

Adopted 06/30/2020  
Board of Supervisors  
DOC-2020-614

**ORDINANCE NO. 5333**

**URGENCY ORDINANCE AMENDING CHAPTER 7.128 OF THE SANTA CRUZ COUNTY CODE (LICENSES FOR NON-RETAIL COMMERCIAL CANNABIS BUSINESSES)**

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

WHEREAS, the Board of Supervisors of the County of Santa Cruz (“Board”) directed the Cannabis Licensing Office (“CLO”) and the Planning Department to prepare amendments to various sections of the Santa Cruz County Code (“SCCC”) in order to increase the number of non-retail commercial cannabis licensees and reduce the time it takes to grant licenses to non-retail commercial cannabis operators; and

WHEREAS, on January 28, 2020, the Board directed the CLO to propose revisions to the Cannabis Program, specifically sections in SCCC 13.10 and SCCC 7.128, to achieve an increase in licenses and to reduce review time; and

WHEREAS, in addition to the proposed amendments to SCCC 13.10, the CLO, in collaboration with Santa Cruz County Sheriff’s Office and the Office of the County Counsel, propose amendments to SCCC 7.128 to enhance enforcement measures in an effort to discourage unlawful activity and to incorporate recent changes to California Government Code section 53069.4; and

WHEREAS, the Board has determined that it is appropriate to amend SCCC 7.128 to provide better clarity for enforcement and administrative procedures, address programmatic changes, enhance enforcement measures, and align local regulatory provisions with state law; and

WHEREAS, the Board finds that the proposed amendments are consistent and compatible with the Santa Cruz County General Plan and all components of the Local Coastal Program implementing ordinances; and

WHEREAS, the Board finds that the proposed amendments comply with the California Coastal Act; and

WHEREAS, the proposed amendments to the SCCC are not subject to the California Environmental Quality Act (“CEQA”) pursuant to Business and Professions Code section 26055(h) because CEQA does not apply to the adoption of an ordinance that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity; and

WHEREAS, the Board scheduled a public hearing on June 2, 2020, to consider the recommendations of the Planning Commission on the proposed amendments to SCCC 13.10 and

consider the recommendations of the CLO on the proposed amendments to SCCC 7.128 regarding the Cannabis Program; and

WHEREAS, at their June 2nd meeting, the Board directed staff to provide further changes to the proposed amendments to SCCC 13.10 and 7.128 and scheduled a public hearing on June 16, 2020, to consider these changes; and

WHEREAS, at their June 16th meeting, the Board directed staff to provide further changes to the proposed amendments to SCCC 13.10 and 7.128 and scheduled a public hearing on June 30, 2020, to consider these changes; and

WHEREAS, had the Board's previously scheduled public hearings on the proposed amendments resulted in adoption, the proposed changes would have taken effect in July 2020, therefore allowing for continuity of operations for the legally licensed cannabis industry, which has been deemed an essential business by the Governor during the COVID-19 pandemic; and

WHEREAS, Government Code section 25123(d) authorizes the adoption of an urgency ordinance for the immediate preservation of the public peace, health or safety, where there is a declaration of the facts constituting the urgency and the ordinance is adopted by a four-fifths vote of the Board; and

WHEREAS, an urgency ordinance that goes into effect immediately upon adoption is necessary in this instance to avoid a threat to public peace, health, and safety caused by potentially unsafe conditions of unlicensed cannabis operations, economic uncertainty and instability in a deemed essential marketplace, and pending losses of state licenses by local operators; and

WHEREAS, the outdoor cannabis growing season has commenced in Santa Cruz County and failure to adopt an urgency ordinance will result in certain local operators, who would otherwise be operating legally under the County Code as proposed, being forced to operate illegally until the proposed amendments go into effect in September; and

WHEREAS, the Board recognizes that up to 583,000 square feet of canopy and twenty-seven (27) legal local operators may be impacted by a delay in ordinance implementation, resulting in disruptions to the local supply chain, a potential decrease in operators, and potential increase in retail prices during a time of widespread economic instability; and

WHEREAS, the Board finds that some local operators, who have state licenses and are required to secure local licenses before commencing operations, will risk forfeiting their state licenses if the proposed amendments go into effect in September after the growing season; and

WHEREAS, the Board finds that a delay in implementation will adversely impact the administration and enforcement of the Cannabis Program, and an urgency ordinance is vital to the protection of public health, safety and welfare and necessary to avoid the adverse effects of illegal cannabis cultivation, distribution, manufacturing and sales; and

WHEREAS, the Board finds that based on the recitals above the proposed amendments require urgent action and an urgency ordinance is needed to protect public health, safety, and welfare;

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

## SECTION I

The foregoing recitals are adopted as findings of the Board of Supervisors of the County of Santa Cruz as though set forth within the body of this ordinance.

## SECTION II

Chapter 7.128 of the Santa Cruz County Code is hereby amended to read as follows:

Sections:

- 7.128.010 Purpose.**
- 7.128.030 Definitions.**
- 7.128.050 Prohibited activities.**
- 7.128.070 Creation of the Non-Retail Commercial Cannabis Business Licensing Program.**
- 7.128.090 License required.**
- 7.128.110 Cannabis cultivation licenses.**
- 7.128.130 Cannabis manufacturing licenses.**
- 7.128.150 Cannabis distribution licenses.**
- 7.128.170 General requirements applicable to all non-retail commercial cannabis license types.**
- 7.128.190 Denial, suspension, or revocation of license; remedies.**
- 7.128.210 Enforcement.**
- 7.128.230 Appeals and Administrative Hearings.**

### **7.128.010 Purpose.**

The purpose of this chapter is to provide a licensing scheme to regulate non-retail commercial cannabis businesses engaged in the cultivation, manufacture, and distribution of cannabis and cannabis products 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 non-retail cannabis business activities including, but not limited to: demands placed on law enforcement and administrative resources; neighborhood disruption; cannabis sales to minors; robberies, burglaries, assaults, and other violent crimes; and the damage to the natural environment resulting from destructive cannabis cultivation, manufacturing, and distribution activities.

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. In addition, this chapter is not intended to regulate the non-commercial cultivation of cannabis, which is governed by SCCC [7.124](#) and [7.134](#). [Ord. 5273 § 2, 2018].

**7.128.030 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, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit (and the plural as well as the singular), submitting an application for a commercial cultivation, manufacturing or distribution license under this chapter, consistent with the regulations set forth in this chapter.

(B) “Approved on-site source” means a source of water on the parcel at issue for which the applicant has obtained (1) the permission of all persons holding a legal right to the use of that water; and (2) the permission of all relevant Federal, State, and local government agencies having authority to control or regulate the use of that water.

(C) “Building” means any structure consisting of walls and a roof, which is used for the housing, shelter, or enclosure of persons, animals, chattels, or property of any kind.

(D) “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not, including the seeds thereof, as defined in Business and Professions Code Section [26001](#)(f), as may be amended. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code. For the purpose of this section, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(E) “Cannabis cultivation” means the planting, growing, developing, propagating, harvesting, drying, processing, curing, grading, trimming, packaging, 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. This definition should be read consistently with the definition for cannabis cultivation set forth in SCCC [13.10](#), to the extent there may be minor differences. Cannabis cultivation is considered by the County of Santa Cruz to be an agricultural activity.

(F) “Cannabis cultivation area” means the sum of the canopy, immature plant growth area and the nursery square footage, as applicable.

(G) “Cannabis distribution” means the activity of transporting cannabis or cannabis products between State licensees, and any ancillary activity, such as cannabis flower packaging, pre-roll packaging, labeling products, or storage between transport, that is conducted in association with the distribution activity. This definition should be read consistently with the definition for cannabis distribution set forth in SCCC [13.10](#), to the extent there may be minor differences.

(H) “Cannabis greenhouse” means an agricultural structure constructed of glass or an opaque material which allows natural light to enter and a framing material (e.g. wood, steel, aluminum) that may be open to the elements periodically, including by retracting the walls or roof.

(I) “Cannabis manufacture” shall mean production, preparation, propagation, or compounding of manufactured cannabis products either directly or indirectly, or by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, at a fixed location, including any storage, packaging, or repackaging of cannabis products in conjunction with manufacture. This definition should be read consistently with the definition for cannabis manufacture set forth in SCCC [13.10](#), to the extent there may be minor differences.

(J) “Cannabis manufacture facility,” “manufacture facility,” or “facility,” when used with reference to manufacture, means a structure(s) within which cannabis manufacture occurs.

