

## CHAPTER 7.02: CANNABIS BUSINESSES

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§ 7.02.010 AUTHORITY, PURPOSE, AND INTENT.

(A) Pursuant to Article XI, Section 7 of the California Constitution, the county is authorized to adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens, including, but not limited to, those which establish standards, requirements, and regulations for the licensing and permitting of commercial cannabis activity, security, and worker protections pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act (hereinafter "MAUCRSA"), and any subsequent state legislation and/or regulations regarding same. Any standards, requirements, and regulations established by the state or any of its departments or divisions, regarding commercial cannabis activity shall be the minimum standards applicable within the unincorporated area of the county.

(B) It is the purpose and intent of this chapter to implement the provisions of MAUCRSA by providing a licensing scheme as a means of regulating commercial cannabis activities, including, but not limited to, cultivation, delivery, dispensing, distribution, manufacture, processing, propagation, retail sale, storage, transportation, and laboratory testing, in the unincorporated area of the county in a manner that is consistent with state law and which balances the need to accommodate qualified patients with access to medicinal cannabis, the interests of persons 21 years of age and older choosing to access adult-use cannabis as authorized by the Control, Tax and Regulate the Adult Use Cannabis Act ("AUMA" or "Proposition 64" passed by California voters in 2016), and promotes the public health, safety, and general welfare.

(C) It is the further purpose and intent of this chapter to require all cannabis business owners and operators to obtain and renew annually, a permit to engage in certain commercial cannabis activities within the unincorporated area of the county.

(D) Further, it is the purpose and intent of this chapter to impose reasonable land use regulations to protect the county's residents, neighborhoods, businesses, and the environment from disproportionately negative impacts caused by commercial cannabis activity, and to enforce rules and regulations consistent with state law.

(E) Nothing in this chapter is intended, or shall be construed, to conflict with federal or state law, and/or to authorize the possession, use, or provision of cannabis, including any commercial cannabis activity, for purposes that violate state law and/or in violation of this chapter. It is the stated intent of this chapter to regulate commercial cannabis activity in the county in compliance with all provisions of the AUMA and MAUCRSA, and any subsequent state legislation, and for this chapter to be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

(F). The provisions of this chapter are in addition to any other permits, licenses, and approvals which may be required to conduct business in the county, and are in addition to any permits, licenses, and approval required under state, county, or other law.

(Ord. 974, § 1, 2018)

#### § 7.02.020 DEFINITIONS.

When used in this chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to state statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

ADULT-USE CANNABIS or ADULT-USE CANNABIS PRODUCT. CANNABIS or a CANNABIS PRODUCT, respectively, intended for adults 21 years of age and over and who do not possess PHYSICIAN'S RECOMMENDATIONS.

APPLICANT. An OWNER applying for a CANNABIS BUSINESS PERMIT pursuant to this chapter.

BATCH. A specific quantity of homogeneous CANNABIS or CANNABIS PRODUCT that is one of the following types:

(1) HARVEST BATCH. A specifically identified quantity of DRIED FLOWER or trim, leaves, and other CANNABIS plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals and harvested at the same time.

(2) MANUFACTURED CANNABIS BATCH. Either of the following:

(a) An amount of CANNABIS CONCENTRATE or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.

(b) An amount of a type of MANUFACTURED CANNABIS produced in one production cycle using the same formulation and standard operating procedures.

CANNABIS. All parts of the Cannabis Sativa Linnaeus, Cannabis Indica, or Cannabis Ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, MANUFACTURE, salt, derivative,

mixture, or preparation of the plant, its seeds, or resin. CANNABIS also means the separated resin, whether crude or purified, obtained from CANNABIS. CANNABIS does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, MANUFACTURE, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, CANNABIS does not mean "industrial hemp" as defined by Cal. Health and Safety Code § 11018.5.

**CANNABIS ACCESSORIES.** Any equipment, products, or materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, PROCESSING, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing CANNABIS, or for ingesting, inhaling, or otherwise introducing CANNABIS GOODS into the human body.

**CANNABIS BUSINESS.** Any business or OPERATION which engages in any medicinal or adult-use COMMERCIAL CANNABIS ACTIVITY. CANNABIS BUSINESS also means the location at which a person engages in COMMERCIAL CANNABIS ACTIVITIES.

**CANNABIS BUSINESS PERMIT.** A regulatory permit issued by the COUNTY pursuant to this chapter to a STATE LICENSED CANNABIS BUSINESS to engage in those COMMERCIAL CANNABIS ACTIVITIES authorized by the permit; and is required before any CANNABIS BUSINESS may conduct any COMMERCIAL CANNABIS ACTIVITY in the COUNTY. The CANNABIS BUSINESS PERMIT, and any annual renewal, is made expressly contingent upon the CANNABIS BUSINESS' ongoing compliance with all requirements of this chapter and any regulations adopted by the COUNTY governing the specified type of COMMERCIAL CANNABIS ACTIVITY.

**CANNABIS BUSINESS SITE.** A fixed location, under the control of a STATE LICENSED CANNABIS BUSINESS where the CANNABIS BUSINESS is LOCALLY AUTHORIZED to ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.

**CANNABIS CONCENTRATE.** CANNABIS that has undergone a PROCESS to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a CANNABIS plant is a concentrate for purposes of this division. A CANNABIS CONCENTRATE is not considered food as defined by Cal. Health and Safety Code § 109935, or drug as defined by Cal. Health and Safety Code § 109925.

**CANNABIS COORDINATOR.** The County Officer, or his/her designee(s), responsible for:

- (1) The issuance, renewal, or reinstatement of CANNABIS BUSINESS PERMITS; and
- (2) Authorized to initiate and/or take disciplinary and/or enforcement action against a PERMITTEE.

**CANNABIS GOODS.** Both CANNABIS and/or CANNABIS PRODUCTS.

**CANNABIS PRODUCTS.** CANNABIS that has undergone a PROCESS whereby the plant material has been transformed into a concentrate, including, but not limited to, CONCENTRATED CANNABIS, or an edible or TOPICAL product containing CANNABIS, or CONCENTRATED CANNABIS and other ingredients. CANNABIS PRODUCTS shall also mean medicinal concentrates and MEDICINAL CANNABIS PRODUCTS.

**CANOPY.** The designated area(s) at a STATE LICENSED CANNABIS BUSINESS SITE that will contain LIVE CANNABIS PLANTS at any point in time, as follows:

(1) CANOPY shall be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain LIVE CANNABIS PLANTS at any point in time, including all of the space(s) within the boundaries;

(2) CANOPY may be noncontiguous but each unique area included in the total CANOPY calculation shall be separated by an identifiable boundary which includes, but is not limited to, interior walls, shelves, GREENHOUSE walls, HOOP HOUSE walls, garden benches, hedgerows, fencing, garden beds, or garden plots; and

(3) If LIVE CANNABIS PLANTS are being cultivated using a shelving system, the surface area of each level shall be included in the total CANOPY calculation.

**CAREGIVER or PRIMARY CAREGIVER.** Has the same meaning as that term is defined in Cal. Health and Safety Code § 11362.7.

**CHILD RESISTANT.** Designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for average adults to use properly.

**COMMERCIAL CANNABIS ACTIVITY or CANNABIS BUSINESS ACTIVITY.** Includes the CULTIVATION, possession, MANUFACTURE, DISTRIBUTION, PROCESSING, storing, laboratory testing, packaging, LABELING, transportation, DELIVERY, dispensing, or SALE of CANNABIS and/or CANNABIS PRODUCTS as provided for in this chapter.

**COUNTY OF SAN BENITO or COUNTY.** The COUNTY OF SAN BENITO, as a political subdivision of the State of California or entity, and/or as related to the land or jurisdiction to which this chapter applies, means the unincorporated area of the COUNTY OF SAN BENITO.

**CULTIVATION.** Any activity involving the PROPAGATION, planting, growing, harvesting, drying, curing, grading, or trimming of CANNABIS.

**CULTIVATION SITE.** A fixed location, under the control of a CULTIVATOR or MICROBUSINESS, where CANNABIS is cultivated.

