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Prepared November 18, 2016 for December 9, 2016 Hearing

To: Commissioners and Interested Persons
From: Susan Craig, Central Coast District Manager
Brian O'Neill, Coastal Planner
Subject: **Monterey County LCP Amendment Number LCP-3-MCO-16-0041-1 (Medical Cannabis Ordinance)**

SUMMARY OF STAFF RECOMMENDATION

Monterey County proposes to amend its Local Coastal Program (LCP) to regulate commercial medical cannabis activities within the County. Specifically, the proposed amendment adds to the LCP's Implementation Plan (IP) definitions related to commercial medical cannabis activities (defined as the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product), adds some of these activities as conditional uses within certain zoning districts, and adds Chapter 20.67 to the IP to provide additional regulations specific to commercial medical cannabis activities.

Commercial medical cannabis activities are currently prohibited in Monterey County under Interim Ordinance No. 5254¹, which is set to expire on February 26, 2017. The proposed amendment would allow for commercial medical cannabis activities within the County and would establish appropriate regulations for such activities. In general, the proposed amendment regulates medical cannabis in a similar manner to other types of agricultural cultivation and processing, with additional policies to address the unique issues related to cannabis activities, including product security, odor control, water and electricity consumption, and proximity to at-risk populations such as schoolchildren. The amendment differentiates between the broad subtypes of cannabis activities (e.g., cultivation, processing, and dispensing) and generally targets these specific subtypes to appropriately zoned areas, as opposed to a blanket allowance for all cannabis activities to be allowed everywhere throughout the coastal zone. The amendment thus, in general, responds to and respects the Monterey County coastal zone's unique geographies and resources.

¹ The Board of Supervisors adopted the ordinance as an interim emergency ordinance on July 7, 2015 in order to allow the County time to develop a program that comprehensively regulates commercial medical cannabis activities. The proposed amendment constitutes that program.

However, some modifications to the amendment are required to ensure that the proposed commercial medical cannabis activities are consistent with and adequately carry out the policies and standards of the LCP's certified Land Use Plan. **Suggested Modification 1** removes cannabis manufacturing activities as an allowed use within the Moss Landing Commercial zoning district, where the LUP does not allow manufacturing-related uses. Additionally, while the proposed amendment explicitly states that cannabis-related activities are only allowed in the zoning districts that specifically allow for this use (as set forth in the IP), the amendment does not explicitly state that cannabis-related activities must be consistent with the land use designations in the LUP. This is particularly important for Moss Landing, which the LUP designates to be reserved for coastal-dependent uses. Therefore, staff recommends **Suggested Modification 2** to specifically state that medical cannabis activities must be consistent with the requirements and allowed uses of the land use designations for the property on which medical cannabis activities are proposed. Finally, the proposed amendment includes an exemption from CDP requirements for all non-commercial medical cannabis activities conducted by a qualified patient or caregiver. However, this exemption could be broadly interpreted to exempt development that has the potential to impact coastal resources and activities that statutorily are defined as development in the Coastal Act and the LCP. Therefore, staff recommends **Suggested Modification 3** to clarify that the exemption only extends to non-commercial medical cannabis activities that do not otherwise involve development as defined by the LCP. Other modifications are minor and simply clarify terms and requirements.

As modified, the proposed amendment is consistent with and adequate to carry out the LUP. Therefore, staff recommends that the Commission approve the amendment with suggested modifications. The required motions and resolutions are found on page 3 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on November 14, 2016. The proposed amendment only affects the LCP's Implementation Plan (IP), and the 60-day action deadline is January 13, 2016. (*See* Pub. Res. Code §§ 30513, 30514(b).) Thus, unless the Commission extends the action deadline (it may be extended by up to one year per Pub. Res. Code § 30517), the Commission has until January 13, 2016 to take a final action on this LCP amendment.

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EXHIBITS

- Exhibit 1: Proposed IP Amendment with Commission Modifications
- Exhibit 2: Land Use Plan Maps

I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment with suggested modifications. The Commission needs to make two motions in order to act on this recommendation.

A. Reject the IP Amendment as submitted

Staff recommends a **YES** vote on the motion below. Failure of this motion will result in rejection of the IP amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission reject Implementation Plan Amendment Number LCP 3-MCO-16-0041-1 for Monterey County as submitted by Monterey County.*

Resolution: *The Commission hereby denies certification of Implementation Plan Amendment Number LCP 3-MCO-16-0041-1 for Monterey County and adopts the findings set forth below on grounds that the implementation plan amendment as submitted does not conform with, and is not adequate to carry out, the provisions of the certified Land Use Plan. Certification of the implementation plan amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the implementation plan amendment as submitted.*

B. Certify the IP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion to certify with suggested modifications passes only by an affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission certify Implementation Plan Major Amendment Number LCP 3-MCO-16-0041-1 if it is modified as suggested in this staff report.*

Resolution: *The Commission hereby certifies Implementation Plan Amendment Number LCP 3-MCO-16-0041-1 for Monterey County if modified as suggested and adopts the findings set forth in this staff report on the grounds that the implementation plan amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the implementation plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan conformity findings. If Monterey County accepts each of the suggested modifications within six months of Commission action (i.e., by June 9, 2016), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. (*See* 14 CCR § 13537(b).) Where applicable, text in ~~cross-out~~ format and text in underline format denotes proposed text to be deleted/added by the County. Text in ~~double cross-out~~ and double underline denotes text to be deleted/added by the Commission.

1. Modify the proposed language as shown on pages **2** and **15** of **Exhibit 1** to remove cannabis manufacturing activities as an allowed use within the Moss Landing Commercial zoning district.
2. Modify the proposed language as shown on pages **9, 13, 16, 18** and **21-22** of **Exhibit 1** to state that medical cannabis activities must be consistent with the requirements and allowed uses of the land use designations for the property on which medical cannabis activities are proposed.
3. Modify the proposed language as shown on pages **24** and **31** of **Exhibit 1** to clarify that the exemption for all non-commercial medical cannabis activities conducted by a qualified patient or caregiver only extends to non-commercial medical cannabis activities that do not otherwise involve development as defined by the LCP.
4. Make minor modifications to the proposed language as shown on pages **1, 2, 3, 30** and **31** of **Exhibit 1** to clarify terms and requirements regarding allowed uses in each zoning district, nursery cultivation, and operative date.

III. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

The proposed amendment would update the Implementation Plan by adding definitions and standards for commercial medical cannabis activities within Monterey County. Specifically, the proposed amendment would add definitions related to commercial medical cannabis activities (defined as the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product), add some of these commercial medical cannabis activities as conditional uses within certain zoning districts, and add Chapter 20.67 to the IP to regulate commercial medical cannabis activities, including listing requisite standards for their appropriate use consistent with the certified LCP.

The proposed amendment would require a coastal development permit (CDP) for any new commercial medical cannabis activity within the County. The amendment adds as conditional uses: medical cannabis dispensaries within General Commercial (GC) and Moss Landing Commercial (MLC) zoning districts; indoor cannabis cultivation within Light Industrial (LI), Heavy Industrial (HI), Agricultural Industrial (AI), and Coastal Agricultural Preserve (CAP) zoning districts; non-volatile cannabis manufacturing within the MLC, LI, HI, AI, and CAP

zoning districts; volatile cannabis manufacturing² within the HI zoning district; cannabis distribution and transportation facilities within the LI, HI, and AI zoning districts; and cannabis testing facilities within the LI, HI, and AI zoning districts. In addition to requiring all new commercial medical cannabis activities to be consistent with all applicable LCP policies and standards, the proposed amendment requires additional measures related to product security, odor control, water conservation, and energy conservation due to the unique considerations of resource impacts relating to commercial medical cannabis activities. For cultivation, the amendment requires that all cultivation occurs indoors within existing greenhouses or buildings legally established prior to January 1, 2016. For manufacturing, the amendment prohibits such facilities within 600 feet of a school or park. For testing and distribution, the amendment limits these uses to industrial zoning districts only.

Please see **Exhibit 1** for the proposed IP amendment text.