(K) “Cannabis nursery” means an operation with a Class N license engaged in activity or activities associated with producing clones, immature plants, and seeds.

(L) “Cannabis plant” means any mature or immature cannabis plant, or any cannabis seedling, unless otherwise specifically provided herein.

(M) “Cannabis processing” means all activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of non-manufactured cannabis products. Cannabis processing is a type of cultivation activity.

(N) “Cannabis product” means plant material that has been transformed, through a manufacture process whether by mechanical means and/or using solvents, into concentrated cannabis, or cannabis tinctures, edibles, drinks, topical salves, lotions or other materials containing cannabis or concentrated cannabis and other ingredients.

(O) “Canopy” means the designated area(s) at a licensed premises, except nurseries and processors, that will contain mature cannabis plants at any point in time, as follows:

- (1) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain cannabis plants at any point in time, including all of the space(s) within the boundaries;

(2) Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary 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

(3) If cannabis plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

(P) “Closed-loop extraction” means an extraction system that is designed to recover the solvents employed to extract cannabis that is built to codes of recognized and generally accepted good engineering standards, such as those of:

(1) American National Standards Institute (ANSI);

(2) American Society of Mechanical Engineers (ASME);

(3) Underwriters Laboratories (UL); or

(4) The American Society for Testing and Materials (ASTM).

(Q) “Co-location” means two or more different licensees operating on a single parcel, or two or more different licensees collectively operating on more than one parcel as part of an approved Master Plan, in order to reduce the overall impacts of development. Examples include two or more different cultivation licensees, or two or more different manufacturing licensees, operating on a single parcel, or four cultivation licensees operating on three adjacent parcels that are part of an approved Master Plan. “Co-location” does not refer to a single person or entity holding more than one category of license (e.g., cultivation, manufacturing, and distribution) and operating on a single parcel.

(R) “Cultivation site,” “cultivation facility,” or “facility,” when used with reference to cultivation, means a location where cannabis is cultivated and includes any structures used for cultivation activities.

(S) “Distribution facility” or “facility,” when used with reference to cannabis distribution, means a structure(s), separate and apart from a cultivation site or manufacturing facility, in which cannabis or cannabis products are stored for any length of time in the course of distribution.

(T) “Financial Interest Holder” means a person or entity with an aggregate ownership interest of 10 percent or more in the applicant applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.

(U) “Fence” means a wall or barrier connected by boards, masonry, rails, panels, or any other materials for the purpose of enclosing space or separating and securing parcels of land. For purposes of this chapter, the term “fence” does not include tarpaulins, scrap material, hedges, or bushes.

(V) “Flowering” means that a cannabis plant has formed a mass of pistils measuring greater than one-half inch wide at its widest point.

(W) “Hazardous material” means any material as defined in California Health and Safety Code Section [25501](#)(n), as may be amended.

(X) “Hoop house” means an agricultural shade structure as described in SCCC [12.10.315](#).

(Y) “Immature plant” means a cannabis plant which has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.

(Z) “Immature plant cultivation area” means the specific area on a site where activities associated with producing clones and immature plants takes place.

(AA) “Indoor” or “indoors” means any area that is contained within an enclosed structure that contains exterior walls and a roof, including cannabis greenhouses. For purposes of this chapter, any structure that is serviced by utilities for powering grow lights, fans, etc., is considered “indoors.” In addition, any structure that is considered “mixed-light” for purposes of State licensure is considered “indoors” for purposes of this chapter.

(BB) “Infused product” means a product created through a process by which cannabis, cannabinoids, or cannabis concentrates are directly incorporated into an existing product to create a cannabis product, e.g., an edible (such as a baked good or tincture) or a topical (such as a lotion, salve, or soap) product.

(CC) “License” means the written evidence of permission given by the Licensing Official for a licensee to engage in non-retail cannabis business activity. “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 cannabis business activity takes place.

(DD) “Licensee” means the person or entity holding a valid license to engage in non-retail cannabis business activity under this chapter.

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

(FF) “Master Plan” means a plan approved by the Licensing Official to allow multiple licensed cannabis businesses located on adjacent parcels to share infrastructure in order to reduce environmental impacts. For example, licensees who are part of an approved Master Plan may be able to share infrastructure available on one parcel that would otherwise be required for each individual parcel.

(GG) “Mature plant” means a cannabis plant that is flowering.

(HH) “MAUCRSA” refers to the California Medicinal and Adult-Use Cannabis Regulation and Safety Act, Senate Bill No. 94, approved by the Governor on June 27, 2017, as may be amended.

(II) “Nonmanufactured cannabis product” means flower, shake, leaf, pre-rolls, and kief that is obtained from accumulation in containers or sifted from loose, dry cannabis flower, or leaf with a mesh screen or sieve.

(JJ) “Non-retail cannabis business activity” means cannabis business activity that does not involve sales to retail consumers. Retail sales of cannabis and cannabis products directly to consumers are governed by the dispensary regulations set forth in [SCCC 7.130](#).

(KK) “Non-volatile extraction” shall include: (1) mechanical extraction (e.g., cold water, heat press); (2) chemical extraction using a food-grade non-volatile solvent such as a nonhydrocarbon-based solvent or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or food-grade glycerin; and (3) chemical extraction using a professional closed-loop CO<sub>2</sub> gas extraction system.

(LL) “Non-volatile solvent” means any solvent used in the extraction process that is not a volatile solvent. This includes, but is not limited to, carbon dioxide and ethanol.

(MM) “Outdoor” or “outdoors” means any area that is not “indoors” as defined in this chapter.

(NN) “Owner” means any of the following:

- (1) A person with an aggregate ownership interest of 10 percent or more in the applicant applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
- (2) The chief executive officer of a nonprofit or other entity.
- (3) A member of the board of directors of a nonprofit.
- (4) An individual who will be participating in the direction, control, or management of the person applying for a license.



(OO) “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. With the exception of parcels located in the RA zone district, and parcels located in the SU zone district with a General Plan designation of “R-M” (Mountain Residential) or “R-R” (Rural Residential), the Licensing Official shall have the discretion to consider contiguous parcels under common ownership as a single parcel for purposes of this chapter, where appropriate.

(PP) “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(QQ) “Program” means the Non-Retail Commercial Cannabis Business Licensing Program created by this chapter.

(RR) “Residence” means a fully enclosed structure or structures, including any attached garage, used as a dwelling unit. “Residence” does not include a detached ancillary structure, such as a shed, barn, etc.

(SS) “SCCC” means Santa Cruz County Code.

(TT) “Structure” shall have the meaning ascribed by SCCC [13.10.700-S](#).

(UU) “Transport only distribution” means the activity of transporting cannabis or cannabis products between State licensees.

(VV) “Volatile extraction” means chemical extraction using volatile solvents.

(WW) “Volatile solvent” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

(XX) The following words or phrases when used in this section shall be construed as defined in California Health and Safety Code Section [11362.7](#), as may be amended: “qualified patient,” “identification card,” “person with an identification card,” and “primary caregiver.” [Ord. 5273 § 2, 2018].

**7.128.050 Prohibited activities.**

(A) It is unlawful and shall constitute a public nuisance for any person to cultivate cannabis for commercial purposes without (1) a currently valid local license required by this chapter; and (2) a currently valid State license required under California law. For regulations on the cultivation of cannabis for noncommercial purposes, see SCCC [7.124](#) and [7.134](#).

(1) Exception: 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) is exempt from this section, as long as the area subject to cultivation is not expanded or enlarged beyond what existed on January 1, 2010, at the location where the exemption was granted. The holder of the exemption may move its location to another site in the County, as long as the area subject to cultivation does not exceed what existed on January 1, 2010, at the location where the exemption was originally granted, and as long as the new site meets all other requirements of this chapter, other than those specifically waived by the Licensing Official.

(B) It is unlawful and shall constitute a public nuisance for any person to manufacture cannabis products, including but not limited to edible products (e.g., beverages and food products), topical products (e.g., lotions, salves, etc.), and cannabis concentrates, without (1) a currently valid local license required by this chapter; and (2) a currently valid State license required under California law.

(C) It is unlawful and shall constitute a public nuisance for any person to distribute cannabis or cannabis products without (1) a currently valid local license required by this chapter; and (2) a currently valid State license required under California law.

(D) It is unlawful and shall constitute a public nuisance for any person to cultivate, manufacture, or distribute cannabis or cannabis products for commercial purposes in violation of any provision of this chapter.

