



MONTEREY COUNTY

County Administrative Office

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Date: June 28, 2023
To: Commercial Cannabis Operators
From: Joann Iwamoto, Cannabis Program Manager
CC: Nicholas E. Chiulos, Assistant County Administrative Officer
Craig Spencer, Interim Housing and Community Development Director



Subject: One-time change in state cultivation license type

At today's Planning Commission, the interpretation to convert a Department of Cannabis Control (DCC) Mixed-Light Tier-1 to an Outdoor license was approved. Attached is the interpretation.

Here is the DCC email on this subject dated March 21, 2023. Please ensure you read and review the notification and requirements and notify the Cannabis Program that you have made the application to DCC.

“The Department of Cannabis Control (DCC) sent notification on January 24, 2023 outlining adoption of [regulations](#), which was effective November 7, 2022. The regulation amended the definitions of mixed-light and outdoor cultivation.

As a result of these new definitions, cultivators holding outdoor cultivation licenses may now engage in light deprivation. Cultivators who previously obtained a mixed-light tier 1 license and use no artificial light may request to change their license type to outdoor cultivation during the license renewal occurring between November 7, 2022 and November 6, 2023 and receive the corresponding reduction in license fee.

This notification serves as a reminder for licensees to determine their eligibility and to request the one-time change at the earliest.

To be eligible for a one-time change in license type:

- Your current license must be mixed-light tier 1
- Your current premises and/or lighting diagram must not include use of artificial lighting; and
- Your licensed canopy size must remain the same

To request a one-time change in license type, the designated responsible party or an owner (not a consultant or a delegated contact) must submit a request to licensechange@cannabis.ca.gov that includes the following information:

- Indication the request is for a “license type change from mixed-light tier 1 to outdoor cultivation”
- License number
- Expiration date
- Legal business name of licensee

Licensees should submit their request for a license type change **prior to** submitting their renewal. Failure to submit the request to change license type before starting the renewal process may result in a delay in processing. If the current license is eligible for a license type change, the license will be renewed with the new license type and the renewal fee will be recalculated.

If you already renewed your license or submitted your renewal request prior to the date of this notice, you can still submit the license change request by following the instructions above. If eligible for the license type change the DCC will reimburse you with the difference in license fee.

All requests to change license type must be submitted by November 6, 2023.”

If you have questions regarding the DCC correspondence, please contact the DCC’s Licensing Division at licensing@cannabis.ca.gov.”

INTERPRETATION REQUEST - Regulations for cannabis cultivation (Coastal, Inland)

Applicable Code Sections:

20.67.050 (Regulations for Commercial Cannabis Cultivation - Coastal)

21.67.050 (Regulations for Commercial Cannabis Cultivation - Inland)

Date: May 16, 2023

Requested: Joann Iwamoto, Cannabis Program Manager

Subject: Administrative Permits for Commercial Cannabis Operations and State Cannabis License Types

What is the Question?

Is local authorization of an outdoor State Cannabis License consistent with Monterey County Code (MCC) Chapter 20.67.050 or Chapter 21.67.050 and permits issued pursuant thereto?

Short Answer:

Yes.

Discussion:

The Department of Cannabis Control (DCC) recently amended its definition of “outdoor cultivation to any cultivation “without the use of artificial lighting in the canopy area at any point in time.” Monterey County Code sections 20.67.050 and 21.67.050 contain references to specific state license types and allow cannabis cultivation with an administrative permit only in Light Industrial (LI), Heavy Industrial (HI), Agricultural Industrial (AI), or Farmland (F) zoning districts and only within greenhouses or buildings that were legally established prior to January 1, 2016. These chapters of the code were drafted in 2016, and at that time, mixed use and indoor cultivation license types were appropriate for cultivation activities within a greenhouse or industrial building. The County does not issue state licenses and so references to state license types were for information.

With the changes in the definition of outdoor license types at the state level, commercial cannabis cultivation within a greenhouse can meet the state definition for an outdoor license type by simply removing (or not installing) artificial lighting. The County zoning regulations, and permits granted pursuant to those regulations, authorize the use of existing greenhouses and industrial buildings for commercial cannabis cultivation. The same cultivation practices occur pursuant to approved planning entitlements with or without the use of artificial grow lights. In fact, such a use will be less impactful than other cultivation type licenses that utilize artificial lighting and hence, consume significantly more energy. Consequently, authorizing this use is consistent with the intent of the Code.

Facts of the situation:

The Department of Cannabis Control amended the definition of “outdoor” to allow cultivation with light deprivation but without utilizing artificial lighting. Currently, there are 149 active Mixed-Light-Tier 1 state licenses in the County. If the applicant meets the state’s criteria no later than November 6, 2023, the Department of Cannabis Control will allow a one-time transition from a Mixed-Light Tier-1 license to an Outdoor license.

The annual license fee for a small Mixed-Light-Tier-1 license is \$11,800 while a small Outdoor license is \$4,820. If an operator was cultivating 50,000 square feet of canopy; the small Mixed-Light-Tier-1 license fees would cost \$59,000 as compared to the equivalent Outdoor licenses at a cost of \$24,100. This would be an estimated savings of \$40,000.

The transition from a Mixed-Light-Tier-1 license to an Outdoor license would also mean a decrease in the number of harvests and overall production.

Chapters 20.67 and 21.67 of the Monterey County Code (MCC) describe the zoning districts in which specified commercial cannabis activities may be permitted. State license types are provided in a summary table for cultivation in Sections 20.67.050.A and 21.67.050.A MCC. License types are also described and listed in parenthesis in Sections 20.67.050.B.1 and 20.67.050.B.1 MCC. The intent of both the table and the description of state cultivation license types is explained in the sentence preceding both.

In the case of the table in sections 20.67.050.A and 21.67.050.A, the table is preceded by the sentence: *“The table below summarizes the zoning districts where cultivation may be considered with an administrative permit.”*

In the case of the description of cultivation types allowed in the Farmland zoning district contained in sections 20.67.050.B.1 and 21.67.050.B.1, the description is preceded by: *“It is the intent of the County to provide for the adaptive reuse of greenhouse properties in Monterey County and to restrict the proliferation of greenhouses or other structures on productive agricultural lands. To this end,..”*

In both cases, it is not the intent to limit the types of state license but rather the zoning designations and location where commercial cannabis cultivation may be permitted.

The County does not issue state licenses but is required to provide local authorization before the state will issue a license.

Commercial cannabis cultivation and nurseries within specified zones and locations are allowed uses subject to an Administrative Permit (previously subject to a Use Permit). All of the Administrative Permits and Use Permits approved by the County of Monterey for commercial cannabis cultivation authorize the use of greenhouses for commercial cannabis cultivation involving the use of natural and artificial light as well as light deprivation techniques.

Outdoor state license types allow commercial cannabis cultivation without the artificial light. Only the technique changes to a less intense cultivation technique. The zoning or location of the cultivation remain unchanged.

Interpretation Prepared By: Joann Iwamoto

Interpretation/Opinion Confirmed by Managers: Craig Spencer