B. CONSISTENCY ANALYSIS

Standard of Review

The proposed amendment affects only the IP component of the Monterey County LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP. (*See Pub. Res. Code § 30513.*)

IP Consistency Analysis

Land Use Plan Policies

The County's LCP has four certified Land Use Plan areas: North County, Del Monte Forest, Carmel, and Big Sur. The proposed amendment impacts land that is designated for commercial, agricultural, or industrial uses. Commercial designations are located throughout the County, while the vast majority of agricultural and industrial designated lands are located within the North County Planning area. Related LUP Policies include:

***Del Monte Forest LUP Policy 87.** Commercial development may be permitted when integrated with other visitor-serving facilities.*

***Big Sur LUP Policy 5.4.3.E.1.** Development of new commercial uses serving community and visitor needs be directed to the existing Rural Community Centers of the Big Sur Valley, Lucia, Gorda, and Pacific Valley. Several commercial uses including the Rocky Point Restaurant, Big Sur Inn, and Coast Gallery, are currently found outside the Rural Community Centers designated on the land use map and these are considered conforming uses under the plan. However, gasoline service stations, general stores, or similar highway-oriented commercial structures shall not be allowed outside of the rural community centers.*

***North County LUP Policy 4.3.1.K.** General Commercial. A wide range of commercial*

² Volatile cannabis manufacturing involves the use of volatile solvents, which are liquids that can evaporate at room temperature such as pentane, ethanol, and butyl acetate. Non-volatile cannabis manufacturing does not use volatile solvents.

uses including merchandise and service facilities are allowed in this category. Small-scale commercial uses serving local neighborhoods are shown at specific locations on the plan map.

North County LUP Policy 5.2.1.B.2. General Commercial. *General Commercial uses are shown on the plan map on both sides of Moss Landing Road. This designation provides the opportunity to combine commercial and residential uses. Antique shops, the Moss Landing Post Office and historical buildings such as the Pacific Coast Steamship Company, lend a special character to this area and should be preserved and upgraded. Opportunities for providing a motel, a small neighborhood grocery store and low-cost rental housing units exist on undeveloped or underdeveloped parcels in this area. Appropriate design and setback standards should be applied as a means of providing relief from "strip" development that can be an aesthetic nuisance to the community.*

North County LUP Policy 4.3.1.E. Agriculture Preservation. *Preservation of agricultural land for exclusive agricultural use is required. The designation is applied to the prime and productive agricultural lands where the area does not generally exceed an average 10 percent slope. Major importance is given to the preservation of large, continuous areas of agricultural land capable of long term productivity in order to protect its viability from encroaching conflicting land uses. Development of residences, accessory buildings and uses required for agricultural activities on the parcel is allowed. Development of non-agricultural facilities is not allowed. A minimum parcel size of 40 acres is allowed for land divisions for agricultural purposes.*

North County LUP Policy 4.3.1.L. Light Industry. *This includes such industries as fish processing, aquaculture processing, limited-scale boat building, boat repair, agriculture processing, and other agriculture-related or coastal dependent operations not engaged in heavy manufacturing or requiring extensive plants for operation.*

North County LUP Policy 4.3.1.M. Heavy Industry. *This includes such industries as PG&E's power plant and Kaiser Refractories in Moss Landing.*

North County LUP Policy 4.3.1.O. Agricultural Industrial. *Areas which provide for activities necessary to support agricultural, aquacultural, and farming industries while also maintaining compatibility with the rural agricultural character of the coastal zone. A minimum parcel size of 2.5 acres is required.*

North County LUP Policy 5.2.1.A. Coastal Dependent Industry. *The industries located in Moss Landing are generally dependent for their existence upon a location near the coastline, and as such are considered "coastal dependent". These industries include commercial fishing, aquaculture, energy facilities and manufacturing activities. Coastal dependent industries are given priority by the Coastal Act over other land uses on or near the coast. The intent of this plan is that these coastal dependent industrial facilities shall be encouraged to expand within existing sites, and shall be allowed reasonable growth consistent with the protection of the area's natural resources. If impacts to sensitive natural habitats cannot be avoided by future expansion of these facilities, then impacts must be mitigated to the maximum extent feasible.*

In general, the various LUPs only allow for small scale visitor-oriented commercial businesses within commercial districts. For CAP-designated land, the North County LUP requires protection of productive agricultural land and prohibits development of non-agricultural facilities. (*See* North County LUP Policy 4.3.1.E.) The North County LUP directs industrial activities toward AI, LI, and HI-designated land and demonstrates a preference for agricultural-related facilities within all industrial districts. Within Moss Landing, the North County LUP reserves industrial designated areas exclusively for coastal dependent uses that rely upon a location near the coast for their existence. (*See* North County LUP Policy 5.2.1.A.) The North County LUP encourages a mixture of small scale commercial and residential uses within Moss Landing commercial areas. (*See* North County LUP Policy 5.2.1.B.2.)

Consistency Analysis

In general, the proposed amendment adds certain commercial medical cannabis activities as allowable uses within appropriately zoned areas. For example, the amendment adds cultivation within the CAP zoning district, which is appropriate for this district as it seeks to protect and foster the production of agricultural uses. In addition, the amendment adds dispensaries within the Coastal GC zoning district, which is an appropriate place to house commercial facilities selling medical cannabis products. The amendment thus designates specific types of commercial medical cannabis activities to particular zoning districts so as to ensure their compatibility with the coastal zone's unique geographies and resource considerations, as opposed to a blanket allowance of all such activities everywhere in the entire coastal zone. Furthermore, in addition to all other applicable LCP policies and standards, the amendment includes additional cannabis-specific standards that must be met, including measures related to product security, odor control, water conservation, and energy conservation. The proposed amendment requires a CDP for any new commercial medical cannabis activity within the County. As part of the CDP process, any new commercial medical cannabis activity will be individually reviewed for consistency with all LUP policies, including those related to agriculture, biological resources, public access, water resources, coastal hazards, and archeological resources. In this particular respect, the proposed amendment is consistent with the LUP because the amendment ensures LUP consistency for all new commercial medical cannabis activities. Overall, the amendment represents a comprehensive regulatory program ensuring that cannabis activities are allowed in appropriate areas and subject to strict standards so as to protect coastal resources.

Medical cannabis dispensaries are defined as facilities that offer medical cannabis products for retail sale. The proposed amendment considers this use as similar to other general commercial uses and thus proposes to conditionally allow dispensaries within the GC and MLC zoning districts. The North County LUP states that a "wide range of commercial uses including merchandise and service facilities are allowed in this category." (*See* North County LUP Policy 4.3.1.K.) Considering the broad and open-ended scope of allowable uses qualifying as "commercial" in these zoning districts, allowance of medical cannabis retail sales as proposed is consistent with the GC and MLC zoning districts.

Medical cannabis cultivation includes the planting, growing, harvesting, curing, grading, or trimming of medical cannabis. The proposed amendment considers cannabis cultivation to be a "unique" agricultural use. Due to concerns over security and odor control, the proposed

amendment allows only indoor cannabis cultivation within the LI, HI, AI, and CAP zoning districts (i.e., no outdoor cannabis cultivation would be allowed in these zoning districts). The North County LUP places a high priority on agriculture, stating that agriculture “has contributed substantially to the region’s economy, pattern of employment, quality of life, open space, and scenic quality.” The LUP specifically allows for agricultural-related operations, of which cannabis cultivation would qualify, within the LI, HI, and AI zoning districts. Although the LUP includes industrial zoning districts, the LUP states that “industrial development within the rural areas of the coastal zone is generally not appropriate” and encourages the expansion of industrial uses within existing facilities. Additionally, the LUP requires land within the CAP zoning district to be reserved for agricultural uses and generally discourages the construction of structures except those necessary to support agricultural production. With respect to greenhouses, the North County LUP states that greenhouses that are “not on-site soil-dependent or which degrade soil capabilities shall not be located on prime and productive agricultural soils in the areas designated for Agricultural Preservation land use.” Because the proposed amendment only allows indoor cannabis cultivation, there is potential for the proposed amendment to encourage the construction of new industrial buildings within industrial zones or greenhouses within CAP land. However, the proposed amendment limits cannabis cultivation to within existing buildings or greenhouses legally established or permitted prior to January 1, 2016. The proposed amendment allows existing structures to be improved for cannabis activities, as long as the footprint of the existing building does not change. Thus, consistent with various LUP policies, the proposed amendment thus strikes a balance between encouraging agricultural production involving cannabis, limiting security and odor concerns, and ensuring that cannabis production does not lead to a proliferation of industrial buildings or greenhouses. Cannabis cultivation uses as proposed are therefore consistent with the LI, HI, AI, and CAP zoning districts as described in the North County LUP.