(E) It is unlawful and shall constitute a public nuisance for any person to possess or distribute cannabis or cannabis products in packaging that displays an unauthorized or otherwise fraudulent name, trademark, and/or service mark (as defined by the Business and Professions Code Section 14202) of another County licensed or State licensed cannabis business. It shall be a separate violation for each package of fraudulent product.

(F) It is unlawful and shall constitute a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the County that has been used or is being used for any activity prohibited by this chapter. [Ord. 5273 § 2, 2018].

**7.128.070 Creation of the Non-Retail Commercial Cannabis Business Licensing Program.**

(A) There is hereby created the Non-Retail Commercial Cannabis Business Licensing Program. The Program shall be operated by the Licensing Official. The Licensing Official shall be designated by the County Administrative Officer.

(B) The Licensing Official shall take the necessary steps to build and manage the Program. This includes, but is not limited to, accomplishing the following tasks:

- (1) Creating application forms for licensees;
- (2) Conducting pre-licensure inspections;
- (3) Approving, conditionally approving, and denying license applications;
- (4) Issuing, renewing, and revoking licenses;
- (5) Creating a system on the County’s website to communicate the number of licenses issued and to notify the public as to whether applications for licenses are being accepted;
- (6) Establishing administrative policies, procedures, rules, and regulations necessary to implement the Program consistent with this chapter;
- (7) Collecting fees necessary to implement the Program; and
- (8) Working with other County officials and staff to ensure that licensees comply with all aspects of the County Code, including but not limited to any necessary permits required under SCCC Title [12](#) (Building Regulations), Title [13](#) (Planning and Zoning Regulations), and Title [16](#) (Environmental and Resource Protection). [Ord. 5273 § 2, 2018].

**7.128.090 License required.**

(A) Original License.

- (1) Submission of the Application.
  - (a) 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:
    - (i) The names of the applicant(s) and the owner(s) of the proposed non-retail commercial cannabis business;
    - (ii) The exact location by street address and Assessor’s Parcel Number(s) where the non-retail commercial cannabis business activity will take place;
    - (iii) 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, including a

complete defense and indemnification of the County from any third-party action related to the issuance of a license;

(iv) A copy of all applications submitted for State licensure of cannabis business operations;

(v) Background information as determined by the Licensing Official, including but not limited to a statement that the applicant(s) and owner(s) have submitted to a Live Scan background check no earlier than 30 days prior to the date the application is submitted;

(vi) Tax identification information;

(vii) Security plans;

(viii) Information regarding submittal of applications for required land use and/or building permits;

(ix) If the application concerns cultivation, a map containing the location of the cultivation area (cultivation should take place in a single growing area where total canopy may be easily measured, or as few areas as reasonably possible, rather than spread throughout the parcel);

(x) Identification of previous law enforcement and/or code enforcement activity at the premises related to cannabis;

(xi) A completed Best Management and Operational Practices Plan consistent with the provisions of SCCC [13.10.650\(B\)\(3\)](#); and

(xii) Such other information as required under this chapter, or as the Licensing Official deems reasonably necessary for the County's thorough review of the application.

(2) Review of the Application.

(a) Upon receipt of an application for an original license and all required fees, the Licensing Official shall create a Licensing File related to the application and will evaluate the application for consistency with this chapter and other applicable County, State, and Federal laws and regulations. The Licensing Official shall inform the applicant of any deficiencies which must be addressed prior to processing. After determining that the application is sufficient for processing purposes, the Licensing Official shall conduct a physical inspection of the site where the proposed non-retail commercial cannabis business activity will occur to

determine whether it meets the requirements of this chapter. The Licensing Official shall be the custodian of the Licensing File. The Licensing File is a public record within the meaning of the California Public Records Act.

(i) As part of the inspection outlined above, the Licensing Official shall take photos of the proposed site of the cannabis business operations and keep a copy of those photos with the Licensing File for enforcement purposes.

(b) Required Findings. Issuance of a license is a discretionary act. No applicant is automatically entitled to receive a license based solely on meeting the basic requirements of this chapter. In order to issue an original license, the Licensing Official must make the following findings:

(i) Issuance of the license will be consistent with all requirements set forth in this chapter and all administrative rules and regulations then in place, and either none of the grounds for denial under [SCCC 7.128.190\(A\)](#) exist, or the approval of the license will be subject to an enforceable condition(s) resolving any existing grounds for denial.

(ii) Issuance of the license will not create or maintain a nuisance, or be otherwise detrimental to public health, safety, or welfare.

(iii) The applicable environmental review pursuant to Division 13 (commencing with Section [21000](#)) of the Public Resources Code (the CEQA process) has been completed, and that issuance of the license will not have a significant, unmitigated effect on water supply, biotic resources, or other sensitive environmental resources.

(iv) The applicant has obtained all permits required under the Santa Cruz County Code (development, building, grading, etc.) and any other applicable jurisdiction for the land use authorized under the license (including, but not limited to, rules specific to location and public notice).

(3) Grant or Denial of the License.

(a) After concluding the required pre-license investigation, the Licensing Official shall notify the applicant in writing whether the license has been granted, conditionally granted, or denied, including any reasons for denial.

(b) Conditions. The Licensing Official is authorized to impose conditions on the license at the time it is granted in order to ensure the proposed business activity

will meet the intent and requirements of this chapter and other applicable provisions of the Santa Cruz County Code.

(4) Length of Time the Original License Is Valid. The original license shall expire one year after it is issued. If a licensee wishes to continue business operations after expiration of the original license, the licensee must obtain a renewal license, as set forth below in subsection (B) of this section.

(B) Renewal License.

(1) Requirement to Obtain a Renewal License.

(a) In order to continue business operations after the original license expires, a licensee must obtain a renewal license. A renewal license must be obtained annually via an application form designated for that purpose. It is incumbent on the holder of a license to ensure that the license is renewed before license expiration in order to continue business operations.

(b) Renewal license applications must be submitted at least 90 days before an existing license expires. The Licensing Official is not authorized to accept an untimely renewal license application.

(c) Each renewal license is valid for a one-year period from the date it is issued. If a licensee wishes to continue business operations after expiration of the renewal license, it must obtain a new renewal license per the terms of this section.

(2) Submission of the Renewal License Application. An application for a renewal license shall be made on the forms designated for that purpose promulgated by the Licensing Official and shall be accompanied by the applicable fees set forth in the Unified Fee Schedule. The forms shall be submitted under penalty of perjury, and shall include, but not be limited to, the following information:

(a) The information required for the submission of an original license under subsection (A) of this section;

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

(c) A representation that the applicant continues to hold in good standing any license required by the State of California for non-retail commercial cannabis business activities;

- (d) A copy of the applicant's State license to engage in the commercial cannabis activity;
- (e) Proof of compliance with workers' compensation insurance requirements;
- (f) A representation that the applicant continues to hold in good standing any land use permits required by the County of Santa Cruz to allow the specific type of land use at issue in the application; and
- (g) Such other information as the Licensing Official deems reasonably necessary to a thorough review of the application.

(3) Review of the Renewal License Application.

(a) 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, conditionally grant, or deny the renewal license. The investigation may include a physical inspection of the licensee's business operations and facilities, at the discretion of the Licensing Official, to determine whether the licensee remains in compliance with the regulations of this chapter. The Licensing Official is required to inspect the licensed premises at least once every three years, based on the date the last physical inspection took place.

(b) Issuance of a renewal license is a discretionary act. No applicant is automatically entitled to receive a renewal license based solely on meeting the basic requirements of this chapter. It is not necessary for the Licensing Official to issue findings before granting a renewal license to an applicant who is requesting to maintain already-approved business operations. However, if a renewal license applicant is seeking to change business operations in any substantive respect (e.g., increasing operating hours, increasing employees, increasing size of authorized operations, etc.), the Licensing Official must make the findings required under subsection (A)(2)(b) of this section before approving the renewal license application.

(c) If any physical changes are proposed at the cannabis business facility, the Licensing Official shall conduct an inspection of the proposed changes to ensure that the licensee will remain compliant with the regulations of this chapter and other applicable provisions of the Santa Cruz County Code if a renewal license is granted. As part of this mandatory inspection, the Licensing Official shall take photos of the specific location of the proposed changes and keep a copy of those photos with the Licensing File for enforcement purposes. Any change in the

location of the cannabis business operations area shall comply with all conditions and restrictions of any applicable use or development permit (if such permits were required) issued under SCCC [13.10](#) or approval of a permit amendment shall be required for such change prior to issuance of the renewal license.

(4) Grant or Denial of the Renewal License.

