

Subject: Public Comment – Proposed Cannabis Ordinance Amendments (Background Checks, Canopy, and Reporting Requirements)

Pillsbury Family Farms, Inc. submits the following comments regarding the proposed cannabis ordinance amendments.

Exhibits A–I are provided in support of the above comments and are referenced to demonstrate consistency with state regulations, established county practices, and current County implementation.

1. Background Checks & “Active Warrant” Provision

The proposed language states:

“Should the Community Development Department become aware of active warrants issued for the Applicant, Permittee and/or Property Owner, the processing of the application shall pause until resolution of the warrant.”

We respectfully request clarification on how the Community Development Department (CDD) becomes aware of such information, given that access to warrant data is typically restricted through law enforcement systems such as CLETS.

This raises significant concerns regarding:

- Jurisdictional boundaries between planning staff and law enforcement
- Due process protections, including notice and the opportunity to respond
- Whether applicants are subject to undisclosed or ongoing background scrutiny without a defined process

Other California counties have already established clearer, more transparent frameworks:

- Stanislaus County provides applicants with notice of disqualification, access to their records, and a formal appeal pathway through the Sheriff’s Department
- Mono County allows applicants to submit evidence of rehabilitation, and decision-makers may approve applications if the issue is not substantially related or has been sufficiently addressed
- City of Mt. Shasta maintains a clear and structured separation between planning functions and law enforcement responsibilities

These models demonstrate that even where background concerns exist, applicants are afforded a defined and fair pathway forward.

We strongly encourage Lake County to adopt similar safeguards, including:

- Written notice of any disqualifying issues or factors
- Access to the records relied upon
- A clear and timely appeal or review process

2. Reduced Canopy & Minimum Canopy Requirements

The State of California has already established a clear framework allowing cultivators to reduce their canopy size.

The Department of Cannabis Control (DCC) explicitly allows licensees to request a reduced-size cultivation license, including at renewal or through a license modification. Additionally, state regulations recognize cultivation licenses as small as 2,500 square feet (Specialty Cottage). The state's framework not only allows licensing and fee structure, demonstrating that downsizing is an anticipated and supported component of cannabis regulations.

This demonstrates that:

- The State supports flexibility in scaling operations down
- Smaller cultivation sizes are legitimate and protected within the regulatory framework

Any local policy that imposes:

- Minimum canopy percentages, or
- Restrictions that effectively prevent downsizing

is inconsistent with the intent of the State's regulatory structure.

A percentage-based minimum canopy does not account for:

- Differences in parcel size approvals (e.g., 1 acre vs. 20 acres)
- Physical constraints of individual farms
- The economic realities faced by smaller operators

For example, some farms may only have a limited amount of cleared or usable cultivation area. Imposing a percentage-based minimum forces those operators into an uneven standard that does not reflect state policy.

We respectfully recommend that the County:

- Align with the State's framework allowing reductions down to 2,500 sq. ft.
- Avoid implementing minimum canopy thresholds that disproportionately impact smaller farms

3. Annual Inspection Reports & Public Disclosure of Information

We understand and support the County's goal of transparency. However, the proposed expansion of publicly available inspection and operational data raises serious concerns regarding confidential business information and intellectual property (IP).

Certain requested information—such as:

- Cultivation methods
- Growing mediums

- Operational processes

may constitute trade secrets under California law.

Cannabis legal guidance, including work by attorneys such as Omar Figueroa, has emphasized that cultivation techniques and operational processes can qualify as protected intellectual property, similar to proprietary practices in other regulated industries.

Public disclosure of such information could:

- Undermine a farm's competitive advantage
- Expose proprietary cultivation practices
- Create economic harm to compliant operators

Other industries are not required to disclose their proprietary processes:

- Wineries are not required to disclose fermentation methods
- Food manufacturers are not required to disclose formulas

Cannabis operators should be afforded the same protection.

We recommend that the County:

- Limit public disclosure to non-proprietary compliance information
- Clearly define and protect confidential business information and trade secrets within reporting requirements

4. Scope of Annual Monitoring Requirements

The current list of required materials for annual inspection and monitoring reports includes a broad range of operational and administrative documentation.

While some elements are appropriate for compliance verification, others may exceed what is necessary and venture into areas already covered by existing public systems, including:

- Secretary of State business filings
- State licensing databases
- Tax compliance records

We encourage the Board to evaluate:

- What information is necessary for compliance, versus
- What may constitute overreach or duplication of publicly available data

Additionally, requiring disclosure of detailed cultivation practices raises concerns about unnecessary exposure of proprietary methods, as discussed above.

5. Overall Alignment with State Policy

CDD has stated an intent to align with state regulations. However, the proposed amendments appear to:

- Introduce additional procedural barriers not present at the state level

- Expand reporting requirements beyond what is necessary for compliance
- Create uncertainty for applicants regarding expectations and outcomes

The State's framework is designed to:

- Encourage compliance
- Allow operators to adapt (including reducing canopy size)
- Provide structured pathways where issues arise

Local regulations should reinforce—not conflict with—those principles.

Pillsbury Family Farms, Inc. respectfully urges the Board to:

- Establish a clear and transparent pathway forward for applicants facing background-related concerns, consistent with models used in Stanislaus and Mono Counties
- Align canopy regulations with state standards, including allowing reductions down to 2,500 sq. ft.
- Protect confidential business information and intellectual property from public disclosure
- Ensure that local regulations support, rather than hinder, compliant operators

A predictable, fair, and transparent regulatory framework is essential for maintaining a viable cannabis industry in Lake County.

Pillsbury Family Farms, Inc.

Sky Laiwa

Executive Vice President & Director of Operations

Attachment Index

Pillsbury Family Farms, Inc.

Public Comment – Proposed Cannabis Ordinance Amendments

Exhibit A

Stanislaus County Cannabis Background Check Requirements

Purpose: Demonstrates that applicants are provided notice, access to records, and a formal appeal pathway through the Sheriff's Department.

Exhibit B

Mono County Cannabis Ordinance (Background Review & Rehabilitation)

Purpose: Demonstrates that applicants may submit evidence of rehabilitation and may still be approved where issues are not substantially related.

Exhibit C

City of Mount Shasta Cannabis Ordinance (Background Check Coordination)

Purpose: Demonstrates that planning departments coordinate with law enforcement for background determinations rather than independently acting on criminal information.

Exhibit D

California Department of Cannabis Control – Canopy Reduction Guidance

Purpose: Demonstrates that the State allows cultivators to reduce canopy size through established licensing processes.

Exhibit E

California State Auditor – Cannabis Licensing Oversight Report

Purpose: Demonstrates that clear appeal pathways and consistent local processes are recognized as critical safeguards for fairness in cannabis licensing.

Exhibit F

California Department of Cannabis Control – Cultivation License Types (2,500 sq. ft. Specialty Cottage)

Purpose: Demonstrates that the State recognizes small-scale cultivation licenses, establishing a baseline of 2,500 square feet.

Exhibit G

California Department of Cannabis Control – Fee Structure for Reduced Canopy Licenses

Purpose: Demonstrates that the State incorporates canopy reduction into its licensing and fee structure, confirming that downsizing is an anticipated and supported component of regulation.

Exhibit H

Cannabis Trade Secret and Intellectual Property Protection Guidance

Purpose: Demonstrates that cultivation practices and operational methods may qualify as protected trade secrets under California law and should not be subject to public disclosure.

Exhibit I

Lake County 2025 Cannabis Commercial Annual Compliance Monitoring Requirements

Purpose: Demonstrates the scope of County-required compliance reporting, including duplication of state-managed information and the collection of operational details that may extend beyond necessary compliance verification.

Exhibit A

Stanislaus County Background Check Requirements

Purpose: Demonstrates that applicants are provided with notice, access to records, and a defined appeal pathway through the Sheriff's Department

**COMMERCIAL CANNABIS ACTIVITIES
PERMITEE BACKGROUND CHECK REQUIREMENTS
PERMIT DENIAL APPEAL PROCESS**

BACKGROUND CHECK REQUIREMENTS.

The Chief Executive Officer or his/her designee(s) shall conduct a background check on all Applicants, including owners and property owners, and shall deny the application for any reason stated in Cal. Business and Professions Code §526057 and Title 3 California Code of Regulations §58113. In addition, the following acts are substantially related to the qualifications, functions, or duties of the applicant and the owner of the property under the County's permit and shall constitute grounds for denial of the application:

- a) Facts showing that the Applicant is dishonest or has been convicted of a crime where an element of which is the specific intent to deceive, defraud, steal, or make or suborn a false statement.
- b) Participation in, or a close association with members of, a "criminal street gang" as defined in Cal. Penal Code §518622 subdivision (f), or "organized crime" as defined in Cal. Penal Code §51862 subdivision (d), or a "continuing criminal enterprise" as defined in 21 US. Code 5848 subdivision (c), or an ongoing organization or group of individuals, formal or informal, where the group of individuals function as a continuing unit to achieve shared illegal objectives.
- c) Failure to comply with any state or local law, ordinance or regulation including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code.
- d) Providing false, misleading, or incomplete information in the application materials.

BACKGROUND CHECK FAILURE APPEAL PROCESS.

- a) The Applicant failing the background check may appeal to the Sheriff's Department by taking the following steps:
 - 1) Visit the Department of Justice's website and follow the directions to request the relevant criminal history records.

- 2) If the criminal history records show prior arrests and/or convictions, contact the appropriate arresting agency and obtain copies of the arrest reports.
- 3) Within 45 days of the date of the notice of background check failure, deliver a written appeal to the Sheriff's Department containing a concise statement of the reasons for your appeal and any court records supporting your appeal.

PERMIT DENIAL APPEAL PROCESS.

Applicants wishing to appeal a decision by the Stanislaus County Chief Executive Officer, or designee, that completely removes the Applicant from the selection process, must follow the procedures set forth below. Protests or appeals that are not submitted in accordance with the procedures will not be reviewed. This appeal process is not available for those applicants failing the background check and is not available for those placed on the retail ranking list.

a) Filing the Protest.

- 1) The Applicant may file a written protest with the Chief Executive Officer, not later than five (5) days after date of mailing a notice of decision.
- 2) The protest shall be physically delivered or sent by registered mail to the Chief Executive Officer. Emailed requests will not be honored.
- 3) The protest must be physically received by the Chief Executive Officer before 5:00 PM pacific standard time on the last day of the five (5) day protest period.

b) The protest shall:

- 1) Include the name, address, and business telephone number of the protestor;
- 2) Identify the project under protest by registration number, Assessor Parcel Number, and street address of the property;
- 3) Contain a concise statement of the grounds for protest; provided, however, application process and procedures, including evaluation criteria, shall not be proper grounds for protest; and

4) Include all supporting documentation, if any. Documentation submitted after filing the protest will not be considered during review of the protest or during any appeal.

c) Protest Review.

Upon receipt of a Protest, the Chief Executive Officer shall direct an Assistant Chief Executive Officer to review all the submitted materials and to create and retain a written record of the review, and to respond to the protest. The assigned Assistant Chief Executive Officer shall respond in writing at least generally to each material issue raised in the protest not later than ten (10) days after receipt.

d) Appeal.

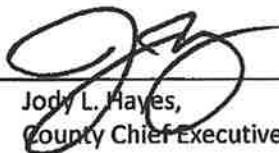
The Applicant may appeal the assigned Assistant Chief Executive Officer's decision in writing to the Chief Executive Officer, with a copy to the assigned Assistant Chief Executive Officer, not later than ten (10) days after date the decision is mailed to the protesting party. A three-member appeal review committee comprised of the Chief Executive Officer, or designee other than the assigned Assistant Chief Executive Officer, and two Department Heads designated by the Chief Executive Officer shall review and decide the appeal based on the grounds and documentation set forth in the applicant's protest and the assigned Assistant Chief Executive Officer's response. The Applicant may be represented by legal counsel at their cost. Each party shall bear its own costs and expenses involved in the protest and appeal process, including any subsequent litigation. The decision of the appeal review committee shall be final.

These regulations and standards shall take effect upon publication on the County's website.

APPROVED & ADOPTED by the Chief Executive Officer of Stanislaus County pursuant to Stanislaus County Code section 7.78.210 on August 22, 2018;


CHIEF EXECUTIVE OFFICER

BY:



Jody L. Hayes,
County Chief Executive Officer

ATTEST:
ELIZABETH KING,
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California

BY: 
Elizabeth A. King,
Clerk of the Board

APPROVED AS TO FORM:
JOHN P. DOERING
County Counsel


BY: 
Thomas E. Boze
Assistant County Counsel

Exhibit B

Mono County Cannabis Ordinance

Purpose: Demonstrates that applicants may submit evidence of rehabilitation and may still be approved if the issue is not substantially related

County of Mono
Chapter 5.60
CANNABIS OPERATIONS

Sections:

- 5.60.010 – Purpose
- 5.60.020 – **PLACEHOLDER**
- 5.60.030 – Definitions
- 5.60.040 – Permits Required
- 5.60.050 – Exemptions
- 5.60.060 – Limitation on Number of Cultivation Permits Available & Submission Procedure
- 5.60.070 – Application Process
- 5.60.080 – Review of Applications
- 5.60.090 – Renewal and Modification Process
- 5.60.100 – Fees
- 5.60.110 – Cannabis Operation Permit Nontransferable
- 5.60.120 – Commercial Cannabis Operating Requirements – All Cannabis Businesses
- 5.60.130 – Additional Regulations for Cannabis Cultivation
- 5.60.140 – Additional Regulations for Cannabis Retail
- 5.60.150 – Additional Regulations for Cannabis Manufacturing
- 5.60.160 – Additional Regulations for Cannabis Testing
- 5.60.170 – Additional Regulations for Cannabis Distribution
- 5.60.180 – Advertising, Packaging and Labeling Requirements
- 5.60.190 – Suspension or Revocation of Cannabis Operation Permit
- 5.60.200 – Procedure for Suspension or Revocation
- 5.60.210 – Service Requirements
- 5.60.220 – Enforcement and Penalties
- 5.60.230 – Severability

5.60.010 Purpose.

This Chapter provides regulations for the local permitting of commercial cannabis activities under specified conditions in the unincorporated areas of the County when authorized by a land use permit issued in accordance with the Mono County General Plan; its purpose is to protect the public health, safety, and welfare; enact effective regulatory and enforcement controls in compliance with state law and any applicable federal enforcement guidelines; and minimize potential for negative impacts on people, communities, and the environment in the unincorporated area while accommodating the health needs of medical cannabis patients and establishing an avenue through which adult-use businesses may operate consistent with state law.

Commercial cannabis activity is defined in Section 5.60.030, and includes the commercial cultivation, possession, manufacture, processing, storing, laboratory testing, packaging, labeling, transporting, distribution, or sale of cannabis or a cannabis product.

5.60.020 PLACEHOLDER

Attachment A

5.60.030 Definitions.

The following words and phrases shall have the meanings set forth below when used in this Chapter.

1. “A-permit” means a County permit issued pursuant to this Chapter for cannabis or cannabis products that are intended for adults who are twenty-one (21) years of age and over and who do not possess a physician's recommendation.

2. “The Act” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as found in California Business and Professions Code section 26000, *et seq.* and as may be amended.

3. “Advertise” means the publication or dissemination of an advertisement.

4. “Advertisement” includes any written or verbal statement, illustration or depiction which is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

- a) Any label affixed to any cannabis or cannabis products, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling.
- b) Any educational material, editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any permittee, and which is not written by or at the direction of the permittee.

5. “Advertising sign” is any sign, poster, display, billboard or any other stationary or permanently affixed advertisement promoting the sale of cannabis or cannabis products which are not cultivated, manufactured, distributed, or sold on the same lot.

6. “Applicant” means a person or entity who has submitted an application for a cannabis operation permit or renewal of a cannabis operation permit under this Chapter.

7. “Application” means the form(s) provided by Mono County in accordance with this Chapter for the purpose of seeking a cannabis operation permit.

8. “Approval Authority” means the Mono County Board of Supervisors or its authorized designee.

9. “Attractive to children or youth” refers to products, packaging or labeling or

Attachment A

advertising that may especially encourage persons under age 21 to initiate cannabis consumption or otherwise to consume (accidentally or purposely) cannabis or cannabis products. The term includes:

- a) Products that (1) resemble a non-cannabis consumer product of a type that is typically consumed by, or marketed to, children or youth, such as a specific candy, baked treat or snack products; or (2) occur in the shape of a cartoon, human or any other animate creature, including but not limited to, an insect, toy, fruit, vehicle or robot.
- b) Packaging or labeling that (1) resembles packaging or labeling of a non-cannabis consumer product of a type that is typically consumed by, or marketed to, children or youth; (2) contains images depicting a cartoon, human or any other animate creature, including but not limited to, an insect, toy, fruit, vehicle, or robot, or images of a candy, baked good or snack products resembling a non-cannabis consumer product of a type that is typically consumed by, or marketed to, children or youth; (3) contains text referring to a cartoon, or any other animate creature including an insect, toy, fruit, vehicle or robot; or (4) contains any images, characters, or phrases that closely resemble images, characters, or phrases popularly used to advertise to children.
- c) Advertising that (1) mimics advertising of a non-cannabis consumer product of a type that is typically consumed by, or marketed to children or youth; (2) depicts a cartoon, or any non-human animate creature, including but not limited to, an insect, toy, fruit, vehicle or robot, or images of a candy, baked good or snack product typically marketed to youth; (3) uses actors or human characters who appear to be under age 21; or (4) or includes celebrities who specifically appeal to youth.

10. "Bureau" means the Bureau of Cannabis Control within the California Department of Consumer Affairs.

11. "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 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 division, "cannabis" does not mean "industrial hemp" as defined by California Health and Safety Code section 11018.5.

12. "Cannabis accessories" means any materials or devices used for packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

Attachment A

13. “Cannabis business” means any business activity involving cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of cannabis, of cannabis products or cannabis accessories, whether or not carried on for gain or profit.

14. “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate is not considered food, as defined by California Health and Safety Code section 109935, or a drug, as defined by California Health and Safety Code section 109925.

15. “Cannabis operation permit” means a permit issued by the County to an applicant to perform commercial cannabis activities under this Chapter.

16. “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. “Cannabis product” also means marijuana products as defined by Section 11018.1 of the California Health & Safety Code and is not limited to medical cannabis products.

17. “Cannabis retailer” or “retailer” means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, either individually or in any combination, to consumers, cannabis or cannabis products whether intended for recreational or medicinal use. “Cannabis retailer” or “Retailer” shall also mean a person required to be licensed as a retailer, microbusiness, or nonprofit pursuant to California Business and Professions Code section 26000 *et seq.*

18. “Canopy” means the designated area(s) at a licensed premise, except nurseries, that will contain mature plants at any point in time, as follows:

- a) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;
- b) Canopy may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, or garden plots; and
- c) If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

19. “Cartoon” means any animation, drawing or other depiction of an object, person, animal, creature or similar caricature that satisfies any of the following criteria:

Attachment A

- a) The use of comically exaggerated features;
- b) The attribution of human characteristics to insects, animals, plants or other objects, or the similar use of anthropomorphic technique; or
- c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, x-ray vision, tunneling at very high speeds or transformation.

20. "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.

21. "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

22. "Children or youth" mean individuals under age 21.

23. "Commercial cannabis activity" means the cultivation, possession, manufacture, processing, storing, laboratory testing, packaging, labeling, transporting, distribution, delivery, or sale of cannabis or a cannabis product, but excludes those activities described in section 5.60.050 (E) of this Chapter.

24. "Commercial cannabis operation" means a person or entity who engages in commercial cannabis activities.

25. "Conditional use permit" or "use permit" means a land use permit issued under the Mono County General Plan.

26. "Constituent" means any ingredient, substance, chemical, or compound, other than cannabis or water, that is added by the manufacturer to a cannabis product during the processing, manufacture, or packing of the cannabis product.

27. "County" means the County of Mono.

28. "Cultivator" means all persons required to be licensed to cultivate cannabis pursuant to California Business and Professions Code Sections 26000, *et seq.* and 3 CCR § 8000, as may be amended.

29. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis including, but not limited to, the operation of a nursery or processing facility. Within the definition of cultivation, the permit types, corresponding to state cultivator license types set forth in California Business and Professions Code section 26061 and 3 CCR § 8201, as may be amended, apply.

30. "Day care center" has the same meaning as in California Health and Safety Code section 1596.76.

Attachment A

31. “Delivery” means the commercial transfer of cannabis or cannabis products by a licensee to a customer at a non-commercial location. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer for the purpose of a commercial transfer (e.g., online sales). Deliveries within the unincorporated areas of the County are prohibited.

32. “Department” means the Mono County Community Development Department.

33. “Director” means the Director of the Mono County Community Development Department or an authorized representative.

34. “Distinguishable” means perceivable by an ordinary consumer by either the sense of smell or taste.

35. “Distribute” or “Distribution” means the procurement, sale, and transport or transfer, of cannabis and cannabis products between licensees for the purposes of conducting commercial cannabis activity authorized under California Business & Professions Code Sections 26000, *et seq.*

36. “Distributor” shall mean a person required to be licensed as a distributor pursuant to California Business and Professions Code Sections 26000, *et seq.*

37. “Edible cannabis product” or “Edible cannabis” means a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

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

39. “Health-related statement” means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of cannabis or cannabis products and health benefits, or effects on health.

40. “Hearing Officer” means a person appointed by the Approval Authority 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:

- a) An administrative law judge provided by the State of California Office of Administrative Hearings to function as the County Hearing Officer pursuant to

Attachment A

Chapter 14 of Part 3 of Division 2 of Title 3 of the California Government Code;

- b) A person selected randomly from a panel of attorneys willing to serve as a Hearing Officer;
- c) An independent contractor assigned by an organization or entity which provides hearing officers; or
- d) Such other person determined by the Approval Authority to be capable of serving as an impartial decision-maker.

41. “Hoop-House” and/or “Shade-Cloth” means a single story, unoccupied building which does not have a workstation or repair shop and is used exclusively for the growing and storage of food, herbs, ornamental crops or cannabis. Such a building must be open on one or more sides, be readily removable, be constructed of flexible material and have a cloth type membrane covering the frame.

42. “Identification card” has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended or renumbered.

43. “Labeling” means any label or other written, printed, or graphic matter upon cannabis or a cannabis product, upon its container or wrapper, or that accompanies any cannabis or cannabis product.

44. “Licensee” means any person holding a state license under California Business and Professions Code Sections 26000, *et seq.*, regardless of whether the license held is an A-license or an M-license and includes the holder of a testing laboratory or processor license.

45. “Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of a state license for commercial cannabis activities, or the state agency authorized to take disciplinary action against the licensee.

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

47. “Listed price” means the price listed for specific weight of flower or for cannabis products on their packages or on any related shelving, posting, advertising or display at the place where the products are sold or offered for sale.

48. “M-permit” means a County permit issued pursuant to this Chapter for commercial cannabis activity involving medicinal cannabis.

49. “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

Attachment A

50. “Manufacturer” means a person who conducts the production, preparation, propagation, or compounding of cannabis or cannabis products 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 or cannabis products or labels or relabels its container.

51. “Manufactured cannabis” means the same as cannabis product.

52. “Manufacturing Level 1,” for sites that manufacture cannabis products using nonvolatile solvents, or no solvents.

53. “Manufacturing Level 2,” for sites that manufacture cannabis products using volatile solvents.

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

55. “Market” or “Marketing” means any act or process of promoting or selling cannabis or cannabis products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

56. “Medicinal cannabis” or “medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation.

57. “Microbusiness” means a licensee conducting three of the following activities: Cultivation less than 10,000 square feet; Manufacturing Level 1; Distribution; and Retail. When applying for a permit, the licensee must indicate which activities will be conducted and must comply with all requirements for each activity in which the licensee engages (see California Business and Professions Code section 26070).

58. “Non-owner with a financial interest” means any person or entity with an investment into a cannabis business, a loan provided to a cannabis business, or any other equity in a cannabis business that is not qualified as an owner, excluding persons or entities whose only interest in a permittee is an interest in a diversified mutual fund, blind trust, or similar instrument (see California Business and Professions Code section 26051.5(d)).

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

Attachment A

60. “Owner” means any of the following: (1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a permit (or permit holder), unless the interest is solely a security, lien, or encumbrance; (2) The chief executive officer of a nonprofit or other entity applying for, or holding, a permit; (3) A member of the board of directors of a nonprofit applying for, or holding, a permit; or (4) An individual who will be participating in the direction, control, or management of the person applying for, or holding, a permit.

61. “Package” or “Packaging” means any container or wrapper that may be used for enclosing or containing any cannabis products. The term “package” does not include any shipping container or outer wrapping used solely for the transportation of cannabis or cannabis products in bulk quantity to another licensee or licensed premises.

62. “Permittee” means a person issued a cannabis operation permit under this Chapter.

63. “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.

64. “Premises” means the designated structure or structures and land specified in the application that is owned, leased, 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. There may be multiple premises on a single parcel.

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

66. “Processor” is a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis and nonmanufactured cannabis products.

67. “Property owner” means the individual or entity who is the record owner of the property or premises where commercial cannabis activities are located or are proposed to be located.

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

69. “Purchaser” means the customer who is engaged in a transaction with a permittee for purposes of obtaining cannabis or cannabis products.

70. “Qualified patient” has the same definition as in California Health and Safety Code section 11362.7, as it may be amended or renumbered.

71. “Retailer” shall have the same meaning as cannabis retailer.

Attachment A

72. “Retail” or “Retail sale” means the retail sale of cannabis or cannabis products to customers.

73. “Retail facility” means the facility out of which a cannabis retailer operates.

74. “Self-service display” means the open display or storage of cannabis, cannabis products or cannabis accessories in a manner that is physically accessible in any way to the general public without the assistance of the cannabis retailer or employee of the cannabis retailer involving a direct person-to-person transfer between the purchaser and the cannabis retailer or the employee of the cannabis retailer. Vending machines and sample trays are forms of self-service display.

75. “State” means the State of California.

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

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

- a) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activities in the state; and
- b) Licensed by the Bureau.

78. “Transport” or “transportation” means the same as “Distribute” or “Distribution”.

79. “Volatile manufacturing” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product with the use of volatile solvents or substances including but not limited to, butane and ethanol.

80. “Volatile solvent” shall have the same meaning as in California Health and Safety Code section 11362.3 (b)(3), unless otherwise provided by law or regulation.

81. “Youth center” has the same meaning as in California Health and Safety Code section 11353.1.

5.60.040 Permits required.

Commercial cannabis activities shall not be allowed in the unincorporated area of Mono County without first securing all permits, licenses, and other entitlements required by the Mono County General Plan, the Mono County Code and state law and regulation.

- A. It is unlawful for any person to conduct, engage in or allow to be conducted or engaged in a commercial cannabis activity in the unincorporated portion of Mono County, unless the County has issued such person a cannabis operation permit

Attachment A

under this Chapter and the permit is in effect. Notwithstanding the above, the permits issued under this Chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to such laws or the Mono County General Plan. The fact that an applicant possesses other types of state or County licenses or permits shall not exempt the applicant from obtaining a cannabis operation permit under this Chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this Chapter.