Medical cannabis manufacturing is defined as when raw agricultural product is transformed into a concentrate, an edible product, or a topical product either directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. The proposed amendment considers this use as similar to other agricultural processing uses. The proposed amendment allows medical cannabis manufacturing within MLC, LI, HI, AI, and CAP zoning districts. As described above, the LUP encourages agricultural-related industrial uses within the LI, HI, and AI zoning districts and thus adding medical cannabis manufacturing as an allowable use in these zoning districts is consistent with the LUP. (Regarding LUP consistency with respect to medical cannabis manufacturing for the CAP and MLC zoning districts, see discussion immediately below and on page 10, respectively.)

The amendment also proposes to allow cannabis manufacturing within the CAP zoning district. However, the CAP zoning district prohibits non-soil-dependent agricultural operations on prime agricultural land. Therefore, some types of agricultural product manufacturing processes are not appropriate or allowable in the CAP zoning district, including large-scale industrial facilities that convert prime soils.³ However, in this case, the definition of cannabis manufacturing in the proposed amendment reflects the State of California’s broad definition of the term, which

³ The LCP instead encourages agricultural processing and manufacturing in the Agricultural Industrial (AI) zoning district. The CAP district is generally meant solely for agricultural production (i.e. growing of food and fiber) due to the zone’s prime soils.

includes processes such as curing and oil extraction. These processes are currently allowed within the CAP zoning district for agricultural products that are grown on-site and are not typically considered an industrial agricultural manufacturing process outside of the cannabis context. Therefore, some types of small-scale medical cannabis manufacturing of cannabis products that are grown on-site may be appropriate within the CAP zoning district, while other larger-scale end product manufacturing (such as operations with mechanized equipment for wholesale production) would not be allowable in the CAP zoning district. The proposed amendment requires that a CDP for cannabis manufacturing within the CAP zoning district also include a cultivation component to ensure that the operation is tied to on-site agricultural cultivation uses (i.e. the manufactured product is grown on-site and thus tied to the land). Additionally, as explained above, cannabis manufacturing will only be allowed within existing greenhouses to ensure that prime agricultural land is not converted for this use. Finally, each CDP for cannabis manufacturing will be individually reviewed to ensure that the type of manufacturing proposed is consistent with the CAP zoning district's emphasis toward on-site soil-dependent agricultural uses. With the requirement for manufacturing to be tied to on-site cultivation and to only occur within existing structures, cannabis manufacturing in the CAP zoning district is consistent with the requirements of the North County LUP.

Medical cannabis distribution is defined as the transport of medical cannabis between two licensed entities. Medical cannabis testing is defined as a state-licensed facility that performs tests of medical cannabis and medical cannabis products. The proposed amendment considers these uses similar to other industrial distribution or laboratory testing facilities. North County LUP Policy 4.3.1.L allows for agricultural processing operations in areas designated and zoned for Light Industry (LI) and Heavy Industry (HI). North County LUP Policy 4.3.1.O allows for activities necessary to support agriculture to take place in Agricultural Industrial (AI) designated and zoned areas. The proposed amendment allows cannabis distribution and testing facilities within the LI, HI, and AI zoning districts. Agricultural distribution and product testing are both agriculture-related operations that are encouraged within the LI, HI, and AI designated and zoned areas. Thus the proposed medical cannabis distribution and testing uses that would be allowed in the LI, HI, and AI designated and zoned areas are consistent with North County LUP Policies 4.3.1.L and 4.3.1.O. However, the North County LUP designates LI and HI areas within Moss Landing exclusively for coastal dependent industrial uses where cannabis activities are not appropriate, as discussed in more detail below. Therefore, medical cannabis distribution is generally allowed within LI and HI zoning districts, except for areas designated for coastal dependent uses situated within Moss Landing.

However, the amendment as proposed does include some elements that are not fully consistent with the certified LUP. First, while the amendment requires a CDP for most cannabis activities, the proposed amendment does include a blanket CDP exemption for non-commercial personal cannabis activities for qualified patients or caregivers. Such a broad exemption could be interpreted to exempt non-commercial cannabis activities that involve development that would otherwise ordinarily require a CDP, such as grading or construction of a greenhouse, which could impact coastal resources. To ensure that the proposed amendment does not exempt activities from CDP requirements that may adversely impact coastal resources (and activities that meet the statutory and regulatory definition of "development" pursuant to the Coastal Act and the LCP), **Suggested Modifications** to IP Sections 20.67.090(A) and (B) clarify that non-

commercial cannabis activities are only exempt from CDP requirements if the activities do not otherwise constitute development as defined by the LCP (see pages 24 and 31 of Exhibit 1).

Next, as previously described, while the proposed amendment generally targets specific cannabis activities to appropriately zoned areas, some of the proposed activities are not consistent with the LCP's land use policies, as discussed in more detail below.

North County LUP Policy 5.2.1.B.2 states that the MLC district “provides the opportunity to combine commercial and residential uses” consistent with the “light commercial character” of the area. North County LUP Policy 5.2.1.B.2 states that only small-scale commercial uses are appropriate within this zoning district, such as antique shops, a motel, a small neighborhood grocery store and low-cost rental housing units. The proposed amendment to allow cannabis manufacturing in the MLC zoning district is therefore not consistent with North County LUP Policy 5.2.1.B.2. A **Suggested Modification** to IP Section 20.67.060(A) (see pages 2 and 15 of Exhibit 1) removes cannabis manufacturing from the MLC zoning district to ensure that the proposed amendment is consistent with North County LUP Policy 5.2.1.B.2.

Additionally, the North County LUP includes a land use designation map that identifies much of the industrially zoned land within the Moss Landing Community Plan as coastal dependent (see **Exhibit 2**). The North County LUP reserves the identified coastal-dependent industrial land for uses “dependent for their existence upon a location near the coastline.” The North County LUP explains that such uses include “commercial fishing, aquaculture, energy facilities and manufacturing activities.” The identified areas include properties with direct access to the Moss Landing Harbor and properties that have existing ocean intake facilities.⁴ The proposed amendment does not state whether commercial medical cannabis activities constitute a coastal dependent use. However, cannabis activities can, and do, occur throughout the entire State and are generally not considered operationally dependent on a location adjacent to coastal waters or harbor facilities. Although the proposed amendment requires all cannabis activities to be consistent with all zoning district requirements, the proposed amendment does not specifically state that cannabis activities must be consistent with land use designations, including the coastal dependent designation. To ensure that non-coastal-dependent commercial cannabis activities are consistent with the North County Land Use Plan, **Suggested Modifications** to IP Sections 20.67.040 (see page 9 of Exhibit 1), 20.67.050 (see page 13 of Exhibit 1), 20.67.060 (see page 16 of Exhibit 1), 20.67.070 (see page 18 of Exhibit 1), and 20.67.080 (see page 21 of Exhibit 1) adds a requirement for all proposed cannabis activities to be consistent with the land use designations for the property on which medical cannabis activities are proposed.

Finally, **Suggested Modifications** are needed to provide additional clarification and internal consistency that are primarily non-substantive in nature. The current IP allows for changed uses within an existing structure without a CDP, as long as the new use does not intensify or change

⁴ The County is currently undergoing an update of the Moss Landing Community Plan and is considering changes to the Land Use Plan map that may impact properties currently identified for coastal dependent uses, but where other uses may be appropriate due to changed circumstances. However, the existing Moss Landing Community Plan remains in effect for purposes of considering this LCP amendment and it currently identifies most of the industrial zoned sites in Moss Landing as reserved for coastal dependent uses.

the nature of the existing use. The proposed amendment requires a CDP for any new cannabis activity within each zoning district, but does not state that the cannabis activities are limited only to those that specifically allow cannabis activities within that particular zoning district.