(a) The Licensing Official shall notify the applicant in writing of whether the renewal license has been granted, conditionally granted, or denied, including any reasons for denial.

(b) The Licensing Official is authorized to impose new or additional conditions on the renewal license at the time it is granted in order to ensure that all cannabis business activities will meet the requirements of this chapter and other applicable provisions of the Santa Cruz County Code.

(C) Amending a License. Licensees may submit an application to amend an existing license 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. Granting an application to amend a license is a discretionary act. If an applicant is seeking to amend a license to change business operations in any substantive respect (e.g., increasing operating hours, increasing employees, increasing size of authorized operations, etc.), the Licensing Official must make the findings required under subsection (A)(2)(b) of this section before granting the application to amend the license. In addition, any such change shall comply with all conditions and restrictions of any applicable use or development permit (if such permits were required) issued under SCCC [13.10](#), or an approved permit amendment shall be required for such change prior to issuance of the license amendment. No change may occur until an amendment has been granted and any applicable County permits are obtained. If changes trigger other jurisdictions' requirements, the applicant is responsible for obtaining authorizations, permits, or the like in advance of making any changes to a cannabis business operation.

(D) Co-Location of Licensees.

(1) The Licensing Official is authorized to approve the co-location of licensees in order to minimize the impacts associated with cannabis business operations. Licensees may be co-located regardless of license type, as long as each licensee meets all of the requirements set forth in this chapter for that licensee's individual license type. Licensees may also be co-located with a dispensary licensed under SCCC [7.130](#) if all business activities meet all requirements of this chapter and SCCC [7.130](#). The operations of co-located licensees cannot exceed those authorized under the applicable use or development permits (if such permits were required) granted under SCCC [13.10](#) for the site at issue.



Limitations on size and scope of operations for co-located businesses are set forth in detail in specific parts of this chapter, where applicable.

(2) Applicants seeking to co-locate must submit a written “Co-Location Agreement” signed by each potential licensee and the property owner.

(3) The CG License type is not eligible for co-location.

(E) Master Plan Operations.

(1) In order to minimize the impacts associated with cannabis business operations the Licensing Official is authorized to approve a Master Plan operation comprised of multiple licensed cannabis businesses operating on adjacent parcels and sharing infrastructure that would otherwise be individually required if the businesses were operating alone. With the exception of the CG License type, licensees may be involved in a Master Plan regardless of license type, as long as each licensee meets all of the requirements set forth in this chapter for that licensee’s individual license type.

(2) Applicants seeking approval of a Master Plan must submit a proposed “Master Plan Agreement” to the Licensing Official. The agreement must be approved by the Licensing Official and signed by each potential licensee and the property owner before approval of the Master Plan.

(3) At least one individual responsible for cannabis operations (either a licensee or a managing employee of a licensee) must reside in a permitted residence on one of the parcels that participate in the Master Plan.

(4) The Licensing Official shall develop administrative policies and procedures for the effective implementation of this section, as well as rules to regulate Master Plans in a way that furthers the policies of sharing infrastructure, ensuring security and operations compatible with the surrounding neighborhood, and reducing environmental impacts.

(F) Vertical Integration. Nothing in this chapter shall prohibit a single person or entity from holding more than one category of license, provided the licensee obtains all required licenses and otherwise complies with the terms of this chapter and all other applicable provisions of the Santa Cruz County Code.

(G) Application Fees and License Fees.

(1) Application Fees. All work performed in reviewing applications, consulting with the applicant, conducting site inspections, and making determinations on the application shall be billed to the applicant on an at-cost basis. An application for a license must be accompanied by a deposit as set forth in the Unified Fee Schedule. If the deposit is

exhausted before work on the application is completed, the Licensing Official shall obtain a further deposit before performing more work on the application. At the conclusion of the Licensing Official's work, the Licensing Official will either refund the remaining balance, or bill the applicant for any overage. No license shall be granted until all application fees have been paid in full.

(2) License Fees. A license shall not be granted to an applicant under this chapter until the applicant has paid a nonrefundable license fee as set forth in the Unified Fee Schedule. The purpose of this fee is to pay for the costs of administering and enforcing the Program regulations related to licensure that are not covered by application fees.

(H) Required Statements on Licenses. All licenses issued by the Licensing Official must 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) An acknowledgement that persons engaging in cannabis business activity may be subject to prosecution under Federal law;

(2) An acknowledgment that, by accepting the license and engaging in cannabis business activities, the licensee: (a) has 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, the revocation of the license, or any Federal action related to the license; and (b) shall defend, indemnify and hold harmless the County and its officers, agents, and employees from and against any claim (including attorney's fees) against the County, its officers, employees or agents to attack, set aside, void or annul the approval of the license or any subsequent renewal or amendment of the license; and

(3) Any other statements deemed necessary by the Licensing Official. [Ord. 5273 § 2, 2018].

#### **7.128.110 Cannabis cultivation licenses.**

(A) License Categories. The following categories of local cannabis cultivation licenses are created under this section.

(1) Class CA licenses for cultivation taking place on parcels zoned CA (Commercial Agriculture) per the Santa Cruz County Zoning Ordinance (SCCC [13.10.311](#) et seq.).

(2) Class A licenses for cultivation taking place on parcels zoned A (Agriculture) per the Santa Cruz County Zoning Ordinance.

(3) Class RA licenses for cultivation taking place on parcels zoned RA (Residential Agriculture) per the Santa Cruz County Zoning Ordinance.

(4) Class C-4 licenses for cultivation taking place on parcels zoned C-4 (Commercial Services) per the Santa Cruz County Zoning Ordinance.

(5) Class M licenses for cultivation taking place on parcels zoned M-1 (Small Light Industrial), M-2 (Light Industrial), or M-3 (Mineral Extraction Industrial) per the Santa Cruz County Zoning Ordinance.

(6) Class TP licenses for cultivation taking place on parcels zoned TP (Timber Production) per the Santa Cruz County Zoning Ordinance.

(7) Class SU licenses for cultivation taking place on parcels zoned SU (Special Use) with a General Plan land use designation of “AG” (Agriculture), “R-R” (Rural Residential), “R-M” (Mountain Residential), or “I” (Heavy Industry), per the SCCC Zoning Ordinance.

(8) Class CG licenses for cottage gardens located on parcels zoned CA, A, RA, TP, and SU per the Santa Cruz County Zoning Ordinance.

(9) Class N licenses for cannabis nursery activity on parcels zoned CA, A, RA, TP and SU, per the SCCC Zoning Ordinance.

(10) Class P licenses for activities solely related to cannabis processing (no actual cultivation), on parcels zoned CA, C-4 and M, per the SCCC Zoning Ordinance.

(B) General Eligibility Restrictions for Cultivation Licenses.

(1) Class TP Licenses are limited to those persons who meet the additional land use requirements of SCCC [13.10](#), which concern pre-existing commercial uses and cultivation activity, the placement of cultivation activities, site disturbance, and tree removal.

(2) Class CG Licenses are limited to those persons that can demonstrate the additional following criteria to the satisfaction of the Licensing Official:

(a) The County has received no complaints about cannabis cultivation on the parcel in the five years preceding the date of the application;

(b) The person lives on the parcel; and

(c) The person has accounted for and paid all cannabis business taxes owed to the County for cannabis sales that occurred after November 9, 2016.

(3) Class N licenses are subject to the same eligibility requirements as Class RA, TP and SU licenses in the zone districts where those licenses are required.

(4) No license may be issued to cultivate cannabis on a parcel unless the cultivator or cultivation manager resides in a permitted residence on the parcel. This provision does not apply to Class CA, C-4, and M License types, or certain licensed cultivation sites that are part of an approved Master Plan pursuant to SCCC [7.128.090\(E\)](#).

(5) No license may be issued to cultivate cannabis on a parcel that has active violations of the Santa Cruz County Code, including but not limited to those sections related to grading, building, zoning, environmental, or fire code violations.

(6) No license may be issued to cultivate cannabis on publicly owned land.

(C) Canopy and Cultivation Area Limits.

(1) Each licensee shall be subject to the following limits on maximum canopy and cultivation area, based on license class. The Licensing Official may place additional or further restrictions on canopy size or cultivation area to maintain consistency with other laws, agricultural uses, and neighborhood compatibility.

(a) Class CA License. Size of cultivation area allowed, subject to approval of the Licensing Official:

(i) For single licensees on a single parcel, up to two and one-half percent of the size of the parcel may be utilized for canopy, immature plant growth areas and/or nursery operations, not to exceed 22,000 square feet. An additional 1.25 percent of the size of the parcel may be utilized for nursery operations or immature plant growth areas or some combination of both, not to exceed eleven thousand (11,000) square feet. Cultivation area shall not exceed 22,000 square feet, for outdoor cultivation, within the coastal zone.