**CULTIVATOR.** A STATE LICENSED CANNABIS BUSINESS that is LOCALLY AUTHORIZED to engage in the CULTIVATION of CANNABIS.

**CUSTOMER.** A natural person 21 years of age or older, or a natural person 18 years of age or older who possesses a PHYSICIAN'S RECOMMENDATION, or a PRIMARY CAREGIVER who is engaged in a transaction with a RETAILER or MICROBUSINESS for purposes of obtaining CANNABIS GOODS, specifically, to purchase.

**DELIVERY or DELIVER.** The commercial transfer of CANNABIS GOODS from a STATE LICENSED RETAILER or STATE LICENSED MICROBUSINESS to a CUSTOMER or PURCHASER at a physical address. DELIVERY also includes the use by a RETAILER of any technology platform, whether or not owned and controlled by the RETAILER.

**DELIVERY EMPLOYEE.** An individual employed by a RETAILER or MICROBUSINESS, including an OUT OF COUNTY DELIVERY SERVICE, who DELIVERS CANNABIS GOODS from the authorized CANNABIS BUSINESS SITE of the RETAILER or MICROBUSINESS to a CUSTOMER or PURCHASER at a physical address.

**DELIVERY VEHICLE.** Any motor vehicle operated by a DELIVERY EMPLOYEE.

**DEPARTMENT OF CANNABIS CONTROL.** The Department of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Cannabis Control, the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation. **DISTRIBUTION.** The procurement, SALE, and TRANSPORT of CANNABIS GOODS between STATE LICENSED CANNABIS BUSINESSES that are LOCALLY AUTHORIZED to ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.

**DISTRIBUTION EMPLOYEE.** An individual employed by a DISTRIBUTOR or MICROBUSINESS who TRANSPORTS CANNABIS GOODS from one CANNABIS BUSINESS SITE to another CANNABIS BUSINESS SITE.

**DISTRIBUTION VEHICLE.** Any motor vehicle operated by a DISTRIBUTION EMPLOYEE.

**DISTRIBUTOR.** A STATE LICENSED CANNABIS BUSINESS that is LOCALLY AUTHORIZED to engage in the DISTRIBUTION of CANNABIS GOODS.

**DRIED FLOWER.** All dead CANNABIS that has been harvested, dried, cured, or otherwise PROCESSED, excluding leaves and stems.

**EDIBLE CANNABIS PRODUCT.** CANNABIS PRODUCT that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Cal. Food and Agricultural Code Division 15 (commencing with § 32501). An EDIBLE CANNABIS PRODUCT is not considered food as defined by Cal. Health and Safety Code § 109935, or a drug as defined by Cal. Health and Safety Code § 109925.

**EMPLOYEE.** An individual employed by a STATE LICENSED CANNABIS BUSINESS that is LOCALLY AUTHORIZED to ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.

**ENFORCING OFFICER.** The San Benito County Administrative Officer, Health Officer, Director of Planning and Building, Sheriff, or Agricultural Commissioner, or their authorized deputy(ies) or designee(s), or any person employed by the COUNTY and appointed to the position of CANNABIS COORDINATOR, or any person employed by the COUNTY and appointed to the position of Code Enforcement Officer, as established by Resolution No. 90-27 and Ordinances 567 and 625, each of whom is independently authorized to enforce this chapter.

ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.

(1) The commencing, conducting, operating, managing, or carrying on of a CANNABIS BUSINESS, and the exercise of corporate or franchise powers, whether done as OWNER, or by means of an officer, agent, manager, EMPLOYEE, or otherwise, whether operating from a fixed location in the unincorporated area of the COUNTY or coming into the unincorporated area of the COUNTY from an outside location to ENGAGE IN CANNABIS BUSINESS ACTIVITIES. A person shall be deemed ENGAGED IN CANNABIS BUSINESS ACTIVITIES within the COUNTY if:

(a) Such person or person's EMPLOYEE maintains a fixed place of business within the unincorporated area of the COUNTY for the benefit or partial benefit of such person;

(b) Such person or person's EMPLOYEE owns or leases real property within the unincorporated area of the COUNTY for business purposes;

(c) Such person or person's EMPLOYEE regularly maintains a stock of tangible personal property in the unincorporated area of COUNTY for SALE in the ordinary course of business;

(d) Such person or person's EMPLOYEE regularly conducts solicitation of business within the unincorporated area of the COUNTY;

(e) Such person or person's EMPLOYEE performs work or renders services in the unincorporated area of the COUNTY; and

(f) Such person or person's EMPLOYEE utilizes the streets within the unincorporated area of the COUNTY in connection with the operation of motor vehicles for business purposes.

(2) The foregoing specified CANNABIS BUSINESS ACTIVITIES shall not be a limitation on the meaning of ENGAGED IN COMMERCIAL CANNABIS ACTIVITY.

FLOWERING. That a CANNABIS plant has formed a mass of pistils measuring greater than one-half inch wide at its widest point.

GREENHOUSE. A partially or completely enclosed structure whose structural members are made of pre-formed, rigid materials, or structural membranes. The walls, roof, and ends are typically covered using a transparent material, often glass, and which allows solar radiation to penetrate the surface and affect the growing environment of plants.

HOOP HOUSE. A structure with structural members which are made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently.

IMMATURE PLANT. A CANNABIS plant that is nonflowering and is shorter and/or narrower than 18 inches.

**INDOOR CULTIVATION.** CULTIVATION that is conducted within a fully enclosed, permitted building or structure, accessible only through one or more locking doors, which is secure against unauthorized entry, and which uses artificial light.

**LABELING.** Any label or other written, printed, or graphic matter upon a CANNABIS GOOD, upon its container or wrapper, or that accompanies any CANNABIS GOOD.

**LABOR PEACE AGREEMENT.** An agreement between a STATE LICENSEE and any bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the APPLICANT'S business. This agreement means that the APPLICANT has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent the APPLICANT'S EMPLOYEES. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the APPLICANT'S EMPLOYEES work, for the purpose of meeting with EMPLOYEES to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

**LEGAL PARCEL.** A parcel of real property for which one legal title exists that may be separately sold in compliance with the Subdivision Map Act, Cal. Government Code Title 7, Division 2 (commencing with § 66410).

**LIMITED ACCESS AREA.** An area in which CANNABIS GOODS, cash, business records, surveillance equipment, and the ability to control or monitor the surveillance equipment is/are stored or held and is only accessible to PERMITTEE'S authorized personnel.

**LIVE CANNABIS PLANTS.** Living CANNABIS flowers and plants, including seeds, IMMATURE PLANTS, and vegetative stage plants.

**LOCAL JURISDICTION OF ORIGIN.** A city, county, or city and county within the state.

**LOCALLY AUTHORIZED.** A city, county, or city and county within the state that has issued a permit, license, or the like to any STATE LICENSED CANNABIS BUSINESS to ENGAGE IN COMMERCIAL CANNABIS ACTIVITY within that jurisdiction.

**LOT.** A BATCH or a specifically identified portion of a BATCH.

**MANUFACTURE.** To produce, prepare, PROPAGATE, or compound, or otherwise blend, extract, or infuse CANNABIS and/or a CANNABIS PRODUCT, either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

**MANUFACTURED CANNABIS.** RAW CANNABIS that has undergone a PROCESS whereby the RAW CANNABIS has been transformed into a concentrate, extract, or other manufactured product intended for either internal consumption, through inhalation or oral ingestion, or for TOPICAL application.

**MANUFACTURER.** A STATE LICENSED CANNABIS BUSINESS that is LOCALLY AUTHORIZED to conduct the production, preparation, PROPAGATION, or compounding of CANNABIS GOODS, either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages CANNABIS GOODS, or LABELS or re-labels its container.

**MANUFACTURING EMPLOYEE.** An individual employed by a MANUFACTURER or MICROBUSINESS who is engaged in the performance or supervision of OPERATIONS at a MANUFACTURING SITE.