Suggested Modifications to IP Sections 20.18.050, 20.20.050, 20.24.050, 20.26.050, and 20.28.050 (see pages 1, 2 and 3 of Exhibit 1) clarify that only those cannabis activities specifically allowed within a particular zoning district are permitted. Additionally, portions of the proposed amendment make a distinction between cultivation and nursery cultivation, while other sections do not make this distinction. Because the amendment does not treat nursery cultivation differently than other types of cultivation, **Suggested Modifications** to identify nursery cultivation as any other type of cultivation and to provide internal consistency are needed (see pages 2 and 3 of Exhibit 1). Lastly, the proposed amendment includes provisions that require voter approval of a tax to fund the permitting program before the amendment can become operative. Because the required tax has already been approved, the tax provisions are no longer necessary and **Suggested Modifications** delete these provisions from the amendment (see pages 30 and 31 of Exhibit 1).

As modified to remove cannabis manufacturing from the MLC zoning district, to require all cannabis activities to be consistent with land use designations, and to require a CDP for noncommercial cannabis activities that involve development, the proposed amendment can be found consistent with the County's certified LUPs.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. (*See* 14 CCR § 15251(f).) Local governments are not required to undertake environmental analysis of proposed LCP amendments (*see* Pub. Res. Code § 21080.9; *see also* 14 CCR § 15265(a)(1)), although the Commission can and does use any environmental information that the local government has developed in certifying LCP amendments consistent with Coastal Act and CEQA requirements. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

Monterey County adopted a Negative Declaration for the proposed LCP amendment on May 19, 2016 and in doing so found that the amendment would not have significant adverse environmental impacts. This report has discussed the relevant coastal resource issues with the proposal including those related to land use and agricultural resources. Suggested Modifications to the proposed amendment have been identified to ensure that the proposed amendment will not have any significant adverse environmental impact. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

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

20.06.152 - Cannabis

“Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof, the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code.

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

20.06.196 – Commercial medical cannabis activity

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

Section 20.06.775 is added to the Monterey County Code to read as follows:

20.06.775 – Medical Cannabis

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

Subsection A of Section 20.18.050 of the Monterey County Code is amended to read as follows:

A. Change of commercial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; however, new commercial medical cannabis activities that are allowed under Section 20.18.060 shall require a Coastal Development in each case.

Subsection QQ is added to Section 20.18.060 to read as follows:

QQ. Medical cannabis dispensary pursuant to Chapter 20.67.

Subsection A of Section 20.20.050 of the Monterey County Code is amended to read as follows:

A. Change of commercial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; however, new commercial medical cannabis activities that are allowed under Section 20.20.060 shall require a Coastal Development Permit in each case.

Subsections W and X are added to Section 20.20.060 of the Monterey County Code to read as follows:

W. Medical cannabis dispensary pursuant to Chapter 20.67.

~~X. Non-volatile medical cannabis manufacturing pursuant Chapter 20.67.~~

Subsection A of Section 20.24.050 of the Monterey County Code is amended to read as follows:

A. Change of agricultural industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; however, new commercial medical cannabis activities that are allowed under Section 20.24.060 shall require a Coastal Development Permit in each case.

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

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

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

LL. Medical cannabis transportation or distribution facilities pursuant to Chapter 20.67.

MM. Medical cannabis testing facilities pursuant to Chapter 20.67.

Subsection A of Section 20.26.050 of the Monterey County Code is amended to read as follows:

A. Change of light industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; however, new commercial medical cannabis activities that are allowed under Section 20.26.060 shall require a Coastal Development Permit in each case.

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

DD. Indoor or mixed-light medical cannabis cultivation pursuant to Chapter 20.67. EE. Non-volatile medical cannabis manufacturing pursuant to Chapter 20.67.

FF. Medical cannabis transportation or distribution facilities pursuant to Chapter 20.67

GG. Medical cannabis testing facilities pursuant to Chapter 20.67.

Subsection A of Section 20.28.050 of the Monterey County Code is amended to read as follows:

A. Change of heavy industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure; however, new commercial medical cannabis activities that are allowed under Section 20.28.060 shall require a Coastal Development Permit in each case.

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

NN. Indoor, ~~or mixed-light~~, or nursery medical cannabis cultivation pursuant to Chapter 20.67.

OO. Non-volatile medical cannabis manufacturing pursuant to Chapter 20.67.

PP. Volatile medical cannabis manufacturing pursuant to Chapter 20.67.

QQ. Medical cannabis transportation or distribution facilities pursuant to Chapter 20.67

RR. Medical Cannabis testing facilities pursuant to Chapter 20.67.

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

EE. Indoor, ~~Mixed-light~~, or nursery medical cannabis cultivation pursuant to Chapter 20.67.

~~FF. Medical cannabis nursery pursuant to Chapter 20.67.~~

~~FFGG.~~ Non-volatile medical cannabis manufacturing pursuant to Chapter 20.67.

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

Chapter 20.67

COMMERCIAL MEDICAL CANNABIS ACTIVITIES

Sections:

20.67.010 – Definitions

20.67.020 – Purpose

20.67.030 – Permits Required

20.67.040 – Medical Cannabis Dispensaries

20.67.050 – Medical Cannabis Cultivation

20.67.060 – Medical Cannabis Manufacturing

20.67.070 – Medical Cannabis Testing Facilities

20.67.080 – Medical Cannabis Transport and Distribution

20.67.090 – Exemptions

20.67.100 – Application Requirements

20.67.110 – Grounds for Suspension or Revocation

20.67.120 – Procedure for Suspension or Revocation

20.67.130 – Enforcement

20.67.140 – Operative Date of Chapter 20.67

20.67.010 Definitions

For the purpose of this Chapter, unless the context otherwise requires, certain terms used in this Chapter shall be as defined below. The definitions in Chapter 20.06 shall otherwise apply.

A. “Bureau” means the Bureau of Medical Marijuana Regulation within the California Department of Consumer Affairs.

B. “Cannabinoid” or “phytocannabinoid” means a chemical compound that is unique to and derived from cannabis.

C. “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency.

D. “Canopy” means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.

E. “Certificate of accreditation” means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

F. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis. Within the definition of cultivation, the following specific License Types, corresponding to state cultivator license types set forth in California Business and Professions Code section 19332(g), apply:

1. Type 1 or “specialty outdoor” means outdoor cultivation using no artificial lighting and having no more the fifty (50) mature plants or five thousand (5,000) square feet of total canopy size whichever is less;

2. Type 1A or “specialty indoor” means cultivation using exclusively artificial lighting, is entirely contained within a structure, and having no more than five thousand (5,000) square feet of total canopy size;

3. Type 1B or “specialty mixed-light” means cultivation using a combination of natural and supplemental artificial lighting and having no more than five thousand (5,000) square feet of total canopy size;

4. Type 2 or “small outdoor” means outdoor cultivation using no artificial lighting and having a total canopy size between five thousand one (5,001) and ten thousand (10,000) square feet;

5. Type 2A or “small indoor” means indoor cultivation exclusively using artificial lighting and having a total canopy size between five thousand one (5,001) and ten thousand (10,000) square feet;

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

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

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

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

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

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

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

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

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

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

L. "Hearing Officer" means a person appointed by the County to conduct an administrative hearing under this Chapter. The appointed Hearing Officer shall be an impartial decision-maker selected by a process that eliminates risk of bias, such as:

1. An administrative law judge provided by the State of California Office of Administrative Hearings to function as the County Hearing Officer pursuant to Chapter 14 of Part 3 of Division 2 of Title 3 of the California Government Code;

2. A person selected randomly from a panel of attorneys willing to serve as a Hearing Officer; or

3. An independent contractor assigned by an organization or entity which provides hearing officers.

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

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

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

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

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

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

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

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

U. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular

number.