(ii) For co-location on parcels smaller than 20 acres, up to five percent of the size of the parcel may be utilized for canopy, immature plant growth areas and/or nursery operations, not to exceed one acre total among all licensees. An additional 2.5 percent of the size of the parcel may be utilized for nursery operations or immature plant growth areas or some combination of both, not to exceed twenty-two thousand (22,000) square feet. Cultivation area shall not exceed one acre, for outdoor cultivation, within the coastal zone.

(iii) For co-location on parcels 20 acres or larger where cultivation is conducted outdoors or requires new structural development, up to five percent of the size of the parcel may be utilized for canopy, immature

plant growth areas and/or nursery operations, not to exceed two acres total among all licensees. An additional 2.5 percent of the size of the parcel may be utilized for nursery operations or immature plant growth areas or some combination of both, not to exceed one acre. Cultivation area shall not exceed two acres, for outdoor cultivation, within the coastal zone.

(iv) Exception to Co-Location Cultivation Area Limits with Class CA License: For co-location on parcels 10 acres or larger where cultivation takes place solely within structures existing as of November 2016, cultivation area limits will be set by the Licensing Official.

(v) Exception to cultivation area limits on existing impervious surfaces. The Licensing Official may approve a larger cultivation area than provided in subsections (i)-(iii) above in CA zone districts when the cultivation meets the following criteria:

(A) Cultivation occurs on a single parcel, indoors, not in the coastal zone or coastal zone and 1-mile buffer area.

(B) Development, including all site disturbance necessary to construct, reconstruct or remodel the building(s) and infrastructure to serve the buildings, including but not limited to parking, access, turn around, water supply, equipment and storage, occurs only where the ground is covered with existing impermeable surface. The impervious area where development will occur must have been duly permitted or be legally non-conforming pursuant to SCCC 13.10.260, 13.10.261, 13.10.262, and 13.10.265, and must have existed prior to April 18, 2019.

(C) Development of an indoor cultivation structure on a CA parcel will include additional conditions of approval to ensure protection of agricultural resources.

(b) Class A License. Size of cultivation area allowed, subject to approval of the Licensing Official:

(i) For single licensees on a single parcel, up to one and one-half percent of the size of the parcel, not to exceed 10,000 square feet.

(ii) For co-location on parcels smaller than 20 acres, up to three percent of the size of the parcel, not to exceed 10,000 square feet total among all licensees.

(iii) For co-location on parcels 20 acres or larger, up to one and one-half percent of the size of the parcel, not to exceed 22,000 square feet among all licensees.

(c) Class RA License. Size of cultivation area allowed, regardless of whether the parcel is occupied by one licensee or co-located licensees, subject to approval of the Licensing Official:

(i) Up to one and one-quarter percent of the size of the parcel, not to exceed 5,100 square feet on parcels between five and 10 acres in size.

(ii) Up to one and one-quarter percent of the size of the parcel, not to exceed 10,000 square feet on parcels larger than 10 acres.

(d) Class C-4 and Class M Licenses. Size of cultivation area allowed, regardless of whether the parcel is occupied by one licensee or co-located licensees, subject to approval of the Licensing Official:

(i) Canopy may not exceed 22,000 square feet.

(ii) Immature plant growth area may not exceed 11,000 square feet.

(iii) Cultivation area shall not exceed 22,000 square feet within the coastal zone.

(e) Class TP Licenses. Size of cultivation area allowed, regardless of whether the parcel is occupied by one licensee or co-located licensees, subject to approval of the Licensing Official:

(i) Up to one and one-quarter percent of the size of the parcel, not to exceed 5,100 square feet on parcels between five and 10 acres in size.

(ii) Up to one and one-quarter percent of the size of the parcel, not to exceed 10,000 square feet on parcels larger than 10 acres.

(iii) With a TP License, cultivation area may only be expanded on eligible sites to the maximum size identified in subsections (C)(1)(e)(i) and (ii) of this section upon specific application to expand, and only in conjunction with the additional restrictions set forth in [SCCC 13.10.650\(B\)\(9\)\(b\)](#).

(f) Class SU Licenses. Size of cultivation area allowed, regardless of whether the parcel is occupied by one licensee or co-located licensees, subject to approval of the Licensing Official:

(i) On parcels with a General Plan land use designation of “AG” (Agriculture), “R-R” (Rural Residential), or “R-M” (Mountain Residential), up to one and one-quarter percent of the size of the parcel, not to exceed 10,000 square feet.

(ii) On parcels with a General Plan land use designation of “I” (Heavy Industry): 22,000 square feet.

(g) Class CG Licenses. Size of cultivation area allowed, subject to approval of the Licensing Official: 500 square feet.

(D) Restrictions Related to Cannabis Cultivation Operations.

- (1) Cannabis plants shall not be visible from any adjacent public right-of-way.
- (2) No lighting for cultivation purposes, except that necessary for security, shall be visible at cultivation sites from sunset to sunrise.
- (3) Occupied residences located on parcels with cultivation sites must comply with all applicable County ordinances, including but not limited to use of water, power, septic, and fire suppression.
- (4) If cannabis cultivation occurs outdoors, the growing area must be fully secured. The Licensing Official shall determine whether the area shall be enclosed within an opaque fence at least six feet in height, including a locked gate to prevent unauthorized entry, or whether no fencing, or alternative fencing, including but not limited to alternative height, material, and location, will be approved on a case-by-case basis.
- (5) Burning of cleared cannabis vegetation, excess plant material, or cannabis vegetative waste is prohibited.
- (6) Cannabis shall not be cultivated in violation of SCCC [7.31.030](#) (prohibition on cultivation of genetically engineered crops).
- (7) Employees at cultivation sites must be at least 18 years of age. Employees under the age of 21 must receive specialized training and education to be specified by the Licensing Official.

- (8) Licensees must comply with all requirements of the MAUCRSA relating to cultivation operations.
- (9) Licensees are prohibited from manufacturing cannabis products at a cultivation site (edibles, tinctures, rosin, salves, etc.) unless the licensee also has a local manufacturing license for that specific site.
- (10) Cannabis shall not be cultivated indoors unless all land use and building code requirements are met.
- (11) Cannabis shall not be cultivated indoors where plants or lights used for growing purposes are visible from a public right-of-way, an adjacent private right-of-way with public access, or a habitable structure.
- (12) No alcohol, narcotics, or cannabis may be consumed at the cultivation site.
- (13) Class P operations may only take place indoors, within existing structures. [Ord. 5273 § 2, 2018].

**7.128.130 Cannabis manufacturing licenses.**

(A) License Categories. The following categories of local cannabis manufacturing licenses are created under this section.

- (1) Class 1: Manufacture of infused products, without engaging in any extraction activities.
- (2) Class 2: Manufacture of cannabis products involving extraction using non-volatile solvents or no solvents. This license category may also include infusion.
- (3) Class 3: Manufacture of cannabis products with extraction using volatile solvents. This license category may also include infusion, and extraction using non-volatile solvents or no solvents.

(B) Restrictions Related to Cannabis Manufacturing Operations.

(1) Cannabis manufacturing licenses may only be issued for activities undertaken in the following zone districts, consistent with the additional limitations and approvals required by this chapter and SCCC [13.10](#), as applicable: CA (Commercial Agriculture), A (Agriculture), RA (Residential Agricultural), TP (Timber Production), C-2 (Community Commercial), C-4 (Commercial Services), M-1 (Light Industrial), M-2 (Heavy Industrial), M-3 (Mineral Extraction Industrial), and SU (Special Use). Licenses issued on parcels in the SU zone district are further restricted as set forth in SCCC [13.10.382\(C\)\(2\)](#).



(2) Licenses for manufacturing activities may only be issued where the manufacturing activities are ancillary to licensed commercial cultivation on the parcel, except for in the CA, C-4, and M zone districts.

(3) Multiple licensees may be co-located (e.g., commercial kitchen facilities, or cannabis extraction facilities) in accordance with the limits established in this chapter and SCCC [13.10](#), contingent upon all licensees receiving and maintaining valid and active licenses (both local and State) for all operations, as well as any other required discretionary development permits, building permits, and other required permits.

(4) Import of cannabis material from a licensed California cultivator, manufacturer, or distributor, used to support manufacturing activity, is permitted in all zones in which manufacturing is an allowed or permitted use, subject to the limitations set forth in SCCC [13.10](#).