- B. A separate cannabis operation permit is required for each type of cannabis activity permitted by the County and carried out on or at the premises, regardless of ownership. For purposes of this Chapter all forms of cultivation licensed by the state are considered to be of the same type. Except for testing laboratory licenses, all license/permit classes shall be distinguished based on whether the business is for commercial adult-use cannabis activity (“A”) or for commercial medicinal cannabis activity (“M”).
- C. A conditional use permit is required for all commercial cannabis activities, unless otherwise indicated by law. The application for a use permit, and for amendments thereto and extensions thereof, shall be processed in accordance with the Mono County General Plan. The Planning Commission is the governing body authorized to consider and approve a use permit for cannabis activities and to consider extensions of and amendments to such use permits. Appeals from the decision of the Planning Commission are governed by Chapter 47 of the Mono County General Plan.
- D. Applications for a cannabis operation permit under this Chapter and a use permit or other land use entitlement for the same premises may be submitted simultaneously, however no permit shall be issued under this Chapter unless and until the corresponding land use entitlement has been approved. The cannabis operation permit must be consistent with the land use entitlement issued by the County pursuant to the Mono County General Plan, as applicable.
- E. A federally recognized tribe wishing to enter the state cannabis market or otherwise engage in commercial cannabis activities within the unincorporated area of the County for which state and/or County permits are required may, in lieu of a cannabis operation permit issued under this Chapter, enter into an MOU with the Mono County Board of Supervisors, which addresses and substantially meets the requirements of this Chapter and the Mono County General Plan.
- F. All cannabis businesses located in the unincorporated areas of the County must obtain a valid business license pursuant to Mono County Code Chapter 5.04.
- G. Pursuant to California Business and Professions Code Section 26000, *et seq.*, a valid license issued by the state shall be required to operate any commercial cannabis activity within the County and such other licenses, permits or approvals as

Attachment A

may be required by any other state, local or federal governmental agency or authority.

- H. The permittee shall post or cause to be posted at the premises, all County and state permits, and licenses required to operate. Such posting shall be in a central location, visible to all persons entering the premises, at the operating site, and in all vehicles, that distribute cannabis or cannabis products.

5.60.050 Exemptions.

- A. The following are not considered commercial cannabis activities and are **exempt** from the requirements of this Chapter, except as provided in subparagraph B:
 - 1. Possession, storage, manufacturing, transportation or cultivation of medicinal cannabis, pursuant to Section 11362.7 of the California Health and Safety Code, provided the qualified patient, possesses, stores, manufactures, transports, or cultivates cannabis exclusively for his or her personal medical use, and does not provide, donate, sell, or distribute cannabis to any other person. Qualified patients shall, upon request, provide appropriate documentation to the County demonstrating that they have a valid doctor's recommendation to use cannabis for medicinal purposes. This exemption does not apply to qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medicinal purposes, pursuant to Section 11362.775 of the California Health and Safety Code, which section will be repealed in January 2019.
 - 2. Possession, storage, manufacturing, transportation or cultivation of medicinal cannabis by a primary caregiver on behalf of a qualified patient, within the meaning of Section 11362.7 of the California Health and Safety Code and within the amounts provided in Section 11362.77 of the same code, provided the primary caregiver does not receive remuneration for these activities except for compensation in full compliance with subsection (c) of Section 11362.765 of the same code. Primary caregivers shall, upon request, provide appropriate documentation to the County demonstrating that they are a primary caregiver for a qualified patient. This exemption does not apply to qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medicinal purposes, pursuant to Section 11362.775 of the California Health and Safety Code, which section will be repealed in January 2019.

Attachment A

3. Possession, processing, storage, transportation, or donation of not more than 28.5 grams of cannabis or not more than eight (8) grams of concentrated cannabis to or by persons twenty-one (21) years of age or older pursuant to Section 11362.1 (a) of the California Health and Safety Code.
 4. The cultivation of up to six (6) cannabis plants by persons twenty-one (21) years of age or older as allowed pursuant to Section 11362.1 (a) of the California Health and Safety Code.
- B. Qualified patients or their primary caregivers engaged in cultivation or manufacturing, as described in paragraphs A.1 and A.2, shall register with the Department, on a form provided for that purpose, within ninety (90) days of the effective date of this Chapter. Nothing in this section or Chapter shall be deemed to exempt or excuse qualified patients or their primary caregivers or persons engaged in personal use under paragraphs A.3 and A.4 from compliance with any other State or local law, regulation or requirement.

5.60.060 Limitation on number of cultivation permits available & submission procedure.

- A. The number of cannabis operation permits issued by the County for cultivation under this Chapter shall be limited to ten (10). Applications will be processed in the order in which they are received. Multiple state cultivation licenses, including licenses for different cultivation types, may be permitted under one cannabis operation permit for cultivation provided they are all on the same parcel.
- B. To be eligible for consideration, applications for cultivation must be hand-delivered to an employee at the front desk of the Community Development Department office in Mammoth Lakes at the address stated on the application, during regular business hours. Upon receipt of the application, the employee will conduct a preliminary review to ensure that all required components of the application are included. A list of those components will be provided with the application form. If the employee determines that any component is missing, he or she will provide the applicant with a checklist indicating the missing item(s) and will not date stamp, initial or accept the application for processing. If the employee determines that the application contains all required components, then the application will be date stamped, initialed and accepted for processing.
- C. Application denials, or failure to correct incomplete applications within the time provided by section 5.60.080, will result in the application losing its place in the processing line. In such event, the next-received, date stamped, and initialed application will then enter the processing system.
- D. This section is only intended to create a maximum number of cannabis operation permits for cultivation that may be issued within the County. Nothing in this

Attachment A

Chapter creates a mandate that the County must issue any or all of the ten (10) permits allowed for cultivation under this Chapter if it is determined that it is in the best interest of the County to issue less than the maximum number, or if the applicants do not meet the standards which are established in the application requirements.

- E. The Mono County Board of Supervisors, in its discretion, may at any time, reassess the number of cannabis operation permits for cultivation which are authorized by this section. The Board, in its discretion, may determine by resolution that the number of cannabis operation permits for cultivation permits should be reduced, or be expanded.

5.60.070 Application process.

- A. Each application, completed on the form(s) and in the manner prescribed by the Department, for an annual cannabis operation permit shall be submitted to the Department. Applications for all business types, except cultivation, may be submitted in person or by mail, email or fax; applications for cultivation must be submitted in person, in accordance with section 5.60.060.
- B. In all cases, the application shall contain, without limitation, the following. To the extent any of these requirements are identical to the state's application requirements the same documentation submitted to the state may be used for purposes of the cannabis operation permit
 1. The full name, date of birth, mailing address, email address and telephone number for all property owners, owners and applicants.
 2. Written proof (e.g., California driver's license, California identification card, or certified birth certificate) that all applicants, owners, supervisors, and employees are eighteen (18) years of age or older for M-permits, and twenty-one (21) years of age or older for A-permits.
 3. The name, date of birth, and type of government issued identification and identification number for any non-owner with a financial interest as defined in section 5.60.030.
 4. If the applicant is a business entity or any form of legal entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the California Secretary of State, as applicable.
 5. The names and addresses of any other cannabis operations currently being operated by any of the property owners, owners, or applicants, or that have previously been operated by any of the property owners, owners, or applicants, whether in Mono County or otherwise, and a statement of

Attachment A

whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.

6. A 24-hour emergency contact phone number.
7. The physical address and assessor's parcel number(s) (APN or APNs) of the premises upon which the proposed commercial cannabis operation will be located.
8. Proof of ownership of property or premises; or if the property or premises on which the commercial cannabis operation is to occur is rented or leased, permittee shall submit written permission from the property owner containing the property owner(s)' notarized signature authorizing the permittee to engage in commercial cannabis activities, as described in the application, at the site.
9. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the facility, loading zones and all areas in which cannabis, cannabis products and cannabis waste will be stored, grown or dispensed.
10. A statement of whether the applicant is applying for an M-permit or an A-permit, if applicable.
11. A completed copy of each application submitted (or to be submitted) by the applicant to the state for an annual license issued under California Business and Professions Code Sections 26000, *et seq.*
12. A list of all applicable licenses and permits required to operate the type(s) of commercial cannabis activity(ies) the applicant is seeking to engage in, including but not limited to licenses required pursuant to California Business and Professions Code Sections 26000, *et seq.*, along with a statement whether the applicant has obtained (or when he or she will obtain) such approvals.
13. A detailed operating plan which includes but need not be limited to: a full description of the proposed activities and products to be cultivated, curated and/or sold; an overview of the processes and procedures to be utilized; how chemicals, pesticides and fertilizers will be stored, handled, used and disposed, as applicable; manufacturing methods; transportation plan; inventory procedures; labor standards and employee training plan, as applicable; hours of operation; and quality control procedures, as applicable.
14. A detailed business plan.

Attachment A

15. A cannabis waste management plan, as required by business type.
16. A confidential security plan, as required by business type, for review and approval by the Mono County Sheriff's Office.
17. If applicable, the applicant's seller's permit number issued pursuant to California Revenue and Taxation Code section 6001 *et seq.* or a statement that the applicant is currently applying for a seller's permit.
18. A statement by the applicant and any person involved in management that it has the ability to comply with all laws regulating cannabis businesses in the State of California and that it shall maintain compliance during the term of the permit.
19. Documentation such as resumes, portfolios, professional references or other relevant materials to demonstrate the applicant's and any person involved in management's experience or ability to successfully operate the cannabis business.
20. Authorization for the County, its agents and employees to seek verification of the information contained in the application.
21. Attestation by the applicant and owner(s) that the applicant and owner(s) will complete the Live Scan process at the Mono County Sheriff's Office.
22. Information or materials related to the rehabilitation of any applicant or owner who has been convicted of an offense which could constitute grounds for denial or revocation of a cannabis operation permit under this Chapter.
23. An enforceable agreement to defend, indemnify and hold the County harmless from any and all claims, liability, costs or other expenses associated with the processing, approval or issuance of a cannabis operation permit under this Chapter on a form provided by the County, or approved by County Counsel.
24. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
25. The required application fee.
26. Any other information required by the County.

5.60.080 Review of applications.

- A. The first ten (10) date stamped and initialed applications for permits involving cultivation and all other complete applications for other types of cannabis activities will be reviewed and processed for approval. This includes review by all departments having regulatory or enforcement authority over the proposed activity, and compliance with the California Environmental Quality Act, as needed. If the Director or any other department having regulatory or enforcement authority, determines at any time during this review and processing period that additional information or materials are needed in order to adequately process the application, then he or she shall send notice to the applicant pursuant to section 5.60.210 of the required items or information and the applicant shall have fifteen (15) business days from the post mark date of that notice to provide the requested items or information without, in the case of cultivation, affecting the processing priority of the application. If the requested items or information are not submitted within the time provided, then the application will be denied as incomplete. Upon any such denial, a new application may be submitted. In the case of an application for a cannabis operation permit for cultivation, the new application, when deemed complete, shall be date stamped and initialed as of its date of submission in accordance with section 5.60.060.

- B. During the review and processing period, the applicant and owner(s) will be referred to the Mono County Sheriff's office to complete the Live Scan process. For purposes of the review required by this section, the Mono County Sheriff is authorized and directed to conduct background checks/Live Scans and to receive state summary criminal history information regarding any person for whom a background check/Live Scan is required. The Sheriff shall make a recommendation to the Approval Authority regarding the confidential security plan and the fitness and ability of the applicant and owner(s) to engage in commercial cannabis activities based on the results of the background check/Live Scan. In making the recommendation, the Sheriff may take into account any evidence of rehabilitation submitted with the application or at any time before the matter is set for decision by the Approval Authority.

- C. Upon completion of staff review and internal processing, the Director shall set the matter for decision by the Approval Authority, which shall receive and consider the input and recommendations of the Sheriff, staff, the applicant and any interested persons and, thereafter, may issue the cannabis operation permit if:
 - 1. The commercial cannabis activity, as proposed, will comply with the requirements of state law and regulation, the Mono County General Plan, the Mono County Code and this Chapter.

 - 2. The property has all necessary land use entitlements as required by the Mono County General Plan or is legally exempt from such requirements.

Attachment A

3. The applicant has demonstrated to the satisfaction of the Approval Authority that the operation, its owners and the applicant have the ability to comply with state law and regulation, the Mono County General Plan, the Mono County Code and this Chapter.
4. No applicant or owner has been convicted of a felony or a drug related misdemeanor reclassified under Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years, unless the Approval Authority determines that such conviction is not substantially related to the qualifications, functions or duties of the person or activity and/or there is adequate evidence of rehabilitation of the person. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
5. The Approval Authority determines that issuance of the permit is in the best interests of the community, the County, and its citizens and visitors, based on the following:
 1. The experience and qualifications of the applicant and any persons involved in the management of the proposed cannabis business;
 2. Whether there are specific and articulable positive or negative impacts on the surrounding community or adjacent properties from the proposed cannabis business;
 3. The adequacy and feasibility of business, operations, security, waste management, odor control, and other plans or measures submitted by the applicant;
 4. Whether granting the permit will result in an undesirable overconcentration of the cannabis industry in a limited number of persons or in a limited geographic area within the County;
 5. Environmental impacts/benefits of the cannabis business such as waste handling, recycling, water treatment and supply, use of renewable energy or other resources, etc.; and
 6. Economic impacts to the community and the County such as the number and quality of jobs created and/or other economic contributions made by the proposed operation.

Attachment A

- D. The Approval Authority shall deny an application that meets any of the following criteria:
1. The applicant has knowingly made a false statement of material fact, or has knowingly omitted a material fact, from the application.
 2. A previous cannabis operations permit issued under this Chapter for an operation involving the same applicant or owner has been revoked by the County within the two (2) years preceding the date of the application and all opportunities for appeal of that determination have been exhausted or the time in which such appeals could have been filed has expired.
 3. The applicant or any owner has been determined, by an administrative hearing body or a court of competent jurisdiction to have engaged in commercial cannabis activities in violation of State or local law and all opportunities for appeal of that determination have been exhausted or the time in which such appeals could have been filed has expired.
- E. If the Approval Authority denies the application, it shall specify the reasons for the denial on the record or by subsequently issued written decision, which written decision shall be sent to the applicant in accordance with section 5.60.210 and applicable law.
- F. A cannabis operation permit issued under this Chapter is an annual permit and shall expire on August 31st of each year (unless renewed or revoked in accordance with this Chapter). Permits granted within three (3) months prior to the expiration date shall skip the first renewal cycle and instead shall expire on August 31st of the following year.

5.60.090 Renewal and modification process.

- A. A cannabis operation permit may be renewed and/or modified in accordance with this section.
- B. An application for renewal and/or modification shall be filed with the Department, on the form(s) and in the manner prescribed by the Department, at least thirty (30) calendar days before expiration of the permit, accompanied by the required renewal/modification fee. If any of the documentation and information supplied by the applicant pursuant to Section 5.60.070 has changed or will change since the grant of the permit, the applicant shall submit updated information and documentation with the application for renewal and shall provide such other information as the Director may require. If an applicant fails to submit the renewal form and all associated fees thirty (30) days before August 31st, the applicant will be required to submit a new application under section 5.60.070.

Attachment A

- C. If the renewal/modification application is incomplete, or if the Director determines that additional information is required, the Director will send notice to the permittee in accordance with section 5.60.210 listing the items or information to be provided. The permittee shall have fifteen (15) business days from the postmark date of the notice to submit the listed items. If the applicant fails to timely provide the items or information listed in a notice, then the renewal/modification application will be denied as incomplete.
- D. Upon the timely filing of a renewal/modification application and timely provision of any missing or supplemental information under subsection C, operations under the expired permit may continue (i.e., holdover) until the Director has made a final determination on the application, unless the permit is otherwise revoked or suspended pursuant to this Chapter.
- E. A permit may be renewed/modified by the Director upon determination that the operation meets the standards for grant of the application under Section 5.60.080 and none of the conditions for denial set forth below are present.
- F. Grounds for denial:
1. The permittee or operation fails to conform to the criteria set forth in this Chapter;
 2. The permittee is delinquent in payment of applicable County taxes on commercial cannabis activity or any other County fee or charge; or
 3. The permit is suspended or revoked or there is an enforcement proceeding pending at the time of the application.
 4. The permitted operation has failed the annual inspection performed pursuant to section 5.60.120 (A).
- G. The Director shall specify in writing the reason(s) for any denial of the renewal/modification and shall send the written decision to the applicant in accordance with section 5.60.210 with an explanation that the decision shall become final in 10 calendar days of the postmark date of the decision, unless the applicant submits a completed appeal form to the Department requesting a hearing. The appeal form may be obtained from the Mono County Community Development Department office or online. Failure to submit a written request for an appeal hearing on the form provided within ten (10) business days of postmark date of the notice of denial shall constitute a waiver of the right to appeal and a failure to exhaust administrative remedies.
- H. Upon timely receipt of the completed form requesting an appeal hearing, the Director shall set the matter for hearing before the Approval Authority to be held in accordance with the requirements of 5.60.200 (E), as applicable. The

Attachment A

determination of the Director shall be stayed pending appeal, unless the operation poses an immediate threat to public health and safety, as determined by the Director and stated in the written denial.

- I. If a renewal/modification application is denied, an applicant may file a new application pursuant to this Chapter.

5.60.100 Fees.

The filing of an application for a cannabis operation permit, for a renewal/modification of a cannabis operation permit, or a written request for an appeal hearing shall be accompanied by payment of such fees as the Board of Supervisors may establish from time to time to recover the County's reasonable costs. Applicants and permittees are responsible for the costs of inspections, investigations, and any other fee-associated activity established pursuant to this Chapter.

5.60.110 Cannabis operation permit nontransferable.

- A. A cannabis operation permit does not create any property interest in the permittee, is not transferable, and automatically terminates upon expiration or subsequent termination of any holdover period under subsection 5.60.090 (D), transfer or upon revocation of any corresponding conditional use permit.
- B. Whenever a corporation, limited liability company, partnership or other type of business entity permitted under this Chapter sells or transfers more than fifty percent (50%) of its corporate stock, partnership interest or other business interest or otherwise transfers more than fifty percent (50%) control in the commercial cannabis operation, a new cannabis operation permit is required pursuant to Section 5.60.070 of this Chapter.
- C. A cannabis operation permit is issued to and covers only the permittee identified on the permit with respect to the premises and activities identified on the permit. The cannabis operation permit does not run with the land.

5.60.120 Commercial cannabis operating requirements – all cannabis businesses.

Throughout the term of the cannabis operation permit, permittees, for each type of commercial cannabis activity, shall comply with this Chapter and all other applicable County or state law, ordinance or regulation, including but not limited to, the following:

- A. Cannabis businesses shall operate only in accordance with their application and all corresponding plans reviewed and approved by the County. All cannabis businesses shall be subject to an annual inspection performed by the Department to ensure compliance with this Chapter. Failure to pass the annual inspection prior to the August 31st expiration date of the cannabis operation permit may result in denial of the renewal application.

Attachment A

- B. A permittee shall not materially or substantially alter the premises, the usage of the premises, or the mode or character of the business operation conducted from the premises, from that contained in the application, unless and until a modification has been authorized under 5.60.090. For purposes of this section, material or substantial physical changes include, but are not limited to, an increase or decrease in the total area of the licensed premises previously diagrammed by more than 10%, any other physical modification resulting in substantial change in the mode or character of business operation, or any change in the cannabis activity type from the approved permit.
- C. No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the operation of an M-permit, and no person less than twenty-one (21) years of age may be employed or otherwise engaged in the operation of an A-permit.
- D. No person under the age of eighteen (18) shall be allowed on the premises of permittees operating pursuant to an M-permit, and no person under the age of twenty-one (21) shall be allowed on the premises of permittees operating pursuant to an A-permit.
- E. Permittees shall maintain a current register of the names of all employees and shall disclose such register for inspection by the County for purposes of determining compliance with this Chapter. At least ten (10) calendar days after hiring any new employee (including supervisors) the permittee shall provide the Director with updated information regarding that employee as required in section 5.60.070(B)(1).
- F. There shall not be a physician located in or around any commercial cannabis operation at any time for the purpose of evaluating patients for the issuance of a medical cannabis recommendation or card.
- G. No cannabis shall be smoked, ingested or otherwise consumed on the premises of any cannabis business.
- H. Alcohol shall not be sold or consumed on the premises of any cannabis business. Retailers shall prohibit patrons from entering or remaining on the premises if they are in possession of or are consuming alcoholic beverages or are under the influence of alcohol.
- I. Tobacco and/or tobacco products shall not be sold, dispensed or consumed on the premises of a cannabis retailer or in any of the public places where smoking is prohibited under state law or pursuant to Mono County Code Chapter 7.92.
- J. No firearms shall be permitted on the premises of any cannabis business without prior written approval from the Mono County Sheriff.

Attachment A

- K. Permittees shall notify the Mono County Sheriff's Department and the Mono County Community Development Department immediately after discovering any of the following: diversion, theft, loss, or any criminal activity involving the commercial cannabis operation; significant discrepancies identified during inventory; or any other breach of security.
- L. Permittees shall provide the Director with the name, telephone number, and e-mail address of a community relations contact to whom the public can provide notice of problems associated with the commercial cannabis operation. The permittee shall make a good faith effort to resolve problems without the need for intervention by the County.
- M. No applicant or owner may have been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years, unless the Approval Authority has determined, taking into consideration the recommendation of the Mono County Sheriff, that such conviction is not substantially related to the qualifications, functions or duties of the activity and/or there is adequate evidence of rehabilitation. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
- N. Permittees shall comply with all applicable federal, state and local laws, ordinances and regulations, including without limitation, County building, land use and health codes.
- O. Permittees shall maintain all weighing devices in compliance with local, state or federal law and regulations, including but not limited to, those set and enforced by the Inyo/Mono County Agricultural Commissioner/Sealer of Weights and Measures.
- P. The property owner(s) shall be responsible for ensuring that all commercial cannabis activities at the site operate in good standing with all permits and licenses required by the Mono County Code, Mono County General Plan and state law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial cannabis activities at the site who do not maintain permits or licenses in good standing with the County or state shall be grounds for the suspension or revocation of a Use Permit pursuant to the Mono County General Plan or other enforcement action.
- Q. No unpermitted operation may advertise its products or services.
- R. Owners and permittees shall maintain clear and adequate records and documentation demonstrating that all cannabis and/or cannabis products are

Attachment A

obtained from and are provided to other permitted and licensed cannabis operations only.

- S. Owners and permittees shall create, maintain and retain accurate records as identified by the state licensing authorities and in accordance with all applicable County and state laws, including but not limited to, sections 26160 and 26162 of the California Business and Professions Code.
- T. Permittees shall comply with all County and State laws and regulations for maintaining and tracking inventory, including but not limited to, the state's track and trace system, if applicable.
- U. The County shall have the right to examine, monitor, and audit the records and documentation of any cannabis business, which shall be made available to the County upon request.
- V. Permittees shall conduct commercial cannabis activities in compliance with all required County permits, state licenses, County regulation, and state law and regulation. The permittee shall be responsible for the payment of all required inspection fees, permit fees, and taxes (including, but not limited to, those taxes imposed pursuant to Chapter 3.40 of the Mono County Code, if approved by the voters).
- W. Permittees and owner(s) shall 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.
- X. It is unlawful for any owner, applicant, permittee, supervisors or employee of cannabis business to refuse to allow, impede, obstruct, or interfere with an inspection, or the review of the copying of records and monitoring (including recordings) including, but not limited to, the concealment, destruction, and falsification of any recordings or records.
- Y. Permittees and owner(s) shall indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the permit or relating to any damage to property or persons stemming from the commercial cannabis activity.

5.60.130 Additional regulations for cannabis cultivation.

In addition to the general regulations found in sections 5.60.040 and 5.60.120, cultivators shall comply with the following:

- A. The canopy area of cannabis located at any premises shall not exceed the limits set forth in the use permit issued pursuant to the Mono County General Plan, if

Attachment A

applicable. The cannabis operation permit shall specify the canopy limit allowed by the permit.

- B. All indoor, greenhouse and mixed-light cultivation operations and any drying, aging, trimming and packing facilities shall be equipped with odor-control filtration and ventilation system(s) to control odors, humidity and mold in compliance with the odor mitigation plan approved under the use permit.
- C. Permittees must follow all pesticide use, storage and disposal requirements of local, state and federal law and regulations, including but not limited to, those found in 3 CCR § 8307 (a)-(b) and any requirements set and enforced by the Inyo/Mono County Agricultural Commissioner's Office.
- D. Any greenhouse must have a valid building permit issued by the Mono County Building Division and conform to applicable requirements of the California Building Code.
- E. A Hoop-House or similar structure must have an emergency escape opening on one or more sides, be readily removable for seasonal variations, be constructed of somewhat flexible material, and have a cloth type membrane or other similar membrane not exceeding six mils (1/1000in.) covering the frame. Permanent or temporary service systems, such as electrical, plumbing, gas, or mechanical systems and permanent foundation/anchoring systems are not allowed without a building permit.
- F. Permittees shall be responsible and liable for the management of waste on and around the cannabis operation and shall adhere to the waste management plan developed and implemented in compliance with 3 CCR § 8308 and approved by the County.
- G. Permittees shall be responsible and liable for safety and security in and around the cannabis operation and shall adhere to the security plan developed and implemented in compliance with 16 CCR §§ 5042-5047, and approved by the County, which shall include, but is not limited to, the following:
 - 1. Limited access areas on the premises and measures to keep access limited to authorized personnel.
 - 2. An employee badge requirement or a similar identification and sign-in/sign-out procedure for authorized persons.
 - 3. Perimeter lighting systems.
 - 4. Installation of a video surveillance system that meets all requirements in 16 CCR § 5044. Permittees shall maintain surveillance video tapes for a period of at least thirty (30) days and shall make such videotapes available to the County upon request.
 - 5. Installation of commercial-grade, nonresidential locks on all points of entry and exit to the premises, including limited access areas.

Attachment A

6. Installation of an alarm system that meets all requirements in 16 CCR § 5047.
7. Storage or security methods used to safeguard areas where the mature and immature cannabis plants are stored and where any other cannabis or cannabis products or accessories are located to prevent diversion, theft, and loss.
8. Additional methods used to deter and prevent unauthorized entrance into areas containing cannabis or cannabis products as well as to prevent unauthorized individuals from loitering on the premises or in area(s) immediately surrounding the premises.

5.60.140 Additional regulations for cannabis retail.

In addition to the general regulations found in sections 5.60.040 and 5.60.120, retailers shall comply with the following:

- A. No cannabis or cannabis products shall be visible from the exterior of the retail premises.
- B. No Retailer shall allow entry into the premises, or sell or transfer cannabis, cannabis products or cannabis accessories to another person, without first verifying the age of the recipient either by electronically scanning, or inspecting through other reliable methods, the person's identification. A retailer with an A-permit shall not sell to a person under the age of 21 and a retailer with an M-permit shall not sell to a person under the age of 18, unless that person is accompanied by a parent or guardian.
- C. All permittees, owners, supervisors and employees involved in face-to-face retail sales of cannabis or cannabis products or management of a retail facility must complete a training program on cannabis retailing best practices and health education using a curriculum and program approved by the Mono County Public Health Department. The training shall be completed prior to beginning work on the sales floor and a refresher course shall be required each subsequent year of employment with verification of the completion provided to the County. Any such program shall address the following objectives: (1) education on state and local regulatory requirements and best practices for cannabis retailing; (2) education on how to verify age requirements and inform customers about the potential effects that various dosages and products may cause; (3) practices that can lower any risks associated with cannabis use; and (4) information on how to advise customers about best practices for the storage and use of cannabis to prevent access and accidental use by individuals under the age of 18 (or 21 for retailers holding an A-permit).
- D. A cannabis retailer shall not hold or maintain a permit as a food services establishment or cottage food establishment from the County.