**MANUFACTURING SITE.** A fixed location, under the control of a MANUFACTURER or MICROBUSINESS where CANNABIS GOODS are MANUFACTURED.

**MATURE PLANT.** A CANNABIS plant capable of producing the CANNABIS flower or is FLOWERING, and is at least 18 inches tall and/or wide.

**MAUCRSA.** The Medicinal and Adult-Use Cannabis Regulation and Safety Act, Cal. Business and Professions Code §§ 26000 et seq.

**MEDICINAL CANNABIS or MEDICINAL CANNABIS PRODUCT.** CANNABIS or a CANNABIS PRODUCT, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Cal. Health and Safety Code § 11362.5, by a MEDICINAL CANNABIS PATIENT in the state who possesses a valid PHYSICIAN'S RECOMMENDATION.

**MICROBUSINESS.** A STATE LICENSED CANNABIS BUSINESS that is LOCALLY AUTHORIZED to engage in the CULTIVATION of CANNABIS on an area less than 10,000 square feet, and may additionally act as any three of the following: a STATE LICENSED, LOCALLY AUTHORIZED DISTRIBUTOR, CULTIVATOR, Level 1 MANUFACTURER, or RETAILER under state law, provided such licensee can demonstrate compliance with all requirements imposed by state law on licensed CULTIVATORS, DISTRIBUTORS, Level 1 MANUFACTURERS, and RETAILERS to the extent the licensee engages in such activities. MICROBUSINESS licenses that authorize CULTIVATION of CANNABIS shall include the license conditions described in Cal. Business and Professions Code § 26060.1(b).

**MIXED-LIGHT CULTIVATION.** CULTIVATION of CANNABIS using light deprivation, and both natural and/or artificial lighting during the growing cycle, and is conducted within a GREENHOUSE, HOOP HOUSE, or other similar structure.

**MIXED-LIGHT TIER 1.** CULTIVATION of CANNABIS without the use of artificial light or the use of artificial light at a rate above zero, but no more than six watts per square foot.

**MIXED-LIGHT TIER 2.** CULTIVATION of CANNABIS using artificial light at a rate above six and below or equal to twenty-five watts per square foot.

**NON-VOLATILE SOLVENT.** Any solvent used in the extraction PROCESS that is not a VOLATILE SOLVENT as defined in Cal. Health and Safety Code § 11362.3(b)(3). NON-VOLATILE SOLVENT includes carbon dioxide (CO<sub>2</sub>) used for extraction and ethanol, when used for extraction or post-extraction PROCESSING.

**NURSERY.** A CULTIVATOR that produces only clones, IMMATURE PLANTS, seeds, and other agricultural products used specifically for the PROPAGATION and CULTIVATION of CANNABIS.

**OPERATION.** Any activity for which a STATE LICENSE and a CANNABIS BUSINESS PERMIT is required under the provisions of this chapter, including any commercial transfer, including, but not limited to, DELIVERY or DISTRIBUTION of CANNABIS GOODS.

**OUT OF COUNTY DELIVERY SERVICE.** A STATE LICENSED RETAILER or MICROBUSINESS that:

(1) Is LOCALLY AUTHORIZED to engage in the RETAIL SALE and DELIVERY of CANNABIS GOODS, and whose place of business, main office, or center of OPERATIONS is located outside the unincorporated area of the COUNTY; and

(2) DELIVERS CANNABIS GOODS to a CUSTOMER within the COUNTY, OUT OF COUNTY DISTRIBUTORS, A STATE LICENSED DISTRIBUTOR, or MICROBUSINESS that:

(1) Is LOCALLY AUTHORIZED to engage in the DISTRIBUTION of CANNABIS GOODS, and whose place of business, main office, or center of OPERATIONS is located outside the unincorporated area of the COUNTY; and

(2) TRANSPORTS CANNABIS GOODS to or from an authorized CANNABIS BUSINESS SITE.

**OUTDOOR CULTIVATION.** Any commercial CANNABIS CULTIVATION with or without the use of light deprivation and/or artificial lighting in the CANOPY area, and that is not conducted within a fully enclosed, permitted building, accessible only through one or more locking doors, which is secure against unauthorized entry. OUTDOOR CULTIVATION includes, without limitation, CULTIVATION of CANNABIS within a HOOP HOUSE or similar structure.

**OWNER.** Any of the following:

(1) A person with an aggregate ownership interest of 20% or more in the person applying for a CANNABIS BUSINESS PERMIT or a PERMITTEE, unless the interest is solely a security, lien, or encumbrance;

(2) The Chief Executive Officer, or other manager, of a nonprofit or other entity;

(3) A member of the Board of Directors of a nonprofit; or

(4) An individual who will be participating in the direction, control, or management of the business applying for a CANNABIS BUSINESS PERMIT, or who has a financial interest in the business other than a fixed lease of real property.

**PACKAGE.** Any container or receptacle used for holding CANNABIS GOODS.

**PATIENT or QUALIFIED PATIENT.** Shall have the same definition as Cal. Health and Safety Code §§ 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of Cal. Health and Safety Code § 11362.5. For purposes of this chapter,

QUALIFIED PATIENT shall also refer to QUALIFIED PATIENTS who have obtained an identification card from the State Department of Health Services via a local county health department, as that term is defined by Cal. Health and Safety Code §§ 11362.7 et seq.

PERMITTEE or PERMITTED CANNABIS BUSINESS. Any person holding a valid CANNABIS BUSINESS PERMIT issued by the COUNTY pursuant to this chapter.

PERMITTING AUTHORITY. The county department that is responsible for the issuance, renewal, or reinstatement of the CANNABIS BUSINESS PERMIT, and authorized to take disciplinary action against the PERMITTEE.

PERSON. Includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business, business trust, receiver, syndicate, collective, cooperative, or any other group or entity, or combination acting as a unit, and the plural as well as the singular.

PHYSICIAN'S RECOMMENDATION. A recommendation by a physician and surgeon that a PATIENT use CANNABIS provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Cal. Health and Safety Code § 11362.5.

PREMISES. The designated structure(s) and land of a LEGAL PARCEL specified in the application that is owned, leased, used, possessed, or otherwise held under the control of the APPLICANT or PERMITTEE where the COMMERCIAL CANNABIS ACTIVITY will be or is conducted. The PREMISES shall be a contiguous area and shall only be occupied by one PERMITTEE.

PROCESS or PROCESSING or PROCESSOR. COMMERCIAL CANNABIS ACTIVITY associated with curing, drying, grading, LABELING, packaging, or trimming of raw or non-manufactured CANNABIS GOODS.

PROCESSING SITE. A CULTIVATION SITE that conducts only trimming, drying, curing, grading, packaging, or LABELING of raw or non-manufactured CANNABIS GOODS.

PROPAGATE or PROPAGATION. To CULTIVATE IMMATURE PLANTS from CANNABIS plant cuttings or seeds.

PROPERTY OWNER. The person who is the record OWNER of the subject real property where the CANNABIS BUSINESS is located and the OPERATIONS thereof occur or are proposed to occur.

PURCHASER. The CUSTOMER who is engaged in a transaction with a PERMITTEE for purposes of obtaining CANNABIS GOODS.

RAW CANNABIS. Shall include CANNABIS flowers, CANNABIS leaves, or other categories of harvested CANNABIS, categories for unprocessed or frozen CANNABIS or IMMATURE PLANTS, or CANNABIS that is shipped directly to MANUFACTURERS.

RETAIL. Both STOREFRONT and NON-STOREFRONT RETAIL as follows:

(1) NON-STOREFRONT RETAIL. The RETAIL SALE and DELIVERY of commercial CANNABIS GOODS to CUSTOMERS from vehicular DELIVERY only.

(2) STOREFRONT RETAIL. The RETAIL SALE and DELIVERY of commercial CANNABIS GOODS to CUSTOMERS from either:

(a) A physical location where the CANNABIS BUSINESS is authorized to conduct COMMERCIAL CANNABIS ACTIVITY; or

(b) Vehicular DELIVERY.