(5) No cannabis used in manufacture may be sourced from an unlicensed cultivator, manufacturer, or distributor. Licensed manufacturers may only sell their product within the State of California to other licensed cannabis businesses and may not sell product directly to consumers.

(6) The licensee must maintain at the facility complete and accurate records of all raw and/or cannabis extract source material used in manufacture processing with all source identification information, to include origin, operator/supplier name, location, address, State and local license information, and quantity of product in manufacture.

(7) The production of edible products must take place within a permitted commercial grade kitchen facility. Non-cannabis products may not be produced at the same kitchen facilities where cannabis products are manufactured. Production of edibles in the shape of a human, animal, or fruit is prohibited.

(8) All cannabis products, food products, food storage facilities, food-related utensils, and equipment and materials used in the manufacture process shall be approved, used, managed, and handled in accordance with California Department of Public Health requirements. All food products and cannabis products shall be protected from contamination at all times. All food handlers must be clean, in good health, free from communicable diseases, and must obtain any food handling certification required by the State of California before handling food products.

(9) County of Santa Cruz Environmental Health officials may impose any additional restrictions or requirements as required to ensure public health and may inspect any portion of the commercial cannabis manufacture facility at any time during normal business hours to ensure compliance with this section.

(10) All items to be sold or distributed retail shall be packaged as required by the California Department of Public Health.

(11) All solvent-based extraction of cannabis oils, resins, or other compounds from cannabis plants, manufacture of cannabis products, and packaging of manufactured cannabis products for sale to or use by the public shall be carried out in accordance with the provisions of the MAUCRSA, any requirements set by the California Department of Public Health, Manufactured Cannabis Safety Branch (MCSB), all requirements of this chapter, all requirements of other applicable local and State laws, and all administrative rules and regulations promulgated by the Licensing Official. This includes, but is not limited to, compliance with all laws and regulations related to zoning and land use, environmental resources, natural resource protection, water quality, water supply, hazardous materials, pesticide use, wastewater discharge requirements, and any permit or right necessary to divert water.

(12) Class 2 and 3 licensees may only carry out chemical extractions (e.g., using CO<sub>2</sub> or volatile solvents) using a professional closed-loop extraction system.

(a) The closed-loop system shall be commercially manufactured and bear a permanently affixed and visible serial number. The system shall be certified by a qualified California-licensed engineer (e.g., mechanical engineer, electrical engineer, etc.) that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, such as:

- (i) The American Society of Mechanical Engineers (ASME);
- (ii) American National Standards Institute (ANSI);
- (iii) Underwriters Laboratories (UL); or
- (iv) The American Society for Testing and Materials (ASTM).

Professional closed-loop systems, other equipment used, the extraction operation, and facilities must be approved for use by the local fire code and building officials and shall comply with any required fire, safety, and building code requirements related to the processing, handling and storage of the applicable solvent or gas. The certification document required shall contain the signature and stamp of the certifying engineer and the serial number of the extraction unit being certified. As part of the certification process, documents pertaining to specific material specifications, pressure, temperature thresholds, specific operating procedures,

details on maintenance schedule requirements for equipment, and other related details shall be provided in a report signed and stamped by the engineer of record.

(b) All equipment associated with closed-loop systems must be properly maintained and in working order at all times. Maintenance records which reflect the certifying engineer's recommended maintenance schedule for all equipment used must be kept up to date detailing last date of inspection and upgrades carried out and must be furnished for inspection by County officials at any time.

(c) Any employees operating closed-loop systems shall be trained on the proper use of the equipment directly by the equipment manufacturer or an authorized trainer to ensure proper use of the equipment and proper hazard response protocols in the event of equipment failure. Individuals not trained in the operation of the equipment may not enter the extraction room unless accompanied by an employee trained in the operation of the equipment.

(d) If any closed-loop system is being used to extract compounds from cannabis, clear instructions must be posted in a prominent and visible location within the facility to ensure first responders can determine the materials being used in the facility and how to disable the equipment if facility operators are impaired or unavailable to do so.

(e) The Licensing Official, Building Official, or Fire Marshal is authorized to either accept or reject the qualification of an engineer for purposes of this section.

(13) A hazard response plan shall be in place for all facilities and all employees shall be trained on emergency response protocols.

(14) Class 2 and 3 licensees shall, on an annual basis, provide the Environmental Health Division of the Health Services Agency, the County Fire Marshal, and any other fire code official with locational jurisdiction, a list of hazardous material types and quantities used. This list must be kept onsite at the facility as well as be available during County inspections of the facility.

(15) No alcohol, narcotics, or cannabis may be consumed at the facility.

(16) No person under the age of 21 may be present on the premises of a cannabis manufacture facility.

(17) Cannabis manufacture facilities shall be inaccessible by the general public and should be fully enclosed if feasible.

(18) Class 3 licenses may not be issued for activities in the RA zone district, or in the SU zone district where the General Plan designation is “AG” (Agriculture), “R-R” (Rural Residential), or “R-M” (Mountain Residential). Class 2 licenses may be issued for activities in the RA zone district and SU zone district where the General Plan designation is AG, R-R, or RM; however, such licenses may not be approved for extraction activities involving ethanol or CO<sub>2</sub> on properties less than five acres in size.

(19) All cannabis that is being used for commercial manufacturing of cannabis products must be locked and secured at all times to prevent access by those under the age of 21, unauthorized visitors, or animals. [Ord. 5273 § 2, 2018].

### **7.128.150 Cannabis distribution licenses.**

(A) License Categories. The following categories of local cannabis distribution licenses are created under this section.

(1) Class 1: A Class 1 distribution license is for a licensee that also holds a local cannabis cultivation or manufacture license. A Class 1 license is for a licensee who transports its own cannabis and cannabis products from its licensed cultivation site or manufacture facility to another licensed facility, stores its own cannabis for State testing and transport, and conducts any ancillary activity, such as cannabis flower packaging, pre-roll packaging or labeling products. A Class 1 distribution licensee does not maintain a distribution facility separate and apart from the cultivation site or manufacturing facility and does not transport other licensees’ cannabis plants or products.

(2) Class 2: A Class 2 distribution license is for a licensee who transports cannabis and cannabis products for their own or other licensed cannabis businesses, stores cannabis for State testing and transport, and any ancillary activity, such as cannabis flower packaging, pre-roll packaging or labeling products. A Class 2 distribution license may only be issued to a licensee with suitable storage premises.

(3) Transport Only: A transport only license is for a licensee who transports cannabis and cannabis products between State licensees. A transport only licensee shall not store or hold title to any cannabis or cannabis products.

(B) Restrictions Related to All Cannabis Distribution Operations.

(1) Class 1 and 2 cannabis distribution licenses may only be issued by the Licensing Official for distribution activities undertaken in the following zone districts, consistent with the additional limitations and approvals required by this chapter and [SCCC 13.10](#), as applicable: CA (Commercial Agriculture), A (Agriculture), RA (Residential Agricultural), TP (Timber Production), C-2 (Community Commercial), C-4 (Commercial Services), M-1 (Light Industrial), M-2 (Heavy Industrial), M-3 (Mineral Extraction

Industrial), and SU (Special Use). Licenses issued on parcels in the SU zone district are further restricted as set forth in SCCC [13.10.382\(C\)\(3\)](#). Transport only distribution licenses may be permitted in the zone districts listed above, except SU. Transport only distribution licenses may also be permitted in the PA (Professional and Administrative Offices), RR (Rural Residential), R-1 (Single Family Residential), RB (Ocean Beach Residential) and RM (Multifamily Residential) zone districts.

(2) No licensee may distribute cannabis from an unlicensed cannabis cultivator or cannabis manufacturer. Licensed distributors may only distribute products between other licensed businesses within the State of California. Distributors may not sell product directly to consumers. The only exception to this is for distributors that also have a local dispensary license.

(3) The licensee must comply with all provisions of the MAUCRSA related to distribution licenses, including but not limited to all provisions of Business and Professions Code Section [26070](#) et seq., as may be amended.

(4) Cannabis distribution facilities shall be inaccessible by the general public and shall be fully enclosed.

(5) No alcohol, narcotics, or cannabis may be consumed at the distribution facility.

(6) No person under the age of 21 may be present at a cannabis distribution facility.

(7) In the geographic area designated as the Coastal Zone, and within one mile beyond the Coastal Zone, commercial cannabis distribution may only take place within legal structures existing on the effective date of the ordinance adopting this section.

