

ORDINANCE NO. 5227**ORDINANCE ADDING CHAPTER 7.130 TO THE SANTA CRUZ COUNTY CODE
REGARDING LICENSES FOR MEDICAL CANNABIS DISPENSARIES**

The Board of Supervisors of Santa Cruz County hereby finds and declares the following:

WHEREAS, in 1992 the voters of the County of Santa Cruz enacted Measure "A", adding Chapter 7.122 to the Santa Cruz County Code which declared support for making cannabis available for medical use; and

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996"); and

WHEREAS, (1) the intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances; (2) the proposition further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of cannabis for non-medical purposes"; and (3) the ballot arguments supporting Proposition 215 expressly acknowledged that "Proposition 215 does not allow unlimited quantities of cannabis to be grown anywhere"; and

WHEREAS, the Board of Supervisors added Chapter 7.124 to the Santa Cruz County Code which implemented provisions of Proposition 215 by establishing a medical cannabis identification card program operated by the County; and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 *et seq.*) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who cultivate cannabis for medical purposes with a limited defense to certain specified State criminal statutes; and

WHEREAS, Health and Safety Code section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420; and

WHEREAS, following enactment of Senate Bill 420, Chapter 7.124 was amended to establish local guidelines consistent with the new State law for the possession and cultivation of medical cannabis used by qualified patients and caregivers; and

WHEREAS, (1) the Federal Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.*, classifies cannabis as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision; (2) the Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, cannabis; and (3) the Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of cannabis for medical purposes; and

WHEREAS, in a series of memoranda issued in October 2009, June 2011, and August 2013 (the “Ogden” and “Cole” memos), the U.S. Department of Justice provided guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act and generally advised that it is not likely an efficient use of federal resources to prosecute those persons or entities in compliance with a strong and effective state regulatory system for the cultivation and distribution of medical cannabis; and

WHEREAS, (1) Proposition 215 and Senate Bill 420 primarily address criminal law issues, providing qualifying patients and primary caregivers with limited immunity from State criminal prosecution under certain identified statutes; and (2) Proposition 215, Senate Bill 420, the relevant provisions of the Santa Cruz County Code, and the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use adopted pursuant to Senate Bill 420 do not provide comprehensive civil regulation of premises used for cannabis cultivation; and

WHEREAS, (1) on May 6, 2013, the California Supreme Court unanimously ruled in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (“*Inland Empire*”), that California’s medical cannabis laws do not preempt local ordinances that ban medical cannabis facilities; and (2) the Court found that the local police power derived from Article XI, section 7, of the California Constitution includes broad authority to determine, for purposes of public health, safety, and welfare, the appropriate uses of land within a local jurisdiction’s borders, and that “[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land, including the authority to provide that facilities for the distribution of medical cannabis will not be permitted to operate within its borders”; and

WHEREAS, on December 10, 2013, the Board of Supervisors adopted an ordinance deleting then reenacting Chapter 7.124 of the Santa Cruz County Code, which prohibited medical cannabis businesses, but also granted a limited immunity from enforcement for such businesses that did not violate the restrictions and limitations added by that Chapter; and

WHEREAS, on or about September 11, 2015, the California Legislature approved Assembly Bill 266, Assembly Bill 243, and Senate Bill 643, together constituting the “Medical Marijuana Regulation and Safety Act” (hereinafter “MMRSA”); and

WHEREAS, on or about October 9, 2015, the Governor signed the MMRSA into law; and

WHEREAS, (1) cultivation of any amount of cannabis at locations within six hundred feet of a school or public park creates unique risks that the cannabis plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles; (2) the potential for criminal activities associated with cannabis cultivation in such locations or premises poses heightened risks that juveniles will be involved or endangered; and (3) cultivation of any amount of cannabis in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the cannabis plants; and

WHEREAS, as recognized by the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of cannabis grown for medical use, the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, (1) it is the purpose and intent of this ordinance to implement State law by providing a means for regulating medical cannabis dispensaries in a manner that is consistent with State law and which balances the needs of medical patients and their caregivers and promotes the health, safety, and welfare of the residents and businesses within the unincorporated territory of Santa Cruz County; and (2) the intent and purpose of this ordinance is to establish reasonable regulations upon the manner in which medical cannabis dispensaries operate, including restrictions on their location, in order to protect the public health, safety, and welfare in Santa Cruz County; and