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

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

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

Y. “State” means the State of California.

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

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

1. Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state; and

2. Registered with the California State Department of Public Health.

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

20.67.020 Purpose

The purpose of this Chapter is to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls in compliance with state law and federal enforcement guidelines, protect neighborhood character, and minimize potential for negative impacts on people, communities, and the environment in the unincorporated areas of Monterey County by establishing minimum land use requirements for commercial medical cannabis activities. Commercial medical cannabis activity, as defined pursuant to Section 20.06.196 of Title 20, includes the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product. This Chapter recognizes that commercial medical cannabis activities require land use controls due to the unique federal and state legal constraints on commercial medical cannabis activity, and the potential environmental and social impacts associated with commercial medical cannabis activity at this time.

20.67.030 Permits Required

Except as provided in Section 20.67.090 of this Chapter, commercial medical cannabis

activities shall not be allowed in the unincorporated areas of Monterey County without first securing all permits, licenses, or other entitlements required by County regulation and state law and regulation.

A. A Coastal Development shall be required for all commercial medical cannabis activities. The application for a Coastal Development Permit, and for amendments thereto and extensions thereof, shall be processed in accordance with Chapter 20.70 of Title 20. The Planning Commission is the Appropriate Authority to consider a Coastal Development Permit for commercial medical cannabis activities and to consider extensions of and amendments to such Permits. Appeals from the decision of the Planning Commission shall be governed by Chapter 20.86 of Title 20. Notwithstanding the foregoing, the procedures for suspension and revocation of a Coastal Development Permit granted under this Chapter shall be as set forth in sections 20.67.110 and 20.67.120 of this Chapter.

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

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

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

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

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

G. Commercial medical cannabis activities that were legally established prior to effective date of ~~Ordinance No. 2016-0041~~ enacting this Chapter shall have one (1) year from the

effective date of the Ordinance this Chapter to obtain all required County permits, licenses, and entitlements, or to terminate their operations.

20.67.040 Regulations for Medical Cannabis Dispensaries.

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

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

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

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

3. Dispensaries shall not be located within one thousand five hundred (1,500) feet of another dispensary.

4. Dispensaries shall keep accurate records of all business operations and provide such records for inspection consistent with Section 19327 of the California Business and Professions Code.

5. Dispensaries shall implement and maintain sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products in compliance with Section 19334 of the California Business and Professions Code and any rules promulgated by the licensing authority. Security measures shall include, but are not limited to, the following:

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

b. Establish limited access areas accessible only to authorized dispensary personnel;

c. Store all cannabis and cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis and cannabis products used for display purposes, samples or immediate sale;

d. Install security cameras on site; and

e. Provide for on-site security personnel meeting the requirements

and standards contained within Chapter 7.30 of the Monterey County Code. On-site security shall not carry firearms or other lethal weapons.

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

a. A copy of the dispensary's current permits, licenses, and entitlements authorizing them to provide delivery services;

b. The employee's government-issued identification;

c. A copy of the delivery request; and

d. Chain of custody records for all goods being delivered.

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

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

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

a. Significant discrepancies identified during inventory;

b. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary;

c. The loss or unauthorized alteration of records related to cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents; or

d. Any other breach of security.

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

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

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

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

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

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

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

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

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

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

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

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

5. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Monterey County Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a Coastal Development Permit pursuant to Section 20.67.120 of the Monterey County Code.

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

20.67.050 – Regulations for Medical Cannabis Cultivation.

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

	<u>Type</u> <u>1</u>	<u>Type</u> <u>1A</u>	<u>Type</u> <u>1B</u>	<u>Type</u> <u>2</u>	<u>Type</u> <u>2A</u>	<u>Type</u> <u>2B</u>	<u>Type</u> <u>3</u>	<u>Type</u> <u>3A</u>	<u>Type</u> <u>3B</u>	<u>Type</u> <u>4</u>
<u>LI</u>		<u>CDP</u>	<u>CDP</u>		<u>CDP</u>	<u>CDP</u>				
<u>HI</u>		<u>CDP</u>	<u>CDP</u>		<u>CDP</u>	<u>CDP</u>		<u>CDP</u>	<u>CDP</u>	<u>CDP</u>
<u>AI</u>		<u>CDP</u>	<u>CDP</u>		<u>CDP</u>	<u>CDP</u>		<u>CDP</u>	<u>CDP</u>	<u>CDP</u>
<u>CAP</u>		<u>CDP</u>	<u>CDP</u>		<u>CDP</u>	<u>CDP</u>		<u>CDP</u>	<u>CDP</u>	<u>CDP</u>

CDP = Coastal Development Permit pursuant to Chapter 20~~4~~.70

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

1. It is the intent of the County to provide for the adaptive reuse of greenhouses in Monterey County and to restrict the proliferation of greenhouses or other structures on productive agricultural lands. To this end, within the Coastal Agricultural Preserve (“CAP”) zoning district, indoor and mixed-light medical cannabis cultivation and medical cannabis nurseries (Type 1A, 1B, 2A, 2B, 3A, 3B, and 4 state license types) may be permitted with a Coastal Development Permit in each

case provided that cultivation is consistent with all land use designations and within the Coastal Agricultural Preserve (CAP) zoning district, the cultivation occurs only within a greenhouse or industrial building that was permitted or legally established prior to January 1, 2016. Greenhouses and industrial buildings may be improved for cannabis activities after January 1, 2016 provided that the footprint of the existing greenhouse(s) or industrial building(s) does not change.

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

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

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

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

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

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

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

minimize use of water where feasible.

9. On-site renewable energy generation shall be required for all indoor (cultivation activities using artificial lighting only including Type 1A, 2A, 3A and 4 state license types) medical cannabis cultivation activities. Renewable energy systems shall be designed to have a generation potential equal to or greater than one half (1/2) of the anticipated energy demand.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Monterey County Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a Coastal Development pursuant to Section 20.67.120 of the Monterey County Code.

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

20.67.060 – Medical Cannabis Manufacturing

A. Applicability: Non-volatile cannabis manufacturing facilities (requiring a Type 6 state license) may be permitted in the ~~Moss Landing Commercial~~ (“MLC”), Light Industrial (“LI”), Heavy Industrial (“HI”), Agricultural Industrial (“AI”), or in Coastal Agricultural Preserve (“CAP”) zoning districts only when combined with a medical cannabis cultivation permit, subject to a Coastal Development Permit in each case. Cannabis manufacturing facilities involving volatile processes or substances (requiring a Type 7 state license) shall only be permitted in the Heavy Industrial (“HI”) zoning district with a Coastal Development Permit in each case. Except as provided in Section 20.67.090 of this Chapter, medical cannabis manufacturing shall be subject to the requirements contained in this Section.

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

following regulations:

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

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

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

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

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

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

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

c. Install security cameras on site; and

d. Provide for on-site security personnel meeting the requirements and standards contained within Chapter 7.30 of the Monterey County Code. On-site security shall not use or possess firearms or other lethal weapons.

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

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

1. The manufacturing facility, as proposed, will comply with all of the

requirements of the State and County for the medical cannabis manufacturing.

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

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

4. The manufacturing includes adequate quality control measures to ensure medical cannabis manufactured at the site meets industry standards.

5. The manufacturing facility does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids, or substances.

6. The manufacturing operations plan includes adequate measures that address the federal enforcement priorities for cannabis activities including providing restrictions on access to minors, prohibiting use or possession of firearms for security purposes at the premises, and ensuring that medical cannabis and medical cannabis products are obtained from and supplied only to other permitted licensed sources within the State.

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

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

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

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

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

5. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Monterey County Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a Coastal Development Permit pursuant to Section 20.67.120 of this Chapter.

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

20.67.070 – Medical Cannabis Testing Facilities

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

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

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

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

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

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

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

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

c. Install security cameras on site; and

d. Provide for on-site security personnel meeting the requirements and standards contained within Chapter 7.30 of the Monterey County Code. On-

site security shall not use or possess firearms or other lethal weapons.

5. Medical cannabis testing facilities shall adopt standard operating procedure using methods consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test medical cannabis and medical cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.

6. Medical cannabis testing facilities shall obtain samples for testing according to a statistically valid sampling method.