(8) A distribution facility shall be inaccessible by the general public and should be fully enclosed, if feasible.

(9) Commercial cannabis Class 1 distribution uses in the RA and A zone districts shall be ancillary to licensed commercial cannabis cultivation on the parcel.

(10) In the C-2 zone district, commercial cannabis distribution is only allowed in conjunction with a licensed dispensary or licensed commercial cannabis manufacturing.

(11) Transport Only distribution licensees may transport cannabis goods between State licensed cannabis businesses and are prohibited from storing cannabis goods.

(12) Transport Only distribution licensees must provide designated off-street parking location(s) for all vehicles associated with the operations.

(13) Transport Only distribution licenses for A, RA, RR, R-1, RB, RM, and TP zone districts may only be issued where a residence is located on the licensee's parcel.

(14) Transport Only distribution licenses for A, RA, RR, R-1, RB, RM, and TP zone districts must conform with home occupation standards.

**7.128.170 General requirements applicable to all non-retail commercial cannabis license types.**

The following general requirements are applicable to all non-retail commercial cannabis licenses types.

(A) Cannabis may not be cultivated or manufactured within a residence and may not be stored for distribution within a residence; use of legal accessory structures for cultivation or manufacture may be permitted in accordance with this chapter and SCCC [13.10](#).

(B) Cannabis business activities require written consent from the owner of the parcel where the cannabis business activity will take place if the applicant is not the owner of the parcel.

(C) Cannabis plants and products shall not be visible from the exterior of the parcel. In the case of cannabis manufacture and distribution, no activities within a structure should be visible from the exterior of the structure.

(D) No non-retail cannabis products may be sold directly to consumers. If a separate licensed dispensary is located on the same parcel, the manufacturing facility must maintain a separate operating area from the dispensary, as defined by the Building Official and Fire Marshal. No members of the public are allowed within the manufacturing operating area.

(E) All materials and equipment associated with a license must be stored exclusively on the parcel where the licensed activity takes place. Off-site storage facilities are prohibited.

(F) Outside of an emergency, generators may not be used as a power source. This provision does not apply to permanently installed generators that are permitted and located on property zoned "CA" (Commercial Agriculture) (e.g., a permanent generator that runs a well pump).

(G) Outside of an emergency or initial filling of water storage tanks for fire-fighting purposes, water hauling is prohibited. Water hauling during an emergency or for initial filling may only be done by a State licensed water purveyor. The Licensing Official shall determine on a case-by-case basis whether an event qualifies as an "emergency" for purposes of this section.

(H) The placement or use of any roadside billboard to advertise any aspect of a cannabis business or cannabis products is prohibited, as is the placement or use of any sign that includes

pricing of cannabis, details regarding specific cannabis products, cannabis photography, or graphics related to the cannabis plant, cannabis products, or cannabis paraphernalia.

(I) The licensee shall not post at the cannabis cultivation site, manufacturing facility, or distribution facility any advertisement of any nature other than one identification sign stating the facility name, address, and hours of operation. 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. Signage is not permitted in the RA zone district.

(J) Licensees must utilize energy efficient cultivation methods.

(K) Licensees shall implement the following transportation demand management measures to the maximum extent feasible: provide carpool, shuttle, mini bus, or van service for employees, especially during harvest periods; provide bicycle storage and parking facilities; provide incentives for employees to rideshare or take public transportation; and implement compressed or flexible work schedules to reduce the number of days per week that employees are traveling to the site.

(L) Licensees must comply with all applicable requirements of County, State, and Federal regulations pertaining to worker safety and to storage and use of hazardous materials. Licensees storing or handling hazardous materials, as defined by SCCC [7.100.020](#), or of any amount of an acutely hazardous substance, as defined by State or Federal law, shall obtain all required permits from the County Environmental Health Division of the County Health Services Agency.

(M) Cannabis-related solid waste must be composted, processed, or disposed of at solid waste facilities permitted to receive that type of solid waste, subject to County, State and Federal regulations. Disposal of hazardous and chemical waste must be conducted in a manner consistent with County, State, and Federal laws pertaining to the proper disposal of related materials.

(N) Licensees must comply with all applicable requirements of County, State, and Federal laws and regulations related to storm water management and the storage and use of fertilizers and herbicides. Licensees must also comply with all applicable State and Federal laws and regulations regarding the storage and use of pesticides including rodenticides.

(O) Subject to review and approval of the Licensing Official, licensees are required to develop and maintain an adequate security plan, which is intended to prevent unauthorized diversion of cannabis material and to protect the health, safety, and welfare of workers and the general public. This includes security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or cannabis products.

(1) Security requirements must comply with applicable Non-Retail Commercial Cannabis Business Best Management and Operational Practices requirements.

(a) No razor wire fencing is permitted.

(b) All manufacture and distribution facility windows shall have security bars or an equivalent security measure installed to the extent allowed under the Building Code, and unless existing exterior security bars are in place, a facility shall affix bars only to the inside of a facility to reduce visual impacts.

(c) All loading and unloading of cannabis products or value-added products shall occur behind locked gates, and/or inside a secured facility, and/or in the presence of trained security personnel.

(d) The facility shall provide adequate security precautions at all times, including locking and securing the facility to prevent theft or access to minors. The facility must be closed to the general public and only authorized personnel may be present onsite.

(e) Doors and windows of facilities shall remain closed, except for the minimum length of time needed to allow people to enter or exit the building.

(P) All activities that generate emissions from extraction processes must obtain permits from the Monterey Bay Air Resources District (MBARD), as applicable. MBARD is responsible for the issuance of air quality permits for stationary equipment which may emit any of the criteria air pollutants (particulate, volatile organic compounds, oxides of sulfur, oxides of nitrogen, or carbon monoxide), any toxic air contaminants identified by U.S. Environmental Protection Agency or the California Office of Environmental Health Hazard Assessment, or odorous pollutants. Any abatement device which may reduce or eliminate air contaminants is also subject to permit requirements.

(Q) Aside from outdoor cultivation and nursery sites, all facilities where cannabis product is located must use a commercial air scrubbing or filtration system sufficient to prevent the odors associated with business operations from escaping the facility where cannabis products are grown, processed, or stored. In order to mitigate odors, all facilities shall be equipped with a mechanical source capture system. Source capture systems shall comply with all local laws. In-line exhaust filtration may include a carbon filtration capture system or other equivalent filtration apparatus approved by the Building Official. Source capture system apparatus shall be maintained in proper working order.

(1) Exception: CA licensees are generally excepted from this requirement. However, based on the proximity of the facility to sensitive receptors such as schools, residences,



etc., the Licensing Official may impose this requirement, or require that the licensee take other measures to control odor, as a condition for approval of a CA License.

(R) No portion of the facility shall be illuminated between the hours of 10:00 p.m. and 8:00 a.m. by lighting that is visible from the exterior of the facility, except such lighting as is reasonably utilized for the security of the facility. All exterior lighting should be downward directional and hooded so as not to cast light off the property onto neighboring properties or skyward.

(S) The facility must provide litter and graffiti removal services for the business premises on a daily basis.

(T) All noise from business activity shall conform to applicable General Plan Noise Element policies and standards and is also subject to the regulations set forth in SCCC [8.30](#) (Noise).

(U) Advertising shall not contain the use of objects, such as toys, inflatables, movie characters, cartoon characters, or include any other display, depiction, or image designed in any manner likely to be appealing to minors, as determined by the County Health Officer.

(V) All licensees are prohibited from using packaging materials that contain cartoons or caricatures using comically exaggerated features, animals, or anthropomorphized creatures or packaging materials connected to sports, music, celebrities, popular culture, or similar topics that attract or appeal to minors, as determined by the County Health Officer.

(W) No license for non-retail commercial cannabis business activities may be issued before the applicant has submitted, and the Cannabis Licensing Official has approved, a completed Best Management and Operational Practices (“BMOP”) Plan on the form(s) created by the Cannabis Licensing Official for that purpose. The purpose of the BMOP Plan is to ensure that all cannabis business activities conserve natural resources and have as minimal an impact as possible on the surrounding environment. The BMOP Plan shall address siting criteria, site design, construction requirements, operational requirements, and additional miscellaneous issues to meet this purpose. [Ord. 5273 § 2, 2018]

**7.128.190 Denial, suspension, or revocation of license; remedies.**

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

- (1) Discovery of untrue statements submitted on a license application.
- (2) Revocation or suspension of any State license required to engage in commercial cannabis business activities.