RETAILER. A STATE LICENSED CANNABIS BUSINESS that is LOCALLY AUTHORIZED to engage in the RETAIL SALE and DELIVERY of CANNABIS GOODS.

SELL, SALE, and TO SELL. Includes any transaction whereby, for any consideration, title to CANNABIS GOODS is transferred from one person to another, and includes the DELIVERY of CANNABIS GOODS pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of CANNABIS GOODS by a licensee to the licensee from whom the CANNABIS GOODS was purchased.

SENSITIVE USE. Any of the following:

(1) CHURCH. A structure or leased portion of a structure, which is used primarily for religious worship and related religious activities;

(2) Licensed child care facility;

(3) Licensed child care home;

(4) LICENSED CHILD DAY CARE FACILITY. A facility that provides non- medical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. CHILD DAY CARE FACILITY includes:

(a) DAY CARE CENTER. Any CHILD DAY CARE FACILITY other than a FAMILY DAY CARE HOME, and includes infant centers,

preschools, extended day care facilities, and school-age child care centers;

(b) EMPLOYER-SPONSORED CHILD CARE CENTER. Any CHILD DAY CARE FACILITY at an employer's site of business operated directly or through a provider contract by any person or entity having one or more EMPLOYEES, and available exclusively for the care of children of that employer, and of the officers, managers, and EMPLOYEES of that employer, unless the EMPLOYER-SPONSORED CHILD CARE CENTER is operated by the Commercial Cannabis licensee for the purpose of providing child care to their employees;

(c) FAMILY DAY CARE HOME. A home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large FAMILY DAY CARE HOME or a small FAMILY DAY CARE HOME;

(5) SCHOOL. An institution of learning for minors, whether public, private, or charter, offering a regular course of instruction required by the California Education Code, or any licensed CHILD or DAY CARE FACILITY. This definition includes a nursery school, pre-school, transitional kindergarten, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university;

(6) SCHOOL EVACUATION SITE. Any location designated by formal action of the governing body, superintendent, or principal of any SCHOOL as a location to which juveniles are to be evacuated to, or are to assemble at, in the event of an emergency or other incident at the SCHOOL;

(7) YOUTH CENTER. Any public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to:

(a) Private youth membership organizations or clubs, social service teenage club facilities, video arcades where ten or more video games or game machines or devices are operated and where minors are legally permitted to conduct business, or similar amusement park facilities;

(b) A park, playground, or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball, or any similar facility located on a public or private school grounds, or on city, county, or state parks;

(c) This definition shall not include any private martial arts, yoga, ballet, music, art studio or similar studio of this nature nor shall it include any private gym, athletic training facility, pizza parlor, dentist's office or doctor's office, primarily serving children, or a location which is primarily utilized as an administrative office or facility for youth programs or organizations; and

(8) YOUTH-ORIENTED FACILITY. Elementary school, middle school, high school, public park, any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate, or assemble at the establishment are predominately minors.

STATE LICENSE. A license issued by the State of California, or one of its departments or divisions, including the Department of Cannabis Control, under MAUCRSA and any subsequent state legislation regarding the same, authorizing the holder to ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.

STATE LICENSEE or STATE LICENSED. A person to whom a STATE LICENSE has been issued, authorizing that person to ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.

TESTING LABORATORY. A STATE LICENSED laboratory, facility, or entity that offers or performs tests of CANNABIS GOODS and that is:

(1) Accredited by an accrediting body that is independent from all other persons involved in COMMERCIAL CANNABIS ACTIVITY in the state; and

(2) Authorized by the COUNTY to engage in laboratory testing of CANNABIS GOODS via a valid CANNABIS BUSINESS PERMIT.

TOPICAL or TOPICAL CANNABIS. A product intended for external application and/or absorption through the skin. A TOPICAL CANNABIS product is not considered a drug as defined by Cal. Health and Safety Code § 109925.

TRANSPORT. The physical movement of CANNABIS GOODS from one authorized CANNABIS BUSINESS SITE to another authorized CANNABIS BUSINESS SITE, for the purposes of conducting COMMERCIAL CANNABIS ACTIVITY authorized by MAUCRSA which may be amended or repealed by any subsequent state legislation regarding the same. TRANSPORT does not include DELIVERY.

UNIQUE IDENTIFIER. An alphanumeric code or designation used for reference to a specific CANNABIS plant on a STATE LICENSED PREMISES and any CANNABIS GOODS derived or MANUFACTURED from that plant.

VOLATILE SOLVENT. Any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of VOLATILE SOLVENTS include, but are not limited to, butane, hexane, and propane.

(Ord. 974, § 1, 2018; Ord. 1036, § 2, 2021)

#### § 7.02.030 PROHIBITIONS; RESTRICTION ON ALCOHOL AND TOBACCO.

(A) Commercial cannabis activities prohibited unless specifically authorized. Except as specifically authorized in this chapter, commercial cannabis activities are expressly prohibited in the county.

(B) Prohibited commercial cannabis activities. It is a violation of this chapter, and shall constitute a public nuisance, for any person or entity to engage in any of the following commercial cannabis activities, which are expressly prohibited:

(1) Outdoor cultivation within the exclusion zone defined in § 7.04.003; and

(2) Special events, held for the purpose of marketing cannabis goods, as described in Cal. Business and Professions Code § 26150(e).

(C) Compliance with laws. It is unlawful and shall constitute a public nuisance for anyone to engage in any commercial cannabis activity within the county without complying with all applicable state and local laws and regulations pertaining to the cannabis business and the commercial cannabis activities, including the duty to obtain all of the following:

- (1) A valid cannabis business permit; and
- (2) A valid state license; and
- (3) A valid state seller's permit.

(D) Persons prohibited from holding permit(s) under this chapter. The persons set forth in § 7.02.070(A) shall be prohibited from holding a cannabis business permit in the county.

(E) Restriction on alcohol and tobacco.

(1) No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the cannabis business.

(2) No person shall cause or permit the sale or tobacco products on or about the premises of the cannabis business.

(3) No person shall consume any cannabis good, tobacco, or alcohol at any cannabis business site.

(Ord. 974, § 1, 2018; Ord. 1032, § 2, 2021; Ord. 1036, § 3, 2021)

#### § 7.02.040 CANNABIS BUSINESS REGULATORY PROGRAM.

(A) There is hereby created the cannabis business regulatory program which shall be administered by the County Administrative Officer or his/her designee(s).

(B) The permit issued under the cannabis business regulatory program is a cannabis business permit.

(C) The Administrative Officer or his/her designee(s) shall be authorized to build and manage the cannabis business regulatory program, including, but not limited to, preparing the necessary forms, promulgating any necessary rules, regulations, and standards governing application requirements and processes, soliciting applications, conducting evaluations of the cannabis business applicants and otherwise implementing the cannabis business permit processes and requirements.

(D) Promulgation of rules, regulations, and standards.

(1) Rules, regulations, and/or standards governing the issuance, denial, renewal, suspension, and/or revocation of cannabis business permits may be promulgated by the Board of Supervisors and shall become effective in accordance with applicable laws.

(2) In addition, the Administrative Officer or his/her designee(s) is authorized to establish any additional rules, regulations, and/or standards governing the same, including, but not limited to, the ongoing operation and county's oversight of cannabis businesses, and/or concerning any other subject determined to be necessary to carry out the purposes of this chapter and shall become effective upon publication on the county's website.

(3) Cannabis businesses shall be required to comply with all state and local laws and rules, regulations, and standards, including, but not limited to, those promulgated by the Administrative Officer or his/her designee(s).

(4) Testing laboratories, distribution facilities, and out of county distributors shall be subject to state law and shall be subject to additional county regulations as determined from time to time as more regulations are developed under § 7.02.010 and any subsequent state legislation regarding the same.

(Ord. 974, § 1, 2018; Ord. 1036, § 4, 2021)

**§ 7.02.050 CANNABIS BUSINESS PERMIT.**

(A) Permit required. No person may operate any cannabis business or engage in any commercial cannabis activity within the county unless the person has, at a minimum, complied with all applicable state and local laws and regulations pertaining to the cannabis business and the commercial cannabis activities, including, but not limited to, the duty to obtain all of the following:

- (1) A valid cannabis business permit;
- (2) A valid state license; and
- (3) A valid state seller's permit.