Attachment A

- E. Cannabis retailing by means of a self-service display is prohibited.
- F. A cannabis retailer holding an A-permit may not use in its name any words or phrases implying health or therapeutic benefits, including but not limited to “health,” “wellness” or “clinic”.
- G. A permit shall not be issued for a cannabis retailer that shares an entryway with a holder of a license to sell tobacco or alcohol; a purveyor of food products; or a pharmacy.
- H. Retailers shall not sell, or allow to be sold, cannabis, cannabis concentrates or cannabis products in any amount exceeding the daily limits set forth 16 CCR § 5409.
- I. Retailers shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. Cannabis retailing is not permitted from a vehicle or non-permanent structure.
- J. Permittees shall be responsible and liable for the management of waste on and around the cannabis operation and shall adhere to the waste management plan developed and implemented in compliance with 16 CCR §§ 5054-5055 and approved by the County.
- K. Permittees shall be responsible and liable for safety and security in and around the cannabis operation and shall adhere to the security plan developed and implemented in compliance with 16 CCR §§ 5042-5047, and approved by the County, which shall include, but is not limited to, the following:
 - 1. Limited access areas on the premises and measures to keep access limited to authorized personnel.
 - 2. An employee badge requirement that meets all requirements in 16 CCR § 5043.
 - 3. Installation of a video surveillance system that meets all requirements in 16 CCR § 5044. Permittees shall maintain surveillance video tapes for a period of at least thirty (30) days and shall make such videotapes available to the County upon request.
 - 4. Perimeter lighting systems.
 - 5. Installation of commercial-grade, nonresidential locks on all points of entry and exit to the premises, including limited access areas.
 - 6. Installation of an alarm system that meets all requirements in 16 CCR § 5047.
 - 7. Security personnel hired pursuant to 16 CCR § 5045.
 - 8. Storage methods used to store all cannabis and cannabis products in a manner to prevent diversion, theft, and loss, except for limited amounts of cannabis and cannabis products used for display purposes or immediate sale.

Attachment A

9. Measures used to deter and prevent unauthorized entrance into areas containing cannabis or cannabis products in compliance with California Business and Professions Code section 26070 as well as to prevent unauthorized individuals from loitering on the premises or in area(s) immediately surrounding the premises.
- L. All sales and dispensing of cannabis and cannabis products shall be conducted in-person and entirely within the licensed premises of the cannabis retailer. The delivery of any cannabis or cannabis products by a licensee to a consumer is prohibited within the unincorporated area of the County.
- M. Hours of operation for a retail facility shall begin no earlier than 9:00 a.m. and end no later than 9:00 p.m.
- N. Retailers are prohibited from selling and advertising for sale the following:
1. Any cannabis or cannabis product that is attractive to children or youth, as determined by the County in accordance with subsection 5.60.030 (9).
 2. Any cannabis or cannabis product whose packaging or labeling is attractive to children or youth, as determined by the County in accordance with subsection 5.60.030 (9).
 3. Synthetic cannabinoid containing products.
 4. Cannabis or cannabis products that contain any noncannabinoid additive that would increase potency, toxicity or addictive potential, or that would create an unsafe combination with other psychoactive substances. Prohibited additives include, but are not limited to, nicotine, caffeine and alcohol [excepting a minimum of alcohol that is residual from manufacturing or required solvents for the cannabis containing product if the product's packaging, labeling and marketing make no other reference to alcoholic content].
 5. Any cannabis product that would otherwise be classified as a potentially hazardous food (as defined in California Health and Safety Code section 113871), including a food that requires time or temperature control to limit pathogenic microorganism growth or toxin formation.
 6. Any cannabis-infused beverages, powders, gels or other concentrates with instructions for the preparation of cannabis-infused beverages.

Attachment A

7. Any cannabis product that the County determines is easily confused with a commercially available food product without cannabis.
- O. Every cannabis retailer shall maintain on the premises the original labeling and packaging provided by the manufacturer for all cannabis products that are sold or offered for sale by the establishment separately from the original packaging designed for retail sale to the consumer. The original labeling and packaging from which the contents are sold separately shall be maintained during such time as the contents of the package are offered for sale and may be disposed of upon the sale of the entire contents of such package.
- P. Retailers must display a warning sign in a prominent location within the premises with letters of not less than one-half inch in height, and must clearly state the following information:

WARNING

Are you pregnant or breastfeeding? According to the U.S. Centers for Disease Control (CDC), marijuana use during pregnancy can be harmful to your baby's health, including causing low birth weight and developmental problems.

Driving while high is a DUI. Marijuana use increases your risk of motor vehicle crashes.

Not for Kids or Teens! Starting marijuana use young or using frequently may lead to problem use and, according to the CDC, may harm the developing teen brain.

Sign posted pursuant to Mono County Code Chapter 5.60.140.

5.60.150 Additional regulations for cannabis manufacturing.

In addition to the general regulations found in sections 5.60.040 and 5.60.120, manufacturers shall comply with the following:

- A. In no case shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site unless all necessary permits have been obtained from the Mono County Health Department, and all other appropriate agencies.
- B. Extraction equipment used in manufacturing facilities shall be listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the County Building Official and local Fire District Chief, if any.
- C. All employees of a cannabis manufacturing facility 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

Attachment A

addition, employees handling edible cannabis products or ingredients shall be trained on proper food safety practices.

- D. All cannabis-infused edible products, their storage facilities and related utensils, equipment and materials shall be approved, used, managed and handled in accordance with sections 113700-114437 of the California Health and Safety Code, and the California Retail Food Code. All cannabis-infused edible products and ingredients shall be protected from contamination at all times.
- E. Edible cannabis products shall be designed, produced, manufactured, distributed, packaged and sold or distributed by a licensee in accordance with section 26130 of the California Business and Professions Code.
- H. Permittees shall be responsible and liable for the management of waste on and around the cannabis operation and shall adhere to the waste management plan developed and implemented in compliance with 17 CCR § 40290 and approved by the County.
- I. Permittees shall be responsible and liable for safety and security in and around the cannabis operation and shall adhere to the security plan developed and implemented in compliance with 17 CCR §§ 40200 – 40205, and approved by the County, which shall include, but is not limited to, the following:
 - 1. Prevention of access to the manufacturing premises for unauthorized personnel and for the protection and safety of all employees pursuant to 17 CCR § 40200 (a).
 - 2. An employee badge requirement or a similar identification and sign-in/sign-out procedure for authorized persons in compliance with 17 CCR § 40200 (a).
 - 3. Installation of a video surveillance system that meets all requirements in 17 CCR § 40205. Permittees shall maintain surveillance video tapes for a period of at least thirty (30) days and shall make such videotapes available to the County upon request.
 - 4. Perimeter lighting systems.
 - 5. Installation of commercial-grade, nonresidential locks on all points of entry and exit to the premises, including limited access areas.
 - 6. Installation of an alarm system that meets all requirements in 16 CCR § 5047.
 - 7. Pursuant to 17 CCR §§ 40200 (b) – (c), measures to prevent against theft or loss of cannabis and cannabis products including, but not limited to, establishing an inventory track and trace system to track cannabis and cannabis products and the personnel responsible for processing it throughout the manufacturing process; limiting access of personnel within the premises to those areas necessary to complete job duties, and to those time-frames specifically scheduled

Attachment A

for completion of job duties; supervising tasks or processes with high potential for diversion; providing designated areas in which personnel may store and access personal items; secure and back electronic records in a manner that prevents unauthorized access and protects the integrity of the records.

5.60.160 Additional regulations for cannabis testing.

In addition to the general regulations found in sections 5.60.040 and 5.60.120, testing laboratories shall comply with the following:

- A. Testing facilities shall adopt standard operating procedures 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 cannabis and cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.
- B. Testing facilities shall notify the County within 24 hours of conducting a test if a sample that was cultivated, manufactured, or supplied by a cannabis business located in Mono County is found to contain levels of a contaminant not allowed by the state that could be injurious to human health if consumed.
- C. Permittees shall be responsible and liable for the management of waste on and around the cannabis operation and shall adhere to the waste management plan developed and implemented in compliance with 16 CCR §§ 5054-5055 and approved by the County.
- D. Permittees shall be responsible and liable for safety and security in and around the cannabis operation and shall adhere to the security plan developed and implemented in compliance with 16 CCR §§ 5042-5047, and approved by the County, which shall include, but is not limited to, the following:
 1. Limited access areas on the premises and measures to keep access limited to authorized personnel.
 2. An employee badge requirement that meets all requirements in 16 CCR § 5043.
 3. Installation of a video surveillance system that meets all requirements in 16 CCR § 5044. Permittees shall maintain surveillance video tapes for a period of at least thirty (30) days and shall make such videotapes available to the County upon request.
 4. Perimeter lighting systems.
 5. Installation of commercial-grade, nonresidential locks on all points of entry and exit to the premises, including limited access areas.
 6. Installation of an alarm system that meets all requirements in 16 CCR § 5047.

Attachment A

7. Storage methods used to store all cannabis and cannabis products in a manner to prevent diversion, theft, and loss.
8. Measures used to deter and prevent unauthorized entrance into areas containing cannabis or cannabis products in compliance with California Business and Professions Code section 26070 as well as to prevent unauthorized individuals from loitering on the premises or in area(s) immediately surrounding the premises.

5.60.170 Additional requirements for cannabis distribution.

In addition to the general regulations found in sections 5.60.040 and 5.60.120, distributors based in Mono County shall comply with the following:

- A. Transportation shall only be conducted by persons licensed and permitted by the state and County to distribute cannabis and cannabis goods.
- B. Only a permittee or an authorized employee shall be in a vehicle while transporting cannabis and cannabis products. Under no circumstances shall a person under the age of 21 years old be in a commercial vehicle or trailer transporting cannabis or cannabis products.
- C. Permittees transporting cannabis and cannabis products shall only travel between licensees shipping or receiving cannabis and cannabis products and its own licensed/permitted premises when engaged in the transportation of cannabis and cannabis products. The distributor may transport multiple shipments at once in accordance with applicable laws. A distributor shall not deviate from the travel requirements set forth in 16 CCR §§ 5311, except for necessary rest, fuel, or vehicle repair stops.
- D. Under no circumstances may non-cannabis products, except for cannabis accessories as defined in Business and Professions Code section 26001(g), be transported with cannabis or cannabis products.
- E. Permittees shall not leave a vehicle or trailer containing cannabis or cannabis products unattended in a residential area or parked overnight in a residential area.
- F. All vehicles used for transporting cannabis and cannabis products shall comply with all applicable local and state law and regulation, including but not limited to, 16 CCR §§ 5311-5315.
- G. Permittees shall implement measures to keep all cannabis and cannabis products secure and inaccessible during all stages of operation and shall at all times comply with applicable local and state law and regulation for tracking, storing and transporting cannabis and cannabis products, including but not limited to, 16 CCR §§ 5311-5315.

Attachment A

- H. Permittees shall create a shipping manifest pursuant to 16 CCR § 5314, a physical copy of which shall be maintained during transportation and shall be made available to the County upon request.
- I. Permittees shall be responsible and liable for the management of waste on and around the cannabis operation and shall adhere to the waste management plan developed and implemented in compliance with 16 CCR §§ 5054-5055 and approved by the County.
- J. Permittees shall be responsible and liable for safety and security in and around the cannabis operation and shall adhere to the security plan developed and implemented in compliance with 16 CCR §§ 5042-5047, and approved by the County, which shall include, but is not limited to, the following:
 - 1. Limited access areas on the premises and measures to keep access limited to authorized personnel.
 - 2. An employee badge requirement that meets all requirements in 16 CCR § 5043.
 - 3. Installation of a video surveillance system that meets all requirements in 16 CCR § 5044. Permittees shall maintain surveillance video tapes for a period of at least thirty (30) days and shall make such videotapes available to the County upon request.
 - 4. Perimeter lighting systems.
 - 5. Installation of commercial-grade, nonresidential locks on all points of entry and exit to the premises, including limited access areas.
 - 6. Installation of an alarm system that meets all requirements in 16 CCR § 5047.
 - 7. Storage methods used to store all cannabis and cannabis products in a manner to prevent diversion, theft, and loss.
 - 8. Measures used to deter and prevent unauthorized entrance into areas containing cannabis or cannabis products in compliance with California Business and Professions Code section 26070 as well as to prevent unauthorized individuals from loitering on the premises or in area(s) immediately surrounding the premises.

5.60.180 Advertising, packaging and labeling requirements.

- A. Permittees shall comply with state law and regulations pertaining to packaging, product labeling and product inserts requirements for cannabis and cannabis products, including but not limited to, those provisions found in sections 26120 – 26121 of the California Business and Professions Code.
- B. Permittees shall comply with all applicable County and state laws and regulations pertaining to the creation, publication and dissemination of advertising signs, advertising and marketing.

Attachment A

- C. Permittees shall not include on the label of any cannabis or cannabis product or publish or disseminate advertising or marketing containing any health-related statement.
- D. Labeling, advertising signs, advertising and marketing shall not be attractive to children or youth.
- E. No cannabis business, cannabis or cannabis product brand identification, including logos, trademarks or names, may be used or licensed for use on clothing, toys, games, or game equipment, or other items that are typically marketed primarily to or used primarily by persons under the age of 21, or that are attractive to children or youth.

5.60.190 Suspension or revocation of cannabis operation permit.

Any of the following shall be grounds for suspension or revocation of a cannabis operation permit, following the procedures in Section 5.60.200 of this Chapter or, if there is an immediate threat to the public health or safety, such other procedures as may be authorized by law.

- A. Failure to comply with one or more of the terms and conditions of the cannabis operation permit, the Mono County Code, the Mono County General Plan or state law or regulation.
- B. The cannabis operation permit was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant.
- C. Suspension or revocation of the conditional use permit issued under the Mono County General Plan.
- D. Denial, revocation or suspension of the permittee's state cannabis license.
- E. Failure to pay applicable state or County taxes or fees.
- F. Conduct of the commercial cannabis operations in a manner that constitutes a nuisance, where the permittee has failed to comply with reasonable conditions to abate the nuisance as directed by the County.

5.60.200 Procedure for suspension or revocation.

- A. If the Director determines that grounds for suspension or revocation of the cannabis operation permit exist, he or she shall issue a written Notice of Intention to suspend or revoke the permit, as applicable. The Notice of Intention shall be served in accordance with Section 5.60.210 on the permittee and owner(s), as reported on the permit, and on the property owner, as reported on the latest equalized assessment roll. The Notice of Intention shall describe the property, the intention to revoke or

Attachment A

suspend the permit, the grounds for suspension or revocation, the action necessary to correct or abate the violation and a reasonable time limit for compliance.

- B. If the violation has not been corrected within the period specified in the Notice of Intention, the Director may issue a Notice of Suspension or Revocation, as applicable. The Notice of Suspension or Revocation shall be served in the same manner and upon the same persons as described above for service of the Notice of Intention and shall be effective ten (10) business days from the date it is postmarked, unless a request for hearing is submitted as described in subsection C.
- C. The permittee and/or owner shall have ten (10) business days from postmark date of the Notice of Revocation or Suspension to submit a completed appeal form, to the Department requesting a hearing. The appeal form may be obtained from the Mono County Community Development Department office. Failure to submit the requisite form within ten (10) business days of postmark date of the Notice of Revocation or Suspension, shall be deemed a waiver of the right to challenge the suspension or revocation and a failure to exhaust administrative remedies.
- D. Upon receipt of a timely written request for a hearing, the Director shall set a date for a hearing to be held as soon as reasonably practicable before the Board of Supervisors or a Hearing Officer designated by the Board (“hearing body”). Notice of the hearing, including the time, date, and location of the hearing, shall be served in the same manner and upon the same persons as described above for service of the Notice of Intention. The revocation or suspension shall be stayed until the hearing body decision is final.
- E. Hearing Procedures:
 - 1. The hearing body 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 cannabis operation permit.
 - 2. In any proceeding before a hearing body, 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 body may postpone the hearing date upon good cause shown, continue the hearing during the course of the hearing, and make such

Attachment A

other procedural orders and rulings as he or she deems appropriate during the course of the hearing.

5. The hearing shall follow the procedures set forth in subsections 1.12.050 (E) - (L) of the Mono County Code, except that the Notice of Intention issued under this Chapter shall be treated as the Notice of Violation under those subsections and the Notice of Suspension or Revocation issued under this Chapter shall be treated as the Administrative Citation.
 6. Within thirty (30) calendar days after the close of the hearing, the hearing body shall issue a written decision, including a statement of the basis for the decision. The hearing body's written decision shall constitute the final administrative decision of the County.
- F. If neither the permittee nor the owner, 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.

5.60.210 Service requirements.

Wherever this Chapter requires the County to serve notice on an applicant, permittee, property owner, or owner such notice shall be given in writing, and shall be delivered by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice may be posted at the physical address of the premises on the date of the mailing of notice. Service shall be deemed complete upon mailing.

5.60.220 Enforcement and penalties.

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

- A. Any violation of this Chapter, the Mono County General Plan, use permit or state law or regulation may be enforced through administrative citation and penalty as provided in Chapter 1.12 of the Mono County Code except that the amount of the administrative penalty shall be \$1,000 per day.
- B. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter, the Mono County General Plan, use permit, or applicable state law or regulation is a public nuisance which shall, at the discretion of the County, be subject to abatement or other relief pursuant to Chapter 7.20 of the Mono County Code.
- C. Each and every violation of this Chapter, the Mono County General Plan, or applicable state law or regulation shall constitute a separate violation per day and shall be subject to all remedies and enforcement measures authorized by the Mono County Code or otherwise authorized by law. Additionally, any violation shall be subject to injunctive relief, disgorgement to the County of any and all monies

Attachment A

unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, restitution, and any other relief or remedy available at law or in equity. The County, including the Office of the District Attorney and the Office of the County Counsel, may pursue any and all remedies and actions available and applicable under state and local laws for any violations.

5.60.230 Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Supervisors hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections.

Exhibit C

City of Mount Shasta

Ordinance

Purpose: Demonstrates that planning departments coordinate with law enforcement for background determinations rather than independently acting on criminal information

City of Mt. Shasta

Chapter 5.80

CANNABIS INDUSTRY LICENSES AND STANDARDS

Sections:

- 5.80.010 Purpose.**
- 5.80.020 Definitions.**
- 5.80.030 Maximum number of licenses.**
- 5.80.040 Other cannabis industry facilities.**
- 5.80.050 Cannabis industry license general requirements.**
- 5.80.060 Cannabis industry license.**
- 5.80.080 Cannabis industry license permitting process.**
- 5.80.090 Cannabis industry license application selection process.**
- 5.80.100 License renewal.**
- 5.80.110 Appeal of denial of license.**
- 5.80.120 Operational standards for all cannabis industry business activities.**
- 5.80.130 Cannabis industry cultivation, testing, manufacturing, and distribution facilities.**
- 5.80.140 Maintenance of records.**
- 5.80.150 Inspection and enforcement responsibilities.**
- 5.80.160 Fees.**
- 5.80.170 Penalties and enforcement.**

5.80.010 Purpose.

It is the purpose and intent of this chapter to regulate the cultivation, nursery, testing, distribution, transportation, and manufacturing of cannabis and cannabis products in order to protect the public health and safety of the residents, visitors, and business owners of the City of Mt. Shasta. The regulations in this chapter, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, the Medical Cannabis Regulations and Safety Act, Proposition 64, and the California Health and Safety Code and future regulations on cannabis, cannabis products, and cannabis services, collectively referred to as "State law" herein, do not interfere with the right to use cannabis or medical cannabis and their derivative products as authorized under State law, nor do they criminalize the possession or cultivation of cannabis or medical cannabis as authorized under State law. All cannabis industry businesses shall at all times be in compliance with State law at a minimum. (Ord. CCO-17-09 § 1, 2017)

5.80.020 Definitions.

The definitions in MSMC 18.91.040 are incorporated herein as if fully set forth and are applicable to this chapter. (Ord. CCO-17-09 § 1, 2017)

5.80.030 Maximum number of licenses.

(A) The City of Mt. Shasta shall allow four types of cannabis industry licenses: nursery, food-based production, nonvolatile product manufacturing, and cultivator.

(B) The City of Mt. Shasta shall allow no more than five (5) of each license type, for a total of twenty (20) cannabis industry licenses, to operate within the City limits, regardless of the location's compliance with any other section specified in the title.

(C) The total number of industry license holders in operation shall be determined based on the number of locations which have been issued a cannabis industry license by the City or are eligible to submit for a cannabis industry license. (Ord. CCO-17-09 § 1, 2017)

5.80.040 Other cannabis industry facilities.

(A) Cannabis testing, distribution, and transportation facilities and operations are exempt from the permit maximums set in MSMC 5.80.030.

(B) All cannabis industry facilities must follow all City and State regulations pertaining to their siting, permitting, and operations. (Ord. CCO-17-09 § 1, 2017)

5.80.050 Cannabis industry license general requirements.

(A) It shall be unlawful for any person, association, partnership, or corporation to engage in, conduct, or carry on, in or upon any premises within the City cannabis industry operations without a cannabis industry license. A cannabis industry operation shall register and obtain a cannabis industry license from the City of Mt. Shasta prior to operation. The applicant shall pay a nonrefundable fee in the amount established by the City Council of the City of Mt. Shasta.

(B) A copy of the cannabis industry license shall be displayed at all times in a visible place.

(C) A cannabis industry license shall be valid for one year, unless sooner revoked. No license granted herein shall confer any vested right to any person or business for more than the above-referenced period.

(D) All cannabis industry facilities must meet the zoning criteria as per MSMC 18.91.030. (Ord. CCO-17-09 § 1, 2017)

5.80.060 Cannabis industry license.

(A) A cannabis industry license shall not be issued to an individual entity associated with an individual who has violated Cal. Health and Safety Code § 11590 and its provisions.

(B) The cannabis industry license shall be issued to the specific person or persons listed on the cannabis industry license application.

(C) A cannabis industry license does not transfer with the land and does not transfer with the transfer of the property. (Ord. CCO-17-09 § 1, 2017)

5.80.080 Cannabis industry license permitting process.

(A) The Planning Department will develop a cannabis industry application form and a related administrative policy. Each applicant interested in operating pursuant to this section may submit an application together with a nonrefundable processing fee in an amount established by the City Council.

(B) The initial application period shall be a minimum of seven calendar days from the date the applications are released. Should the application closing day fall on a day when City Hall is

closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Planning Department shall stop accepting applications and review all applications received.

(C) The Planning Department shall determine whether each application received demonstrates compliance with the minimum requirements to be eligible to be entered into the selection process. These requirements include:

- (1) Application was submitted during the application period.
- (2) Application is filled out completely.
- (3) Application fee is paid.
- (4) The location indicated on the application meets the zoning criteria established in MSMC 18.91.030.
- (5) A signature from the property owner(s) authorizing the location to be used for cannabis industry activity.
- (6) Applicant(s) referenced on the application completed live scan background check.
- (7) All other application documents required in the City's application package instructions.
- (8) Photographs of the exterior of the building including the entrance(s), exit(s), street frontage(s), and parking area.
- (9) If the property is being rented, leased, or purchased under contract, the lease agreement term, name of lessor or equivalent, shall be provided by a signed affidavit of the property owner.
- (10) A copy of the applicant's Board of Equalization seller's permit.
- (11) A copy of the cannabis industry operating standards, listed in MSMC 5.80.120, 5.80.130, 5.80.140, and 5.80.150, if applicable, containing a statement dated and signed by the applicant stating that under penalty of perjury that they have read, understood, and shall ensure compliance with the aforementioned operating standards.
- (12) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.
- (13) Release the City of Mt. Shasta from liability associated with the cannabis industry business. Such a release includes indemnifying the City of Mt. Shasta for claims, damages, and injuries that may arise as a result of the cannabis industry business. (Ord. CCO-17-09 § 1, 2017)

5.80.090 Cannabis industry license application selection process.

(A) The Planning Department will evaluate the applications received and make a determination on the eligibility of each application. The head of the Planning Department shall confer with law enforcement on the background checks of the listed business owner(s).

(B) The head of the Planning Department, after receiving the application and aforementioned information, will grant the permit if they find:

- (1) The required fee has been paid in full.
- (2) The application conforms in all respects to the provisions of this chapter.
- (3) The applicant has not knowingly made a material misrepresentation in the application.
- (4) The applicant has fully cooperated in the investigation and background checks required by this section.
- (5) The applicant has not had a commercial cannabis license or cannabis industry license denied or revoked for cause by this City or any other city in the State of California within the last five years prior to the date of the application.
- (6) The cannabis industry operation, as proposed by the applicant, would comply with all applicable laws including, but not limited to, health, zoning, fire, and safety requirements.
- (7) The applicant has demonstrated compliance with all aspects of State regulations and any other applicable requirements contained in the California Health and Safety Code.

(C) After all tenant improvements have been finalized by the cannabis industry business owner, the head of the Planning Department, Public Works Department, Fire Chief, and the Chief of Police shall perform an initial inspection of the cannabis business location to confirm compliance with this section and issue a report to the City Manager to ensure compliance with the submitted application.

(D) If any of the items listed in the application process are not met, the head of the Planning Department shall notify the applicant of the deficiency, after which the applicant will have 10 days from receipt of notice to correct the deficiency. If the deficiency is not corrected within 10 days, the head of the Planning Department may deny the permit and notify the applicant of this determination in writing within 10 business days following the decision after which the applicant can appeal the decision in accordance with MSMC 5.80.110. (Ord. CCO-17-09 § 1, 2017)

5.80.100 License renewal.

(A) Applications for the renewal of a permit shall be filed with the Planning Department at least 30 calendar days before the expiration of the current permit. Any permittee allowing their permit to lapse or expire during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.

(B) Any person desiring to renew their respective permit shall have the City complete an annual inspection and pay a nonrefundable filing fee established by the City Council to defray the cost of the review required by this section. An applicant shall be required to update the information contained in their original license application and provide any new and/or additional information as may be reasonably required by the Planning Department in order to determine whether said permit should be renewed. (Ord. CCO-17-09 § 1, 2017)

(C) Prior to renewal, a letter will be sent from the City to all property owners within 100 feet of a cannabis industry operation to identify any nuisance(s) experienced in the last year. All responses received within 30 days after the date on the letter will be kept by the Planning Department and included in the annual inspection report.

(D) Reported nuisance(s) that warrant correction or response by the cannabis industry operation owner will be made in writing from the Planning Department. Facility owners will have a minimum of 30 days to correct any nuisance(s). Failure to correct in 30 days will result in a suspension of the operation and/or revocation of the cannabis industry license; unless written approval for an extended deadline is issued from the Planning Department.

5.80.110 Appeal of denial of license.

(A) The Planning Department, in consultation with the Police Department, Building Department, and Fire Department, will review all cannabis industry license applications, and all other relevant information, and determine if a permit should be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have 14 business days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance. Following review of the amended permit application, the Planning Department will approve or deny the permit by providing written notice to the applicant.

(B) An applicant who disagrees with the Planning Department's decision may appeal such decision to the City of Mt. Shasta Planning Commission by submitting a written appeal within 10 business days from receipt of the written denial. A decision of the Planning Commission may be appealed to the City Council if the appeal is submitted in writing to the City Clerk within 10 calendar days following the Planning Commission's action. (Ord. CCO-17-09 § 1, 2017)

5.80.120 Operational standards for all cannabis industry business activities.

(A) Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes, as per California State regulations.

(B) Recordings shall be maintained, unaltered, for a period of not less than 90 days and shall be stored digitally. The City of Mt. Shasta or law enforcement agencies may request the recordings in connection with an investigation with a 24-hour written notice to the business owner. If the recordings are not voluntarily provided, the City or law enforcement may seek a warrant or court order for the recordings.

(C) A commercial cannabis industry business entity that remains inoperative for more than 90 days shall be deemed "abandoned" and the permit shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Planning Department.

(D) Establish and participate in a track and trace system for reporting the movement of commercial cannabis throughout the distribution chain, as per California State regulations.

(E) Comply with all State regulations regarding testing, labeling, storage, and display of all cannabis and cannabis products.

(F) Meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with distributing cannabis and cannabis products.

(G) Conform to all State regulations requiring the use of appropriate weighing devices.

