

**ORDINANCE ADDING CHAPTER 7.134 TO THE SANTA CRUZ COUNTY CODE
REGARDING PERSONAL CULTIVATION OF CANNABIS FOR NON-COMMERCIAL
RECREATIONAL USE AND MAKING CEQA FINDINGS**

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

WHEREAS, on November 8, 2016, the voters of the State of California enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (the “AUMA”); and

WHEREAS, one of the stated purposes of the AUMA is to establish a comprehensive system to legalize, control, and regulate the personal cultivation of nonmedical cannabis by persons 21 years of age or older; and

WHEREAS, the AUMA states that persons 21 years of age or older may cultivate up to six living cannabis plants; and

WHEREAS, the AUMA states that the personal cultivation of the six living cannabis plants authorized under the AUMA is subject to a number of restrictions, including (1) a person shall cultivate in accordance with local ordinances enacted under the authority of the AUMA; (2) the living plants must be kept within the person’s private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), in a locked space, and cannot be visible by normal unaided vision from a public place; and (3) not more than six living plants may be cultivated within a single private residence, or upon the grounds of that private residence, at one time; and

WHEREAS, the AUMA states that local jurisdictions may enact and enforce reasonable restrictions to regulate the cultivation of the six living plants, including completely prohibiting persons from cultivating the plants outdoors upon the grounds of a private residence, but may not completely prohibit persons from cultivating the six living plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure; 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 surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, the County of Santa Cruz has a compelling interest in protecting the public health, safety, and welfare of its residents and businesses, and preserving the peace and integrity of neighborhoods within the unincorporated area; and

WHEREAS, (1) it is the purpose and intent of this ordinance to implement State law by providing reasonable regulations on the personal, non-commercial cultivation of the six living cannabis plants authorized under the AUMA, in a manner that is consistent with State law and

which promotes the health, safety, and welfare of the residents and businesses within the unincorporated territory of Santa Cruz County; and

WHEREAS, the AUMA allows adults to grow six cannabis plants at a private residence as a matter of law, subject to reasonable local regulation, and the regulations set forth herein provide an authorized limitation on the scope of cultivation that would otherwise be unregulated locally, adoption of the regulations will not result in a direct or reasonably foreseeable indirect physical change in the environment, and adoption of the regulations has no potential for resulting in physical change to the environment, directly or indirectly;

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 7.134 to read as follows:

Chapter 7.134 Personal Cultivation of Cannabis For Non-Commercial Recreational Use

Sections:

- 7.134.010 Purpose.**
- 7.134.030 Definitions.**
- 7.134.050 Prohibited activities.**
- 7.134.070 Restrictions related to personal cultivation of cannabis for non-commercial recreational uses.**
- 7.134.090 Enforcement.**

7.134.010 Purpose.

The purpose of this Chapter is to provide, pursuant to California Health and Safety Code section 11362.2, rules to regulate the non-commercial cultivation of the six living cannabis plants authorized to be grown under California Health and Safety Code section 11362.1.

It is also the purpose of this Chapter to mitigate the negative impacts and secondary effects associated with the cultivation of cannabis including, but not limited to, demands placed on law enforcement and administrative resources; neighborhood disruption; the exposure of children to cannabis; drug sales to minors and adults; robberies; burglaries; assaults; and other violent crimes.

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

7.134.030 Definitions.

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

- (A) “Cannabis” means all parts of the plant *Cannabis sativa* L., as defined under the California Adult Use of Marijuana Act at Health and Safety Code section 11018, as may be amended.
- (B) “Cannabis plant” means any mature or immature cannabis plant, or any cannabis seedling, unless otherwise specifically provided herein.
- (C) “Cultivation” or “cultivate” means the planting, growing, developing, propagating, harvesting, drying, and processing of cannabis plants or any part thereof.
- (D) “Enclosure” means an area fully surrounded by a fence, wall, or other solid barrier that prevents access to cannabis. Enclosures must be equipped with a locked gate or door.
- (E) “Private residence” means a house, apartment unit, mobile home, or other similar dwelling.

7.134.050 Prohibited activities.

It is unlawful and shall constitute a public nuisance for any person to cultivate cannabis for his or her personal, non-commercial, recreational use in violation of the provisions of this Chapter.

7.134.070 Restrictions related to personal cultivation of cannabis for non-commercial recreational uses.

The following restrictions apply to any person who cultivates cannabis for his or her personal, non-commercial, recreational use:

- (A) No more than six cannabis plants may be cultivated at any one time at a single private residence;
- (B) Cultivation may only take place inside a structure or enclosure existing on the grounds of a private residence (structure, for purposes of this Chapter, includes an ancillary structure such as a pre-fabricated shed or greenhouse).
- (C) Any structure or enclosure used for cannabis cultivation must be kept locked and secured to prevent unauthorized entry.
- (D) The private residence containing the cannabis plants must be occupied by, and the cannabis plants must be cultivated by, a person 21 years of age or older.
- (E) Cannabis plants must not be visible with normal unaided vision from a public place.

7.134.090 Enforcement.

(A) The County may pursue one or more of those alternatives set forth in section 19.01.030(A) of this Code to enforce this Chapter. 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 7.134 shall be assessed as follows:

- (1) A fine not exceeding \$500 for a first violation.
- (2) A fine not exceeding \$1,000 for a second violation of the same County Code provision within one year.
- (3) A fine not exceeding \$2,500 for each additional violation of the same County Code provision within one year.

(C) Whenever the County determines that a public nuisance as defined in this Chapter exists at any location within the unincorporated area of Santa Cruz County, the County is authorized to issue a Notice of Violation pursuant to section 1.12.070 of this Code.

(D) Nothing in this Chapter shall be construed as imposing on the County of Santa Cruz any duty to issue a notice of violation, nor to abate any unlawful cannabis activity, nor to take any other action with regard to any unlawful cannabis activity, and the County shall not be held liable for failure to issue an order to abate any unlawful cannabis activity, nor for failure to abate any unlawful cannabis activity, nor for failure to take any other action with regard to any unlawful cannabis activity.

SECTION II

The Board of Supervisors hereby finds and determines that the adoption of this Ordinance is not a project as defined in Section 15378 of the CEQA Guidelines and, further, that the adoption of this Ordinance is nonetheless exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

SECTION III

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

PASSED AND ADOPTED this __ day of April 2017, by the Board of Supervisors of the County of Santa Cruz by the following vote:

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AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chairperson of the
Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

9 M. Healy 4/12/17
Office of the County Counsel

cc: County Administrative Office
Planning Director
Sheriff's Office