WHEREAS, the Board of Supervisors has identified its major policy goals concerning medical cannabis to be an adequate supply of medical cannabis for local qualified patients; protection of the environment; and protection of neighborhood quality; and

WHEREAS, (1) nothing in this ordinance shall be construed to allow the dispensing of cannabis for non-medical purposes, or allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal under State or federal law; and (2) no provision of the Chapter created by this ordinance shall be deemed a defense or immunity to any action brought against any person by the Santa Cruz County District Attorney, the Attorney General of the State of California, or the United States of America; and

WHEREAS, the enactment of this ordinance will not cause there to be an increase in the number of dispensaries currently doing business in the unincorporated area of the County of Santa Cruz.

NOW THEREFORE the Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Santa Cruz County Code is hereby amended by adding new Chapter 7.130 to read as follows:

Chapter 7.130 Medical Cannabis Dispensary Licenses

Sections:

- 7.130.010 Purpose.**
- 7.130.030 Definitions.**
- 7.130.050 Prohibited activities.**
- 7.130.070 Creation of the Medical Cannabis Dispensary Licensing Program.**
- 7.130.090 License category, application submission dates, and eligibility.**

7.130.110 License required.

7.130.130 Enforcement.

7.130.010 Purpose.

The purpose of this Chapter is to provide local rules to regulate medical cannabis dispensaries in the unincorporated area of Santa Cruz County.

It is also the purpose of this Chapter to mitigate the negative impacts and secondary effects associated with ongoing medical cannabis activities including, but not limited to, demands placed on law enforcement and administrative resources; neighborhood disruption; the exposure of children to medical cannabis; drug sales to minors and adults; fraud in issuing, obtaining, or using medical cannabis recommendations; robberies; burglaries; assaults; drug trafficking and other violent crimes.

This Chapter is not intended to conflict with federal or State law. It is the intention of the County that this Chapter be interpreted to be compatible with federal and State enactments and in furtherance of the public purposes that those enactments encompass.

7.130.030 Definitions.

As used in this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (A) “Applicant” means the person or entity submitting an application for a dispensary license under this Chapter on behalf of the owner or owners of the dispensary seeking to be licensed.
- (B) “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, as defined under the California Medical Marijuana Regulation and Safety Act at Health and Safety Code section 19300.5(f), as may be amended.
- (C) “Cannabis plant” means any mature or immature cannabis plant, or any cannabis seedling, unless otherwise specifically provided herein.
- (D) “Cultivation” or “cultivate” means the planting, growing, developing, propagating, harvesting, drying, processing, or storage of, one or more cannabis plants or any part thereof in any location, indoor or outdoor, including within a fully enclosed and secure building.
- (E) “Dispensary” means a fixed brick-and-mortar storefront location that sells or gives away medical cannabis to qualified patients. “Dispensary” does not include the following:
 - (1) A vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, dispense, or give away cannabis to a qualified patient, a person with an identification card, or a primary caregiver;

(2) Any location during only that time reasonably required for a primary caregiver to distribute, deliver, dispense, or give away cannabis to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, for the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.5 and 11362.7 et seq.;

(3) The location of any clinic licensed pursuant to Chapter 1 (commencing with Section 1200), a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725), all of Division 2 of the California Health and Safety Code where: (i) a qualified patient or person with an identification card receives medical care or supportive services, or both, from the clinic, facility, hospice, or home health agency, and (ii) the owner or operator, or one of not more than three employees designated by the owner or operator, of the clinic, facility, hospice, or home health agency has been designated as a primary caregiver pursuant to California Health and Safety Code Section 11362.7(d) by that qualified patient or person with an identification card;

(4) Any vehicle during only that time reasonably required for its use by: (i) a qualified patient or person with an identification card to transport cannabis for his or her personal medical use; or (ii) a primary caregiver to transport, distribute, deliver, dispense, or give cannabis to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, for the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.765; or

(5) A cultivation site granted an exemption by the Planning Director pursuant to SCCC 13.10.670(G) as enacted by Ordinance No. 5090 (now repealed), so long as the area subject to cultivation is not expanded or enlarged beyond what existed at that location on January 1, 2012.