(H) Comply with all State insurance and security bond regulations.

(I) Meet all State deadlines for applying for a State license and receive a State license.

(J) All exterior signage shall conform with existing City requirements.

(K) The following information shall be provided on a sign posted in a conspicuous location inside the cannabis industry operation:

(1) Smoking, ingestion, or consuming cannabis or cannabis products on this property or within 100 feet of the business is prohibited.

(2) The City of Mt. Shasta has not tested or inspected any cannabis or cannabis product for pesticides, or other regulated contaminants, at this location.

(L) Each business owner shall establish minimum training standards for all employees regarding security, handling, operational procedures, labeling, testing, and transportation standards.

(M) There shall be no on-site sales of alcohol, tobacco, cannabis, or cannabis products to the public, and no on-site consumption of alcohol, tobacco, cannabis, or cannabis products by the public without prior written approval from the City.

(N) The operation shall comply with State Department of Health requirements pertaining to use of commercial kitchen facilities for the cannabis operations.

(O) Public access to any cannabis industry license holding facility is prohibited without prior written approval from the City.

(P) All employees of the operation must wear photo identification badges clearly identifying them as employees at all times when on duty. Badges must have frontal face picture. Alternatively, employees must at all times on the premises wear a name badge which clearly identifies them as an employee and distinguishes them from the public.

(Q) No one under 21 years of age shall be permitted to enter a cannabis industry operation.

(R) Any commercial cannabis industry operation already in compliance and permitted by the City of Mt. Shasta will be considered selected and continue to operate under the regulations of this chapter; provided, however, that in order to continue operating such commercial cannabis business must apply for a commercial cannabis business permit pursuant to this chapter and otherwise meet all other conditions and requirements of this chapter imposed on newly established commercial cannabis businesses. (Ord. CCO-17-09 § 1, 2017)

5.80.130 Cannabis industry cultivation, testing, manufacturing, and distribution facilities.

(A) Cannabis industry cultivation license facilities shall be limited to indoor or mixed light only.

(B) For cultivation purposes, areas not specifically involved in cultivation such as offices, restrooms, hallways, storage, and stairs shall not be counted towards the square foot limit. The cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown on the premises and those paths in between the canopy area, those areas used in the processing, planting, growing, harvesting, drying, curing, grading, or trimming.

(C) Cannabis nonvolatile manufacturing facilities shall not be permitted to use volatile solvents in the manufacturing process as defined in the California Health and Safety Code and as they may be amended.

(D) Cannabis cultivation, manufacturing, testing, and distribution facilities shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, on adjacent properties or public right-of-way, or within any other unit located within the same building as the facility, if the use occupies only a portion of a building. (Ord. CCO-17-09 § 1, 2017)

5.80.140 Maintenance of records.

(A) A cannabis industry operation shall maintain records at the location accurately and truthfully documenting:

- (1) The full names, address, and telephone number(s) of the owner, landlord, and/or leasee of the location;
- (2) The full name, address, and telephone number(s) of all members who are engaged in the management of the cannabis business;
- (3) All receipts of the business, including but not limited to: all contributions, reimbursements, and reasonable compensation, whether in cash or in kind, and all expenditures incurred by the dispensary.

(B) These records shall be maintained for a period of seven years and shall be made available by the cannabis industry operation to the City of Mt. Shasta upon written request. (Ord. CCO-17-09 § 1, 2017)

5.80.150 Inspection and enforcement responsibilities.

As agreed, upon in MSMC 5.80.120, City of Mt. Shasta law enforcement may enter and inspect the location of any commercial cannabis business between normal business hours to ensure compliance with the section. In addition, law enforcement may enter and inspect the location of any cannabis business and the recordings and records maintained as required by this section and California State law, except that the inspection and copying of private medical records shall be made available to law enforcement only pursuant to a properly executed search warrant, subpoena, or court order. A person, persons, or business engaging in commercial cannabis business without a permit and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the permit fee for each violation, and the Department, State, or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis

associated with their violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section. (Ord. CCO-17-09 § 1, 2017)

5.80.160 Fees.

All cannabis industry operations shall pay applicable fees and taxes, which may include one or more of the following:

(A) Application Fee. The applicant shall submit a nonrefundable fee to cover the cost of processing an application for the commercial cannabis business as established by resolution of the City Council.

(B) Business License Fee. The business owner shall at all times maintain a current and valid business certificate and pay all business taxes required by the City of Mt. Shasta Municipal Code.

(C) Regulatory License Fee. The business owner shall pay an annual regulatory license fee to cover the cost of anticipated enforcement relating to the cannabis industry operation. The amount of the fee shall be set by resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the cannabis operation. The regulatory fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The regulatory fee may be amended from time to time based upon actual costs established through resolution of the City Council. (Ord. CCO-17-09 § 1, 2017)

5.80.170 Penalties and enforcement.

(A) Violation of this chapter shall constitute an infraction, and shall be punished in the manner as specified, at the time of violation, in Cal. Gov't Code § 36900, or any successor statute which specifies the penalties of infractions.

(B) Except as otherwise provided, enforcement of this chapter is at the sole discretion of the City. Nothing in this chapter shall create a right of action in any person against the City or its agents to compel public enforcement of this chapter against private parties.

(C) Nothing herein shall prevent a person who violates this chapter from, in the alternative, being charged with and convicted of a misdemeanor or felony under any other applicable provision of the California Penal Code or other local, County, State, or Federal law or regulation.

(D) Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, revocation of the business's cannabis industry license, disgorgement, and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and State laws for any violations committed by the cannabis business and persons related or associated with the cannabis business. (Ord. CCO-17-09 § 1, 2017)

Exhibit D

California State Auditor Report

Purpose: Demonstrates that the absence of defined pathways and consistent procedures in cannabis licensing has been identified by the State as a barrier to fairness and access



Local Cannabis Permitting

Cities and Counties Can Improve Their Permitting Practices to Bolster Public Confidence

March 2024

REPORT 2023-116





CALIFORNIA STATE AUDITOR

621 Capitol Mall, Suite 1200 | Sacramento | CA | 95814



916.445.0255 | TTY **916.445.0033**



For complaints of state employee misconduct,
contact us through the **Whistleblower Hotline:**
1.800.952.5665

Don't want to miss any of our reports? Subscribe to our email list at

auditor.ca.gov



For questions regarding the contents of this report, please contact our Communications Office at 916.445.0255

This report is also available online at www.auditor.ca.gov | Alternative format reports available upon request | Permission is granted to reproduce reports



March 28, 2024

2023-116

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As directed by the Joint Legislative Audit Committee, my office conducted an audit of the cannabis-permitting processes at the counties of Monterey and Santa Barbara and the cities of Fresno, Sacramento, San Diego, and South Lake Tahoe. In general, we determined that cities and counties (local jurisdictions) could improve their cannabis-permitting processes to increase public confidence and mitigate the risks of corruption.

Our review found that the local jurisdictions we reviewed did not always include several best practices in their permitting policies that help to ensure fairness and prevent conflicts of interest, abuse, and favoritism. Only two of the local jurisdictions we reviewed used blind scoring of applications, wherein the identities of the applicants are kept from those reviewing and scoring applications, and four of the local jurisdictions we reviewed did not require that all individuals involved in reviewing applications agree to impartiality statements. My office also found that all six of the local jurisdictions we reviewed were inconsistent in following key steps that their permitting policies required. For example, records at each of the six jurisdictions lacked documentation to demonstrate that all applicants had passed their required background checks.

Through Proposition 64, California's voters legalized the nonmedical use of cannabis by adults age 21 and older. Because the resulting state law ensures that local jurisdictions retain significant control over the authorization and regulation of cannabis businesses within their jurisdiction, we have made recommendations generally and identified best practices for all local jurisdictions that may permit cannabis businesses. Such best practices may help local jurisdictions bolster the public's confidence in the fairness and transparency of their permitting processes.

Respectfully submitted,

A handwritten signature in black ink that reads "Grant Parks".

GRANT PARKS
California State Auditor

Blank page inserted for reproduction purposes only.

Contents

Summary of Key Findings and Recommendations	1
Introduction/Background	3
AUDIT RESULTS (by Objective)	
Review and evaluate the laws, rules, and regulations significant to the audit objectives. (Objective 1) State law gives local jurisdictions the ability to decide whether to allow cannabis businesses to operate within their jurisdiction and to create their own policies and procedures for permitting cannabis businesses.	7
Determine whether local jurisdictions took reasonable steps to ensure fairness and prevent conflicts of interest, abuse, and favoritism. (Objective 3c) Only two of the local jurisdictions we reviewed require blind scoring of applications—a process in which the identities of the applicants are kept from those reviewing and scoring applications to reduce the opportunity that those scoring will provide certain applicants with preferential treatment. Four of the local jurisdictions we reviewed did not require that all individuals involved in reviewing applications agree to impartiality statements, the use of which is a best practice to help reduce the risk of any conflicts of interest those individuals might have with any applicants.	9
Assess the benefits and challenges of different processes for awarding local licenses, and evaluate whether some selection processes are structurally more susceptible to corruption. (Objective 5) Local jurisdictions that limit or cap the number of cannabis-related permits they will issue potentially increase permits’ value because of scarcity, leading to greater incentives for corruption by government officials. Local jurisdictions that place decision-making authority with one person and where the decisions can be based on that person’s discretion instead of on publicly understood criteria increases the risk of corruption. Local jurisdictions would benefit from implementing best practices, such as blind scoring and an appeals process, to reduce the risk of corruption.	17
For a selection of permits at each of the six local jurisdictions, determine whether the local jurisdiction followed its policies and procedures when issuing the local licenses. (Objective 4) We found that the local jurisdictions have not consistently documented whether they followed their policies and procedures for ensuring that background checks occurred and that applications were complete.	21
Determine whether local jurisdictions’ policies and procedures comply with relevant state and local laws and regulations. (Objective 3b) Proposition 64 does not set specific conditions with which local jurisdictions must comply when creating their permitting processes. The local jurisdictions we reviewed aligned their policies and procedures, as applicable, with their local ordinances for permitting processes.	29

Determine whether cannabis business licensing and permitting policies and procedures are in place and clearly communicated to the public and potential licensees. (Objective 3a) 31

Jurisdictions we reviewed made their ordinances and permit application forms available on their websites for access by the public, including potential permittees. Several jurisdictions provided additional information on their websites, such as frequently asked questions, application instructions, and fee information.

Review and assess any other issues not covered in the audit objectives that are significant to the audit. (Objective 6) 33

We reviewed permitting time frames, local cannabis equity programs, and permit-related fees for our selected local jurisdictions.

Using available information regarding permitted commercial cannabis activity in cities and counties throughout the State, as well as other relevant criteria, select six local governments for review. (Objective 2) 39

Using information about size, geography, type of permitting process, and number of permits issued or allowed, we selected the cities of Fresno, Sacramento, San Diego, and South Lake Tahoe and the counties of Monterey and Santa Barbara.

Recommendations 41

Appendix A

Scope and Methodology 45

Responses to the Audit

City of Fresno 47

California State Auditor's Comments on the Response From the City of Fresno 49

City of Sacramento 51

California State Auditor's Comment on the Response From the City of Sacramento 53

County of Santa Barbara 55

Summary of Key Findings and Recommendations

Of the more than 240 local jurisdictions throughout the State that allowed cannabis businesses to operate as of December 2023, our audit reviewed the permitting processes of six—the cities of Fresno, Sacramento, San Diego, and South Lake Tahoe and the counties of Monterey and Santa Barbara. During our review of these six local jurisdictions, we found the following:

- As Table 1 shows, all of the local jurisdictions we reviewed did not always take reasonable steps to ensure fairness and prevent conflicts of interest, abuse, and favoritism, such as by having an administrative appeals process (appeals process) or using blind scoring. For example, Fresno lacked an appeals process for denied applications. An appeals process is critical because it helps ensure that applicants have the opportunity to contest the decision if they are denied improperly, and it can help reduce the risk of corruption.
- The local jurisdictions we reviewed inconsistently documented whether they followed their policies and procedures that require background checks for key individuals and to ensure that permit applications are complete. For example, although all local jurisdictions’ ordinances that we reviewed require applicants or certain individuals associated with an applicant to undergo a criminal background check, none of the six was able to demonstrate that it consistently reviewed or documented the results of the background checks. Inconsistently following a local jurisdiction’s policy can erode public trust in that local jurisdiction’s permitting processes.
- The local jurisdictions created policies and procedures that aligned with local ordinances, and they posted information about ordinances and permit applications to their public websites.

Table 1
 Summary of Findings Related to Audit Objectives

LOCAL JURISDICTION	THE LOCAL JURISDICTION ...			
	TOOK REASONABLE STEPS TO ENSURE FAIRNESS AND PREVENT CONFLICTS OF INTEREST, ABUSE, AND FAVORITISM	FOLLOWED ITS POLICIES AND PROCEDURES WHEN ISSUING LOCAL PERMITS	CREATED POLICIES AND PROCEDURES THAT COMPLIED WITH LOCAL LAWS, AS APPROPRIATE	ADOPTED ORDINANCES OR CREATED POLICIES TO REGULATE CANNABIS PERMITTING AND POSTED THAT INFORMATION ON ITS PUBLIC WEBSITE
Fresno	X	X	✓	✓
Monterey County	X	X	✓	✓
Sacramento	X	X	✓	✓
San Diego	X	X	✓	✓
Santa Barbara County	X	X	✓	✓
South Lake Tahoe	X	X	✓	✓

Source: Local jurisdictions’ ordinances, policies and procedures, websites, and application files.

Note: An X indicates that we found at least one deficiency related to the local jurisdiction’s practices.

Proposition 64, by which California’s voters legalized under state law the nonmedical use of cannabis by adults age 21 and older, ensures that local jurisdictions retain significant control over the authorization and regulation of cannabis businesses within their jurisdiction. Therefore, we have made recommendations generally to all local jurisdictions that may permit cannabis businesses. For example, all local jurisdictions could benefit from implementing an appeals process for denied applicants and requiring that all individuals involved in reviewing cannabis applications sign impartiality statements asserting that they do not have personal or financial interests that may affect their decisions.

Agency Comments

This audit report does not contain recommendations specific to the six local jurisdictions we reviewed, and as a result, we did not expect responses from the jurisdictions. However, three local jurisdictions—the cities of Fresno and Sacramento, and Santa Barbara County—provided responses to our audit report. Fresno disagreed with how we characterized its handling of background checks, whereas Sacramento appreciated our review and work in highlighting statewide best practices. Santa Barbara County acknowledged the value in considering some best practices as it assesses and enhances its permitting processes.

Introduction

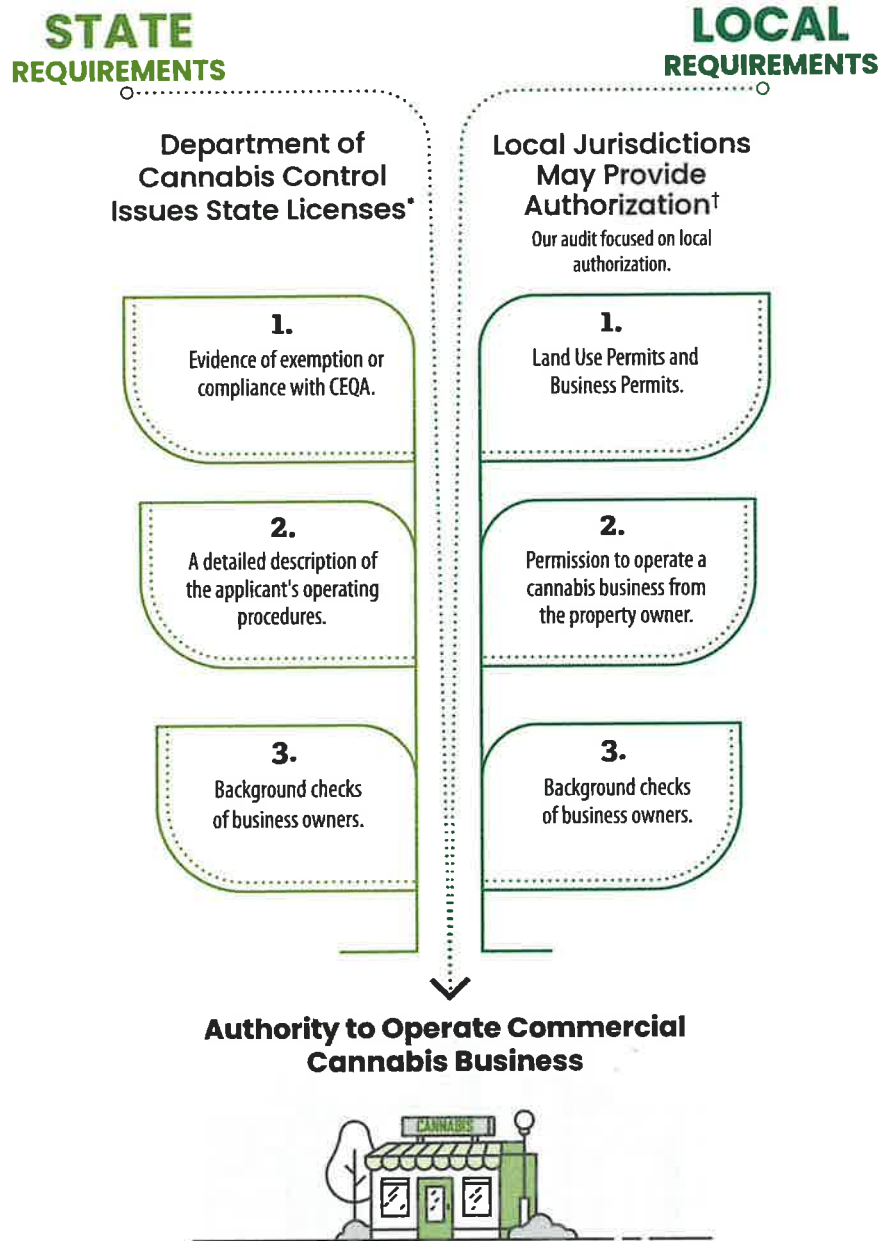
Background

California's voters legalized under state law the nonmedical use of cannabis by adults age 21 and older by approving Proposition 64 in 2016. State law, known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act, allows California cities and counties (local jurisdictions) to decide whether to allow cannabis businesses to operate within their jurisdiction and to adopt local ordinances to regulate cannabis businesses at the local level. As shown in Figure 1, for an applicant to enter the cannabis market and begin operation, that applicant must both obtain a state license and satisfy any requirements for operation imposed by the local jurisdiction in which the applicant intends to operate, such as by obtaining a permit. The State oversees the statewide licensing of cannabis businesses through a process overseen by the Department of Cannabis Control (DCC). State law requires applicants seeking a state license to provide certain information with their application, such as a list of every person with a financial interest in the applicant and a copy of the owner's application for a background check. DCC reported in 2023 that it had issued nearly 3,800 licenses for cannabis businesses and processed more than 8,800 license renewals.¹ As of December 2023, nearly 240 local jurisdictions were allowing at least one type of cannabis business to operate in their jurisdictions. Table 2 lists the key types of cannabis businesses that DCC licenses. In 2023 licensed cannabis businesses produced \$5.1 billion in total cannabis sales.

In addition to needing licensure from the State, each cannabis business must comply with any requirements imposed on cannabis businesses by the local jurisdictions in which they operate. With the significant local control over the authorization and regulation of cannabis businesses that those jurisdictions retain under state law, local jurisdictions generally may decide not to allow any types of cannabis businesses to operate, may issue permits for only certain types of cannabis businesses, or may set limits on the number of cannabis businesses that may operate in their jurisdiction. Local jurisdictions may also assess and set fees for their permitting processes, annually renew permits, and perform on-site inspections of cannabis businesses. This audit focuses on the local jurisdictions and their processes for issuing permits required to operate cannabis businesses. We refer to these permits as *cannabis-related permits*.

¹ A person may hold multiple state cannabis licenses. For example, a cultivator may have individual licenses for different plots of land under one business name.

Figure 1
Cannabis Businesses Require Both State Licenses and Local Authorization Prior to Commercial Operation



Source: State law and ordinances of local jurisdictions we reviewed.

* We present a selection of requirements to obtain a state license.

† Proposition 64 safeguards local control over the authorization and regulation of cannabis businesses. Therefore, local jurisdictions' processes for authorizing and regulating cannabis businesses may vary. We present several examples of requirements to obtain local authorization from the jurisdictions we reviewed.

Table 2
DCC Licenses Six Key Types of Cannabis Businesses

BUSINESS TYPE	DESCRIPTION OF BUSINESS
Cultivation	Plants, grows, harvests, dries, cures, grades, or trims cannabis. The type of license issued may vary according to several factors, including the size of the cultivated area and whether cannabis grows indoors or outdoors.
Manufacturing	Makes products from cannabis plants, such as edible cannabis. Businesses vary according to the activities performed and the processes used for production.
Testing Laboratory	Tests cannabis goods before they are sold by a retailer.
Retail	Sells cannabis products through either storefronts or delivery.
Distribution	Transports cannabis products between other licensed cannabis businesses, such as by taking finished cannabis products from a manufacturer to a retailer. This business type may also provide storage of cannabis products for other licensees and arrange for the testing of cannabis goods.
Microbusiness	Performs at least three of the following licensed activities at one location: cultivation of no more than 10,000 square feet, manufacturing, distribution, or retail sales.

Source: State law and DCC.

Blank page inserted for reproduction purposes only.

Audit Results

Audit Objective 1:

Review and evaluate the laws, rules, and regulations significant to the audit objectives.

KEY POINT

- Under state law, local jurisdictions have the ability to decide whether to allow cannabis businesses to operate in their jurisdictions, and local jurisdictions have autonomy in creating and implementing their own policies and procedures for any permitting process they choose to adopt.

Proposition 64 safeguards local control over the regulation of cannabis businesses, allowing local jurisdictions to regulate cannabis businesses, to subject cannabis businesses to zoning and permitting requirements, and alternatively, to ban the operation of cannabis businesses altogether. In fact, as of December 2023, the Department of Cannabis Control (DCC) reported that 56 percent of the jurisdictions in the State do not allow any type of cannabis businesses to operate within their boundaries.

Although Proposition 64 allows local jurisdictions to regulate cannabis businesses at the local level, former federal guidance, which has since been rescinded, set forth the federal government's expectations for local jurisdictions that allow cannabis-related conduct. Certain cannabis-related activities, however, including the possession and distribution of cannabis, remain illegal under federal law and therefore can be prosecuted by federal authorities even if those activities are legal according to a state's laws. In August 2013, a U.S. deputy attorney general authored a memorandum for all U.S. attorneys providing guidance on when to enforce federal cannabis laws. As the text box shows, the memorandum states the expectation that states and local governments that have enacted laws authorizing cannabis-related activity will establish strong and effective regulatory and enforcement systems for cannabis-related activity.

Former Federal Guidance on Cannabis Enforcement


... [it is the] expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice.

Source: August 2013 Memorandum from U.S. Deputy Attorney General relating to cannabis enforcement.

Although the U.S. attorney general rescinded the 2013 federal guidance memorandum in 2018, the memorandum was in effect when California legalized the nonmedical use of cannabis by adults 21 years and older. Therefore, this guidance represents a reasonable best practice for how local jurisdictions should regulate cannabis businesses and address any threats to public safety and public health. In fact, one local jurisdiction we reviewed—Monterey County—referenced this federal guidance and used some of its language in the ordinance it adopted authorizing the operation of commercial cannabis businesses.

Each of the six local jurisdictions we reviewed adopted ordinances establishing a permitting process for cannabis businesses, but the specificity of these ordinances varied. For example, South Lake Tahoe's ordinance and the application guidelines adopted by city council resolution specified important elements of the permitting process, such as the required application materials and other criteria for issuance of a cannabis-related permit. Conversely, Fresno's ordinance does not specify the requirements for its cannabis permitting process. Instead, Fresno's ordinance gives the city manager discretion to design evaluation criteria and permitting processes for issuing commercial cannabis business permits, which Fresno developed using policies and procedures.

Under the framework created by Proposition 64, local jurisdictions retain significant control to authorize and regulate cannabis businesses. Therefore, we used best practices and comparative criteria from other local jurisdictions and governments to establish the criteria we use to evaluate each local jurisdictions' cannabis permitting processes.

Audit Objective 3c:

Determine whether local jurisdictions took reasonable steps to ensure fairness and prevent conflicts of interest, abuse, and favoritism.

KEY POINTS

- Only two of the local jurisdictions we reviewed require blind scoring of applications—a process in which the identities of the applicants are kept from the evaluators reviewing and scoring applications, which can reduce the opportunity that they will provide certain applicants with preferential treatment.
- Fresno was the only local jurisdiction we reviewed that lacked an administrative appeals process (appeals process) for applicants to contest the jurisdiction's decision to deny their applications. An appeals process is critical because it helps ensure that applicants have the opportunity to contest the decision if they are denied improperly.
- Four of the local jurisdictions we reviewed did not require that individuals involved in reviewing applications agree to impartiality statements. Requiring such impartiality statements is a best practice to help reduce the risk of any conflicts of interest evaluators might have with the applicants.

Blind Scoring and an Appeals Process Could Help Local Jurisdictions Ensure Fairness

Local jurisdictions can use blind scoring and an appeals process to help ensure fairness and prevent favoritism. The blind scoring of permit applications reduces opportunities for those reviewing or scoring applications to improperly influence outcomes by providing preferential treatment for certain applicants. An appeals process helps ensure that applicants have an opportunity to contest the decision if they are denied improperly. Processes such as these help build public trust and are more likely to lead people to accept a decision or outcome, even when they do not agree with the decision itself. A fair process also requires an impartial decision-maker, clearly understood rules, as well as information about any available review or appeals processes.

Of the six local jurisdictions we reviewed, four—the cities of Fresno, Sacramento, South Lake Tahoe and the county of Santa Barbara—have chosen to require a competitive process that requires scoring of permit applications for either all or some permit types. The remaining two local jurisdictions—Monterey County and the city of San Diego—have chosen not to require a competitive process that scores applications. Of the four local jurisdictions that require scoring, Table 3 shows that the city of Fresno and Santa Barbara County could benefit from implementing blind scoring of applications. In blind scoring, staff redact any identifying information about applicants, such as the business owner name, business name, or business

address, from the application materials that evaluators review so the evaluators cannot identify the applicant whose materials they are scoring. Blind scoring can help prevent personal or financial affiliations between applicants and evaluators from influencing the scores. Blind scoring may also make it more difficult for elected officials to improperly influence government workers who review applications, since blind scoring would make it difficult for the evaluators to know which application the elected official wanted them to focus on. Research on fair and efficient hiring practices shows that identity-blind hiring prioritizes applicant qualifications and removes bias.² To identify whether a local jurisdiction required blind scoring, we reviewed the local jurisdictions' ordinances, policies and procedures, and a selection of applications and related documentation, such as application scoring records.

Table 3
Two of the Local Jurisdictions We Reviewed Would Benefit From Implementing Blind Scoring of Applications

LOCAL JURISDICTION	JURISDICTION'S CANNABIS PERMITTING ORDINANCE OR POLICY REQUIRES BLIND SCORING OF APPLICATIONS	JURISDICTION FOLLOWED POLICY REQUIRING BLIND SCORING
Fresno	X	—*
Monterey County	N/A	N/A
Sacramento	✓†	✓†
San Diego	N/A	N/A
Santa Barbara County	X	—*
South Lake Tahoe	✓	X

Source: State law, local jurisdictions' ordinances and policies, and our selection of applications.

N/A = These local jurisdictions do not require a competitive process that scores applications for permits, and therefore, we would not expect to see blind scoring in our review of applications.