(B) No cannabis business permit will be issued to any person set forth in § 7.02.030(D).

(C) Permit type. The following cannabis business permits are created under this chapter:

<b>County Cannabis Business Permit Types</b>	<b>State License Types (includes both A- Licenses and M- Licenses)*</b>
Cultivation***	Specialty Cottage, Specialty, Small, Medium, Large, Nursery, and Processor
Distribution	11, 13
Manufacturing	6, 7, N, P, and S
Testing	8
Retailer**	9, 10
Microbusiness	12
<p>* Pursuant to definitions in Cal. Business and Professions Code § 26050 and California Code of Regulations Title 4 Division 19.  ** Number of permits may be limited as set forth in this chapter.  *** Includes Outdoor, and Mixed-Light (Tier 1 and Tier 2) Licenses</p>	

(D) Number of permits and canopy limits. The maximum canopy area of each cannabis business type and the corresponding number of cannabis business permits issued by the county may be limited or restricted, and shall be established by resolution and/or

ordinance by the Board of Supervisors. The maximum number of canopy area and cannabis business permits shall be subject to the Board's annual review; The Board of Supervisors may, in their discretion, modify the maximum canopy area and cannabis business permits authorized for issuance. This section is only intended to create a maximum number of canopy area and each cannabis business type operating in the county. Nothing in this chapter obligates the Board of Supervisors to issue any or all of the available cannabis business permits if it is determined that:

(1) Applicants do not meet the application requirements; or

(2) Issuance of any or all cannabis business permits will detrimentally impact the public health, safety, or welfare, or any other public policy concern.

(E) The number of permits issued for storefront retail cannabis businesses shall be limited to five, and shall be permitted in accordance with Ch. 19.43.

(F) Total canopy limits for all commercial cultivation activities in the entirety of San Benito County shall be a maximum of 500 acres as of January 1, 2025. For the following three years the total canopy limits shall increase an additional 500 acres per year, not to exceed 2,000 acres of total canopy after January 1, 2028.

(G) Expiration. Each cannabis business permit issued pursuant to this chapter shall only be valid for a term of 12 months and shall expire 12 months after the date of its issuance, unless suspended or revoked by the county pursuant to § 7.02.070. A cannabis business permit may be renewed as provided in § 7.02.054.

(Ord. 974, § 1, 2018; Ord. 1032, § 3, 4, 2021; Ord. 1036, § 5, 2021)

#### § 7.02.051 APPLICATION REVIEW PROCEDURE; RESERVATION OF RIGHTS.

(A) The Board of Supervisors shall adopt a resolution and/or ordinance setting forth procedures which govern the application process.

(1) Applications shall be submitted to the Planning and Building Department. Application requirements are determined pursuant to Chapter 19.43 and are at the discretion of the Administrative Officer or his/her designee(s).

(B) At the time of filing, each applicant shall pay an application fee established by resolution and/or ordinance of the Board of Supervisors to cover all costs incurred by the county in the application process.

(C) Appeals. Appeals from the decision of the Administrative Officer or his/her designee(s) shall be handled pursuant to § 7.02.080.

(D) The county's reservation of rights. The county reserves the right to reject or deny any or all applications if it determines it would be in the best interest of the county, taking into account any health, safety, and welfare impacts on the community. Applicants shall have no right to a cannabis business permit until a permit is actually issued, and then only

for as long as the permit is valid. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the Board of Supervisors may terminate or delay the cannabis business regulatory program created under this chapter. Prior to permit issuance, the county may also modify, postpone, or cancel any request for applications, or the entire cannabis business regulatory program under this chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under state law. Persons submitting applications assume the risk that the cannabis business regulatory program, or any part thereof, or any particular type of commercial cannabis activity permit potentially authorized under this chapter, may be cancelled at any time prior to permit issuance. The county further reserves the right to request and obtain additional information from any applicant. In addition to any other justification provided, an application risks being rejected or denied for any of the following reasons:

- (1) Failure to comply with the requirements in this chapter;
- (2) Proposal received after designated time and date;
- (3) Proposal not containing the required elements, exhibits, nor organized in the required format; or
- (4) Proposal considered not fully responsive to this request for permit application.

(Ord. 974, § 1, 2018; Ord. 1036, § 6, 2021)

§ 7.02.052 [RESERVED.]

§ 7.02.053 CANNABIS BUSINESS PERMIT ISSUANCE.

(A) Official issuance of a cannabis business permit is conditioned upon the following:

(1) Applicant shall execute an agreement, in a form approved by the County Counsel, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the county and its officers, officials, employees, representatives, and agents, harmless from any and all claims, losses, damages, injuries, liabilities, or losses which arise out of, or which are in any way related to, the county's issuance of the cannabis business permit, the county's decision to approve the operation of the cannabis business or activity, the process used by the county in making its decision, or the alleged violation of any federal, state, or local laws by the cannabis business or any of its officers, employees, or agents.

(2) Applicant shall maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate from time to time by the Administrative Officer or his/her designee(s).

(3) Applicant shall execute an agreement, in a form approved by the County Counsel, agreeing to reimburse the county for all costs and expenses, including but not limited to legal fees and costs and court costs, which the county may be required to pay as a result of

any legal challenge related to the county's approval of the applicant's cannabis business permit, or related to the county's approval of a commercial cannabis activity. The county may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

(4) Applicant shall obtain from the County any and all land use approvals or entitlements for the cannabis business site required under Title 25 and Chapter 19.43, if any. Land use approvals shall include compliance with all applicable provisions of CEQA.

(B) The Administrative Officer or his/her designee(s) shall formally issue the cannabis business permit(s) once all the foregoing requirements have been met, including certification from the Administrative Officer or his/her designee(s) affirming that all of the required land use approvals have been obtained.

(C) Each person issued a cannabis business permit shall be required to pay the cannabis business permit fee established by resolution and/or ordinance of the Board of Supervisors to cover the costs of administering the cannabis business regulatory program created in this chapter.

(Ord. 974, § 1, 2018; Ord. 1036, § 8, 2021)

#### § 7.02.054 RENEWAL OF CANNABIS BUSINESS PERMIT.

(A) An application for renewal of a cannabis business permit shall be filed at least 60 calendar days prior to the expiration date of the current cannabis business permit.

(B) The renewal application shall contain all the required application information as set forth in § 7.02.051.

(C) The applicant shall pay a fee in an amount to be set by resolution and/or ordinance by the Board of Supervisors to cover the costs of processing the renewal application, together with any costs incurred by the county to administer the cannabis business regulatory program created under this chapter.

(D) A renewal application shall be denied for any of the reasons set forth in § 7.02.070.

(E) The Administrative Officer or his/her designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making their decision, the Administrative Officer or his/her designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety, or welfare. Appeals from the decision of the Administrative Officer or his/her designee(s) shall be handled pursuant to § 7.02.080.

(F) If a renewal application is rejected or denied, a person may file a new application pursuant to this chapter no sooner than one year from the date of the rejection or denial.

(G) Processing of renewal applications shall be given priority over first-time applicants for a cannabis business, should the county have more than one application period.

(Ord. 974, § 1, 2018)

§ 7.02.055 AMENDED APPLICATION; CHANGE IN LOCATION.

(A) Any time the cannabis business site specified in the cannabis business permit is changed, the permittee shall submit an amended application with information regarding the new location to the Administrative Officer or his/her designee(s).

(B) Within 15 calendar days of any other change in the information provided in the application form or any change in status of compliance with the provisions of this chapter, including any change in the cannabis business ownership or management members, the applicant shall file an amended application with the Administrative Officer or his/her designee(s) for review along with an amended application fee, as set forth in this section and § 7.02.090.

(Ord. 974, § 1, 2018)

§ 7.02.056 TRANSFER OF CANNABIS BUSINESS PERMIT.