7. Medical cannabis testing facilities shall analyze samples according to either the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia or a scientifically valid methodology that is demonstrably equal or superior to the most recent cannabis inflorescence monograph.

8. If a test result falls outside the specifications authorized by law or regulation, the medical cannabis testing facility shall follow a standard operating procedure to confirm or refute the original result.

9. Medical cannabis testing facilities shall destroy the remains of any samples of medical cannabis or medical cannabis product tested upon completion of the analysis.

10. A licensed testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:

a. Whether the chemical profile of the lot conforms to the specifications of the lot for compounds, including, but not limited to, all of the following:

i. Tetrahydrocannabinol (THC).

ii. Tetrahydrocannabinolic Acid (THCA).

iii. Cannabidiol (CBD).

iv. Cannabidiolic Acid (CBDA).

v. The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

vi. Cannabigerol (CBG).

vii. Cannabinol (CBN).

viii. Any other compounds required by the Department of Public Health.

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

i. Residual solvent or processing chemicals.

ii. Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

iii. Microbiological impurity, including total aerobic microbial count, total yeast mold count, P.aeruginosa, aspergillus spp., s. aureus, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

iv. Whether the batch is within specification for odor and appearance.

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

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

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

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

4. The owners, permittees, operators, and employees of the testing facility will not be associated with any other form of commercial medical cannabis activity.

5. The testing facility is accredited by an appropriate accrediting agency.

6. Plans for the testing facility demonstrate proper protocols and procedures for statistically valid sampling methods and accurate certification of medical cannabis and medical cannabis products for potency, purity, pesticide residual levels, mold, and other contaminants according to adopted industry standards.

D. Required Conditions: In addition to any other conditions and mitigation measures

required by the Appropriate Authority, all of the following conditions shall apply to all permits for a medical cannabis testing facility:

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

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

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

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

5. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Monterey County Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a Coastal Development Permit pursuant to Section 20.67.120 of the Monterey County Code.

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

20.67.080 – Medical Cannabis Transportation and Distribution

A. Applicability: Except as provided in Section 20.67.090, medical cannabis transportation and distribution facilities may be permitted in the Heavy Commercial (HC), Light Industrial (LI), Heavy Industrial (HI), and Agricultural Industrial (AI) zoning districts subject to a Coastal Development Permit in each case. Cannabis transportation and distribution facilities shall be subject to a to all of the requirement contained in this Section.

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

1. Medical cannabis transportation and distribution facilities shall be located only in zoning districts that specifically provide for this use and the transportation and

distribution facilities shall be consistent with all land use designations.

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

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

4. Prior to transporting medical cannabis or medical cannabis products, the transporter shall complete an electronic shipping manifest. The shipping manifest shall include the unique identifier information from the cultivation source.

5. A physical copy of the shipping manifest shall be maintained during transportation and shall be made available upon request to law enforcement or any agents of the State or County charged with enforcement of this Chapter.

6. Distribution facilities shall maintain appropriate records of transactions and shipping manifests. An organized and clean method of storing and transporting medical cannabis and medical cannabis products shall be provided to maintain a clear chain of custody.

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

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

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

c. Install security cameras on site; and

d. Provide for on-site security personnel meeting the requirements and standards contained within Chapter 7.30 of the Monterey County Code. On-site security shall not use or possess firearms or other lethal weapons.

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Any person operating a medical cannabis transportation or distribution facility shall obtain a valid and fully executed commercial medical cannabis permit pursuant

to Chapter 7.90 of the Monterey County Code prior to commencing operations and must such permit in good standing in order to continue operations.

5. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with permits and licenses required by the Monterey County Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the County or State shall be grounds for the modification or revocation of a Coastal Development Permit pursuant to Section 20.67.120 of the Monterey County Code.

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

20.67.090 Exemptions from Permit Requirements.

The following medical cannabis activities are exempt from a Coastal Development Permit provided the activity does not include any form on non-exempt development pursuant to this Title:

A. Possession, storage, manufacturing, or transportation of medical cannabis, or cultivation of up to one hundred (100) square feet total canopy area of medical cannabis by a qualified patient, as that term is defined in Section 11362.7 of the California Health and Safety Code, is exempt from the Coastal Development Permit requirements contained in this Chapter, provided that: ~~if~~ the qualified patient, possesses, stores, manufactures, transports, or cultivates cannabis exclusively for his or her personal medical use; ~~and~~ does not provide, donate, sell, or distribute cannabis to any other person; and the possession, storage, manufacturing, transportation, or cultivation activities do not involve development as defined in Section 20.06.310 of the Monterey County Code. Qualified patients shall, upon request, provide appropriate documentation to law enforcement demonstrating that they have a valid doctor's recommendation to use cannabis for medical purposes.

B. Possession, storage, manufacturing, transportation of medical cannabis, or cultivation of up to one hundred (100) square feet of canopy area of medical cannabis by a primary caregiver on behalf of a qualified patient, within the meaning of Section 11362.7 of the California Health and Safety Code, is exempt from the Coastal Development Permit requirements contained in this Chapter, provided that: the primary caregiver does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the California Health and Safety Code and the possession, storage, manufacturing, transportation, or cultivation activities do not involve development as defined in Section 20.06.310 of the Monterey County Code. Primary caregivers shall, upon request, provide appropriate documentation to law enforcement demonstrating that they are a primary caregiver for a qualified patient.

C. Qualified patients and primary caregivers must obtain and maintain in good standing a personal medical cannabis permit pursuant to Chapter 7.95 of the Monterey County Code.

20.67.100 Application Requirements

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

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

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

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

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

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

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

3. Proposed hours of operation;

4. Waste disposal information;

5. A water management plan including the proposed water supply and proposed conservation measures;

6. Medical recommendation verification and youth access restriction procedures;

7. Product supply chain including information on where cultivation occurs, where the product is processed or manufactured, any required testing of cannabis or cannabis products, transportation, and packaging and labeling criteria;

8. Record keeping policy;

9. Track and trace measures;

10. Sustainability measures including water efficiency measures, energy efficiency measures, high efficiency mechanical systems, and alternative fuel transportation methods;

11. Odor prevention devices;

12. Size, height, colors, and design of any proposed signage at the site;

13. Parking plan; and

14. Such other information as the Director of Planning may require.

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

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

2. Medical cannabis cultivation: In reviewing an application for a Coastal Development Permit to cultivate medical cannabis, the Director of Planning or his or her designee may request the following additional information:

a. Water conservation measures;

b. Projected energy demand and proposed renewable energy generation facilities;

c. Unique identifier, inventory, and quality control procedures; and

d. A floor plan identifying the location, dimensions, and boundaries of all proposed canopy areas taking into account space needed for ongoing care of plants and description of the proposed method of physically delineating those boundaries at the site.

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

a. Information on products used in the manufacturing process including the cannabis supply chain, liquids, solvents, agents, and processes. Cannabis shall be obtained from a licensed cultivator or licensed distributor operating in compliance with all local and state laws;

- b. Storage protocol and hazard response plan;
- c. Quality control measures; and
- d. Any other information requested by the Director of Planning.

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

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

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

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

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

20.67.110 – Grounds for Suspension or Revocation

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

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

B. The Coastal Development Permit was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant;

C. Any act or omission by an owner or permittee in contravention of the provisions of this Chapter;

D. Any act or omission by an owner or permittee that results in the denial, revocation or suspension of the owner's or permittee's State License;

E. Any act or omission that results in the revocation of that owner's or permittee's commercial medical cannabis permit under Chapter 7.90 of the Monterey County Code;

F. Any act or omission by an owner or permittee in contravention of State law or the Monterey County Code;

G. An owner's or permittee's failure to take appropriate action to evict or otherwise remove persons conducting commercial medical cannabis activities who do not maintain the necessary permits or licenses in good standing with the County or State;

H. Possession or delivery of any other form of illegal drugs without proper legal authorization; or

I. Conduct of the commercial medical cannabis activities in a manner that constitutes a nuisance, where the owner or permittee has failed to comply with reasonable conditions to abate the nuisance.