* The jurisdiction did not have a policy requiring blind scoring. Therefore, we would not expect to see blind scoring in our review of applications.

† Sacramento requires blind scoring of equity-retail or storefront applications because it has chosen to have a competitive process for these types of applications. It does not require a competitive process for other types of applications, including those that are not storefront applications. State law defines local equity programs as programs adopted or operated by a local jurisdiction that focus on the inclusion and support of individuals and communities in the cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization.

South Lake Tahoe's application guidelines require it to employ blind scoring, whereby the identity of the applicant or owner will not be revealed when written proposals are scored by the reviewers. However, we found the jurisdiction did not adhere to these guidelines. Specifically, South Lake Tahoe did not fully redact the names of the

² Self WT, Mitchell G, Mellers BA, Tetlock PE, Hildreth JAD (2015) Balancing Fairness and Efficiency: The Impact of Identity-Blind and Identity-Conscious Accountability on Applicant Screening. PLoS ONE 10(12): e0145208. doi:10.1371/journal.pone.0145208.

business or owner on all of the applications it received before sending the applications to its evaluators. The city attorney explained that a former employee performed the redactions manually and did not involve other city staff in performing the redactions. The city attorney agreed that to avoid these same errors in the future, a better practice would be to involve the city attorney's office in the redaction process. In fact, one applicant filed an appeal stating that the city did not follow its selection process because it did not fully redact their application, which precluded the blind scoring as required by the application guidelines. Although the hearing officer—an independent contractor who evaluated the appeal—verified that the city did not completely redact the identity of the applicant in all of the applications, he found no evidence of bias, prejudice, or favoritism by any reviewer that would have affected the results of the scoring. Nevertheless, by not following its procedures, the local jurisdiction undermined applicants' confidence that its evaluation process was fair.

Santa Barbara County's and the city of Fresno's cannabis-permitting ordinances and procedures did not require blind scoring for evaluating permit applications. Both local jurisdictions explained why they had not implemented blind scoring. Santa Barbara County explained that parts of their process could not have been scored blindly, such as those parts that relied on site visits with the applicants. However, county departments also performed portions of the initial scoring—such as evaluating premise diagrams—and blind scoring would have helped ensure impartiality in those steps. Nonetheless, in our view, nothing would have precluded performing site visits after the blind scoring of applications since the local jurisdiction has discretion in the design of the application process. Fresno's deputy city manager indicated that incorporating blind scoring would require additional resources and would significantly delay the process. She further noted that the evaluators consisted of a panel rather than just one individual and that each evaluator was required to sign impartiality statements for each application. Having evaluators sign impartiality statements is a good practice, as we discuss later. However, we also note that although incorporating blind scoring may require additional resources, redacting applications before they are reviewed and ranked is an important additional safeguard for limiting the influence of potential biases.

Following blind scoring during the permit application stage, implementing an appeals process can also help local jurisdictions ensure fairness in the permitting process. In fact, as Table 4 shows, five of the six local jurisdictions we reviewed established a process for denied applicants to appeal the denial, and those local jurisdictions' ordinances detailed the appeals process. At some of the local jurisdictions we reviewed, applicants have the option to appeal a denied application by submitting an appeal within a certain time frame. The person designated to hear the appeal may then receive evidence relevant to the matter and decide the appeal. The designated person may overturn a decision in certain specified circumstances. At one of these local jurisdictions, we found that this designated person is required to be an impartial decision-maker selected by a process that eliminates the risk of bias, which we believe to be a best practice. We identified evidence of appeals made during our review of a selection of applications at the local jurisdictions. An appeals process for applicants who are denied cannabis business permits is an important mechanism that allows such applicants an opportunity for a different individual to review the appeal and identify any potential errors in the original decision.

Two of the local jurisdictions had appeals among the applications we reviewed and one of the five appeals we reviewed resulted in the approval of a formerly denied application. Specifically, one applicant from Santa Barbara County was denied a permit for knowingly, willfully, or negligently making a false statement of a material fact or omitting a material fact. This denial led the applicant to appeal this decision. As a result of the appeal, an administrative law judge conducted a hearing and then reversed the decision after finding that Santa Barbara County’s grounds for denial were flawed. This appeal and overturned decision shows the positive effect an appeals process has for applicants, allowing those applicants who were inappropriately denied a permit the ability to have the reason for denial reviewed.

Table 4
Fresno Could Benefit From Implementing an Appeals Process for Denied Applications

LOCAL JURISDICTION	JURISDICTION ALLOWS APPEALS OF DENIED CANNABIS BUSINESS APPLICATIONS	OF THE 121 APPLICATIONS REVIEWED, THE NUMBER OF APPLICANTS WHO APPEALED THEIR DENIED APPLICATIONS	OF THE APPEALS REVIEWED, THE NUMBER OF SUCCESSFUL APPEALS THAT OVERTURNED A DECISION
Fresno	X	N/A	N/A
Monterey County	✓	0	N/A
Sacramento	✓	0	N/A
San Diego	✓	0	N/A
Santa Barbara County*	✓	2	1
South Lake Tahoe	✓	3	0

Source: Local jurisdictions’ ordinances and our selection of applications.

* Because records of appeals were not kept in any central database or file, we made inquiries at the jurisdiction to identify any appeals related to the specific applications we selected for review.

Fresno was the only local jurisdiction that we reviewed that lacked an appeals process for denied applications. Fresno’s ordinance allows appeals only of approved permits and allows such appeals to be brought only by certain individuals, including the mayor or councilmember in whose district the cannabis business would be located. However, this process does not allow an applicant who has been denied a permit to appeal the decision. Fresno’s deputy city manager indicated that the city has followed its ordinance, which does not include an appeals process for denied applicants. She further explained that the city believes there would be a significant number of appeals that would delay the process if appealing denied applications were an option. However, the five other local jurisdictions we reviewed had appeals processes for denied applicants. Specifically, an appeal in another local jurisdiction led them to reverse the decision to deny an application because the grounds for the denial were flawed, showing the value of such an appeals process. Moreover, a lack of an appeals process can also increase the risk of unfairness in the permitting process. Appeals processes are used in different levels of government such as the federal government,

including the U.S. Equal Employment Opportunity Commission, and the state government, including the Employment Development Department, to ensure that disputes are resolved in a fair way. An appeals process is a best practice to help ensure a fair and transparent process and to reduce the risk of favoritism and abuse.

Local Jurisdictions Can Take Additional Steps to Prevent Conflicts of Interest

All six of the local jurisdictions we reviewed adopted and promulgated conflict-of-interest codes, as required by the State's Political Reform Act.³ However, we found examples in each jurisdiction we reviewed in which at least one individual involved in reviewing permit applications was not required to disclose certain financial interests under the local jurisdiction's conflict-of-interest code. To address this weakness, the local jurisdictions could implement an additional best practice whereby local jurisdictions require all individuals reviewing permit applications to sign impartiality statements, which would include whether the individual has any personal or financial interests. Disclosing non-financial conflicts of interest, such as familial or other personal relationships, goes beyond what is required under state law for financial disclosures. However, this practice would allow local jurisdictions to mitigate the risk of conflicts of interest or even the perception of such a risk in the cannabis permitting process. In particular, local jurisdictions should require all application reviewers to sign impartiality statements and, in the interest of transparency, make the signed statements or the language used for the statements available to the public, as Table 5 shows.

Each local jurisdiction we reviewed adopted and promulgated a conflict-of-interest code that requires designated positions to disclose certain financial information, such as investments, business positions, interests in real property, and sources of income, including gifts, and outstanding loans.⁴ Among other things, a conflict-of-interest code designates the positions within a local jurisdiction that are involved in making or participating in making decisions that may foreseeably have a material effect on any financial interest and requires that individuals in those designated positions make those financial disclosures. For example, someone who is a partial owner of a cannabis business, who also works as a housing and development project manager and is involved in reviewing cannabis business applications, should disclose any interest in the business if that individual's position with the local jurisdiction is required to file financial disclosure statements. However, a weakness we found during our review of the local jurisdictions was that at least one individual involved in reviewing cannabis business applications from each jurisdiction was not employed in a designated position that required filing financial disclosure statements under the jurisdictions' conflict-of-interest codes. Individuals involved in reviewing a permit application who are not required to complete the financial disclosures or sign impartiality statements are at a greater risk of not disclosing a conflict of interest.

³ The Political Reform Act requires state and local government agencies to adopt and promulgate conflict-of-interest codes. This act is separate from requirements under Proposition 64.

⁴ We only reviewed the conflict-of-interest code for San Diego's Planning Department and Development Services Department because those are the departments responsible for reviewing and issuing cannabis business permits.

All local jurisdictions should require impartiality statements from all individuals in the cannabis-permitting process to further mitigate conflicts of interest. We also believe that in the interest of transparency, it is a best practice for local jurisdictions to make these signed statements or the language used in the statements available to the public by posting them to their website. However, none of the jurisdictions we reviewed published those signed statements.

Table 5
Although All Six Local Jurisdictions Comply With State Law, They Could Do More to Safeguard Against Conflicts of Interest

LOCAL JURISDICTION	JURISDICTION ADOPTED A CONFLICT-OF-INTEREST CODE THAT REQUIRES DESIGNATED INDIVIDUALS TO FILE CERTAIN FINANCIAL DISCLOSURES, AS REQUIRED BY STATE LAW	WEAKNESS	BEST PRACTICE	
		AT LEAST ONE INDIVIDUAL INVOLVED IN THE APPLICATION REVIEW PROCESS WAS NOT REQUIRED TO DISCLOSE CERTAIN FINANCIAL INTERESTS	INDIVIDUALS INVOLVED IN THE REVIEW PROCESS SIGN AND FILE IMPARTIALITY STATEMENTS	JURISDICTION PUBLISHED IMPARTIALITY STATEMENTS
Fresno	✓	X	✓*	X
Monterey County	✓	X	X	X
Sacramento	✓	X	✓†	X
San Diego	✓	X	X	X
Santa Barbara County	✓	X	X	X
South Lake Tahoe	✓	X	X	X

Source: Local jurisdictions' ordinances, policies, and procedures, and our selection of applications.

* Fresno has a practice of requiring individuals responsible for the initial scoring to sign impartiality statements. According to its deputy city manager, Fresno did not require individuals who interviewed applicants to sign impartiality statements.

† Sacramento only required the individuals responsible for scoring the equity-retail applications to attest to their impartiality.

Despite not publishing such disclosures, Fresno and Sacramento have implemented the use of impartiality statements, a practice that requires staff responsible for evaluating cannabis business applications to sign a statement attesting to their not having personal relationships, affiliations, biases, or financial interests related to individuals participating in the application process. This practice goes beyond what a designated person is required to include in their financial disclosures under state law. Fresno's deputy city manager said that the city asks all individuals who are responsible for reviewing cannabis business applications to sign impartiality statements related to each applicant. The text box on the next page shows the language Fresno uses in its impartiality statements. In Sacramento, only reviewers of equity program applications for retail business permits, which included one of the 20 cannabis business applications we reviewed, must agree to impartiality agreements.⁵

⁵ Under state law, local equity programs are programs adopted or operated by a local jurisdiction that focus on inclusion and support of individuals and communities who are linked to populations negatively impacted by cannabis criminalization. We describe equity programs in more detail in a later section.

Both Fresno and Sacramento explained that their conflict-of-interest policies, including the use of impartiality statements, are crucial checks to ensure a fair process and instill public confidence. Additionally, both jurisdictions explained that they reviewed these signed impartiality statements to ensure that there were no conflicts of interest, which is an important step to ensure that a designated person is verifying that the reviewers do not have conflicts of interest. In other jurisdictions, implementing a similar process in which the individuals responsible for reviewing applications sign an impartiality statement could help prevent those individuals from not disclosing conflicts of interest.

Excerpt From Fresno's Impartiality Statement

I, _____, a City of Fresno employee and commercial cannabis business permit application reviewer, certify that I have no personal relationship or affiliation with this applicant and have no bias based on a favorable or unfavorable relationship with this applicant. Further, I have no financial interest of any sort with this applicant.

Source: Fresno application files.

The other four local jurisdictions did not require individuals involved in reviewing cannabis business applications to sign impartiality statements. Monterey County explained that it had not considered implementing a specific policy related to individuals reviewing cannabis business applications. Santa Barbara County contracted with a third party for the initial review of applications. It included in its contract a conflict-of-interest clause that states that the contractor agrees that it presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in business, property, or sources of income that would conflict with the performance of services. In addition, Santa Barbara County indicated that local jurisdiction staff who were responsible for ranking the final application and performing site inspections had discussed the importance of impartiality with the county's legal counsel, after which the staff verbally affirmed their impartiality. Therefore, the local jurisdiction had not considered further requiring the staff to sign an impartiality statement. Nevertheless, in any process that requires impartiality or that may be susceptible to bias, it is important to consider and implement safeguards, such as using impartiality statements, to prevent undue influence and strengthen confidence in the integrity of the process.

Blank page inserted for reproduction purposes only.

Audit Objective 5:

Assess the benefits and challenges of different processes for awarding local licenses, and evaluate whether some selection processes are structurally more susceptible to corruption.

KEY POINTS

- Local jurisdictions that limit or cap the number of cannabis-related permits they will issue potentially increase the value of those permits because of scarcity, leading to greater incentives for corruption committed by government officials.
- Local jurisdictions that place decision-making authority with one person so that the decisions can be based on one person's judgment instead of clearly understood criteria increase the risk of corruption.
- Local jurisdictions would benefit from implementing best practices, such as blind scoring and an appeals process, to reduce the risk of corruption.

Proposition 64 gives local jurisdictions significant control over any cannabis permitting process they choose to implement, and the six local jurisdictions we reviewed created different ways to permit cannabis businesses. Some local jurisdictions adopted permitting processes that competitively score applications and issue a limited number of permits based on applicants' scores. For example, South Lake Tahoe determined that it would issue cannabis-related permits to no more than four retail businesses and awarded permits to only those applicants whose applications received the highest scores. Other jurisdictions, such as Monterey County, adopted permitting processes that do not set such strict limits on the number of retail permits and instead issue retail permits to applicants whose applications comply with all the requirements in ordinance. Because this audit objective directed us to identify whether different processes are structurally more susceptible to corruption, we focused on those processes and the risks that they could be susceptible to corruption.

Corruption is dishonest or illegal behavior involving a person in a position of power, such as an elected official accepting money for doing something illegal. The U.S. Attorney's Office recently detailed three different bribery schemes involving government officials helping to pass laws allowing commercial cannabis activity or issuing permits to certain cannabis businesses in exchange for money in California. For example, two individuals were involved in bribery and funneling bribes in exchange for influence over Baldwin Park, California's cannabis permitting process, such as helping certain businesses obtain cannabis permits.⁶ Specifically, a city councilmember solicited bribe payments from businesses seeking cannabis-related permits in the city, which it had set to a limit of 25 permits. In exchange for the illicit

⁶ We did not review the permitting process for Baldwin Park, California.

payments, the councilmember agreed to use his position in city government to assist the companies with obtaining those permits by voting to approve the applications for those business and securing votes from other councilmembers. A former county planning commissioner agreed to act as an intermediary to funnel those bribes to the councilmember by using his internet marketing company and keeping a portion of those bribes for himself. Nevertheless, the Institute for Local Government's publication about protecting a community against corruption indicates the importance of a robust culture of ethics and that decision-making criteria include values such as fairness. It further indicates that processes promoting transparency and limiting the risk of corruption serve to increase public confidence.

Best Practices to Reduce the Risk of Corruption in Cannabis Permitting

- Blind scoring of applications to ensure that the identity of the applicants does not bias the reviewer's/decision-makers' score.
- Appeals processes that include a review of denied applications by an impartial decision-maker to increase transparency and public confidence in the outcomes of the permitting process.

Source: Local jurisdictions' permitting ordinances and policies.

Local jurisdictions increase their susceptibility to corruption when they create scarcity by limiting the number of permits issued—thus increasing their value—without implementing additional safeguards. Capping the number of permits also increases the risk that someone would use their influence to preferentially select the applicants who will receive permits. Although South Lake Tahoe's ordinance limited the number of retail cannabis businesses permitted in the city, it took steps that help mitigate the risk of corruption and increased its transparency and fair decision-making criteria by requiring blind scoring and providing an appeals process that allowed applicants to challenge their denied applications. This limitation on retail permits required South Lake Tahoe to approve no more than four retailers of all 21 applications it received. We identified two key best practices, such as those at South Lake Tahoe, in the text box.

One appeal that we reviewed alleged that two of the individuals who were owners of two cannabis businesses, which were ultimately awarded permits, were part of a subcommittee that wrote South Lake Tahoe's ordinances and scoring criteria for the local jurisdiction's cannabis-permitting process. The appeal further alleged that the subcommittee possessed decision-making authority and established the cannabis program, thereby providing those two owners with an unfair advantage in completing their applications. However, after reviewing the cannabis business application guidelines, written appeal, and responses by and information from the local jurisdiction and from the businesses involved in the appeal, the hearing officer—an independent contractor—denied the appeal. The hearing officer, appointed to review, investigate, and decide South Lake Tahoe's cannabis appeals, found that there was no evidence that the subcommittee developed the scoring criteria for the applications and no facts to suggest that the subcommittee had any influence over the content of the ordinances. Further, the hearing officer stated that the subcommittee was a citizen's advisory committee that only provided background information to the city council. Nevertheless, having an independent appeals process to promote transparency and resolve disputes is important to better ensure that applicants have recourse if they are evaluated unfairly by the local jurisdiction.

Our review of applications at Fresno identified policies that may make its cannabis-permitting process more susceptible to corruption. Specifically, the city manager is responsible for making the decision to award or deny a permit, and the city limits the number of cannabis-related permits it can approve—such as limiting permits to no more than 14 cannabis retail businesses. The text box includes an excerpt from Fresno’s application procedures and guidelines, which discusses the city manager’s authority to make a final determination on which applicants to award a permit. In our view, such a process lacks transparency for how potentially lucrative cannabis-related permits are being issued by the city manager, possibly eroding public trust in the process. In an environment where a city sets a cap on cannabis-related permits, it is even more important that the public fully understand the permitting process and decision-making criteria.

Excerpt From Fresno’s Application Procedures and Guidelines

“The city manager will make a final determination regarding the applicants to be awarded a permit and the decision is not necessarily determined by the application score alone. If requested by the city manager, the applicants may be requested to provide additional information or respond to further questions before the city manager makes the final decision on the awarding of a permit(s). The city manager may also take into consideration the quantities of applications for different permit types.”

Source: Fresno’s 2021 Commercial Cannabis Business Application Permit Procedures and Guidelines. Emphasis added.

Even though such authority can be used for laudable purposes—as in Fresno’s case with equity applicants—the integrity of the city’s process significantly relies on one person who can effectively ignore an application’s score under the current permit procedures and guidelines. In the case of using this authority in a positive manner, the deputy city manager indicated that the city manager gave preference to the highest ranked equity applicants over non-equity applicants by approving the top three ranking equity applicants before approving any non-equity applicants. Specifically, the city manager selected an equity applicant to obtain cannabis-related permits in place of a non-equity applicant. The non-equity applicant scored high enough to obtain the cannabis-related permit, but after the city manager selected the equity applicant, the non-equity applicant was no longer eligible for a cannabis permit due to proximity location requirements in city ordinance. Because equity applicants were not scored using the same metric that applied to non-equity applicants, we could not compare the two to see whether an equity applicant scored higher than a non-equity applicant. Nevertheless, this shows that the city manager used his authority by prioritizing equity, which is a priority of the State.


Although the city manager deserves credit for prioritizing equity and awarding the established minimum number of equity permits, there are no limitations in ordinance or in the policy restricting the city manager’s discretion and decision-making authority. This type of permitting structure can increase the risk of corruption since only one individual decides who should get a permit, and that individual can deviate from the scoring even though that scoring is ostensibly the basis for awarding a permit.

Fresno also had a control that may reduce the risk of corruption—a process to appeal the city manager’s decision—but we identified two concerns with the process. Our first concern is that the process does not allow applicants to appeal denied applications. Fresno’s appeals process allows certain individuals, including the mayor,

or the councilmember in whose district the cannabis business would be located to appeal the decision of an approved permit, but it does not allow applicants who are denied a permit to appeal the decision. In fact, we saw several cases in which a councilmember appealed the city manager's decision to approve a cannabis business permit, leading to one applicant being denied, and another applicant who scored lower to be approved. The applicant whose application was originally approved would not have any opportunity to appeal this denial since the application was now denied, which threatens fairness of the process. Our second concern is that the appeals process allows councilmembers who file an appeal to also vote on the appeal decision. For example, a councilmember from one district appealed one application that the city manager had approved. During a city council meeting, the councilmember voted for the denial of that application after the discussion in the meeting. By allowing councilmembers to appeal the decision to award a permit and also vote on the appeal, the process provides an opportunity for a single councilmember to exercise significant influence over which applicants ultimately obtain cannabis-related permits. Having separation of duties or an impartial decision-maker to decide the appeal could help reduce the risk of corruption in the cannabis-permitting process.

Fresno's deputy city manager stated that the city followed its ordinance, which does not include an appeals process for denied applicants. Further, she indicated that if Fresno were to create an appeals process for denied applicants there would be a significant number of appeals, thereby delaying the permitting process. Regardless, because Fresno does not have a process for applicants to appeal denied applications, it denies those applicants an opportunity to have their concerns heard. Further, Fresno's existing process that allows a council member who raised an appeal of an approved application to vote on the outcome of that appeal could raise questions about integrity of the process and undermine the public's trust in the process.

To mitigate corruption in the permitting process, local jurisdictions can implement certain best practices. In particular, implementing blind scoring of applications so that the identity of the applicants is not shared with the reviewers can help ensure that an evaluator does not give preferential treatment to certain applicants. Further, ensuring that there is more than one person responsible for approving or denying permits increases public confidence in the fairness of the permitting process. Finally, instituting an appeals process for denied applications, in which an impartial decision-maker reviews the appeal, increases transparency by providing applicants with an opportunity to contest the decision to deny their application if it was not made in accordance with the local jurisdiction's established permitting process.

Audit Objective 4:

For a selection of permits at each of the six local jurisdictions, determine whether the local jurisdiction followed its policies and procedures when issuing the local licenses.

KEY POINT

- Local jurisdictions have inconsistently documented whether they followed their policies and procedures when ensuring that background checks occurred and that permit applications were complete.

We Selected Applications From Each Local Jurisdiction to Determine Whether the Jurisdictions Followed Their Policies and Procedures

As Table 6 demonstrates, we judgmentally selected 20 applications for review from five of the six local jurisdictions, and we reviewed 21 applications from South Lake Tahoe because it had received only a total of 21 applications. Some of our six local jurisdictions had additional information available that assisted us in making our selection. For example, Fresno's list of applications documented the reason an application was denied, allowing us to select applications that had different reasons for denial. Where possible, we selected some applications that a jurisdiction had denied and the applicant had subsequently appealed. We also considered, where possible, the cannabis business category, such as retail, cultivation, or microbusiness, to ensure that we included a variety of business types in our selection.

To determine which processes to test, we reviewed each local jurisdictions' ordinances, policies, and procedures and identified key controls that would help ensure public health and safety and fairness in the process. Two of the key controls we identified were performing background checks and ensuring that applications were complete. To test the applications at each local jurisdiction, we reviewed applications, including business plans, site diagrams, and land ownership information; we also reviewed the local jurisdictions' evidence of reviewing the applications; and we interviewed local jurisdiction staff knowledgeable about the applications.

The Six Local Jurisdictions We Reviewed Were Inconsistent in Documenting Required Criminal Background Checks

Although the ordinances of all six local jurisdictions' we reviewed require that applicants, or certain individuals associated with an applicant, undergo a criminal background check, we found that none of the six was able to demonstrate that they consistently reviewed or documented the results. A criminal background check is the process of screening a person's criminal history to determine whether that individual has been convicted of any disqualifying misdemeanors or felonies. The Medicinal

Examples of Disqualifying Convictions

- Felonies involving fraud, deceit, or embezzlement.
- Felonies for using a minor in activities involving controlled substances, such as transporting or selling.
- Crimes of moral turpitude.
- Felonies for certain drug trafficking offenses.
- Extortion.

Source: Ordinances of local jurisdictions we reviewed.

and Adult-Use Cannabis Regulation and Safety Act does not mandate that local jurisdictions require applicants of cannabis-related permits to undergo background checks. However, each of the local jurisdictions have recognized the importance of requiring background checks and have reflected this in their ordinances. For example, Sacramento’s ordinance generally prohibits involvement with a cannabis business of any individuals who have been convicted of an offense that is substantially related to the qualifications, functions, and duties of a cannabis business; such offenses include a violent felony, a serious felony, or a felony involving fraud, deceit, or embezzlement. The text box provides further examples of disqualifying convictions from several of the local jurisdictions we reviewed. As Table 7 shows, all local jurisdictions we reviewed inconsistently documented whether they followed their policies requiring

background checks. When a local jurisdiction does not document the results of all background checks during the permitting process, it calls into question whether that local jurisdiction adequately addressed public safety concerns. Further, inconsistently following a local jurisdiction’s policy can erode public trust in that local jurisdiction’s permitting processes.

Table 6
 Local Jurisdictions Have Received and Approved Varying Numbers of Applications

LOCAL JURISDICTION	ACTIVE PERMITS AS OF OUR REVIEW IN 2023*	TOTAL NUMBER OF APPLICATIONS RECEIVED, BY LOCAL JURISDICTION†	TIME FRAME FROM WHICH APPLICATIONS WERE SELECTED‡	NUMBER OF PERMITTED APPLICATIONS WE REVIEWED	NUMBER OF NON-PERMITTED APPLICATIONS WE REVIEWED	TOTAL NUMBER OF APPLICATIONS WE REVIEWED
Fresno	2‡	164	2020–2023	2	18	20
Monterey County	24	149	2018–2023	11	9	20
Sacramento	91	263	2020–2023	15	5	20
San Diego	43	—§	2018–2023	10	10	20
Santa Barbara County	56	142	2019–2023	13	7	20
South Lake Tahoe	4	21	2019	4	17	21
					Total	121

Source: Local jurisdictions’ application and permit records.

* We reviewed applications as of different dates in each local jurisdiction, depending on when we performed our fieldwork.
 † Each local jurisdiction implemented its cannabis-permitting process during different time frames. Our selection of applications reflects this.
 ‡ As of January 2024, we received information from Fresno that it issued four additional permits, which are not shown in this table.
 § Because San Diego did not maintain the records of applications for adult-use cannabis permits, we were unable to accurately identify the number of applications.

Of the 16 applications requiring background checks in Sacramento that we reviewed, we found shortcomings for 10 applications.⁷ Specifically, we found that Sacramento lacked clear documentation demonstrating that eight applicants had passed background checks. Sacramento cannabis program staff explained that before 2020, another department provided the cannabis department with a listing of individuals who had passed the background check, which the program staff would input into a spreadsheet. When we reviewed the spreadsheet, we found that it only contained the names of individuals and, generally, their birthdates, but lacked any other information, including the dates of the results or whether the individuals had passed the background checks. Beginning in mid-to-late 2020, Sacramento updated its process by having the cannabis program staff check the spreadsheet maintained by the other department performing the background check, which indicates the applicant’s or owner’s name, the results of the background check, and the date of the results.