(A) Issuance of a cannabis business permit does not create an entitlement, interest of value, does not run with the land, is not transferable, and automatically terminates upon transfer of ownership.

(B) A permittee shall not transfer ownership or control of any cannabis business permit to another person. Any attempt to do so shall cause the cannabis business permit(s) to be automatically revoked.

(C) Whenever a permittee changes its business structure ownership or substantially changes the ownership of the cannabis business (changes that result in a change of more than 51% of the original ownership), must be approved by the Administrative Officer or his/her designee(s) through the transfer process contained in this section. Failure to comply with this provision is grounds for permit revocation.

(D) A permittee may change the form of business entity without applying to the Administrative Officer or his/her designee(s) for a transfer of permit, provided that either:

(1) The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical); or

(2) If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation, and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA and in compliance with § 7.02.055(B), provided that the Board of Directors (or in the case of an unincorporated association, the individual(s) listed on the county permit application) of the original permittee entity are the same as the new business entity.

(3) Although a transfer is not required in these two circumstances, the permit holder is required to notify the Administrative Officer or his/her designee(s) in writing of the change within ten calendar days of the change. Failure to comply with this provision is grounds for permit revocation.

(E) No cannabis business permit may be transferred when the Administrative Officer or his/her designee(s) has notified the permittee that the permit has been or may be suspended or revoked.

(F) Any attempt to transfer a cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

(Ord. 974, § 1, 2018)

§ 7.02.060 [RESERVED.]

§ 7.02.061 [RESERVED.]

§ 7.02.062 [RESERVED.]

§ 7.02.063 [RESERVED.]

§ 7.02.064 [RESERVED.]

§ 7.02.065 [RESERVED.]

§ 7.02.070 DENIAL, NON-RENEWAL, SUSPENSION, OR REVOCATION OF PERMIT.

(A) Grounds for denial or non-renewal. The Administrative Officer or his/her designee(s) may deny an application for issuance or renewal of a cannabis business permit to any of the following persons, including, but not limited to, any 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 the plural as well as the singular:

(1) Any person who, as of January 1, 2025, engages in commercial cannabis activity in the county in violation of local and/or state law which resulted in a felony will be subject to review by the Administrative Officer or his/her designee(s);

- (a) A violent felony conviction, as specified in Penal Code section 667.5(c);
- (b) A serious felony conviction, as specified in Penal Code section 1192.7(c);
- (c) A felony conviction involving fraud, deceit, or embezzlement;
- (d) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor;
- (e) A felony conviction for drug trafficking with enhancements pursuant to Health and Safety Code section 11370.4 or 11379.8;

(2) Any person whom the state has, for any reason, denied, suspended, or revoked any state license or local jurisdiction permit authorizing commercial cannabis activity, or employment by a cannabis business will be subject to review by the Administrative Officer or his/her designee(s);

(3) Any person issued a notice of non-compliance for engaging in unlawful commercial cannabis activity in violation of this code, and/or other laws, codes, or requirements in which they failed to timely discontinue the unlawful activity;

(4) Any person who, after reasonable notice and time to cure, failed to timely pay all federal, state, or local taxes and/or fees owed as applicable; and/or

(5) Any person who enters into an agreement to lease, sublease, or otherwise agrees, regardless of whether it is verbally or in writing, to any terms of use of the premises from a property owner, commercial broker, or any third party, that is based on a term other than a monthly rate, or is in violation of § 7.02.060 unless that property is leased at fair market value and such lease, sublease, or agreement does not have any terms or conditions for the cannabis business to pay the property owner, commercial broker, or any third party a percentage of gross receipts, royalties, equity, or other unreasonable compensation as determined by the county.

(B) Furthermore, the Administrative Officer or his/her designee(s) may deny an application for issuance or renewal of a cannabis business permit for any of the following reasons, as applicable:

- (1) The application was not timely filed;
- (2) Any cannabis business permit issued to the applicant was suspended or revoked at the time the renewal application was submitted;
- (3) The permittee has not been in regular and continuous operation in the four months prior to submission of the renewal application;

(4) The applicant failed to conform to the requirements of this chapter, or of any regulations adopted pursuant to this chapter;

(5) The permittee fails or is unable to renew its state license;

(6) The applicant was notified that they were conducting commercial cannabis activity in non-compliance with Title 25, other provisions of this code and requirements in which they failed to discontinued operating in a timely manner;

(7) Evidence that the applicant was in non-compliance of properly paying federal, state, or local taxes and/or fees when notified by the appropriate agencies;

(8) As of January 1, 2019, applicant was conducting commercial cannabis activity in the county in violation of local and state law; or

(9) No person shall be issued a commercial cannabis permit to operate who enters into an agreement to lease, sublease, or any other agreement, regardless of whether it is verbally or in writing to any terms of use of the premises from a property owner, commercial broker, or any third party, that if an application is denied, a new application may not be filed for one year from the date of the denial or non-renewal.

(C) Suspension or revocation of cannabis business permit. A cannabis business permit may be suspended or revoked for any of the following reasons:

(1) Effect of state license suspension or revocation. Suspension of a license issued by the state, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the county, until the state, or its respective department or division, reinstates or reissues the state license. Should the state, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall also revoke or terminate the ability of a cannabis business to operate within the county.

(2) Revocation of permits. Cannabis business permits may be revoked for any violation of any law and/or any rule, regulation, and/or standard adopted pursuant to any policy, procedure, or regulation in this chapter. If the local permit is revoked, the county will notify the owner/operator in writing prior to revocation.

(3) Other grounds for suspension or revocation of cannabis business permit. Cannabis business permits may be suspended or revoked for any violation of any law and/or any rule, regulation, and/or standard adopted pursuant to this section or § 7.02.110, or pursuant to any policy, procedure, or regulation in this chapter.

(Ord. 974, § 1, 2018)

§ 7.02.080 APPEAL PROCESS.

Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this chapter from a decision of the Administrative Officer or his/her designee(s), the appeal shall be conducted as prescribed in this chapter.

(A) Written request for appeal. Within ten calendar days after the date of a decision of the Administrative Officer or his/her designee(s) to revoke, suspend, not renew, or deny a permit, or to add conditions to a permit, an aggrieved party may appeal such action by filing a written appeal with the Clerk of the Board of Supervisors setting forth the reasons why the decision was not proper. At the time of filing the appellant shall pay the designated appeal fee, established by resolution and/or ordinance of the Board of Supervisors, which may be amended from time to time.

(B) Appeal hearing. Upon receipt of the written appeal, the Clerk of the Board of Supervisors shall set the matter for a hearing before the Hearing Officer. The Hearing Officer shall hear the matter de novo and shall conduct the hearing pursuant to the procedures set forth by the county. The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than 90 calendar days from the date of such filing. The county shall notify the appellant of the time and location at least ten calendar days prior to the date of the hearing. At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing. The decision of the Hearing Officer shall be final and conclusive.

(Ord. 974, § 1, 2018)

#### § 7.02.090 FEES AND CHARGES; DEBT OWED TO COUNTY.

(A) No permittee may commence or continue any commercial cannabis activity in the county, without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis activity shall be established by resolution and/or ordinance of the Board of Supervisors, which may be amended from time to time.

(B) All cannabis businesses shall pay all sales, use, business, and other applicable taxes, and all license, registration, and other fees required under federal, state, and local law. Each cannabis business shall cooperate with the county with respect to any reasonable request to audit the cannabis business' books and records for the purpose of verifying compliance with this section, including, but not limited to, a verification of the amount of taxes required to be paid during any period.

(C) Application fee. All work performed in reviewing applications, consulting with the applicant, conducting site inspections, reviewing changes in information contained in the initial application, and making determinations on the application shall be billed to the applicant on an at-cost basis. An application for a cannabis business permit must be accompanied by a deposit as set forth in the unified fee schedule. If the deposit is exhausted before work on the application is completed, the Administrative Officer or his/her

designee(s) shall obtain a further deposit before continuing to review the application. In the case of subsequent changes in the information contained in the initial application, an amended application fee shall apply. At the conclusion of the Administrative Officer's work, the Administrative Officer or his/her designee(s) will either refund the remaining balance or bill the applicant for any overage. No cannabis business permit shall be granted until all application fees have been paid in full.