20.67.120 –Procedure for Suspension or Revocation

A. If the Director of Planning determines that grounds for suspension or revocation of the Coastal Development Permit exist pursuant to section 20.67.110, the Director of Planning shall issue a written Notice of Intention to revoke or suspend the Coastal Development Permit, as the case may be. The Notice of Intention shall be served on the owner, as reported on the latest equalized assessment roll, and shall also be served on permittees on the property, as reported on the commercial medical cannabis permits issued pursuant to Chapter 7.90. The Notice of Intention shall be served by either personal delivery or by certified U.S. Mail, postage prepaid, return receipt requested. The Notice of Intention shall describe the property, the intention to revoke or suspend the Coastal Development Permit, the grounds for revocation or suspension, the action necessary to abate the violation, the time limit for compliance, and the right to a hearing. The Notice of Intention shall notify the owner and permittees of the opportunity to request a hearing

before a Hearing Officer to present evidence as to why the Coastal Development Permit should not be suspended or revoked and shall notify them of the 10-day deadline to submit a written request for a hearing.

B. The owner and permittees shall have ten (10) calendar days from the service of the Notice of Intention to submit a written request for a hearing before the Hearing Officer. Failure to submit the written request for a hearing shall be deemed a waiver of the right to challenge the suspension or revocation of the Coastal Development Permit and a failure to exhaust administrative remedies. If the hearing is not timely requested, the Director of Planning may suspend or revoke the Coastal Development Permit in accordance with the Notice of Intention.

C. Upon receipt of a timely written request for a hearing, the Director of Planning shall set a date for a hearing to be held within 60 days of receipt of the request, unless an immediate threat to the public health, safety and welfare necessitates an earlier hearing date. Notice of the hearing, including the time, date, and location of the hearing, shall be served on the owner and permittees, such service to be accomplished by either personal delivery or by certified U.S. Mail, postage prepaid, return receipt requested.

D. Hearing by the Hearing Officer:

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

2. In any proceeding before a Hearing Officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the Hearing Officer, his/her clerk, or other designee shall have the power to administer oaths and affirmations and to certify to official acts.

3. All parties to the hearing shall have the opportunity to testify, introduce exhibits, call and examine witnesses, and cross examine opposing witnesses on any matter relevant to the issues.

4. The Hearing Officer may postpone the hearing date upon good cause shown, continue the hearing during the course of the hearing, and make such other procedural orders and rulings as he or she deems appropriate during the course of the hearing.

5. Within thirty (30) calendar days after the close of the hearing, the Hearing Officer shall issue a written decision, including a statement of the basis for the decision. The Hearing Officer's written decision shall constitute the final administrative decision of the County.

E. In the event a civil action is initiated to obtain enforcement of the

decision of the Hearing Officer, and judgment is entered to enforce the decision, the person against whom the order of enforcement has been entered shall be liable to pay the County's total costs of enforcement, including reasonable attorney fees.

F. If neither owner nor any permittee nor their authorized representatives appear at the noticed hearing, such failure to appear shall constitute an abandonment of the hearing request and a failure to exhaust administrative remedies.

20.67.130 – Enforcement

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

A. It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Chapter shall be guilty of a misdemeanor. No proof of knowledge, intent, or other mental state is required to establish a violation.

B. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for penalty pursuant to Chapters 1.20 and 1.22 of this Code, and any other action authorized by law.

C. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Monterey County Code or otherwise authorized by law. Additionally, as a public nuisance, any violation of this Chapter shall be subject to injunctive relief, disgorgement of any payment to the County of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The County may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial medical cannabis activity or persons related thereto, or associated with, the commercial medical cannabis activity.

20.67.140 – Operative Date of Chapter 20.67

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

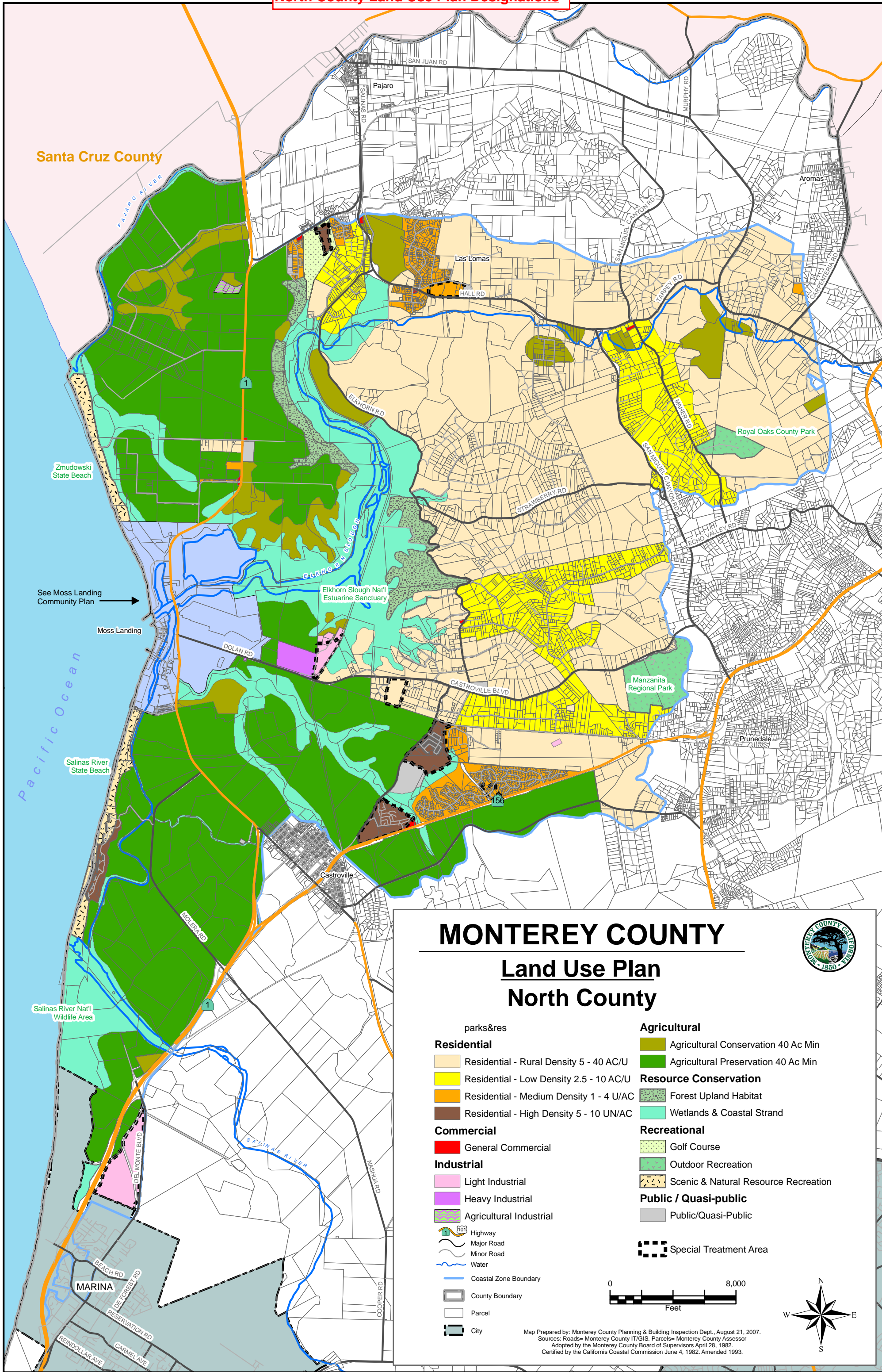
~~B. If the Board of Supervisors submits a County tax on cannabis activity to the voters, the voters approve the tax, and the tax is certified by the~~

~~County pursuant to Section 15372 of the California Elections Code, and the California Coastal Commission certifies the ordinance adopting this Chapter, Interim Ordinance No. 5254, as previously amended and extended through February 26, 2017, shall become inoperative as of the operative date of this Chapter in the coastal unincorporated area of the County.~~