Table 7
The Six Local Jurisdictions Inconsistently Documented Whether They Followed Their Policies Requiring Background Checks

LOCAL JURISDICTION	LOCAL ORDINANCE REQUIREMENTS FOR BACKGROUND CHECKS	NUMBER OF APPLICATIONS REQUIRING A BACKGROUND CHECK ⁷	NUMBER OF APPLICATIONS IN WHICH JURISDICTION DID NOT DOCUMENT APPLICANT PASSED BACKGROUND CHECK	DEFICIENCY	JURISDICTION'S PERSPECTIVE
Fresno	All operators, owners, investors, and managers of a cannabis business shall submit information for a background check. An application shall be denied if the applicant was convicted of activities related to controlled substances or other crimes.	7	5	Background checks related to five applications revealed criminal history for at least one of the owners but the jurisdiction did not document whether the criminal history disqualified the applicant.	Fresno indicated that it only documents failed background checks and does not believe it necessary to document when applicants have passed their background checks.
Monterey County	All owners, managers, and persons having a 20 percent or more financial interest must submit fingerprints and other necessary information for a criminal background check. An application shall be denied if these individuals have been convicted of a felony or certain drug-related misdemeanors within the past 10 years.	18	1	Undetermined whether individuals of one permitted business passed background checks. Otherwise, Monterey County has a clear process for documenting that individuals passed background checks.	The Monterey County cannabis program does not know whether the then-owners passed the background check for one application because the permit was issued by the department previously responsible for issuing permits.

continued on next page ...

⁷ Each jurisdiction has different policies for when an applicant must complete and pass a background check. Because of the differences in these policies, applications may be denied for other reasons before the applicant is required to pass a background check. Therefore, we did not expect to see documentation of a background check for every application we tested.

LOCAL JURISDICTION	LOCAL ORDINANCE REQUIREMENTS FOR BACKGROUND CHECKS	NUMBER OF APPLICATIONS REQUIRING A BACKGROUND CHECK*	NUMBER OF APPLICATIONS IN WHICH JURISDICTION DID NOT DOCUMENT APPLICANT PASSED BACKGROUND CHECK	DEFICIENCY	JURISDICTION'S PERSPECTIVE
Sacramento	<p>All owners having a 20 percent or more financial interest, officers, members of the board of directors, LLC managers, and individuals with similar responsibilities must submit fingerprints for a background check. An application may be denied if these individuals have been convicted of an offense that is substantially related to the qualifications, functions, or duties of a cannabis business.</p>	16	10	<p>Sacramento did not clearly document whether individuals of eight permitted businesses passed background checks and could not provide background checks for two businesses.</p>	<p>Sacramento originally could not provide documentation for the results of two background checks because the applicants submitted their information to the wrong department during the COVID pandemic and the city did not follow up. Subsequent to our review, Sacramento followed up with the two businesses to run background checks and verified that they passed.</p>
San Diego	<p>All responsible persons, including managers and persons responsible for the management of a cannabis business, are required to provide fingerprints to the city and undergo a background check. Any person who has been convicted of a violent felony or a crime of moral turpitude within the past seven years cannot act as a responsible person for a cannabis business.</p>	10	1	<p>San Diego could not provide documentation for the results of the background check before the start of one business's operations. However, San Diego was able to provide documentation showing that the responsible persons passed background checks when the applicants provided information for the renewal of their permit.</p>	<p>San Diego did not have the original background check in its records but the responsible person subsequently passed a background check.</p>
Santa Barbara County	<p>All owners, supervisors, employees, and persons having a 20 percent or more financial interest must go through a background check that does not disclose certain felonies.</p>	13	11	<p>Santa Barbara does not require the department that oversees cannabis to document evidence that each individual passed the background check, resulting in its permitting 11 of the 13 applicants we reviewed without first verifying and documenting that the sheriff's office performed background checks on each owner.</p>	<p>Santa Barbara's permitting staff only receive notification from the sheriff's office if a background check indicates a potentially disqualifying conviction. Santa Barbara agrees that the county should document approval verifying that each individual passed a background check.</p>

LOCAL JURISDICTION	LOCAL ORDINANCE REQUIREMENTS FOR BACKGROUND CHECKS	NUMBER OF APPLICATIONS REQUIRING A BACKGROUND CHECK*	NUMBER OF APPLICATIONS IN WHICH JURISDICTION DID NOT DOCUMENT APPLICANT PASSED BACKGROUND CHECK	DEFICIENCY	JURISDICTION'S PERSPECTIVE
South Lake Tahoe	All owners, operators, and employees are required to complete fingerprinting. An application shall be denied if the applicant, owners, operators, or employees have been convicted of an offense that is substantially related to the functions or duties of a cannabis business.	4	2	For two applications, South Lake Tahoe deviated from its normal process and did not clearly document that the individuals required to undergo background checks had passed their background checks.	South Lake Tahoe noted that the inconsistent documentation of background checks was a result of different individuals completing the documentation. South Lake Tahoe agrees that the documentation of background checks should be consistent.

Source: Local jurisdictions' ordinances, policies, and staff interviews.

* Each jurisdiction has different policies for when an applicant must complete and pass a background check. Because of the differences in these policies, applications may be denied for other reasons before the applicant is required to pass a background check. Therefore, we did not expect to see documentation of a background check for every application we tested.

In the remaining two applications in which we identified problems and for which the applicants ultimately received their cannabis-related permits, Sacramento had not ensured that background checks had been completed. The cannabis program manager informed us that neither applicant had submitted all of the documents necessary to complete the background checks. She explained that it had issued the permits on the condition that the applicants successfully pass their criminal background checks. However, the applicants had submitted their documentation to the wrong city department, and the cannabis program did not follow up. After we brought this concern to Sacramento's attention, staff contacted the individuals and have since received verification that they passed the background checks. Nevertheless, the cannabis program manager explained that Sacramento recently amended its permitting process so that it no longer issues any permits until it has received the results of required background checks.

Santa Barbara County's executive office, which oversees cannabis permitting, issued permits to 11 of the 13 applicants we reviewed without receiving documentation from the sheriff's office that each owner had passed a background check. According to Santa Barbara County's deputy county executive officer, permitting staff receive notification from the sheriff's office only when individuals have a potentially disqualifying conviction, but permitting staff do not receive any other information pertaining to the background check, including information confirming that an applicant has passed. Although the deputy county executive officer indicated that all of the individuals required to undergo background checks passed their background checks, she agreed that the county executive office should document for all required individuals whether they had passed criminal background checks.

An example from Monterey County shows a best practice that other local jurisdictions should implement. Information from background checks is confidential and includes personal information, such as names and dates of birth. State law

makes it a crime to improperly access or disseminate this confidential information. Monterey County's process is to document the results of its background checks in a way that maintains the confidentiality of the information and provides the results necessary to document whether an individual passed or failed. Monterey County Sheriff's Office provides notifications to the cannabis program reporting the results of background checks. On these notifications, the sheriff's office only indicates the name of the individual whose criminal record was reviewed, and the results of that review; this reporting is a best practice. We did not see these types of notifications at Santa Barbara County, for example, which instead received no notification unless someone did not pass the background check.

One Local Jurisdiction Did Not Demonstrate That It Followed Its Process for Verifying Completeness

Although the six local jurisdictions we reviewed required applicants to submit complete applications, one local jurisdiction did not consistently determine whether applications were complete. Verifying that an application is complete ensures that applicants have demonstrated that they meet the qualifications necessary for operating as a cannabis business. Similarly, accurately tracking the completeness of applications helps jurisdictions combat inconsistencies that may decrease public confidence in the cannabis-permitting process. As Table 8 shows, before December 2021 San Diego could not demonstrate that it followed its documented process for ensuring that applications were complete.

To ensure that all applicants meet the requirements to operate a cannabis business, the local jurisdictions must verify that all required elements of an application are complete. For example, a South Lake Tahoe ordinance requires that certain city staff review all applications for completeness, and the jurisdiction's application guidelines require that it notify applicants of missing items or that the applications are complete. To notify applicants, South Lake Tahoe sends a letter to the applicant with a checklist of outstanding items that the local jurisdiction needs to consider an application complete. South Lake Tahoe followed its process by sending letters to all 21 applicants, informing them that the applications were complete.

In contrast, San Diego could not demonstrate before December 2021 that it followed its documented process for ensuring that applications were complete. San Diego's policy states that its minimum submittal requirements checklist establishes the minimum details that must be included in all plans and documents required to be included in the application and that staff will review applicants' documents against this checklist. For applications submitted before December 2021, San Diego simply entered into its tracking database the date the application was deemed complete. However, for 13 of the applications we reviewed, San Diego could not provide evidence that it followed its policy to compare the applications to the checklist, all of which were submitted before December 2021. San Diego's project manager stated that the local jurisdiction's adoption of an online permitting process in December 2021 has improved its documentation and record retention. In fact, we reviewed seven applications that San Diego received after December 2021 and verified that city staff had performed appropriate checks for completeness using the online system.

Table 8
One Local Jurisdiction We Reviewed Did Not Follow Its Process for Ensuring Complete Applications


LOCAL JURISDICTION	NUMBER OF APPLICATIONS REVIEWED	NUMBER OF APPLICATIONS WITH COMPLETENESS PROBLEMS	RESULTS	JURISDICTION'S PERSPECTIVE
Fresno	20	0	Checked for completeness on all applications.	N/A
Monterey County	20	0	Checked for completeness on all applications.	N/A
Sacramento	20	0	Checked for completeness on all applications.	N/A
San Diego	20	13	Before December 2021, San Diego could not demonstrate that it followed its documented process for ensuring that 13 applications were complete.	San Diego implemented an electronic tracking system in December 2021 that has helped ensure that applications are checked for completeness. We reviewed seven applications that were filed after December 2021 and found San Diego documented its completeness checks for each of those applications.
Santa Barbara County	20	0	Checked for completeness on all applications.	N/A
South Lake Tahoe	21*	0	Checked for completeness on all applications.	N/A

Source: Local jurisdictions' applications.

N/A = Not applicable.

* South Lake Tahoe only had 21 applications in total so we reviewed each application.

Blank page inserted for reproduction purposes only.

Audit Objective 3b:

Determine whether local jurisdictions' policies and procedures comply with relevant state and local laws and regulations.


KEY POINT

- Proposition 64 does not set specific conditions with which local jurisdictions must comply when creating any permitting processes they choose to implement. The local jurisdictions we reviewed aligned their policies and procedures, as applicable, with their local ordinances for cannabis-permitting processes.

When approving Proposition 64, the voters found and declared that Proposition 64 safeguards local control over adult-use cannabis businesses. The California Constitution gives local jurisdictions the power to make and enforce certain ordinances within their limits. Under the framework for legalizing nonmedical adult-use cannabis created by Proposition 64, local jurisdictions may establish their own permitting processes to regulate cannabis businesses. Further, the Medicinal and Adult-Use Cannabis Regulation and Safety Act does not set specific requirements for, or establish oversight of, local cannabis-permitting processes, and local jurisdictions may include the details of any permitting process they choose to adopt in ordinance, policies and procedures, or both. Because of this significant local control, we make our recommendations generally to all local jurisdictions that permit cannabis businesses rather than make recommendations directly to the Legislature.

We reviewed the six local jurisdictions' laws and found that all six adopted ordinances that either established or authorized the establishment of a permitting process. These ordinances varied in specificity: some local jurisdictions specified the permitting process in the ordinances while others adopted ordinances directing staff in the jurisdiction to develop more detailed or specific permitting policies outside of the ordinances. **Whether prescribed in ordinance or detailed in separate policies and procedures, all six local jurisdictions created and documented the details of their cannabis-permitting process.** We also reviewed the cannabis-permitting policies and procedures at each of the six selected local jurisdictions, as applicable, and verified that they complied with key requirements in applicable local ordinance. We did not identify any problems in this area.

Blank page inserted for reproduction purposes only.

Audit Objective 3a:

Determine whether cannabis business licensing and permitting policies and procedures are in place and clearly communicated to the public and potential licensees.

KEY POINTS

- All local jurisdictions we reviewed made their ordinances and permit application forms available on their websites for access by the public, including potential permittees.
- Several local jurisdictions provided additional information on their websites, such as frequently asked questions, application instructions, and fee information.

Publicly available information is critical for ensuring the transparency of local jurisdictions' operations and decisions. According to the U.S. Census Bureau, transparency promotes accountability by providing the public with information about what their government is doing. The Institute for Local Government recommends that local agencies post regulations, permit information, and permit application forms on their websites to potentially enhance public trust and confidence. To evaluate the transparency of the local jurisdictions' permitting processes, we reviewed the local jurisdictions' public-facing websites for information on the permitting process. In doing so, we verified whether the cannabis-related ordinances, policies and procedures, and application forms were clearly posted to the jurisdictions' websites for access by the public. Each jurisdiction we reviewed made the information recommended by the Institute for Local Government available to the public through their websites, as Table 9 shows. For example, Sacramento has a webpage for the Office of Cannabis Management, with links to information on the equity program, cannabis business operating permits, and cannabis-related regulations. The webpage for the cannabis business operating permits also links to the application form, which the applicant can complete and submit online.

In our review of the local jurisdictions' public websites, we also found that some local jurisdictions provided additional information on the permitting process, including step-by-step guidelines on navigating the permitting process, which we considered a best practice. Providing this additional information increases the transparency of the permitting process for potential applicants and the public. Four of the six local jurisdictions followed all of the best practices outlined in Table 9. For example, Santa Barbara County created supplemental information for the public that includes a flow chart that illustrates the online application process and the steps taken by county staff to review applications.

Table 9
All Local Jurisdictions We Reviewed Include Basic Permit Information on Their Websites, and Several Jurisdictions Provide Additional Information That We Considered Best Practices

LOCAL JURISDICTION	CRITERIA FROM THE INSTITUTE FOR LOCAL GOVERNMENT	BEST PRACTICES OBSERVED AT LOCAL JURISDICTIONS		
	PERMIT-RELATED ORDINANCES, PERMIT INFORMATION, AND PERMIT APPLICATION FORMS AVAILABLE ON PUBLIC WEBSITE	PROVIDED SUPPLEMENTAL COMMUNICATIONS ABOUT ITS CANNABIS-PERMITTING POLICIES AND PROCEDURES, SUCH AS STEP-BY-STEP GUIDES AND FAQs	PROVIDED A WEB APPLICATION THAT GUIDES THE APPLICANT THROUGH THE APPLICATION PROCESS	INCLUDED CANNABIS-RELATED FEES
Fresno	✓	✓	✓	✓
Monterey County	✓	✓	X	✓
Sacramento	✓	✓	✓	✓
San Diego	✓	✓	✓	✓
Santa Barbara County	✓	✓	✓	✓
South Lake Tahoe	✓	X	X	✓

Source: Local jurisdictions' websites displaying ordinances, public communications, applications, and fees.

All of the local jurisdictions included cannabis-related permit fees on their public websites, including South Lake Tahoe, which included amounts for permit and license fees, annual inspection fees, and renewal fees, among other fees. By clearly communicating information about fees, local jurisdictions increase their transparency and accountability to the public and to potential applicants.

Audit Objective 6:

Review and assess any other issues not covered in the audit objectives that are significant to the audit.

KEY POINTS

- It took local jurisdictions, on average, more than 2.5 years to approve the applications reviewed in this audit.
- Some local jurisdictions have created programs to assist applicants from populations negatively impacted by cannabis criminalization (equity programs), but most of these programs that we reviewed were still relatively new, with few equity applicants having received cannabis-related permits.
- Local jurisdictions charge applicants fees—that varied widely in amount for the six jurisdictions we reviewed—to apply for and complete the cannabis-permitting process.

In conducting our audit, we identified certain other issue areas not covered in the audit objectives and on which we present information in the following sections. These areas include the length of time it took the six local jurisdictions to process permit applications, the local jurisdictions' equity programs, and the fee amounts the local jurisdictions charge applicants to complete the cannabis-permitting process. We present these issue areas in the audit for the sole purpose of increasing awareness about them, including awareness of the potential barriers to entry some of these issue areas may cause for applicants. However, the scope of the audit request did not ask us to evaluate the length of time it took jurisdictions to process applications, to assess their equity programs, or to review each local jurisdiction's fees relative to the actual costs of administering cannabis-permitting programs.

Local Jurisdictions Took an Average of Two and a Half Years to Process the Applications We Reviewed

The local jurisdictions we reviewed took more than two and a half years, on average, to process and approve the applications that we selected for review.⁸ Generally, the local jurisdictions we reviewed required each applicant to obtain one or more permits in order to begin operation. For the applications we reviewed at each local jurisdiction that were approved or still in progress, we identified the date the applicant submitted the application to the jurisdiction and the date the jurisdiction approved the final cannabis-related permit or the date we obtained the data from the jurisdiction, respectively. Table 10 shows the average length of time each local jurisdiction took to process the applications and approve the required permits.

⁸ Although we generally reviewed a selection of 20 applications at each local jurisdiction, we excluded from this analysis applications that were withdrawn or denied.

Of the applications we reviewed, the local jurisdictions took an average of 1.6 years in Fresno to 3.9 years in San Diego, to approve cannabis-related permits after an applicant submitted the initial application. Overall, the applications still in progress as of the date of our review had been pending for three years on average.

Table 10
Local Jurisdictions We Reviewed Took an Average of More Than Two Years to Process and Approve Applications

LOCAL JURISDICTION	APPROVED OR IN PROGRESS	NUMBER OF APPLICATIONS REVIEWED BY AUDITOR*	AVERAGE NUMBER OF CALENDAR DAYS OF APPLICATION PROCESSING†	AVERAGE NUMBER OF YEARS OF APPLICATION PROCESSING
Fresno	Approved	2	579	1.6
	In Progress	8	1,008	2.8
Monterey County	Approved	11	713	2.0
	In Progress	4	1,214	3.3
Sacramento	Approved	15	1,033	2.8
	In Progress	2	1,341	3.7
San Diego	Approved	10	1,432	3.9
	In Progress	9	618	1.7
Santa Barbara County	Approved	10	1,241	3.4
	In Progress	3	1,594	4.4
South Lake Tahoe	Approved	4	612	1.7
	In Progress	0	N/A	N/A
Overall	Approved	52	935	2.6
	In Progress	26	1,155	3.2

Source: Local jurisdictions' applications.

N/A = Not applicable.

* Although we reviewed a selection of 20 applications at each local jurisdiction, with the exception of South Lake Tahoe where we reviewed 21, we excluded applications that were withdrawn or denied from this table. If applications were missing the key dates needed to make calculations, we also did not include them in this table.

† For a selection of applications at each jurisdiction, we calculated the time it took them to process applications, beginning with the date the jurisdiction received the application and ending with the date it issued the permit or the date of our review, if the application was still in progress.

Some local jurisdictions cited several reasons for the lengthy process, such as the time it takes applicants to submit all of the required application information. Monterey County and Santa Barbara County noted that it takes a long time for applicants to satisfy all requirements for environmental reviews. Monterey

County also said that contributing factors include, for example, the time it takes for applicants to submit the information needed to perform background checks. Sacramento and San Diego similarly indicated that it can take additional time for applicants to submit all required documents. Required documents can include, for example, verification that property owners have consented to the use of the proposed business property to operate a cannabis business and proposed business plans. Moreover, Monterey County's equity assessment indicated that lengthy processing times may result in unintended barriers to obtaining permits. Because applicants may incur some operating expenses, such as rent, during the time they are waiting for permit approval and before they can begin to generate revenue, such expenses over months or years could represent a hardship to some applicants.

Although Santa Barbara County included in its ordinance a required time frame for processing applications, that jurisdiction had some of the longest application-processing times among the applications we reviewed. Santa Barbara County amended its ordinance in November 2021 to require applicants to submit a business permit application within 30 days of receiving approval of their land-use permit. Of the seven applications we evaluated that received land-use approval after November 2021, the local jurisdiction allowed four applicants to apply for their business licenses after the 30-day window had closed, and it allowed one applicant to submit a business license application after 183 days. As Table 10 shows, Santa Barbara County issued 10 permits that we reviewed, the processing time of which averaged 3.4 years, the second longest of the six local jurisdictions we reviewed. Santa Barbara County's deputy executive officer explained that the jurisdiction does not enforce this processing-time requirement because it is primarily concerned with the applicants beginning to prepare the necessary documents for the next step of the application process. Nevertheless, required time frames in local ordinances may not shorten the amount of time taken to process applications if local jurisdictions do not consistently enforce these requirements.

Although Not Required to Do So, Some Local Jurisdictions Have Created Equity Programs to Assist Applicants From Populations Negatively Impacted by Cannabis Criminalization

Under the California Cannabis Equity Act, local equity programs adopted or operated by a local jurisdiction focus on the inclusion and support of individuals and communities in the cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization (populations negatively impacted by cannabis criminalization). Although the California Cannabis Equity Act defines what constitutes a local equity program for its purposes, it does not require that local jurisdictions conduct an equity assessment or develop an equity program. Multiple equity assessments, including those from Sacramento and the county of Monterey, have found that historical cannabis criminalization has disproportionately affected some demographics in local jurisdictions' areas within California, including African American and Hispanic populations. Furthermore, according to the DCC's website, the long-term consequences of cannabis criminalization continue to affect people convicted of cannabis offenses, their families, and the communities in which they live. To counter these consequences, the State provides state license fee waivers and

DCC Has Identified Many Challenges for Potential Cannabis Business Owners

- Getting access to capital.
- Understanding complex regulatory requirements.
- Finding locations where cannabis businesses can operate.
- Developing business relationships.
- Getting technical support.

Source: DCC's website.

technical support to equity business owners, and some local jurisdictions have developed equity programs, though the California Cannabis Equity Act does not require local jurisdictions to do so.⁹ DCC has identified several challenges for people seeking to enter the cannabis industry, as the text box shows. DCC provides support to equity business owners in various ways, such as waiving or deferring state licensing fees and providing technical support to navigate the state licensing process. Further, the Governor's Office of Business and Economic Development administers the Cannabis Equity Grants Program to provide grant funding to assist local jurisdictions with their equity programs. Specifically, the program is intended to advance economic justice for individuals most harmed by cannabis criminalization

and poverty by providing support to local jurisdictions as they promote equity and eliminate barriers to entering the newly regulated cannabis industry for equity program applicants and licensees. In fiscal year 2023–24, \$15 million was available to be awarded. Local jurisdictions' equity programs may provide support such as priority application processing, assistance securing capital and business locations, reduced or waived local permit fees, assistance in paying state licensing fees, and technical training and support. By providing equity assistance to those from populations negatively impacted by cannabis criminalization, both the State and local jurisdictions can help lower some of the barriers to entry into the cannabis industry.

Of the six local jurisdictions we reviewed, only Sacramento had an operational program that issued permits to equity applicants. In May 2018, Sacramento completed a cannabis equity study, which found that certain demographics and certain areas of the city were disproportionately affected by past enforcement of cannabis laws.¹⁰ The study recommended two general categories of equity participants: those who live in low-income households and have lived in one of the identified areas for five or more consecutive years from 1990 through 2011, or those who live in low-income households and were, or are an immediate family member of someone who was, convicted of a cannabis-related crime from 1990 through 2011. In response to the study's findings, the city council adopted a resolution in August 2018 establishing the Cannabis Opportunity Reinvestment and Equity (CORE) program. The CORE program seeks to reduce the barriers of entry and participation for communities that have been negatively affected by the disproportionate enforcement of cannabis-related crimes by providing program participants with benefits such as business management training, priority processing of cannabis-related permits, and waived city fees—\$23,610 for retail applicants. Since the city council approved the CORE program in 2018,

⁹ The California Cannabis Equity Act, among other things, assists local jurisdictions with their equity programs by providing local jurisdictions with technical assistance and with grants to develop and support their equity programs.

¹⁰ Under Proposition 64 local jurisdictions may adopt and enforce local ordinances to govern any permitting process they choose to establish, and the California Cannabis Equity Act defines, for its purposes, local equity programs and lists examples of the types of services for equity applicants that may be included in a local equity program.

Sacramento has issued permits to 34 CORE applicants, and the city expanded its limit on the number of cannabis-related retail storefront permits, adding the possibility for 10 additional permits that are available only to CORE participants.

As for the remaining five local jurisdictions, Santa Barbara County and the city of South Lake Tahoe do not have equity programs, and the county of Monterey and the cities of San Diego and Fresno have nascent or early-stage equity programs. Santa Barbara County's deputy county executive officer told us that the county does not currently plan to develop an equity program and the public has not voiced a specific concern about it. South Lake Tahoe's city attorney explained that the jurisdiction's process did not have considerations for equity applicants and it does not currently plan to issue any more cannabis-related permits to new businesses. San Diego adopted its equity assessment report in October 2022; the jurisdiction conducted the assessment to create the foundation for a cannabis equity program. San Diego's development project manager indicated that the city is in the process of developing an equity program. The city of Fresno and the county of Monterey have both implemented equity programs, but neither jurisdiction has yet issued permits to equity applicants to allow them to start operating. Fresno's equity program serves to address the historical impact of federal and state drug enforcement policies on low-income communities, and the jurisdiction set aside a minimum of one out of every seven commercial cannabis retail permits for equity applicants, among other things. Monterey County's equity program includes benefits such as technical and legal assistance, access to low or no interest loans, and application and permit fee waivers.

Fees Related to Cannabis Permitting Varied

State law allows local jurisdictions to impose fees to cover the reasonable cost of any permitting process. Each jurisdiction we reviewed provided us with documentation of its calculated costs used to support setting its fees—which can vary for several reasons, including the type of cannabis business and business location—related to administering the local jurisdiction's cannabis-permitting program. The fees that applicants must pay typically include those for land-use permits and local business permits. Table 11 shows the fees for the local jurisdictions we reviewed for cannabis-related permits. For example, the land-use permit fees we reviewed varied from \$4,330 in Sacramento to \$13,390 in Fresno. Local jurisdictions charge fees to recoup the costs of administering a permitting process, though such fees can present a barrier to entry if costs are high. The fees for cannabis-related business applicants to obtain land-use permits were generally similar to the fees for obtaining land-use permits for other types of businesses. However, there are few types of processes or fees available against which we can compare the cannabis-related business permit fees.

Because these permitting fees can present a barrier to entry into the cannabis market for some applicants, particularly those from populations negatively impacted by cannabis criminalization, some jurisdictions have sought to address high fees through their equity programs. The cities of Fresno and Sacramento, and the county of Monterey have all determined that high costs are a significant barrier to entry, and

their equity programs waive some costs, such as permit fees, for approved applicants. For example, Monterey County's equity program offers waivers for various fees, including the business permit and land-use permit.

Table 11
Selected Fees for Local Jurisdictions' Cannabis-Related Permits

LOCAL JURISDICTION	LAND-USE PERMIT FEE*	BUSINESS PERMIT FEE†	ADDITIONAL FEES‡	ESTIMATED COST TO OBTAIN LOCAL AUTHORIZATION TO OPERATE A CANNABIS BUSINESS
Fresno	\$13,390	\$27,720	\$600	\$41,710
Monterey County [§]	8,020	5,100	410	13,530
Sacramento	4,330	23,610	—	27,940
San Diego	8,790	20,800	—	29,590
Santa Barbara County	8,000	6,275	—	14,275
South Lake Tahoe	5,060	14,885	20,910	40,855

Source: Local jurisdictions' fee documents.


* Land-use permits may include gaining compliance with CEQA and with additional local environmental regulations, among other things. Further, most of these fees are deposits, and therefore these fees may adjust, depending on the specifics of each project. For example, in Sacramento, if a dispensary is within 300 feet of a residential zone, a different review process is triggered that increases the land-use fee to at least \$10,542.

† Business permit fees may vary, depending on the type of cannabis business, such as cultivation, distribution, or retail.

‡ Additional fees may include, but are not limited to, fees for background checks, business tax certificates and licenses, and zoning inquiry letters.

§ Monterey County was the only jurisdiction we reviewed that does not rely on a deposit fee but rather estimates the cost of issuing the permit and charges a flat fee to cover those costs. Deposit fees cover the staff-time costs of processing the necessary permits and may require additional funds if the project requires additional staff time, but the leftover balance is then returned to the applicant. Conversely, flat fees are charged to the applicant to cover the estimated costs of staff time and processing the permit, but no additional funds are required from the applicant and no amount is returned to the applicant.

|| San Diego's \$20,800 business permit fee is an annual fee.