(F) “Level One Dispensary License” means the license issued to a Level One Dispensary.

(G) “License” means the written evidence of permission given by the Licensing Official for a licensee to operate a dispensary. “License” does not mean “permit” within the meaning of the Permit Streamlining Act, and a license does not constitute a permit that runs with the land on which the dispensary sits.

(H) “Licensee” means the person or entity holding a valid license to operate a medical cannabis dispensary under this Chapter.

(I) “Licensing Official” means the official appointed by the County Administrative Officer who is responsible for implementing the provisions of this Chapter.

(J) “Manager” means any person to whom a dispensary has delegated discretionary powers to organize, direct, carry on or control its operations. Authority to control one or more of the following functions shall be prima facie evidence that such a person is a manager of the business: (1) to disburse funds of the business other than for the receipt of regularly replaced items of

stock; or (2) to make, or participate in making, policy decisions relative to operations of the business.

(K) “MCDL Program” means the Medical Cannabis Dispensary Licensing Program created by this Chapter.

(L) “Parcel” means that unit of land assigned a unique Assessor’s Parcel Number by the County Assessor, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.

(M) “Park” means any playground, hiking or riding trail, recreational area, beach, community center or building, historic structure or facility, owned, managed or controlled by any public entity.

(N) “Owner” or “owners” means all persons or entities holding a financial interest in a cannabis dispensary. For purposes of this definition, the term “financial interest” does not include a security interest, lien, or encumbrance on property.

(1) If the owner is an entity, “owner” includes within the entity each person participating in the direction, control, or management of the dispensary, including but not limited to a corporate officer or a member of the board of directors.

(2) If the owner is a publicly traded company, “owner” means the chief executive officer in addition to anyone holding a financial interest in the dispensary.

(O) “School” means any licensed preschool or any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

(P) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a street, sidewalk or waterway, including but not limited to a device moved exclusively by human power.

(Q) The following words or phrases when used in this section shall be construed as defined in California Health and Safety Code Section 11362.7: “identification card”; “person with an identification card”; “primary caregiver”; and “qualified patient.”

7.130.050 Prohibited activities.

(A) It is unlawful and shall constitute a public nuisance for anyone to own, establish, operate, use, or permit the establishment or operation of a dispensary without 1) a valid local license required by this Chapter; and 2) a valid State license required under California law (as soon as State licenses become available for issuance).

(B) The prohibition in subsection (A) of this section includes renting, leasing, or otherwise permitting a dispensary to occupy or use a location.

7.130.070 Creation of the Medical Cannabis Dispensary Licensing Program.

(A) There is hereby created the Medical Cannabis Dispensary Licensing Program. The MCDL Program shall be operated by the Licensing Official. The Licensing Official shall be appointed by the County Administrative Officer and shall report directly to the County Administrative Officer.

(B) The Licensing Official shall take the necessary steps to build and manage the MCDL Program. This includes, but is not limited to, accomplishing the following tasks in compliance with the rules set forth in this Chapter:

- (1) Creating application forms for licensees;
- (2) Conducting pre-licensure inspections;
- (3) Approving and denying license applications;
- (4) Issuing and revoking licenses;
- (5) Creating a system on the County's website to communicate the number of licenses issued and notifying the public as to whether applications for licenses are being accepted;
- (6) Establishing and/or recommending the adoption of any policies, procedures, rules, regulations, or fees necessary to implement the MCDL Program; and
- (7) Working with other officials in the County to ensure that licensees comply with all aspects of the County Code.

7.130.090 License category, application submission dates, and eligibility.

(A) The license created under this Chapter is the Level One Dispensary License.

(B) Acceptance of applications for an original Level One Dispensary License shall open on September 1, 2016 and close on November 30, 2016. After November 30, 2016, no additional applications for an original Level One Dispensary License shall be accepted.