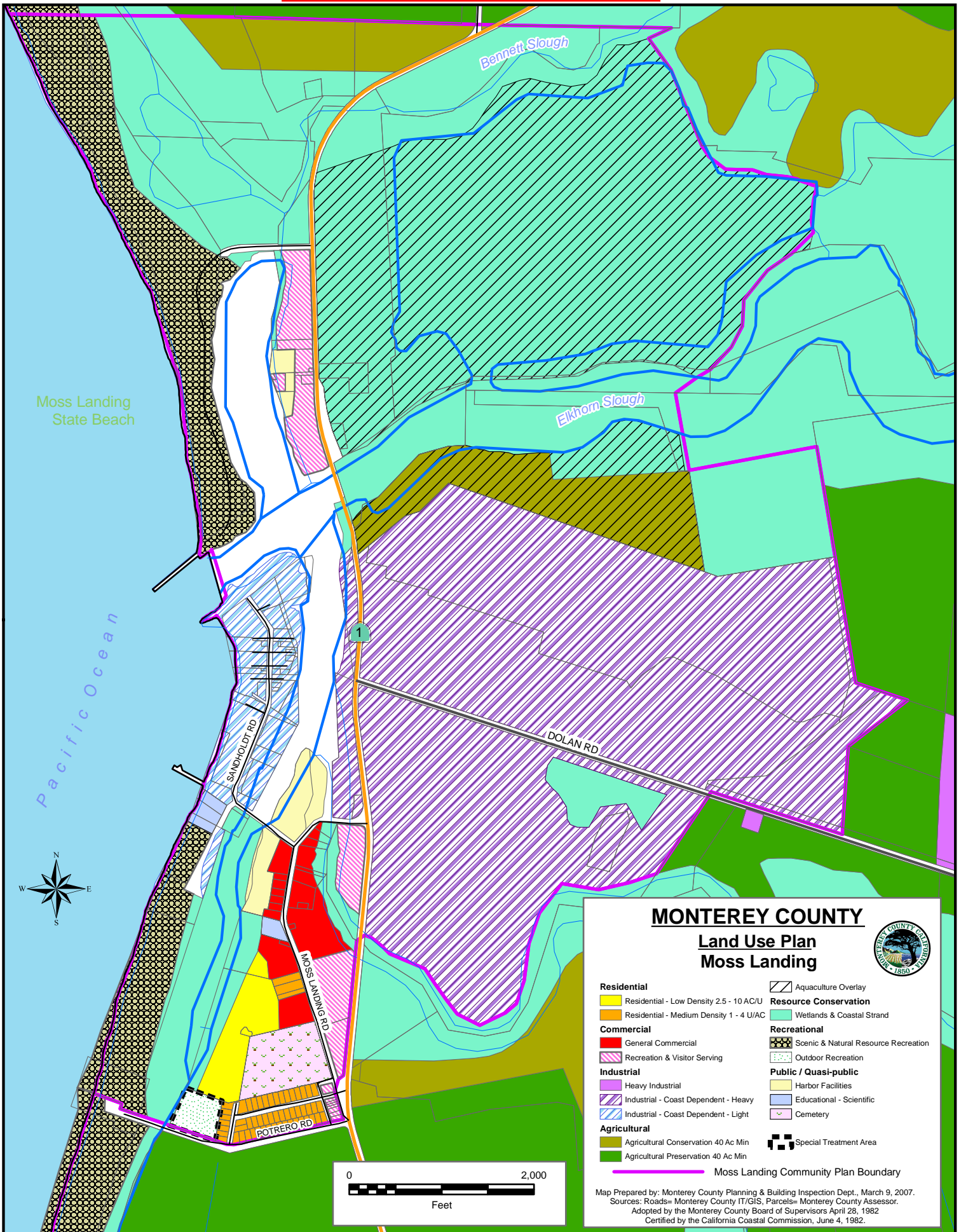
~~C. This Chapter shall be inoperative if the Board of Supervisors do not submit a tax on commercial medical cannabis activity to the voters, the voters do not approve the tax, or the tax is not certified by the County pursuant to Section 15372 of the California Elections Code. If this Chapter is inoperative,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

Subsection S is added to Section 20.70.120 of the Monterey County Code to read as follows:

~~S. Cultivation of up to 100 square feet of medical cannabis by a qualified patient or primary caregiver as described in Section 20.67.090 of this Title.~~



Moss Landing Land Use Designations



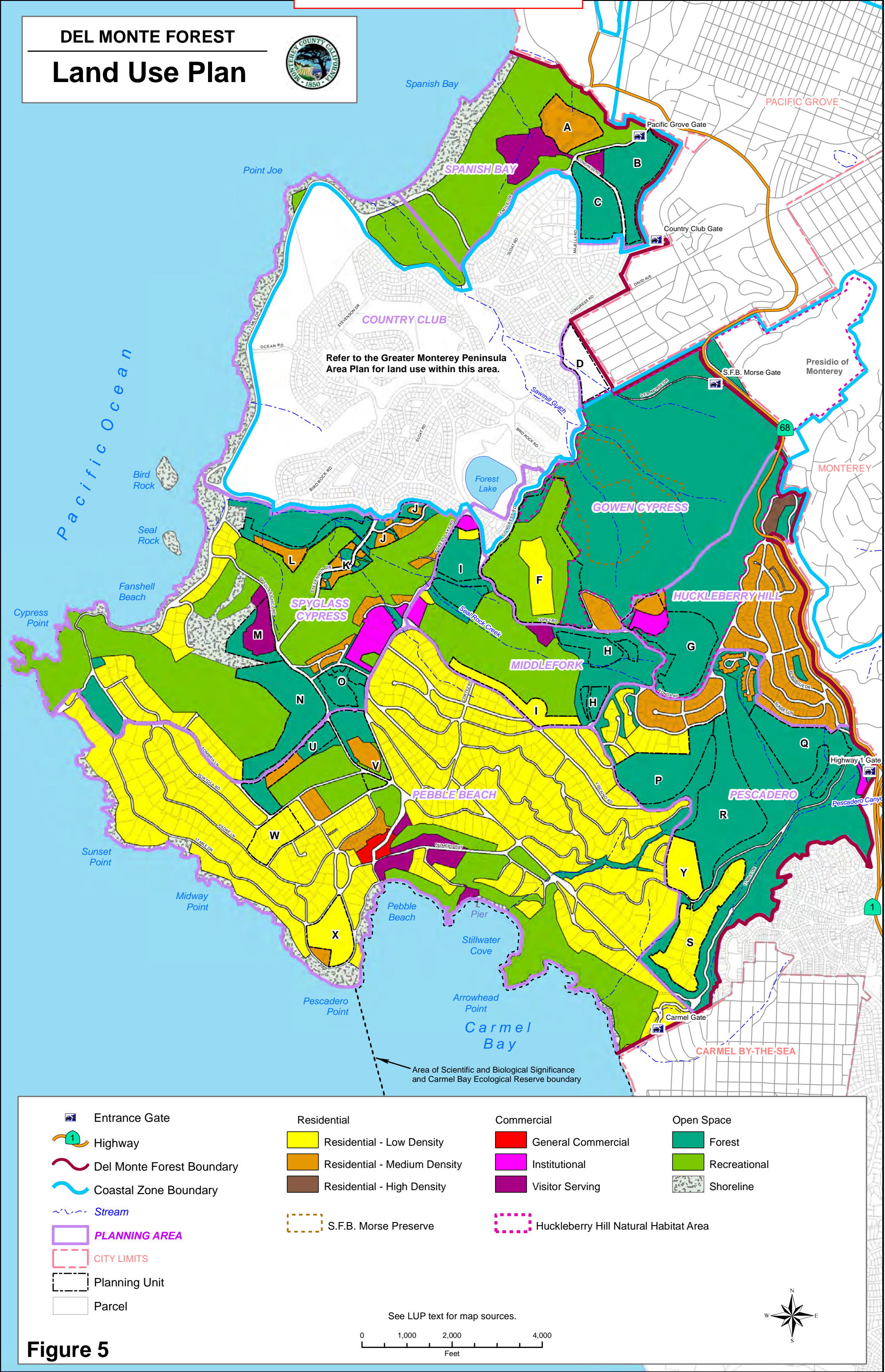


Figure 5