Audit Objective 2:

Using available information regarding permitted commercial cannabis activity in cities and counties throughout the State, as well as other relevant criteria, select six local governments for review.

KEY POINT

- Using information about size, geography, permitting process, and number of permits, we selected the counties of Monterey and Santa Barbara and the cities of Fresno, Sacramento, San Diego, and South Lake Tahoe.

We selected six local jurisdictions for this audit: the cities of Fresno, Sacramento, San Diego, and South Lake Tahoe, and the counties of Monterey and Santa Barbara. We ensured that our selection included geographical diversity, local jurisdictions with large and with small populations, local jurisdictions with a high number of state licenses and those with few state licenses, and a variety of permitting processes. Using DCC's publicly available data of local jurisdictions, we considered only those local jurisdictions that allowed at least one type of cannabis business, such as retail, distribution, manufacturing, cultivation, or testing, to operate within its jurisdiction. We further determined the size of the local jurisdictions allowing cannabis businesses using population census data from the U.S. Census Bureau. We used cannabis sales data from the California Department of Tax and Fee Administration and a DCC supplemental budget report on the total number of active annual and provisional state licenses, by jurisdiction, to identify the local jurisdictions with cannabis sales in quarter four of 2022 and active permits as of March 2023. We gained assurance that the list of local jurisdictions from which we made our selection was complete by using multiple sources of data, such as those referenced above, to verify that those local jurisdictions had cannabis activity and should be considered in the selection.

See relevant information about each jurisdiction and the factors for selection at Table 12.

Table 12
Variables We Considered for Our Selection of Six Local Jurisdictions

LOCAL JURISDICTION	TOTAL NUMBER OF ACTIVE ANNUAL AND PROVISIONAL STATE LICENSES (2022)	TOTAL POPULATION	POPULATION PER STATE LICENSE	TOTAL SALES BY JURISDICTION*	QUARTERLY SALES PER CAPITA	FACTORS FOR SELECTION		
						SIZE AND LOCATION	POPULATION RELATIVE TO NUMBER OF STATE LICENSES OR SALES PER CAPITA	TYPE OF PERMITTING PROCESS
Fresno	11	544,510	49,501	Not Available	Not Available	Large city in the central region of the State	High population-to-license ratio	Limited and competitive permitting process with procedures adopted by the city manager. [†]
Monterey County	532	107,540	202	\$17,748,310	\$165	Medium-sized county in central area of the State	Low population-to-license ratio	Ordinance does not limit number of permits. Grants the application as long as the applicant has complied with specified requirements.
Sacramento	334	525,040	1,572	62,791,869	120	Large city in the northern region of the State	High sales per capita	Retail permits are only offered in a limited capacity.
San Diego	80	1,381,610	17,270	51,427,358	37	Large city in the southern region of the State	High population-to-license ratio	Limited permitting process that involves a hearing before a hearing officer.
Santa Barbara County	2,052	137,900	67	16,355,410	119	Medium-sized county in the southern region of the State	Low population-to-licenses ratio	Ordinance limits the maximum number of retail permits and limits other permit types by acreage. Issues permit as long as there are no grounds for denial.
South Lake Tahoe	5	21,410	4,282	4,181,777	195	Small city in the northern region of the State	High sales per capita	Limited and competitive permitting process using scoring process. No longer offering licenses.

Source: DCC, California Department Tax and Fee Administration, U.S. Census Bureau, and local jurisdictions' ordinances.

* County data is for the fourth quarter of 2022, and city data is for the first quarter of 2023.

[†] Local jurisdiction does not limit permits for testing laboratories.

Recommendations

Under state law, the Legislature may only amend or repeal an initiative statute without voter approval if the initiative statute permits the Legislature to do so. Proposition 64 allows the Legislature to amend certain provisions of the act—including those that protect local jurisdictions’ ability to exercise local control over the authorization and regulation of cannabis businesses—by majority vote as long as the amendments are consistent with and further the stated purposes and intent of the act. As the text box shows, the purposes and intent of the act include ensuring that local jurisdictions have the ability to regulate cannabis businesses. Because of this significant local control, we make our recommendations generally to all local jurisdictions that permit cannabis businesses rather than making recommendations directly to the Legislature.

All Local Jurisdictions

To prevent favoritism, ensure fairness, and reduce the risk of corruption, all local jurisdictions that permit or plan to permit cannabis businesses should adopt or amend ordinances or policies and procedures to implement the following processes:

- Consider requiring blind scoring as an additional safeguard for competitive permitting processes. Blind scoring involves removing any identifying information about an applicant from application materials before a review.
- Create an appeals process to allow applicants to appeal the denial of their permit application to an impartial decision-maker.
- Require that all individuals involved in reviewing cannabis applications sign impartiality statements or similar documents, asserting that they do not have personal or financial interests that may affect their decisions. In the interest of transparency, consider making the signed impartiality statements or the language used in the impartiality statements available to the public by potentially posting it to the jurisdictions’ websites.
- Require that designated staff at the local jurisdictions review impartiality statements to ensure that staff who review applications do not have personal or business interests that may affect their decisions.
- Require separation of duties or another layer of approval in the permitting process that prevent one person from exercising control over the decision to award a permit.

The Stated Purposes and Intent of Proposition 64 Include the Purpose and Intent to Allow Local Jurisdictions To Do the Following:

- Enforce state laws and regulations for nonmedical cannabis businesses and enact additional local requirements for nonmedical cannabis businesses, but not require that they do so for a nonmedical cannabis business to be issued a state license and be legal under state law.
- Ban nonmedical cannabis businesses.
- Reasonably regulate the cultivation of nonmedical cannabis for personal use by adults 21 years and older through zoning and other local laws.

Source: State law.

To help protect public health and safety, all local jurisdictions that permit or plan to permit cannabis businesses should adopt or amend ordinances or policies and procedures to implement the following processes:

- Require the relevant law enforcement office or other relevant department to certify that all individuals passed background checks by providing a letter or other documented notification to the cannabis-permitting office, confirming the individuals' names and whether they passed the background checks. The cannabis-permitting office should keep a record of this letter or other written notification confirming that individuals passed the required background checks.
- Create a tracking and documentation process for verifying that applicants submitted a complete application. If the application is not complete, the jurisdiction should promptly notify the applicant so that the applicant can provide any missing information. The local jurisdiction should not issue a permit until it verifies that all information is complete.

To increase the transparency of the cannabis-permitting process for potential applicants and for the public, all local jurisdictions that permit or plan to permit cannabis businesses should adopt or amend ordinances or policies and procedures to implement the following processes and best practices observed at several of the local jurisdictions we reviewed:

- Publish permit-related ordinances, permit information, and permit application forms on the relevant public website.
- Create supplemental communications about the cannabis-permitting policies and procedures, such as step-by-step guides and frequently asked questions.
- Develop a web application through which applicants can apply.
- Publish cannabis-related fees on the relevant public websites.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code sections 8543 et seq. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions, based on our audit objectives.

Respectfully submitted,



GRANT PARKS
California State Auditor

March 28, 2024

Staff: Michelle Sanders, PMP, Audit Principal
John Lewis, MPA, CIA, Audit Principal
Chris Bellows, Senior Auditor
Kate Monahan, MPA
Robert Evans
Matt Strickland

Legal Counsel: Abby Maurer

Blank page inserted for reproduction purposes only.

Appendix A

SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee (Audit Committee) directed the California State Auditor to conduct an audit of local government cannabis licensing. Table A lists the objectives that the Audit Committee approved and the methods we used to address them. Unless otherwise stated in the table or elsewhere in the report, statements and conclusions about items selected for review should not be projected to the population.

Table A
Audit Objectives and the Methods Used to Address Them

AUDIT OBJECTIVE	METHOD
1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.	Reviewed state laws, rules, and regulations, and local ordinances related to licensing and permitting nonmedical adult-use cannabis businesses.
2 Using available information regarding permitted commercial cannabis activity in cities and counties throughout the State, as well as other relevant criteria, select six local governments for review.	Selected six local jurisdictions, using available information to ensure that our selection had geographical diversity, large and small local jurisdictions, local jurisdictions with a high number of licenses and those with few licenses, and a variety of permitting processes. We provide additional detail on this selection of local jurisdictions in the report.
3 For the selected local governments, determine whether:	
a. Cannabis business licensing and permitting policies and procedures are in place and clearly communicated to the public and potential licensees.	<ul style="list-style-type: none"> • Reviewed local jurisdictions' ordinances, policies, and procedures, as applicable, to determine whether each jurisdiction had cannabis business permitting policies and procedures in place. • Reviewed local jurisdictions' public websites to determine whether cannabis business-permitting policies and procedures were posted publicly and were therefore available to the public and to potential permittees.
b. These policies and procedures comply with relevant state and local laws and regulations.	<ul style="list-style-type: none"> • Determined that state law allows local jurisdictions to adopt and enforce local ordinances to authorize and regulate cannabis businesses. • Compared each jurisdiction's policies and procedures to local ordinances, as applicable, to ensure that they aligned. When local jurisdictions did not have policies and procedures but established detailed processes in ordinances, we did not have anything from which to compare those ordinances.
c. Local governments take reasonable steps to ensure fairness and prevent conflicts of interest, abuse, and favoritism.	<ul style="list-style-type: none"> • Identified four safeguards that would help jurisdictions ensure fairness and to prevent conflicts of interest, abuse, and favoritism: <ul style="list-style-type: none"> o Blind scoring o Appeals processes o Financial disclosures o Impartiality statements • Determined whether each jurisdiction used each safeguard.

continued on next page...

AUDIT OBJECTIVE	METHOD
<p>4 For a selection of local licenses at each of the six governments, determine whether the government followed its policies and procedures when issuing the local licenses.</p>	<ul style="list-style-type: none"> • Obtained lists of permits and applicants from each jurisdiction, where possible. • Selected 20 applications from each jurisdiction and 21 at South Lake Tahoe. Selections included approved and denied applications. • Compared information in the application files to each jurisdiction's ordinances, policies, and procedures to assess the extent to which jurisdictions followed their policies.
<p>5 Assess the benefits and challenges of different processes for selecting individuals and businesses and awarding local licenses, and evaluate whether some selection processes are structurally more susceptible to corruption.</p>	<ul style="list-style-type: none"> • Identified structures of cannabis-permitting processes that could be more susceptible to corruption, using cases of corruption from the U.S. Attorney's Office. • Identified practices from work under Objective 3c that could help reduce the risk of corruption.
<p>6 Review and assess any other issues that are significant to the audit.</p>	<p>Reviewed and described each jurisdiction's application processing time, equity policies, and fee-setting.</p>

Source: Audit workpapers.

Data Reliability Assessment

For each of our six selected local jurisdictions, we obtained and reviewed lists of applications, including those that were approved, denied, or still in process, where possible. We assessed the completeness of the data we received by verifying the number of records and performing testing of the data, and we determined that some of the lists were incomplete. However, other than those at San Diego, where we were not able to verify the completeness, all issues were minor and we added any missing applications so that the lists from which we made our selections were complete. We were unable to verify the completeness of the list of applications at San Diego because it did not maintain a comprehensive list of applications it received for adult-use cannabis businesses. Further, San Diego did not maintain the records for applications in a cannabis-specific location in storage, which did not allow us to manually search for the applicable applications.



GEORGEANNE A. WHITE
CITY MANAGER

March 11, 2024

California State Auditor
Attn: Grant Parks*
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Subject: State of California Cannabis Permitting Audit

Dear Mr. Parks:

This letter is in response to audit report #2023-116 titled, "Local Cannabis Permitting: Cities and Counties Can Improve Their Permitting Practices to Bolster Public Confidence." The City of Fresno appreciates the time and effort your staff has taken in reviewing and understanding Fresno's cannabis ordinance and permitting process. We also appreciate the opportunities for discussion regarding the audit report draft. The City of Fresno would like to submit a response regarding a few areas of the report, to which we have previously responded, but which remain in the final report language.

At the top of page 3 and in the chart on page 6, and throughout the report in a few different areas, the report claims Fresno has "not consistently followed their policies and procedures for ensuring background checks occurred." This is further explained in the chart on page 39, even quoting Fresno's ordinance language. The City acknowledges the recommendation that the outcome of "approved" background checks should be documented as a best practice. However, the City takes issue with the language that staff did not "follow their policies and procedures" because a background check was conducted, and a report exists for each required individual for each business. Nonetheless, there is no policy or procedure requiring that the outcomes of approved background checks be documented. The ordinance language found in Fresno Municipal Code Section 9-3318, titled "Persons Prohibited from Holding Commercial Cannabis Business Permit" exists to specify which convictions disqualify individuals, and disqualifications are documented and noticed to the applicants. If no conviction exists that is described in this section, the permit continues to move forward for consideration and ultimate approval.

①

②

City of Fresno • 2600 Fresno Street • Fresno, California 93721-3600
(559) 621-7770 • www.frcsno.gov

* California State Auditor's comments appear on page 49.

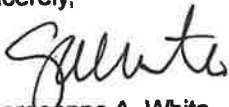
March 11, 2024
Page 2

The report goes on to discuss impartiality statements from individuals reviewing and evaluating applications in the cannabis permitting process and notes that Fresno did not require public disclosure of these statements. It is the City's perspective that posting these statements to the City's website was not necessary because they would be available through any public records act (PRA) request process relating to the cannabis permitting. The City received a significant number of PRA requests relating to the cannabis permitting.

- ① Finally, in Table 11 on page 59, the report refers to Fresno's cannabis permit fee as \$7,920.00. This dollar amount is actually Fresno's cannabis permit application fee. The business permit fee is a separate fee that is charged at the time of final permit issuance and reflects a different fee amount set forth in the City's Master Fee Schedule.
- ③

Thank you for the time and effort spent reviewing the City of Fresno's cannabis permitting process and for compiling this report. I look forward to reviewing the final document.

Sincerely,



Georgeanne A. White
City Manager

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CITY OF FRESNO

To provide clarity and perspective, we are commenting on the response to our audit report from Fresno. The numbers below correspond with the numbers we have placed in the margin of Fresno's response.

We provided a redacted copy of the draft report to Fresno for review. Therefore, the page numbers that the city references in its response do not align with those in the final report. ①

Our conclusion related to how Fresno handled background checks is accurate. As we note in Table 7 on pages 23-25, Fresno requires all operators, owners, investors, and managers of a cannabis business to submit information for a background check and requires that an application be denied if the applicant was convicted of activities related to controlled substances or other crimes. As we further note in Table 7, because Fresno only documents failed background checks, it cannot demonstrate to objective third parties—such as during an audit—that it consistently followed its policies when approving cannabis permits for those who “passed” a background check but nevertheless had a conviction. For example, one of the applicants we reviewed had a conviction for battery yet the applicant with the conviction still received approval for a cannabis-related permit. We had expected to see an analysis or explanation from Fresno for why this conviction was not a disqualifying offense. Our primary critique of Fresno is that its documentation practices with respect to conducting background checks are limited and prevent third parties from ensuring the city is applying its procedures consistently across all applications. ②

During Fresno's review of the redacted draft audit report, we identified that the cannabis business permit and application fees totaled \$27,720 and updated the amount accordingly in Table 11 on page 38. ③

Blank page inserted for reproduction purposes only.

City of
SACRAMENTO
Office of Cannabis Management

March 11, 2024

Grant Parks*
California State Auditor
621 Capital Mall, Suite 1200
Sacramento, CA 95814

Re: City of Sacramento Response to State Audit Report

Dear State Auditor Parks:

The City of Sacramento's Office of Cannabis Management (OCM) acknowledges receipt of the California State Auditor's report on statewide local jurisdiction permitting best practices and thanks the Auditor and staff for their work.

Since the City of Sacramento (City) first began a nascent cannabis permitting process for medicinal storefront dispensaries in 2010, much has changed in both the State and the City's cannabis regulatory landscape. Medicinal and adult-use cannabis regulations have been created, implemented, and revised; permit types created, and those permits issued; processes created, reviewed, revised, and streamlined; and a social equity program and benefits created and utilized by those disproportionately affected by the War on Drugs to start and operate regulated cannabis businesses. The City now has 284 permitted cannabis businesses. With all the policy development and processes necessary to reflect the fast-moving and often changing regulatory landscape, OCM welcomes the California-wide local jurisdiction permitting best practices identified by the Auditor and continues to work to improve the City's own cannabis permitting program.

OCM appreciates the Auditor's review of the City of Sacramento's permit review and issuance process that is utilized to ensure fairness and prevent conflicts of interest, abuse, and favoritism. OCM is proud of its work in this area as in addition to blind scoring for capped permits and an appeal process for denials, we require review and agreement that permit application documents are complete and the permit is ready to be issued by three different permitting staff members before a permit issues. Any work for non-City employers must be disclosed and approved by OCM management and Human Resources. Finally, the only two OCM staff members with the power to issue a permit are Form 700 filers and required to disclose gifts and financial interests. In light of

City Hall | 915 I Street, Second Floor | Sacramento, CA 95814-2604 | 916-808-8955

* California State Auditor's comment appears on page 53.

Letter to State Auditor

Page 2

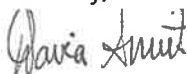
the Auditor's identified best practice of also having a signed impartiality statement requirement, OCM will discuss this idea with the City's Labor Relations Division.

OCM respects the manner in which the Auditor sought to understand that processes have changed over time in how local jurisdictions perform their tasks, particularly in light of the COVID pandemic and its challenges for local government. An example of this is the description in the report on the changes OCM instituted in how it obtained and retained information that an applicant had passed a background check. Prior to the COVID pandemic, OCM would email the City department with Department of Justice authorization to review and obtain background check results in order to find out if an applicant had passed. That department would email back the names of those who passed and OCM would enter their name into a "background check approved" spreadsheet. Once OCM began getting more permit applications, different people with the same names became an issue, so a birthdate was sometimes inputted to differentiate people. As the Auditor points out, six of the permits they reviewed were approved during this time, and OCM did not retain the emails listing when they passed livescan once their names were inputted on the "background check approved" spreadsheet. These applicants were issued a local permit, as well as a State license, indicating that they had also passed the State's background check.

Similarly, during the COVID pandemic, background check results began taking significantly longer to come back and in response, OCM changed its policy and began issuing permits conditioned upon livescan results coming back as cleared, checking at permit renewal to ensure the background check had been cleared, and using a new tracking method. As the Auditor notes, OCM did follow up on two of the Auditor-reviewed permits that were approved during our COVID policy and still in their first year of operation; therefore, they had not been checked yet by OCM during renewal to determine if they had cleared their background check. Both passed the background check prior to renewal. Once the COVID emergency ended and background checks were no longer delayed, OCM returned to the previous policy of not issuing a permit until background checks were cleared.

As the cannabis industry matures and the City continues to evolve its policy and procedural structures for permitting in the often challenging and frequently changing cannabis landscape, we thank the Auditor for the inquiry into our processes and the work in highlighting statewide best practices for local jurisdictions.

Sincerely,



Davina Smith

Cannabis Program Manager

Comment

CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE CITY OF SACRAMENTO

To provide clarity and perspective, we are commenting on the response to our audit report from Sacramento. The number below corresponds with the number we have placed in the margin of Sacramento's response.

To clarify Sacramento's response, as we note on page 23, we found that Sacramento lacked clear documentation demonstrating that eight—not six—applicants had passed background checks.

①

Blank page inserted for reproduction purposes only.

DocuSign Envelope ID: 8742C7F8-783E-4B52-A195-FD9575F8CE6B



COUNTY EXECUTIVE OFFICE

Mona Miyasato, County Executive Officer
Nancy Anderson, Assistant County Executive Officer
Jeff Frapwell, Assistant County Executive Officer
Tanja Heitman, Assistant County Executive Officer
Wade Horton, Assistant County Executive Officer

March 11, 2024

Mr. Grant Parks
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Dear Mr. Parks:

Thank you for the opportunity to review and respond to the draft report regarding local jurisdiction cannabis permitting. We appreciate the time and effort the auditor's team put into this audit.

We understand that the report does not contain specific recommendations for the County of Santa Barbara but rather provides general guidance on best management practices to ensure fairness and bolster public confidence. We acknowledge the value in assessing and enhancing processes related to issuing local permits where appropriate that foster accountability and transparency. The following are specific responses related to the general findings and recommendations in the report:

1. Ensuring fairness and preventing conflict of interest, abuse, and favoritism

The County permitting and licensing processes are extensive and require several departments' approval before final issuance. Several key staff are currently required to file financial disclosure statements and our policies adhere to current State law. While the current conflict of interest reporting requirements are intended to protect the process from favoritism and abuse, we recognize that implementing additional impartiality statements for all staff involved in the application review process would enhance protections against potential abuse.

2. Following policies and procedures when issuing local licenses

The County has a consistent process in place for required applicant background checks to be verified and held by the Santa Barbara County Sheriff's Office (SBSO). License issuance does not occur without recommendation of approval from several County departments including the Sheriff's Office. We acknowledge the benefit of enhancing the documentation process to include additional recorded evidence with the Cannabis Administration Division of the County Executive Office that specifically reflects approved background checks consistent with the files held by the Sheriff's Office.

3. Equity Programs

As noted in the report, state law does not require that local jurisdictions conduct equity assessments nor develop an equity program intended to lower some of the barriers to entry into the cannabis industry. While staff, during the interviews, indicated that the County has not identified a necessity for an equity assessment or program to-date, the Board of Supervisors may consider these in the future if deemed necessary.

DocuSign Envelope ID: 8742C7F8-783E-4B52-A195-FD9575F8CE6B

We value the work the State Auditor's Office does to ensure that local governments provide fair, effective, and transparent services. Thank you again for the opportunity to provide our response to this report.

Sincerely,

DocuSigned by:

F2D3531C3F7F402...
Nancy Anderson
Chief Assistant Executive Officer

Exhibit E

California Department of Cannabis Control – Canopy Reduction Guidance, License Types, Fee C

**Purpose: Confirms that the State allows cultivation
licensees to reduce canopy size**



Department of
Cannabis Control
CALIFORNIA

[Home](#) / [Cultivation license change options](#) / Reducing the canopy size of a cultivation license: FAQs

Reducing the canopy size of a cultivation license: FAQs

Licensees with a valid cultivation license can now request a reduced-size cultivation license either at the time of renewal or when making a one-time change to the cultivation license's expiration date outside of the renewal process. Nursery licenses and processor licensees are not eligible for limited operations status.

Q: How do I request this change?

A: Licensees with a valid cultivation license can now request a reduced-size cultivation license either at the time of renewal or when making a one-time change to the cultivation license's expiration date outside of the renewal process.

Learn more about [how to make cultivation license changes using the CLS](#).

Q: How do I qualify for this change?

A: To qualify for a reduced-size cultivation license, you must:

- Submit an updated premises diagram that satisfies regulatory requirements and identifies both the canopy area of the original cultivation license and the canopy area of the requested reduced-size cultivation license,

- Pay any applicable licensing fee, and
- Meet any applicable renewal requirements.

Nursery licenses and processor licensees are not eligible for reductions in canopy size.

Q: What requirements apply to reduced-size cultivation licenses?

A: The following requirements apply to reduced-size cultivation licenses:

- The reduced-size canopy area must be fully located within the canopy area of the original cultivation license,
- The reduced-size cultivation license must maintain the same type of lighting as the original cultivation license, and
- The reduced-size cultivation license must remain at the reduced-size for the duration of the license term.

Q: How long will this change last?

At the time of renewal, you may choose to retain the reduced-size cultivation license, change to a different reduced-size cultivation license, or restore the original cultivation license.

Q: How are fees for this change calculated?

A: View detailed information about fee calculations here: [Fee calculations for cultivation license changes](#).

Support

If you have questions about this cultivation license change, please contact info@cannabis.ca.gov

FAQs

How will license fees be calculated when I place my cultivation license in Limited Operations Status at time of renewal?

How will license fees be calculated when I make a one-time change to my license expiration date?

How will license fees be calculated when I reduce the size of my cultivation license at time of renewal?

When reducing the size of a cultivation license at time of renewal, the licensee will be responsible for paying the license fee associated with the reduced-size cultivation license selected.

Example scenario

A licensee with a medium indoor license, chooses to reduce the size of the license to a small indoor license, at the time of renewal.

Calculation formula

The licensee will be responsible for paying the annual license fee associated with the small indoor license, which is \$35,410.00.

If you have questions about calculating a modified license fee, please contact payments@cannabis.ca.gov for assistance.

[View fee calculations and scenarios](#)

How will license fees be calculated when I place my cultivation license in Limited Operations Status or request a Reduced-Size Cultivation License while making a one-time change to my license expiration date?

How do I use the Cultivation Licensing System to take advantage of the new cultivation license change options?

Conditions of Use

Privacy Policy

Accessibility

Copyright © 2026 State of California

Exhibit F

California Department of Cannabis Control License Types (2,500 Sq Ft)

Purpose: Establishes that the State recognizes cultivation licenses as small as 2,500 sq. ft.



Department of
Cannabis Control
CALIFORNIA

[Home](#) / [License types](#) / Cultivation: License types

Cultivation: License types

A cultivation license is required to cultivate cannabis in California. The type of cultivation license you need depends on:

- Type of production and lighting used.
- Number of plants grown or size of the canopy. The canopy is the area where mature (flowering) plants are grown.

Determining your license type

Outdoor licenses are for cultivators who grow cannabis outside without using any artificial lighting on mature plants.

Indoor licenses are for cultivators who grow cannabis in a permanent structure using at least 25 watts of artificial light per square foot.

Mixed-light licenses are for cultivators who grow cannabis in a:

- Greenhouse
- Hoop-house
- Glasshouse
- Conservatory
- Hothouse

- Other similar structure

Mixed-light licenses have two tiers based on the amount of artificial light used:

- **Tier 1** — Up to 6 watts per square foot of artificial light
- **Tier 2** — 6 to 25 watts per square foot of artificial light

Specialty cottage

- Specialty cottage outdoor — up to 25 mature plants or up to 2,500 square feet of canopy
- Specialty cottage indoor — up to 500 square feet of canopy
- Specialty cottage mixed — light tier 1 and 2 – up to 2,500 square feet of canopy

Specialty

- Specialty outdoor — up to 50 mature plants or up to 5,000 square feet of canopy
- Specialty indoor — 501 to 5,000 square feet of canopy
- Specialty mixed — light tier 1 and 2 – 2,501 to 5,000 square feet of canopy

Small

- Small outdoor — 5,001 to 10,000 square feet of canopy
- Small indoor — 5,001 to 10,000 square feet of canopy
- Small mixed — light tier 1 and 2 – 5,001 to 10,000 square feet of canopy

Medium

- Medium outdoor — 10,001 square feet to 1 acre of canopy
- Medium indoor — 10,001 to 22,000 square feet of canopy
- Medium mixed — light tier 1 and 2 – 10,001 to 22,000 square feet of canopy

Large

- Large outdoor — more than 1 acre of total canopy
- Large indoor — more than 22,000 square feet of total canopy
- Large mixed — light - mixed-light site with more than 22,000 square feet of total canopy

Nursery

For cultivators that only grow clones, immature plants, seeds or other types of cannabis used for propagation

Processor

For cultivators that only trim, sift, cure, dry, grade, package or label cannabis

[About DCC](#)

[Contact](#)

[Sign up for email list](#)

[Accessibility Certification](#)

[Translate](#)



[Conditions of Use](#)

[Privacy Policy](#)

[Accessibility](#)

Exhibit G

California Department of Cannabis Control Fee calculations for cultivation license changes

Purpose: Establishes that the State recognizes fees due for reducing the canopy size of the cultivation license



Department of
Cannabis Control
CALIFORNIA

[Home](#) / [Cultivation license change options](#) / Fee calculations for cultivation license changes

Fee calculations for cultivation license changes

Learn how to calculate fees related to the implementation of Senate Bill 833. Under the new regulations, processor, nursery, or cultivation licensees can make a one-time change to their license expiration date. Additionally, cultivation licensees can now submit a request to either place their license in limited operations status or to reduce the size of their cultivation license.