(C) The following dispensaries are the only dispensaries eligible to apply for a Level One Dispensary License. These dispensaries may only apply for a license to operate on the parcel at which they are currently operating a dispensary. Requests by a Level One Dispensary licensee to change locations to a new parcel will be addressed by the Licensing Official on a case-by-case basis, considering all the requirements of this Chapter. However, Level One Dispensaries shall not be allowed to move to a new parcel unless the new parcel meets all the requirements of this Chapter.

- (1) Capitola Healing Association
- (2) Central Coast Wellness Center

- (3) Creekside Collective
- (4) Evolution
- (5) Granny Purps
- (6) Green Acres
- (7) Herbal Cruz
- (8) California Agricultural Association
- (9) KindPeoples Collective
- (10) Redwood Coast Collective
- (11) Santa Cruz Mountain Herb
- (12) Santa Cruz Mountain Naturals
- (13) Therapeutic Healthcare Collective

(D) Submission of an application for a Level One Dispensary License does not guarantee issuance of a license.

7.130.110 License required.

(A) Original License.

(1) Submission Of The Application.

An application for an original license under this Chapter shall be made on the forms designated for that purpose promulgated by the Licensing Official, and shall include all required information, attachments, and signatures required by the Licensing Official. The forms shall be submitted under penalty of perjury, and shall include, but not be limited to, the following information:

- (a) The names of the applicant(s) and owner(s);
- (b) The exact location by street address and Assessor Parcel Number of the existing dispensary;
- (c) The applicants' and owners' waiver and release of the County from any and all liability for monetary damages related to or arising from the application for a license, the issuance of the license, the denial of the license, or the enforcement of the conditions of the license;

(d) Background information to be determined by the Licensing Official, including but not limited to a statement that the applicant(s) and owner(s) have submitted to a LiveScan background check no earlier than thirty days prior to the date the application is submitted;

(e) Tax identification information;

(f) Security plans; and

(g) Such other information as the Licensing Official deems reasonably necessary to a thorough review of the application.

(2) Payment Of The Application Fee.

An application for a license hereunder shall not be accepted unless it is accompanied by the payment of a non-refundable application fee set by the Licensing Official and approved by the Board of Supervisors. The purpose of any and all fees assessed under this Chapter is to pay for the costs of the MCDL Program.

(3) Review Of The Application.

(a) Upon receipt of an application for an original license, the Licensing Official will create a Licensing File related to the application, and will conduct an actual inspection of the dispensary to determine whether it meets the requirements of the MCDL Program. The Licensing Official shall be the custodian of the Licensing File. The Licensing File is subject to the California Public Records Act.

(b) Meeting the requirements of the MCDL Program does not automatically entitle an applicant to receive a license.

(4) Grant Or Denial Of The License.

After concluding the required pre-license investigation, the Licensing Official shall notify the applicant in writing whether the license has been granted or denied. If an application for a Level One Dispensary License is denied, any further non-licensed dispensary operations may only be carried out in accordance with the limitations set forth in section 7.130.110(H)(3).

(5) Payment Of The License Fee.

An original license shall not be granted to an applicant under this Chapter until the applicant has paid a non-refundable original license fee as set by the Licensing Official and approved by the Board of Supervisors.

(6) Length Of Time The Original License Is Valid.

An original Level One Dispensary License shall be valid from the date it is issued until December 31, 2017. If a licensee wishes to continue operating a dispensary after December 31, 2017, he or she must obtain a renewal license, as set forth below in section 7.130.110(B).

(B) Renewal License.

(1) Requirement To Obtain A Renewal License.

In order to continue operating a dispensary after expiration of the original license, a licensee must obtain a renewal license before the original license expires. A renewal license must be obtained annually via application forms designated for that purpose. It is incumbent on the holder of a license to ensure that the license is renewed before expiration, in order to continue dispensing cannabis after December 31st of the year the renewal license expires.

(2) Submission Of The Renewal License Application.

