary cannabis event.
3. Retailers must have a specific location from which they make sales. No retailers may sell cannabis goods from a mobile cart or from a non-designated location.
4. If consumption is allowed at the event, it shall occur only in a designated area. On-site emergency medical care may be required at the discretion of the city.
5. Event organizers shall provide adequate security to ensure the safety of persons and always protect the premises from theft in conformance with the security plan submitted with a permittee's application. Event organizers shall provide a security guard patrol surrounding the event during all hours of operation as determined by the city.
6. City of Monterey Police Officers, City of Monterey Code Enforcement Officers, Monterey County Sheriff's Deputies, or other agents or employees of the City requesting admission for the purpose of determining compliance with these standards shall be given unrestricted access.
7. The city may require the event organizer and all participants to cease operations without delay if, in the opinion of the city or law enforcement, it is necessary to protect the immediate health and safety of the public. Upon notification from the city that the event is to cease operations, the event organizer shall immediately stop the event and all participants shall be removed from the temporary cannabis event premises within the time frame provided by the city.
8. Upon notification from the city, the event organizer shall immediately expel from the event any person selling cannabis without a license from the DCC and/ or the city that authorizes the participant to sell cannabis goods. The event organizer or their representative shall remain with the person being expelled from the premises at all times until they vacate the premises. If the person does not vacate the premises, the city may inform the event organizer that the event must cease operations. Upon notification from the city that the event is to cease operations, the event organizer shall immediately stop

the event and all participations shall be removed the temporary cannabis event premises within the time frame provided by the city.

D. Discretionary Grant or Denial. The City Manager may grant a temporary cannabis event permit in their reasonable discretion, or may deny a temporary cannabis event permit in their reasonable discretion based on one or more of the following findings:

1. The applicant has not sufficiently established that the sale or consumption of cannabis or cannabis products at the event would comply with applicable state and city laws;
2. The applicant has not sufficiently established that the sale or consumption of cannabis or cannabis products at the event would be consistent with public health or public safety;
3. The applicant has not sufficiently established that the sale or consumption of cannabis or cannabis products at the event would not have adverse impacts on nearby neighborhoods or public spaces;
4. The applicant has not taken steps sufficient to reasonably ensure that the only individuals and/or entities that will provide onsite sales of cannabis goods at the proposed event are those that have been identified on the application as holding a DCC retail permit;
5. The applicant has provided materially false or incomplete information in support of the application;
6. There is insufficient time to process the permit application adequately in advance of the proposed event;
7. If the Monterey Police Department has insufficient staff available to cover other special events (e.g., car week) and patrol or respond to calls for service at a temporary cannabis event at the Monterey County Fairgrounds.
8. The event is on or within ten (10) days of a special event permit issued by the City that is assigned four or more officers per day;
9. When vacancies (including absences due to vacations, injuries, etc.) for sworn positions in the police department are at or above 20%.
10. There is other good cause to deny the permit.

Sec. 7-7.22. Existing Cannabis Operations

Any existing cannabis business that does not hold a cannabis business permit from the city at the time of the effective date of this article or after is not in compliance with the Monterey City Code and shall immediately cease operations.

Sec. 7-7.23 Penalty for violation.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a misdemeanor and any violation of this article is hereby deemed a public nuisance. Every person who violates any provision of this article may also be subject to administrative citations under Sections 1-9 through 1-9.12 and/or compliance orders under Section 1-10 through 1-10.20, which are in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violations of this code. A compliance order may require the property owner to provide notice.

Sec. 7-6-24. License Holder Responsible for Violations.

The person to whom a license is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City, whether committed by the licensee or any employee or agent of the licensee, which violations occur in or about the premises of the Cannabis Business whether said violations occur within the license holder’s presence.

Sec. 7-6.25. No Vested Rights

A. No person(s) (including any applicant, owner, and/or permittee) shall have any vested rights to any permit, right, and/or interest under this article, regardless of whether such person(s) sold, distributed, and/or otherwise engaged in acts related to the use of cannabis prior to the adoption of the ordinance codified in this article.

B. Should the City Council decrease the number of cannabis business permits, the cannabis business permits chosen for nonrenewal will be determined by lottery. Any permittee in good standing that is selected for nonrenewal through the lottery will have a one-year grace period following the scheduled expiration of their existing term, at which time the permit will sunset and be null and void.