Based on the nature of the cultivation license change requested, DCC will calculate fees due or refund owed.

Calculating fees for limited operations status at time of renewal

When placing a cultivation license in limited operations status at time of renewal, the licensee will be responsible for paying 20% of the original cultivation license fee.

Example scenario

A licensee with a medium indoor license, chooses to reduce the size of the license to a small indoor license, at the time of renewal.

Calculation formula

$\$1,205.00$ original cultivation license fee \times 20% = $\$241.00$ modified license fee.

Calculating fees for reducing canopy size at time of renewal

When reducing the canopy size of a cultivation license at time of renewal, the licensee will be responsible for paying the license fee associated with the reduced-size cultivation license selected.

Example scenario

A licensee with a medium indoor license, chooses to reduce the size of the license to a small indoor license, at the time of renewal.

Calculation formula

The licensee will be responsible for paying the annual license fee associated with the small indoor license, which is $\$35,410.00$.

Calculating fees for one-time changes to an expiration date

Example scenario

A licensee renewed their processor license on October 1, 2023. The licensee would prefer to renew their license annually on February 1, and submits a request to make a one-time change the license's expiration date, on May 1, 2024.

How a refund is calculated for the original cultivation license

Step

Step 1: Calculate the prorated daily license fee by dividing the annual processor license fee by 365 days in a year.

Step 2: Calculate the number of licensed days remaining in the original license term, by counting the number of days between the date of the request, May 1, 2024, and the original expiration date, October 1, 2024.

Step 3: Calculate the amount of credit the license is eligible for by multiplying the number of days remaining in the original license term by the prorated daily license fee.

Calculation formula

\$9,370.00 annual processor license fee, divided by 365 days = \$25.67 prorated daily license fee.

There are 153 days remaining in the original license term.

153 (Step 2) x \$25.67 (Step 1) = \$3,927.51 credit.

How fees are calculated for a modified license term

Step

Calculation formula

Step 4: Calculate the number of days in the modified license term, by counting the number of days between the date of the request, May 1, 2024, and the new expiration date on February 1, 2025

There are 276 days in the modified license term.

Step 5: Calculate the fee for the modified license term by multiplying the number of days in the modified license term by the prorated daily license fee.

$276 \text{ (Step 4)} \times \$25.67 \text{ (Step 1)} = \$7,084.92$ modified license fee.

Step 6: Calculate the amount due, by subtracting the credit calculated in Step 3 from the modified license fee calculated in Step 5.

$\$7,084.92 \text{ (Step 5)} - \$3,927.51 \text{ (Step 3)} = \$3,157.56$ due to DCC for the modified license term.

Calculating fees for multiple license changes

How fees are calculated when a cultivation licensee changes their expiration date and makes one of the following cultivation license changes:

- Places their cultivation license on limited operations status, or
- Reduces the canopy size of the cultivation license

Example scenario

A licensee renewed their medium mixed-light tier 1 license on October 1, 2023. The licensee would prefer to renew their license annually on February 1, and plans to submit a request to make a one-time change to the license's expiration date, on May 1, 2024. The cultivation licensee

would also like to either place the cultivation license in limited operations status or request a reduced-size cultivation license and decides to calculate both fee options to inform their decision.

Calculating the fees due for making a one-time change of expiration date

Step

Calculation formula

Step 1: Calculate the prorated daily license fee by dividing the annual medium mixed-light tier 1 license fee by 365 days in a year.

\$25,970.00 annual medium mixed-light tier 1 license fee, divided by 365 days = \$71.15 prorated daily license fee.

Step 2: Calculate the number of days remaining in the original license term, by counting the number of days between the date of the request, May 1, 2024, and the original expiration date, October 1, 2024.

There are 153 days remaining in the original license term.

Step 3: Calculate the amount of credit the license is eligible for by multiplying the number of days remaining in the original license term by the prorated daily license fee.

153 (Step 2) x \$71.15 (Step 1) = \$10,885.95 credit

After you have determined the amount of credit the licensee is eligible for, follow the steps for either (A) calculating the fees due for limited operations status or (B) calculating the fees due for reducing the canopy size of the cultivation license.

(A) Calculating the fees due for limited operations status

Follow Steps 1 – 3 (above) for calculating the fees due for making a one-time change of expiration date and then follow the steps below.

Step**Calculation formula**

Step 4: Calculate the number of days in the modified license term, by counting the number of days between the date of the request, May 1, 2024, and the new expiration date on February 1, 2025.

There are 276 days in the modified license term.

Step 5: Calculate the prorated daily license fee of the limited operations status by multiplying the annual license fee for a medium mixed-light tier 1 license by 20%, then dividing by 365 days in a year.

\$25,970.00 medium mixed-light tier 1 license fee x 20% limited operations status = \$5,194.00. Next divide \$5194.00 by 365 days = \$14.23 prorated daily license fee for limited operations status.

Step 6: Calculate the modified license fee by multiplying the number of days in the modified license term, by the prorated daily license fee for the limited operations status.

276 (Step 4) x \$14.23 (Step 5) = \$3,927.48 modified license fee

Step 7: Calculate the amount due, by subtracting the credit calculated in step 3 from the modified license fee calculated in Step 6.

\$3,927.28 (Step 6) – \$10,885.95 (Step 3) = (\$6,958.47) in remaining credit that will be refunded by the DCC.

(B) Calculating the fees due for reducing the canopy size of the cultivation license

Follow [Steps 1 – 3](#) (above) for calculating the fees due for making a one-time change of expiration date and then follow the steps below.

Step**Calculation formula**

Step 4: After completing Steps 1 – 3, calculate the number of days in the modified

There are 276 days in the modified license term.

Step

Calculation formula

license term, by counting the number of days between the date of the request, May 1, 2024, and the new expiration date on February 1, 2025.

Step 5: Calculate the prorated daily license fee for the reduced-size license by dividing the annual license fee for a small mixed-light tier 1, by 365 days in a year.

\$11,800.00 annual small mixed-light tier 1 license fee, divided by 365 days = \$32.33 prorated daily license fee for the reduced-size cultivation license.

Step 6: Calculate the modified license fee by multiplying the number of days in the modified license term by the prorated daily license fee for the reduced-size cultivation license.

276 (Step 4) x \$32.33 (Step 5) = \$8,923.08 modified license fee.

Step 7: Calculate the amount due, by subtracting the credit calculated in Step 3 from the modified license fee calculated in Step 6.

\$8,923.08 (Step 6) – \$10,885.95 (Step 3) = (\$1,962.87) in remaining credit that will be refunded by the DCC.

Support

If you have questions about calculating a modified license fee, please contact payments@cannabis.ca.gov for assistance.

Related resources

[Overview: Cultivation license change options](#)

[How to make cultivation license changes using the CLS](#)

Exhibit H

2025 County of Lake Annual Compliance Monitoring Performance Review Report

Purpose: Demonstrates that the County's current compliance requirements extend beyond basic verification into detailed operational disclosures, raise concerns regarding duplication with State systems and the potential exposures of proprietary business practices



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
Courthouse - 255 N. Forbes Street
Lakeport, California 95453
Telephone: (707) 263-2221 FAX: (707) 263-2225

Mireya G. Turner
Community Development Director

2025 Commercial Cannabis Annual Compliance Monitoring Performance Review Report and Annual Monitoring Fee Due by June 1, 2025

Inspection:

Compliance monitoring will begin June 1, 2025, and continue through the cultivation season. Site inspections will be conducted for all permitted Commercial Cannabis projects approved by June 1, 2025. Permittees will receive notification of their scheduled inspection date one week in advance. Inspections will not be rescheduled due to scheduling conflicts; rescheduling will only be permitted in the event of an emergency. A project representative must remain on-site during the inspection. Attached within this notification is Opt-Out of Cultivation, Request to Reduce Canopy Square Footage, and AgPass registration forms to be received by the Community Development Department by or prior to June 1, 2025.

****New Process for Submittal of Annual Compliance Monitoring Application and Fee:**

As of March 2025, the Community Development Department has transitioned to an online permitting system, OpenGov. Through OpenGov, you will fill out preliminary information and

1. Planning Permit Process:

Click on "Apply" and Create an OpenGov account or log into your existing account here: [Planning Division - Planning Application - ViewPoint Cloud](#)

2. Submit the preliminary Planning Application for payment

- Fill out the preliminary location and contact information. Please note the Use Permit number the inspection is associated with and select "yes" when asked if you would like to schedule an inspection on an approved project.
- No fees are due at the initial submittal. Upload your Performance Review Report and other required documents for submittal.

3. Once submitted, the application will be reviewed administratively by a Permit Technician, and you will receive an email through your OpenGov account notifying you of fees due. The Compliance Monitoring Fee in the amount of \$1,000.00 is due **by June 1, 2025**. Your project will not be scheduled for inspection if the fee is not paid.

Performance Review Report:

A Performance Review Report is due by June 1, 2025. All cannabis permittees shall submit a report to Community Development Department, Planning Division, through the OpenGov portal (not via email like in previous years) on June 1st of every year from their initial date of approval for review. This report is essential for staff to assess the effectiveness of both minor and major use permits, operating manuals, and the standards associated with the project's Conditions of Approval. Permit holders who are uncertain about how to address any specific conditions are obligated to contact the relevant entity, agency, or department specified in their Conditions of Approval to ensure compliance.

Include in your Performance Review Report:

- Lake County metrics for review including use permit number, APN, address, cultivation type (outdoor, mixed-light, indoor), growing medium (above ground beds or pots, in ground)
- Record of Code Enforcement complaints received and how those issues were addressed



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
Courthouse - 255 N. Forbes Street
Lakeport, California 95453
Telephone: (707) 263-2221 FAX: (707) 263-2225

Mireya G. Turner
Community Development Director

- Proof of current status for business entities (LLC) with California Secretary of State
- Projected water usage and actual usage for cultivation activities
- Department of Cannabis Control License(s) and enrollment in METRC Track and Trace
- Operator Identification and Pesticide Applicator Certification from Department of Agriculture
- Livescan background Checks and copy of government issued identification for all employees and/or proof of Farm Labor Contractor
- Evidence that Cannabis taxes for 2024 have been paid
- Copy of Building Permits for greenhouses, security sheds, processing facilities, Ag-Exempt Hoops, and Temporary Processing Structures
- Copy of Modifications or Amendments to Use Permit that were approved by County of Lake
- AgPass, Opt-Out of Cultivation, and Request to Reduce Canopy Square Footage (optional)

Documents may be submitted via file transfer to <https://filetransfer.co.lake.ca.us/filedrop/Cannabis>

Departmental Reminders:

Each valid unrevoked and unexpired minor use permit, major use permit shall expire if the permit has not become active and in use in the two years after approval. If any use permitted is abandoned for a period of two (2) years, then the permit will expire.

Failure to schedule and hold the inspection, or refusal to pay the required fees, or noncompliance in submitting the annual "Performance Review Report" for review by the Planning Commission and violations such as operating without state licensing or cultivating more than approved canopy, shall be deemed grounds for Recommendation for Revocation of the use permit and subject to the penalties outlined in the Lake County Board of Supervisors Ordinance 3112 *Administrative Fines and Penalties*.

From the Treasurer-Tax Collector:

Cultivation Tax Due Dates:

1st installment due 1/30

2nd installment due 5/30

Business Tax Due Dates:

January 30 for October-December

April 30 for January-March

July 30 for April-June

October 30 for July-September

Questions? Contact Us

Email: cannabis@lakecountyca.gov

Phone: (707) 263-2221

CANNABIS CULTIVATORS OUTREACH EVENT

“WHAT YOU NEED TO **KNOW** TO
GROW IN LAKE COUNTY”



WHEN

Wednesday April 30th, 2025
8:30am - 1 pm

WHERE

Lower Lake Town Hall
16195 Main Street Lower Lake Ca.

FEATURING PRESENTATIONS BY: Lake County
Community Development Department • Lake
County Code Enforcement • CA Division of
Measurement Standards • CA Dept of Industrial
Relations • CA Division of Cannabis Control •
Lake County Agriculture Department

WWW.LAKECOUNTYCA.GOV/171/AGRICULTURE

**ATTENDANCE IS
FREE!**

SPACE IS LIMITED

Please RSVP

call: (707) 263-0217

or

email:

lakeag@lakecountyca.gov

TOPICS:

Annual Inspection

Weighmaster

Operator ID

Pesticide Laws

Labor Regulations

HOSTED BY:

Lake County

Department of Agriculture
and Weights & Measures





COUNTY OF LAKE
Department of Agriculture
Department of Weights & Measures
883 Lakeport Blvd.
Lakeport CA 95453
Phone: (707) 263-0217
Email: lakeag@lakecountyca.gov

KATHERINE VANDERWALL
Agricultural Commissioner
Sealer of Weights & Measures

Cannabis Cultivators Outreach Event

Wednesday, April 30, 2025

Lower Lake Town Hall

16195 Main Street

Lower Lake, CA 95457

- | | |
|---------------------|---|
| 8:30 am – 9 am | Check-in, Coffee, and Donuts |
| 9 am – 9:05 am | Introduction of Guests and Speakers |
| 9:05 am – 9:20 am | Lake County Annual Inspection, compliance monitoring fees, performance reports, site visits and site close out inspections by Max Stockton, Lake County Community Development Department. |
| 9:20 am – 9:35 am | Opt outs, request to reduce, Ag Exempt hoops and temp processing by Mary Claybon, Lake County Community Development Department. |
| 9:35 am – 9:50 am | Transfers of Approved Use Permits, and Amendments to Use Permits by Trish Turner, Lake County Community Development Department. |
| 9:50 pm – 10 am | Common Violations by Ryan Wangberg and Jason Gordon, Cannabis Code Enforcement |
| 10 am – 10:10 am | Break |
| 10:10 am – 10:55 am | Most Common Wage Violations by Von A. Boyenger, Department of Industrial Relations |
| 10:55 am – 11:55 am | Operator IDs, Common Violations and Pesticide Labels by Janice Luke, Lake County Department of Agriculture. |
| 11:55 am – 12:05 pm | Break |
| 12:05 pm – 12:35 pm | Weighmaster Certificate Laws by Adam Stubbs, Department of Measurement Standards |
| 12:35 am – 1 pm | Department of Cannabis Control |



COUNTY OF LAKE
 COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Division
 Courthouse - 255 N. Forbes Street
 Lakeport, California 95453
 Telephone: (707) 263-2221 FAX: (707) 263-2225

Mireya G. Turner
 Community Development Director

**AgPass for Cannabis Cultivation
 2025**

AgPass, formerly known as Restricted Access Program, is a voluntary program for cultivator's access into their permitted sites in the event of an emergency, to allow continuity of operations, as long as it is safe to do so. The following information is verified by the Community Development Department, Planning Division for the AgPass program. This verification is for the calendar year listed above and is updated annually for up to three (3) individuals listed per site. For any other inquiries, please contact the Planning Division.

CONTACT INFORMATION

Name(s):

Contact Number(s):

Project Name:

Address:

APN(s):

LICENSING

Lake County Use Permit No.(UP/MUP) and expiration date:

Department of Cannabis Control License No.(s) and expiration date(s):

For Community Development Department Use Only

Planning Division Review: - Approved - Denied - More Information Needed

Staff: _____

Title: _____

Date: _____



COUNTY OF LAKE
 COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Division
 Courthouse - 255 N. Forbes Street
 Lakeport, California 95453
 Telephone: (707) 263-2221 FAX: (707) 263-2225

Mireya G. Turner
 Community Development Director

STATEMENT OF OPT-OUT FOR CANNABIS CULTIVATION
 (INCLUDING ALL ASSOCIATED CULTIVATION ACTIVITIES AS DEFINED BY LAKE COUNTY CODE Ch. 18 Art. VI Sec. 18-45)
MUST BE RECEIVED NO LATER THAN JUNE 1, 2025

PERMITTEE NAME: _____

USE PERMIT NUMBER.: _____

SITE ADDRESS: _____

MAILING ADDRESS: _____

CULTIVATION LICENSE TYPES: _____

PHONE: _____ EMAIL: _____

I hereby declare that pursuant to Board of Supervisors Resolution 2019-162, I have not engaged in, nor will I engage in *cannabis cultivation*, as defined in Section 18.49, during the period starting from January 1, 2025 to December 31, 2025.

Print Name: _____

Signature: _____ Date: _____

“Cultivation” is defined as: germinating, cloning, seed production, planting, growing, and harvesting of cannabis plants and the on-site drying, curing, grading, or trimming of cannabis plants. This form must be received by the Planning Division no later than June 1st of the current calendar year. In accordance with Article 27.4(i) Compliance Monitoring, an inspection of the cultivation site shall be conducted annually during growing season. The status is to be confirmed by the Planning Division Staff or Designee during annual inspection.

For Community Development Department Use Only

Planning Division Review: - Approved - Denied - More Information Needed

Staff: _____

Title: _____

Date: _____

Forwarded to Lake County Tax Collector on: _____

Date: _____



COUNTY OF LAKE
 COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Division
 Courthouse - 255 N. Forbes Street
 Lakeport, California 95453
 Telephone: (707) 263-2221 FAX: (707) 263-2225

Mireya G. Turner
 Community Development Director

**REQUEST FOR TEMPORARY REDUCTION OF CANNABIS CANOPY FOR 2025 GROWING SEASON
 MUST BE RECEIVED NO LATER THAN JUNE 1, 2025**

PERMITTEE NAME: _____
 DCC LICENSE NUMBER: _____
 SITE ADDRESS: _____
 MAILING ADDRESS: _____
 PHONE: _____ EMAIL: _____
 LAKE COUNTY LICENSE TYPES: _____
 PERMITTED CANOPY SIZE: _____
 ACTUAL CANOPY SIZE FOR 2024 SEASON: _____

The Request for Temporary Reduction of Cannabis Canopy form must be received by the Planning Division no later than June 1 of the current calendar year. In accordance with Article 27.4(i) Compliance Monitoring, an inspection of the cultivation site shall be conducted annually during growing season. The status is to be confirmed by Planning Division Staff or designee during annual inspection. Confirmation will be provided to the County of Lake Tax Collector by the Planning Division.

For Community Development Department Use Only

Planning Division Review: - Approved - Denied - More Information Needed

Staff: _____

Title: _____

Date: _____

Forwarded to Lake County Tax Collector on: _____

Date: _____

Exhibit I

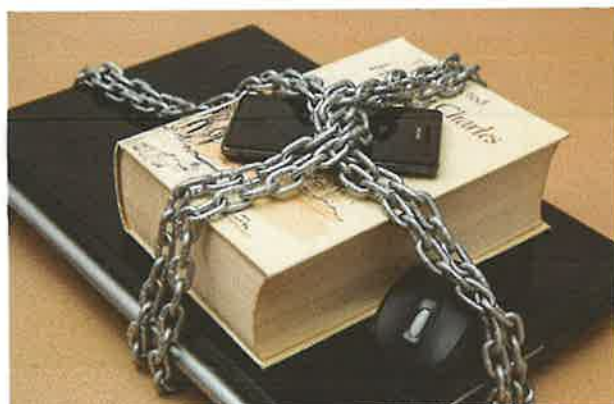
Cannabis Trade Secret and Intellectual Property Protection Guidance

Purpose: Demonstrates that cultivation practices and operational methods may constitute protected trade secrets, and that requiring their disclosure particularly in publicly accessible records, creates risk of exposing confidential business information

CANNABIS TRADE SECRETS IN CALIFORNIA: PROTECTING YOUR INTELLECTUAL PROPERTY



Trade secrets are valuable business assets that many cannabis companies have, perhaps without knowing that they are trade secrets. For example, a cultivator may have developed proprietary cloning and tissue culture techniques, or proprietary growing methods, or proprietary drying and curing processes, blissfully unaware that California law may provide meaningful protection to valuable intellectual property so long as it is not generally known to the public and reasonable efforts are made to maintain its secrecy.



Critically, the confidentiality of a trade secret must be protected in order to maintain its value. The State of California actually defines a trade secret as information that: (1) has economic value; (2) is not generally known to the public; and (3) subject to reasonable efforts to maintain its secrecy.

Trade secrets are granted legal protection because they are valuable assets; indeed, the technological innovations of the modern era would not exist if the law did not recognize trade secrets, as there would be no incentive for organizations to pour tremendous resources into research and development if the law failed to provide sufficient protection.

That is not to say that trade secrets cannot be shared with anyone—part of the value inherent in a trade secret is the ability to license its use to others for a fee or royalty. That said, care must be taken in all situations where a trade secret is made available to individuals or entities other than the secret's owner if trade secret status is to be preserved. Even accidental disclosures of trade secret information can destroy the “trade secret status” of that information.

Trade secret status is important because it allows a company to take legal action in the event someone wrongfully gains access to its trade secrets. Moreover, some information does not qualify for any other form of intellectual property protection and is thus only protectable as a trade secret – for example, recipes (including “recipes” for soils, compost teas, fertilizers, etc.).

Under the California Uniform Trade Secrets Act (“UTSA”), the owner of a trade secret that has been misappropriated can obtain an injunction (the right to stop the opposing party from taking certain actions, such as using a particular trade secret or from sharing such secret further) as well as monetary damages. While monetary damages are generally limited to the amount a party has actually suffered, in trade secret cases the court has discretion to award treble damages (i.e. an amount up to three times higher than the actual damages incurred). Attorneys’ fees and costs are also generally available to the prevailing party, including reasonable fees for independent experts. In certain cases, imprisonment or fines may also be imposed on the trade secret misappropriator. **While cannabis companies tend to prefer state court, for obvious reasons, trade secrets are also actionable under federal law. For cases that arise after May 11, 2016, the Defend Trade Secrets Act (“DTSA”) is a federal statute that provides damages and injunctive relief comparable to California’s UTSA.**



While trade secrets are protectable, many businesses struggle with the requirement of treating the information as secret. A certain amount of disclosure is inevitable when using information as part of a business – especially to employees, but also when attracting potential investors – yet if a business fails to take reasonable steps to protect the information, the remedies outlined above will not be available. Thus, companies that have developed valuable information should also develop a trade secret plan for protecting that information. Having a written trade secret plan not only enables the company to better protect its secrets, but also acts as evidence in and of itself that reasonable efforts to protect the information have been implemented. (Merely having a trade secret plan will not be dispositive; the plan should, of course, be implemented and adhered to).

Noted attorney James Pooley, author of the legal treatise “Trade Secrets”, has written that a trade secret protection plan should be based on four principles: inventory, simplicity, responsibility, and review.

- Inventory – a company must, at the onset, know what it is the company wants to protect in sufficient detail to identify threats to its secrecy as well as establish its value.
- Simplicity – an effective trade secret plan must not be complicated or overly burdensome, otherwise the plan is likely to be ignored by ownership and employees alike.
- Responsibility – Pooley recommends that a specified individual or individuals be responsible for implementing every aspect of the trade secret protection program, including audits for effectiveness.
- Review – as noted above, trade secret plans should be audited and reviewed to ensure that the plan is being consistently implemented and the trade secrets actually protected.

An effective trade secret plan identifies the manner in which trade secrets are most likely to be compromised and creates protection policies accordingly. Consider the following situations and whether the proprietary information is adequately protected:

- **Employee Mobility – Non-competition clauses are not enforceable in the State of California;** thus, one's employees are generally free to leave one's employment and work for a direct competitor at any time. Do employees know what information in their possession is considered confidential, proprietary, and/or a trade secret? Do they know what they are and are not allowed to do with that information when they leave your employment? If you have established a duty of confidentiality, both during and after employment, was it in writing?
- **Site Visitors (especially investors) – Potential investors, as well as other visitors, are also** to a trade secret. When giving tours and explaining how your facility maintains a competitive edge, do you unwittingly reveal your processes? Are novel inventions capable of being observed during site visits by outsiders? Giving a facility tour without requiring Non Disclosure Agreements (NDA's) presents a grave risk to successfully asserting the confidentiality of a trade secret in the future.
- **Lack of Document Security – Many businesses write out trade secrets during development and following so that they can be accessed, reviewed, and perfected; such may even be a necessity.** Think of supplier lists, fertilizer recipes, customer lists, and so forth. Where do you store these documents containing trade secrets? Are they accessible by site visitors? Are they lying out in the open? Can all employees access them or only those employees who have a need to know the information? Are they stored in a locked area when not in use?
- **Lack of Electronic Security – In the same manner that many individuals write out trade secret information on physical paper, many individuals prefer electronic documentation.** If there is a computer at your business location containing such documents, is it password protected? If so, do all employees know that password and have access to that computer, or only those that need to know the information to perform their job duties?
- **Government Submissions – Cannabis companies are required to submit a wealth of information about their business operations to both local and state governments in order to obtain a license for cannabis-related activities and portions of information requested by the government agency during an application process may well constitute a trade secret.** Have you taken any steps during the application process to communicate to the government agency that you consider portions of the application to be a trade secret that needs to be protected from disclosure to non-regulators?

In sum, by taking reasonably appropriate steps to protect its valuable trade secrets, a California cannabis company can protect critical segments of its intellectual property portfolio.

The above information is provided as a public service. It is not intended as legal advice.

For answers to your legal questions or legal assistance, including with establishing and implementing a trade secrets protection plan, please contact the Law Offices of Omar Figueroa at (707) 829-0215 to schedule a confidential legal consultation.



Uncategorized

SUBSCRIBE TO OUR NEWSLETTER



Newsletter Subscription

NAVIGATION

- [About](#)
- [Practice Areas](#)
- [Cannabis Law](#)
- [Blog](#)
- [News & Coverage](#)
- [Contact](#)
- [Legal & Privacy](#)
- [Attorney Advertising](#)

© Law Offices of Omar Figueroa, All rights reserved, The Law Offices of Omar Figueroa, Inc. Please take notice that the Law Offices of Omar Figueroa name, logos, and designs are service marks of the The Law Offices of Omar Figueroa, Inc. and may not be used without permission. The Law Offices of Omar Figueroa, Inc. and Omar Figueroa focus on Cannabis Law, Hemp Law, Psychedelics Law, Intellectual Property Law (including Cannabis and Hemp Trademarks, Copyrights, and Trade Secrets), Constitutional Law, Litigation, and Alternative Dispute Resolution (including Mediation and Arbitration). With offices in Sonoma County, Omar Figueroa offers exceptional legal services throughout California, which includes the following counties: Alameda County, Alpine County, Amador County, Butte County, Calaveras County, Colusa County, Contra Costa County, Del Norte County, El Dorado County, Fresno County, Glenn County, Humboldt County, Imperial County, Inyo County, Kern County, Kings County, Lake County, Lassen County, Los Angeles County, Madera County, Marin County, Mariposa County, Mendocino County, Merced County, Modoc County, Mono County, Monterey County, Napa County, Nevada County, Orange County, Placer County, Plumas County, Riverside County, Sacramento County, San Benito County, San Bernardino County, San Diego County, San Francisco County, San Joaquin County, San Luis Obispo County, San Mateo County, Santa Barbara County, Santa Clara County, Santa Cruz County, Shasta County, Sierra County, Siskiyou County, Solano County, Sonoma County, Stanislaus County, Sutter County, Tehama County, Trinity County, Tulare County, Tuolumne County, Ventura County, Yolo County, and Yuba County. The information on this page is provided as a public service and is not intended, nor should be construed, as legal advice.

Website by www.porterportfolio.com