(a) An application for a renewal license shall be made on the forms designated for that purpose promulgated by the Licensing Official, and shall include all required information, attachments, and signatures required by the Licensing Official. The forms shall be submitted under penalty of perjury, and shall include, but not be limited to, the following information:

(i) The information required for the submission of an original license under Section 7.130.110(A)

(ii) Identification of any changes to the information the applicant submitted on the original license application;

(iii) Any law enforcement or license enforcement activity related to the licensee's operations during the past calendar year;

(iv) A representation that the applicant continues to hold in good standing any license required by the State of California for dispensary operations;

(v) Such other information as the Licensing Official deems reasonably necessary to a thorough review of the application.

(b) Renewal license applications will be accepted starting in the year 2017. Applications for a renewal license shall only be accepted from July 1st through September 30th of any calendar year, in order to allow the Licensing Official to timely investigate the renewal license applications submitted for that calendar year. The Licensing Official is not authorized to accept an untimely renewal license application.

(3) Payment Of The Renewal License Application Fee.

An application for a renewal license shall be accompanied by the payment of a non-refundable renewal license application fee set by the License Official and approved by the Board of Supervisors.

(4) Review Of The Renewal License Application.

Upon receipt of an application for a renewal license, the Licensing Official shall update the licensee's Licensing File and perform whatever investigation the Licensing Official deems necessary to determine whether to grant or deny the renewal license. The investigation may include a physical inspection of the dispensary, at the discretion of the Licensing Official, to determine whether the licensee remains in compliance with the regulations of the MCDL Program.

(5) Grant Or Denial Of The Renewal License.

On or before December 31st of the year in which the renewal application is submitted, and after concluding the required renewal license investigation, the Licensing Official shall notify the applicant in writing of whether the renewal license has been granted or denied. If an application for a renewal license is denied, any further non-licensed dispensary operations may only be carried out in accordance with the limitations set forth in section 7.130.110(H)(3).

(6) Payment Of The Renewal License Fee.

A renewal license shall not be granted to the applicant under this Chapter until the applicant has paid a non-refundable renewal license fee as set by the Licensing Official and approved by the Board of Supervisors..

(7) Length Of Time The Renewal License Is Valid.

The renewal license shall be valid for one calendar year, beginning January 1st of the year following issuance, and expiring on December 31st of that year. If a licensee wishes to continue operating a dispensary after December 31st of that year, it must obtain a new renewal license per the terms of this section.

(C) Amending A License.

(1) Licensees may submit an application to amend an existing license at any time, on a form promulgated by the Licensing Official for that purpose. Applications to amend a license will be reviewed by the Licensing Official in a manner consistent with the review of original and renewal license applications.

(2) Applicants seeking an amended license must include with their application a monetary deposit, to be determine by the Licensing Official or his or her designee, based on an estimate of the hours the Licensing Official will need to review the application and perform any necessary inspections. Additional deposits or payments shall be made as determined necessary by the Licensing Official in order to recover costs associated with processing the application.

(D) Required Statements On Licenses.

All licenses issued by the Licensing Official shall contain the signature of the owner(s) of the license. In addition, all licenses shall contain the following statements, displayed prominently on the license itself:

(1) A warning that operators, employees, and members of medical cannabis dispensaries may be subject to prosecution under federal laws; and

(2) An acknowledgment that, by accepting the license and operating a medical cannabis dispensary, the applicant and owners of the licensed facility have released the County from any and all liability for monetary damages related to or arising from the application for a license, the issuance of the license, the enforcement of the conditions of the license, or the revocation of the license; and

(3) Any other statements deemed necessary by the Licensing Official.

(E) Restrictions Relating To The Issuance Of A License.

(1) No license may be issued to operate a dispensary unless the dispensary is located in a zone district designated as PA (Professional and Administrative Offices), C-1 (Neighborhood Commercial), C-2 (Community Commercial), C-4 (Commercial Services), or C-T (Tourist Commercial) by the Santa Cruz County Zoning Ordinance.

(2) No license may be issued to operate a dispensary located within 600 feet from 1) a school; 2) another medical cannabis dispensary; or 3) an alcohol or drug treatment facility. The distance specified in this subsection shall be the horizontal distance measured in a straight line from the property line of the school or other dispensary to the closest property line of the lot containing the dispensary under review, without regard to intervening structures. The distance requirements set forth in this subsection shall not apply to those licensed health care and other facilities identified in California Health and Safety Code Section 11362.7(d)(1); or a dispensary that is in violation of the distance requirement of this subsection as a result of the establishment of a conflicting use (a school or other dispensary) after the date on which the State Board of Equalization issued a seller's permit to the dispensary for its location.