(D) Permit fee. A cannabis business permit shall not be granted to an applicant under this chapter until the applicant has paid a non-refundable cannabis business permit fee as set forth in the unified fee schedule. The purpose of this fee is to pay for the costs of administering and enforcing the cannabis business regulatory program regulations related to permitting and enforcement that are not covered by application fees.

(E) Fees deemed debt to the county. The amount of any fee, cost, or charge imposed pursuant to this chapter shall be deemed a debt to the county that is recoverable via an authorized administrative process as set forth in this code, or in any court of competent jurisdiction.

(Ord. 974, § 1, 2018)

#### § 7.02.100 GENERAL REQUIREMENTS APPLICABLE TO ALL CANNABIS BUSINESSES.

(A) Prior to issuance of a cannabis business permit, a cannabis business must meet all of the following requirements:

(1) Right to occupy and to use property. As a condition precedent to the county's issuance of a cannabis business permit pursuant to this chapter, any person intending to open and to operate a cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location will be leased from the property owner, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this chapter and consents to the operation of the cannabis business on the owner's property.

(2) Location and design of cannabis businesses. Cannabis businesses permitted to engage in cultivation, distribution, manufacturing, microbusiness, and testing laboratories, for cannabis goods are subject to the zoning and locational requirements set forth in Chapter 19.43 of this code.

(B) Prior to commencing operations, notwithstanding the issuance of a cannabis business permit, a permittee must meet all of the following requirements:

(1) Obtain a state license and as set forth in § 7.02.050.

(2) Certification from the Administrative Officer. Obtain a certification from the Administrative Officer or his/her designee(s) certifying that the cannabis business is located on a site that meets all of the requirements of division (A)(2) and Titles 19 and 25 of this code.

(3) Compliance with Chapter 19.43.

(4) The permittee shall cooperate with the county whenever the Administrative Officer or his/her designee(s) makes a request, with or without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this chapter.

(5) A permittee shall notify the Administrative Officer or his/her designee(s) within 24 hours after discovering any of the following:

(a) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the Administrative Officer or his/her designee(s);

(b) Diversion, theft, loss, or any criminal activity involving the cannabis business or any agent or employee of the cannabis business;

(c) The loss or unauthorized alteration of records related to cannabis, customers, or employees or agents of the cannabis business; or

(d) Any other breach of security.

(6) Compliance with the foregoing requirements shall be verified by the Administrative Officer or his/her designee(s) prior to permittee commencing operations. The Administrative Officer or his/her designee(s) may supplement the security requirements set forth in Chapter 19.43 once operations begin, subject to the Administrative Officer or his/her designee(s) review, if requested by the owner.

(7) The Administrative Officer or his/her designee(s) may supplement the operational requirements set forth in Chapter 19.43 or regulations promulgated by the Board of Supervisors as are necessary to protect the public health, safety, and welfare. Such operating requirements include, but are not limited, to:

(a) Compliance with laws. Compliance with all state and local laws and regulations, including, but not limited to, the requirements of this chapter and of the cannabis business permit; and

(b) Age. No person under the age of 21 years old shall operate a cannabis business, or be issued a permit for any commercial cannabis activity of any kind.

(Ord. 974, § 1, 2018)

#### § 7.02.110 GENERAL OPERATING REQUIREMENTS.

Permittees shall at all times comply with the following:

(A) All applicable requirements set forth in Chapter 19.43 of this code;

(B) Cannabis businesses utilizing distribution services. Any permittee under this chapter requiring the services of a state licensed distributor shall, consistent with public safety, be

required to, prior to any transportation of any cannabis goods, submit to the County Sheriff the following information for each distributor the permittee intends to utilize to transport cannabis good to or from the cannabis business site:

- (1) The name, state license, and local authorization information of the distributor;
- (2) A list of names of the distribution employees who will operate distribution vehicles within the county; and
- (3) The make, model, license plate number, and VIN number of all distribution vehicles used within the county;

(C) Loitering. The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility on the premises. The cannabis business shall notify the Sheriff's Office if anyone continues to loiter around the building or premises after reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner;

(D) Reporting and tracking of product and of gross sales. Each permittee shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale), and other information which may be deemed necessary by the county. The permittee shall ensure that such information is compatible with the county's recordkeeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the Administrative Officer or his/her designee(s) prior to being used by the permittee;

(E) All cannabis goods sold, distributed, or manufactured shall be cultivated, manufactured, and transported by state licensees that maintain operations in full conformance with the state and local regulations;

(F) Emergency contact. Each permittee shall provide the Administrative Officer or his/her designee(s) with the name and telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day;

(G) Minors. With the exception of persons aged 18-20 years who are in possession of a doctor's recommendation and intend to purchase medicinal cannabis for solely medicinal reasons, persons under the age of 21 years shall not be allowed on the premises of a cannabis business and shall not be allowed to serve as a driver for any delivery service. It shall be unlawful and a violation of this chapter for any cannabis business to employ any person who is not at least 21 years of age. The entrance to the cannabis business shall be clearly and legibly posted with a notice that no person under the age of 21 years of age is permitted to enter upon the premises of the cannabis business;

(H) Display of cannabis business permit and state license. The original copy of any state license, cannabis business permit issued pursuant to Chapter 7.02, and any county issued business license shall be posted inside the cannabis business in a location readily visible to the public;

(I) Background check. Pursuant to Cal. Penal Code §§ 11105(b)(11) and 13300(b)(11), which authorizes county authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, supervisor in a cannabis business must submit fingerprints and other information deemed necessary by the Sheriff or his/her designee(s) for a background check by the Sheriff's Office. Pursuant to Cal. Penal Code §§ 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from licensing or certification based on specific criminal conduct on the part of the subject of the record. No person shall be issued a permit to operate a cannabis business or a related work permit unless they have first cleared the background check, as determined by the Sheriff or his/her designee(s), as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the county to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the background check is submitted;

(J) Permits and other approvals. Prior to the establishment and/or operation of any cannabis business, the applicant must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant government departments which may be applicable to the zoning district in which such cannabis business intends to establish and to operate;

(K) Training standards. Each cannabis business shall establish minimum training standards for employees. The Administrative Officer or his/her designee(s) shall have the discretion to require other training for the cannabis business operations should the county identify deficiencies or non-compliance issues with county or state requirements;

(L) Records and recordkeeping. Each owner and/or operator of a cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. At any time upon reasonable request of the county, each cannabis business shall file a sworn statement detailing the number of sales by the cannabis business during the previous 12-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes and fees paid or due to be paid. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the Administrative Officer or his/her designee(s);

(M) Each owner and/or operator of a cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately

of all the officers, managers, employees, agents, and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this division shall be provided to the Administrative Officer or his/her designee(s) upon a reasonable request;

(N) All cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis goods for all stages of the growing and production or manufacturing, laboratory testing, and distribution processes until purchase as set forth in MAUCRSA; and

(O) Each cannabis business shall allow county officials access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than 24 hours after receipt of the county's request, unless otherwise stipulated by the county. The county may require the materials to be submitted in an electronic format that is compatible with the county's software and hardware.

(Ord. 974, § 1, 2018)

§ 7.02.120 [RESERVED.]

#### § 7.02.130 OPERATING REQUIREMENTS FOR OUT OF COUNTY DELIVERY SERVICES.

(A) Out of county delivery services. Notwithstanding the provisions of this section, out of county delivery services are not expressly prohibited. Any out of county delivery service shall be required to obtain a cannabis business permit pursuant to this chapter prior to delivering any cannabis and/or cannabis product to any customer or purchaser in the county.

(B) The delivery of cannabis goods within the county shall only be conducted by state licensed retailers located outside of the county, including microbusinesses with a retail component, which hold a valid authorization to engage in commercial cannabis activities from the local jurisdiction of origin.