SECTION 13: Monterey City Code, Chapter 38, Article 2, Section 38-6(C) is amended to insert the following base district designator, name, and article above the AP Administrative-Professional Overlay District 12:

Base District Designator	Base District Name	Article
PC-D	Planned Community Downtown	11
PC-LH	Planned Community Lighthouse	11
PC-NF	Planned Community North Fremont	11

SECTION 14: Monterey City Code, Chapter 38, Article 2, Section 38-6(C) is amended to insert the following base district designator, name, and article below the SC Planning Commercial Overlay District 16:

Base District +

Designator	Base District Name	Article
RA	Religious Assembly in the Garden Rd. I-R-130 Zoning District Overlay District	16A
ES	Emergency Shelter Overlay District	16B
MF	Multifamily Residential Overlay District	16C
CB	Cannabis Business Overlay District	16D

SECTION 15: Monterey City Code, Chapter 38, Article 3, Section 38-11, is hereby amended to add the following definitions, to be inserted in the list of definitions in alphabetical order. These definitions apply to this Chapter and shall prevail over any inconsistent definitions in the City Code.

Day Care Center: has the same meaning as in Health & Safety Code section 1596.76.

Playground: has the same meaning as in Health & Safety Code section 11353.1(e)(1).

School: has the same meaning as “Educational Institution” as defined in Education Code section 210.3.

Youth center: has the same meaning as Health & Safety Code section 11353.1(e)(2).

SECTION 16: Monterey City Code, Chapter 38, Article 16D is hereby added to read as follows:

Sec. 38-99.8 CANNABIS BUSINESS OVERLAY DISTRICT

A. Specific Purposes. The Cannabis Business Overlay District is intended to facilitate the regulation, location, and development of cannabis businesses in the city.

B. Applicability and Zoning Map Designator. The Cannabis Business Overlay District shall be shown on the Zoning Map by adding a CB to the base district designator. It may be combined in any Commercial (C) district to the properties shown in Appendix A to the ordinance codified in this article.

1. There are four storefront retail cannabis businesses allowed, one in each overlay zone as follows:
 - a. CB-1, Lighthouse and Foam Street area, shown on Appendix A, except that no cannabis business shall have a retail frontage on any cross street with Lighthouse Avenue or Foam Street;
 - b. CB-2, the Alvarado District, shown on Appendix A, except that no cannabis business shall have a retail frontage on Alvarado Street;
 - c. CB-3: Cannery Row area, shown on Appendix A, except that no cannabis business shall have a retail frontage on Wave Street or allow public access from the Recreation Trail; and

- d. CB-4: on North Fremont Street, between Airport Road and Palo Verde Avenue, as shown on Appendix A.
2. One non-store front cannabis business is permitted in any cannabis business overlay zone.

B. Zoning clearance consistency review. A cannabis business must meet land use and building standards pursuant to Chapter 9, Chapter 26, Chapter 31, and Chapter 38 of this Code, including:

1. Conform with the City's general plan, any applicable specific plan, master plan, and design requirements.
2. Comply with all applicable zoning and related development standards.
3. Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.
4. No cannabis business may be located within a 600-foot (600') radius measured from property line to property line of a school, day care center, or youth center that is in existence at the time of submission of a completed initial application for a commercial cannabis permit. This prohibition shall not apply to any subsequent renewal of a commercial cannabis permit at the same location.
6. Exterior lighting shall not result in glare on adjoining properties to ensure that all areas of the premises are visible and shall provide increased lighting at all entrances to the premises. The lighting shall be turned on from dusk to dawn.
7. Ground cover shall be no higher than two feet; lower tree canopies of mature trees shall be above six feet; and tree canopies shall not interfere with or block lighting.

SECTION 17: Monterey City Code, Chapter 38, Section 38-41(H), Cannabis-Related Agricultural Testing Laboratories, is repealed.

SECTION 18: Monterey City Code, Chapter 1, Article 2, Section 1-9.2(C) is hereby added to read as follows:

C. Pursuant to Government Code section 53069.4, a property owner shall have a period of at least 10 days to correct or otherwise remedy a violation of City Code section 9-7-05(B), Cannabis Permit Required, that exists as a result of, or to facilitate, the illegal cultivation of cannabis, prior to the issuance of an administrative citation if all the following are true:

1. The tenant is in possession of the property that is the subject of the administrative action;
2. The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis; and

3. The rental property owner or agent did not know the tenant was illegally cultivating cannabis and no complaint, property inspection, or other information cause the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

SECTION 19. Severance. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 20. Effective Date. This ordinance shall become effective thirty days from the date of adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this _____ day of _____, 202_, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

APPROVED:

ATTEST:

Mayor of said City

City Clerk thereof