(3) No license may be issued to operate a dispensary within 300 feet of any parcel zoned RA (Single-Family Residential and Agriculture); RR (Single-Family Residential, Rural); R-1 (Single-Family Residential, Urban/Rural); RB (Single-Family Residential, Oceanfront/Urban); or RM (Multiple-Family Residential). The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the residentially zoned property to the closest property line of the lot on which the dispensary is to be located. This prohibition shall not apply to Level One Dispensaries operating in a location occupied on January 1, 2016.

(F) Mobile Delivery Of Medical Cannabis By Dispensaries.

(1) Holders of a Level One Dispensary License are allowed to deliver cannabis to medical cannabis consumers off-premises via mobile delivery services.

(2) Dispensaries that engage in mobile deliveries shall keep complete and appropriate financial records enabling audit of all transactions accomplished via mobile delivery, and shall be able to distinguish between, and account for, sales between the categories of on-site sales versus mobile delivery sales for accounting purposes.

(3) Dispensaries that engage in mobile deliveries are prohibited from having any advertisement of their business or services on their delivery vehicles.

(G) Grounds For License Revocation.

Grounds for revocation of a license include, but are not limited to, any of the following:

- (1) Remaining open and/or operating between the hours of 10:00 p.m. and 8:00 a.m.
- (2) Allowing alcohol or cannabis to be consumed at the premises (“premises,” for purposes of this sub-section, includes any area used for parking any vehicle).

(a) Exception: Dispensary employees are allowed to consume cannabis (but not smoke it) within the dispensary itself, as permitted by their employer.

(3) Allowing a minor unaccompanied by a parent or legal guardian to enter the premises.

(4) Allowing a person less than 21 years of age to transport, distribute, deliver, dispense, or give away cannabis on behalf of the business.

(5) Allowing cannabis to be visible from the exterior of the premises.

(6) Illuminating any portion of the dispensary between the hours of 10:00 p.m. and 8:00 a.m. by lighting that is visible from the exterior of the premises, except such lighting as is reasonably utilized for the security of the premises.

(7) Failure by an applicant or owner of a dispensary to successfully pass the background check required by the Licensing Official, including but not limited to successfully passing the LiveScan background check conducted annually before the submission of an application for an original or renewal license.

A failed LiveScan is a LiveScan report that includes any felony conviction within the past 10 years and/or reflects that the applicant or owner is currently on parole or probation related to a felony conviction. Felony convictions for cannabis-related offenses prior to January 1, 2016 will not result in a failed LiveScan, unless the offense involved sales to a minor.

(8) Providing an on-site location for physicians or medical professionals to write recommendations for medical cannabis.

(9) Failing to provide litter and graffiti removal services for the business premises on a daily basis.

(10) Failure to provide adequate security precautions at all times, including, but not limited to, dedicated security personnel present during the dispensary’s hours of operation.

(11) Printing, publishing, advertising, or disseminating in any way or by any means of communication, or causing to be printed, published, advertised, or disseminated in any way or by any means of communication, other than by way of a dedicated business Internet website accessible only through an age gate portal, any notice or advertisement that includes the following information: pricing of cannabis, details regarding specific cannabis products, or cannabis photography or graphics related to the cannabis plant or cannabis products.

Notwithstanding the limitations imposed by this subsection (11), a dispensary may provide the following: an entry in the telephone directory with the name, location, and phone number of the dispensary; or signage as permitted by this section. Such directory entry or signage may identify the business as a “medical cannabis dispensary,” but shall not include pricing of cannabis, details regarding specific cannabis products, or cannabis photography or graphics related to the cannabis plant or cannabis products.

(12) Providing any signage for the dispensary other than one identifying sign stating the dispensary name, address, hours of operation, and a green cross. Any sign posted under this section shall not exceed six square feet in area, shall not be directly illuminated, shall not contain graphics identifying cannabis, and must comply with all existing County regulations and restrictions regarding signs.