(C) Prior to commencing operations within the county, an out of county delivery service shall be required to:

(1) Obtain a cannabis business permit from the county in order to deliver cannabis goods within the county regardless of whether the retailer or microbusiness is located in a local jurisdiction;

(2) Provide the make, model, license plate number, and VIN number of all delivery vehicles that will be used to deliver cannabis goods; and

(3) Ensure the delivery vehicles meet the requirements of division (H).

(D) The information listed in (C)(2) shall be required for any new delivery vehicle prior to using the delivery vehicle within the county.

(E) The out of county delivery services shall maintain an accurate list of all its delivery employees and delivery vehicles, and shall notify the county in writing within 30 calendar days whenever any changes to the information required by this section occur.

(F) Time, place, and manner requirements.

(1) An out of county delivery service shall be limited to operating within the county only during the hours of 7:00 a.m. through 9:00 p.m., seven days a week, or as set forth in the conditions of the cannabis business permit.

(2) An out of county delivery service shall not deliver cannabis goods to any address located on publicly owned land or any address on land or in a building leased by any public agency.

(3) All deliveries of cannabis goods shall be made in person. A delivery of cannabis goods shall not be made through the use of an unmanned vehicle.

(4) An out of county delivery service shall comply with all requirements of state and local law pertaining to the state license, the local jurisdiction of origin's authorization to engage, in commercial cannabis activity, and the cannabis business permit, and all subsequent policies, procedures, and regulations which may be amended by the Administrative Officer or his/her designee(s) from time to time in order to enforce this chapter.

(G) Conduct of out of county delivery service employees. While making deliveries within the county, an employee of an out of county delivery service shall:

(1) Only travel in an enclosed motor vehicle operated by themselves or by another employee of the out of county delivery service.

(2) Only sell cannabis goods to a natural person 21 years of age or older, or a natural person 18 years of age or older who possesses a physician's recommendation for cannabis medical use only, as applicable and authorized by the state license;

(3) Ensure the cannabis goods are not visible to the public;

(4) Ensure the cannabis and/or cannabis goods are locked in a box that is secured to the inside of the delivery vehicle;

(5) Carry a valid copy of each of the following:

(a) The out of county delivery service's state license;

(b) The local jurisdiction of origin's authorization to operate;

(c) A valid cannabis business permit;

(d) The employee's government-issued identification; and

(e) An employer provided badge containing a picture and the name of the delivery employee;

(6) Carry proper shipping manifest documentation which includes the following information:

(a) The name of the out of county delivery service;

(b) The names of the authorized drivers;

(c) The type and quantity or amount of cannabis goods being transported;

(d) The unique identifiers issued by the Department of Food and Agriculture pursuant to Cal. Health and Safety Code § 11362.777;

(e) The quantity and weight or amount of cannabis goods being transported;

(f) The time and location of departure;

(g) The time and location of the expected arrival; and

(h) The make, model, and license plate number of the delivery vehicle;

(7) Not leave cannabis goods in an unattended motor vehicle unless the motor vehicle is equipped with an active vehicle alarm system; and

(8) Not carry cannabis goods valued in excess of \$5,000 at any time. This value shall be determined using the retail price of all cannabis goods carried by the out of county delivery service.

(H) Delivery vehicle requirements. Each delivery vehicle must be:

(1) Non-conspicuous and shall not display signs, logos, pictures, or any other form of advertisement which can be detectable by a bystander or observer that the delivery vehicle may be used for, or is, carrying cannabis goods; and

(2) Outfitted with a dedicated global positioning system ("GPS") device for the identifying the geographic location of the delivery vehicle. A dedicated GPS device does not include a phone or tablet. The GPS device shall be either permanently or temporarily affixed to the delivery vehicle and shall remain active and inside of the delivery vehicle at all times during the delivery. At all times, the licensed delivery service shall be able to identify the geographic location of the delivery vehicles that are making deliveries for the delivery service and shall provide the information to the county upon request.

(Ord. 974, § 1, 2018)

#### § 7.02.140 OPERATING REQUIREMENTS FOR CULTIVATORS.

(A) Cultivators permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.

(B) Cultivators shall only be permitted under this chapter and/or any subsequently created state license for cultivation as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.150 OPERATING REQUIREMENTS FOR DISTRIBUTORS.

(A) Distributors permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.

(B) Distributors shall only be permitted under this chapter and/or any subsequently created state license for distribution as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.160 OPERATING REQUIREMENTS FOR MANUFACTURERS.

(A) Manufacturers permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.

(B) Manufacturers shall only be permitted under this chapter and/or any subsequently created state license for manufacturing as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.170 OPERATING REQUIREMENTS FOR TESTING LABORATORIES.

(A) Testing laboratories permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.

(B) Testing laboratories shall only be permitted under this chapter and/or any subsequently created state license for testing laboratories as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.180 OPERATING REQUIREMENTS FOR RETAIL

(A) Retail permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.

(B) Retail shall only be permitted under this chapter and/or any subsequently created state license for microbusinesses as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.190 OPERATING REQUIREMENTS FOR MICROBUSINESSES.

(A) Microbusinesses permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.

(B) Microbusinesses shall only be permitted under this chapter and/or any subsequently created state license for microbusinesses as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.200 INSPECTION AND ENFORCEMENT.

(A) The enforcing officer charged with enforcing the provisions of this code, may enter a cannabis business site at any time, without notice, and inspect the location of any cannabis business as well as any recordings and records required to be maintained pursuant to this chapter or under applicable provisions of state law.

(B) It is unlawful for any person having responsibility over the operation of a cannabis business to impede, obstruct, interfere with, or otherwise not to allow the county to conduct an inspection, review, or copy records, recordings, or other documents required to be maintained by a cannabis business under this chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings, or other documents required to be maintained by a cannabis business under this chapter or under state or local law.

(C) The enforcing officer charged with enforcing the provisions of this chapter may enter a cannabis business site at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the county shall be logged, recorded, and maintained in accordance with established procedures by the Administrative Officer or his/her designee(s) or these regulations.

(D) Each and every violation of the provisions of this chapter is hereby deemed unlawful and a public nuisance.

(E) 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 county. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, any permit issued pursuant to this chapter being deemed null and void, disgorgement and payment to the county for any monies unlawfully obtained, costs of

abatement, 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 cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety, or welfare, the Administrative Officer, or his/her designee(s), may take immediate action to temporarily suspend a cannabis business permit issued by the county, pending a hearing before the Administrative Officer, or his/her designee(s).

(F) Each and every violation of the provisions of this chapter and chapter 19.43 may in the discretion of the District Attorney or County Attorney be prosecuted as a misdemeanor, and upon conviction be subject to a fine not to exceed \$1,000, or imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense. (G) Each and every violation of the provisions of this chapter and chapter 19.43 shall be subject to the administrative citations for illicit cannabis activities and violations of cannabis business permit as issued by San Benito County per § 1.04.005.

(H) The remedies provided herein are not to be construed as exclusive remedies. The county is authorized to pursue any proceedings or remedies provided by law.

(Ord. 974, § 1, 2018)

#### § 7.02.210 COMPLIANCE WITH STATE AND LOCAL LAWS.

It shall be the responsibility of the owners and employees of the cannabis business to ensure that the cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, including the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), and any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed by the county as conditions of approval. Nothing in this chapter shall be construed as authorizing any actions that violate state or local law regarding the operation of a cannabis business.

(Ord. 974, § 1, 2018)

#### § 7.02.220 PERMIT HOLDER RESPONSIBLE FOR VIOLATIONS.

The person to whom any permit is issued pursuant to this chapter shall be responsible for any and all violations of the state and/or local laws, as well as any the regulations promulgated under this chapter, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the cannabis business site whether or not said violations occur within the permittee's presence.

(Ord. 974, § 1, 2018)

§ 7.02.230 LIMITATIONS ON COUNTY'S LIABILITY.

To the fullest extent permitted by law, the county shall not assume any liability whatsoever with respect to having issued a cannabis business permit pursuant to this chapter or otherwise authorizing a commercial business to engage in commercial cannabis activity.

(Ord. 974, § 1, 2018)