(13) Three or more citations for violation of SCCC Chapter 8.30 (Noise) within a single year.

(14) Possession, storage, or use of any firearm at the dispensary.

(15) Violation of any of the restrictions relating to the issuance of a license as set forth in this Chapter.

(16) Violation of any Santa Cruz County Code provision related to the cultivation of cannabis, including but not limited to any provision in Section 7.128 of the County Code.

(17) Failure to cooperate with a financial audit by the County of Santa Cruz of any and all aspects of the dispensary’s business, including but not limited to on-site inspection and review of financial transactions, sales records, payroll and employee records, purchase orders, overhead expense records, shipping logs, receiving logs, waste disposal logs, bank statements, credit card processing statements, inventory records, tax records, lease agreements, supplier lists, supplier agreements, policies and procedures, and examination of all financial books and records held by the dispensary in the normal course of business.

(18) Failure to timely remit the taxes required to be paid under Santa Cruz County Code section 4.06 (Cannabis Business Tax).

(19) Violation of any Santa Cruz County Code provision or State law related to the extraction of cannabis oils, resins, or other compounds from cannabis plants.

(20) Violation of any Santa Cruz County Code provision or State law related to the cannabis business activity, including any provision of the Medical Marijuana Regulation and Safety Act.

(21) Violation of any administrative rule or regulation promulgated by the Licensing Official.

(H) Denial Or Revocation of License; Remedies.

(1) The Licensing Official may deny an application for an original or renewal license, or revoke an original or renewal license, for any of the following reasons:

- (a) Discovery of untrue statements submitted on a license application.
- (b) Revocation or suspension of any State license required to operate a dispensary.
- (c) Previous violation by the applicant of any provision of the Santa Cruz County Code or State law related to operation of a dispensary or cultivation, transportation, extraction, or manufacture of cannabis or cannabis products.
- (d) Operation of a dispensary in a manner contrary to any of the conditions set forth in subsection (E), "Restrictions Relating To The Issuance Of A License" or subsection (G), "Grounds For License Revocation."
- (e) The applicant or owner failed his or her last annual LiveScan background check.
- (f) The creation or maintenance of a public nuisance.

(2) The Licensing Official's denial of a license application or revocation of a license is a final action that is not subject to any further administrative remedy. The only legal remedy available to appeal the Licensing Official's action is to file a petition for writ of mandate in the superior court under California Code of Civil Procedure section 1085.

(3) If an application for an original or renewal license is denied, or if a license is revoked, all operations associated with the dispensary shall cease immediately, subject to the following exception:

If the applicant or operator is currently operating a dispensary, and the applicant or operator files a petition with the superior court challenging the Licensing Official's denial or revocation decision within 30 days of the date the decision is issued, the applicant or operator may continue to operate the dispensary for 90 days from the date the Licensing Official's decision was issued. Any dispensary operations that occur after the 90 days has elapsed may only be conducted with a valid local license.

(4) Under no circumstances shall a cause of action for monetary damages be allowed against the County of Santa Cruz, the Licensing Official, or any County employee as a result of a denial or a revocation of a license.

7.130.130 Enforcement.

(A) In addition to the authority of the Licensing Official to revoke any license pursuant to this Chapter, the Licensing Official may also elect to pursue one or more of those alternatives set forth in section 19.01.030(A) of this Code. It shall be a separate offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of this Chapter is committed, continued or permitted.

(B) Notwithstanding the limitations on civil penalties set forth in SCCC Section 1.12.070(A)(2), civil penalties for violation of Chapter 7.130 shall be assessed as follows:

(1) A fine not exceeding \$2,500 for a first violation.

(2) A fine not exceeding \$5,000 for a second violation of the same County Code provision within one year.

(3) A fine not exceeding \$7,500 for each additional violation of the same County Code provision within one year.

(C) Whenever the Licensing Official determines that a public nuisance as defined in this Chapter exists at any location within the unincorporated area of Santa Cruz County, he or she is authorized to issue a Notice of Violation pursuant to section 1.12.070 of this Code. However, a violator shall be provided with seven (7) calendar days from notice of the violation to correct the violation before the imposition of civil penalties under section 1.12.070(D)(2)(a) of this Code.

(D) Nothing in this Chapter shall be construed as imposing on the Licensing Official or the County of Santa Cruz any duty to issue a notice of violation, nor to abate any unlawful cannabis business activity or cultivation, nor to take any other action with regard to any unlawful cannabis business activity or cultivation, and neither the Licensing Official nor the County shall be held liable for failure to issue an order to abate any unlawful cannabis business activity or cultivation, nor for failure to abate any unlawful cannabis business activity or cultivation, nor for failure to take any other action with regard to any unlawful cannabis business activity or cultivation.

SECTION II

The Board of Supervisors hereby finds and determines that the adoption of this Ordinance is exempt from CEQA pursuant to the categorical exemptions set forth in the Notice of Exemption attached hereto and incorporated herein by this reference, and directs the Environmental Coordinator to file the Notice of Exemption after the date of final approval of this Ordinance.

SECTION III

This ordinance shall take effect on the 31st day after the date of final passage.

PASSED AND ADOPTED this 2nd day of August 2016, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS Leopold, Friend, Coonerty, Caput, McPherson
NOES: SUPERVISORS None
ABSENT: SUPERVISORS None
ABSTAIN: SUPERVISORS None

BRUCE McPHERSON

Chairperson of the
Board of Supervisors

Attest: **SUSAN GALLOWAY**
Clerk of the Board

APPROVED AS TO FORM:

Jm Heat 7/27/16
Office of the County Counsel

cc: County Administrative Office
Planning Director
Sheriff's Office

STATE OF CALIFORNIA)
COUNTY OF SANTA CRUZ) ss
I, SUSAN A. MAURIELLO, County Administrative
Officer and ex-officio Clerk of the Board of Super-
visors of the County of Santa Cruz, State of
California do hereby certify that the foregoing is
a true and correct copy of the resolution passed
and adopted by and entered in the minutes of the
said board. In witness whereof I have hereunto
set my hand and affixed the seal of the said
Board on _____ 20 _____.
SUSAN A. MAURIELLO, County
Administrative Officer
By _____ Deputy



County of Santa Cruz

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

www.sccoplanning.com

NOTICE OF EXEMPTION

To: County of Santa Cruz
Clerk of the Board
701 Ocean Street, Room 500
Santa Cruz, CA 95060

Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, CA 95812-3044

Project Name: Medical Cannabis Dispensary Licensing Ordinance
Project Location: Santa Cruz County
Assessor Parcel No.: County-wide
Project Applicant: County of Santa Cruz
Project Description: Adoption of an ordinance adding chapter 7.130 to the Santa Cruz county code regarding licenses for medical cannabis dispensaries

Agency

Approving Project: County of Santa Cruz Board of Supervisors

County Contact: Jason Heath Telephone No. (831) 454 - 2040

Date Completed:

This is to advise that the County of Santa Cruz Board of Supervisors have approved the above described project on _____ (date) and found the project to be exempt from CEQA under the following criteria:

Exempt status: (check one)

- The proposed activity is not a project under CEQA Guidelines Section 15378.
- The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- The proposed activity is exempt from CEQA as specified under CEQA Guidelines Section 15061(b)(3).
- Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
- Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

- Categorical Exemption**

Class 21 – Enforcement Actions by Regulatory Agencies

Actions by regulatory agencies to enforce or revoke a license issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency. Such actions include, but are not limited to, the following:

- (1) The direct referral of a violation of a license or of a general rule, standard, or objective to the Attorney General, District Attorney, or City Attorney as appropriate, for judicial enforcement;
- (2) The adoption of an administrative decision or order enforcing or revoking the license or enforcing the general rule, standard, or objective.

Reasons why the project is exempt:

The adopted ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment, as only existing dispensaries are eligible for licensing; therefore the adopted ordinance is not subject to CEQA.

The ordinance includes provisions that establish a Licensing Official, with the authority to revoke licenses and refer cases for court action. This action is exempt from CEQA under a class 21 exemption.

Signature: _____ Date: _____ Title: Environmental Coordinator