- (3) Previous violation by the applicant, or violation by the licensee, of any provision of the Santa Cruz County Code or State law related to the cultivation of cannabis, the manufacture of cannabis products, or the distribution of cannabis or cannabis products, including any land use permit conditions associated with the licensee's business operations.
- (4) Failure of the background check conducted by the Licensing Official, including the person's most recent Live Scan report. A failed Live Scan is a Live Scan report that includes any felony conviction within the past ten (10) years and/or reflects that the person is currently on parole or probation related to a felony conviction. Felony convictions for cannabis-related offenses prior to June 1, 2013, will not result in a failed Live Scan, unless the offense involved sales to a minor.
- (5) Failure to meet any of the general eligibility requirements to obtain a license as set forth in this chapter.
- (6) Violation of, or the failure or inability to comply with, any of the restrictions or requirements for the issuance of a license or conducting business operations as set forth in this chapter, including any administrative rules or regulations promulgated by the Licensing Official or any conditions associated with the issuance of the license or any associated land use permit or other permit (including the adopted BMOP Plan related to the business operations).
- (7) Violation of, or failure to comply with, any land use or other permit requirements associated with the licensee's commercial cannabis business activities, including but not limited to zoning, building, and agricultural permits as may be required for the activity and the operations site.
- (8) Violation of, or failure to comply with, any State or local law in conducting business operations, including any laws associated with the MAUCRSA.
- (9) With the exception of those employed at a cultivation site, allowing any person between the ages of 18 and 21 years of age to enter a cultivation site, manufacturing facility, or distribution facility, or allowing any person younger than 18 years of age to enter a cultivation site, manufacturing facility, or distribution facility without a parent or legal guardian.
- (10) Failure to contain all irrigation run-off, fertilizer, pesticides, and contaminants onsite.

(11) Failure to allow unannounced inspections of the premises and business operations by the Licensing Official, Building Official, Fire Marshal, or law enforcement at any time, without notice.

(12) Failure to timely pay any local, State, or Federal tax associated with or required by the licensee's cannabis business activities, including any taxes required to be paid under SCCC [4.06](#) (Cannabis Business Tax).

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

(14) Possession, storage, or use of any firearm on a parcel where commercial cannabis business activities take place.

(15) Creation or maintenance of a public nuisance.

(16) Conviction of a criminal offense that would justify denial of a license.

(17) Failure to conspicuously post and maintain at the cultivation site, manufacture facility, or distribution facility in a prominent location a copy of the local license(s) issued pursuant to this section and a copy of any State license(s) required for the activity.

(18) Failure to fully cooperate with a financial audit or records request by the County of Santa Cruz of any and all aspects of the licensee'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 licensee in the normal course of business.

(19) Intentional or negligent diversion of cannabis to minors, or failure to secure and safeguard cannabis from minors.

(B) The Licensing Official has the discretion to deny a new license application and prohibit commercial cannabis activities for a minimum period of three (3) years for any applicant, financial interest holder, and/or property owner who has violated a provision of this chapter. If a licensee violates this chapter more than three (3) times within a two-year period, the Licensing Official has discretion to revoke the licensee's license, and no commercial cannabis activities shall be allowed by the licensee for a minimum period of three (3) years.

(C) The Licensing Official's denial of any type of license application (original, renewal, or amendment) 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](#). If an application for an original or renewal license is denied, or if a license is revoked, all commercial cannabis cultivation on the parcel shall cease immediately, subject to the Licensing Official's discretion to allow operations to continue for a brief period of time to complete miscellaneous wind-down operations.

(D) 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 official or employee as a result of a denial or a revocation of a license. By applying for a license, the applicant and owners associated with a non-retail commercial cannabis business waive any and all claims for monetary damages against the County, the Licensing Official, and all other officials and employees of the County of Santa Cruz that may be associated with the denial or revocation of a license. [Ord. 5301 § 1, 2019; Ord. 5273 § 2, 2018].

**7.128.210 Enforcement.**

(A) It shall be unlawful for any person or entity to violate any provision or fail to comply with any requirement of this chapter. No proof of knowledge, intent, or other mental state is required to establish a violation. Violations of this chapter shall be subject to administrative citation, notice of violation, abatement order, injunctive relief, costs of abatement, costs of restoration, costs of investigation, attorney fees, restitution, or any other relief, remedy, or enforcement measure authorized by the Santa Cruz County Code or available at law or in equity.

Each and every violation of the provisions of this chapter shall constitute a separate violation and is hereby deemed unlawful, a public nuisance, and an immediate threat to public health, safety and welfare. Pursuant to Government Code section [53069.4](#), fines and penalties shall be immediately imposed for violations of this chapter to protect the public health, safety, and welfare against unlawful cannabis activities and other violations herein as they pertain to zoning, health, or safety provisions of the County Code.

(B) Administrative Citations.

(1) The Licensing Official is authorized to issue administrative citations for violations of this chapter pursuant to the authority granted in SCCC [1.13](#) and is the “enforcing officer” responsible for implementing the administrative citation procedures set forth in this chapter. The issuance of administrative citations under this chapter shall follow the procedures set forth in SCCC [1.13.030](#) and administrative citations shall contain the contents of notice set forth in SCCC [1.13.040](#). All other provisions set forth herein pertaining to the issuance of administrative citations shall be controlling for citations issued pursuant to this chapter.

(2) Administrative Citations Issued for Unlawful Activities – Licensees.

In addition to any other applicable remedies, Licensees who violate any provision or fail to comply with any requirement of this chapter shall be liable for civil penalties. Upon the issuance of an administrative citation and at the discretion of the Licensing Official, the following daily fines may be immediately imposed upon each and every unlawful activity:

- (a) A fine not exceeding twenty-five hundred (2,500) dollars for a first violation.
- (b) A fine not exceeding five thousand (5,000) dollars for a second violation of the same County Code provision within one year of the first violation.
- (c) A fine not exceeding seventy-five hundred (7,500) dollars for each additional violation of the same County Code provision within one year of the first violation.

(3) Administrative Citations Issued for Unlawful Activities – Non-Licensees. In addition to any other applicable remedies, any person or entity engaging in commercial cannabis activity without a Santa Cruz County cannabis business license who violates any provision of this chapter shall be liable for civil penalties. Upon the issuance of an administrative citation and at the discretion of the Licensing Official, the following fines may be immediately imposed upon each and every unlawful activity:

- (a) A fine not exceeding one hundred (100) dollars per live cannabis plant in excess of six plants.
- (b) A fine not exceeding one hundred (100) dollars per package of cannabis product.
- (c) A fine not exceeding one hundred (100) dollars per gram of cannabis concentrate.
- (d) A fine not exceeding one hundred (100) dollars per pound of cannabis biomass.
- (e) A fine not exceeding five hundred (500) dollars per pound of cannabis flower.

(C) Under this chapter, property owners may be held strictly liable for violations involving unlawful cannabis activities on their property. A violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements that exists as a result of, or to facilitate, the illegal cultivation of cannabis may be subject to an immediate imposition of civil penalties pursuant to this chapter. Imposition of fines may be delayed and a property owner shall be permitted fifteen (15) days from the date the County issues the property owner an administrative citation or other notice of violation if all of the following conditions are met:

- (1) A tenant is in possession of the property that is the subject of the administrative action.
- (2) The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis.
- (3) The rental property owner or agent did not know the tenant was illegally cultivating cannabis and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

(D) Payment of Fines.

(1) Any administrative fine imposed under this chapter shall be paid to the County within thirty (30) days from the date the County issues an administrative citation or any other enforcement measure, unless a timely appeal is filed pursuant to [SCCC 7.128.230](#). Any person who does not file a timely appeal and fails to pay the full amount of the fine on or before thirty (30) days shall be liable for the payment of any applicable late payment charge as may be adopted by resolution of the Board of Supervisors.

(2) To apply for a hardship waiver to reduce the amount of the fine, a person must follow the procedures in [SCCC 7.128.230\(B\)](#).

(3) The failure of any person to pay a fine assessed by an administrative citation or any other enforcement measure under this chapter, a late payment charge, or collections costs related to an enforcement measure by the due date shall constitute a debt to the County. The County may seek payment of the debt by use of all available legal means, including, but not limited to, the following:

- (a) The County may refer the debt to the Auditor-Controller for collection.
- (b) The County may file a civil action to recover the debt.
- (c) The County may impose a lien on property pursuant to State law.
- (d) Recovery through the Franchise Tax Board.

(E) In addition to issuing Administrative Citations, the Licensing Official is authorized to separately issue a Notice of Violation for violations of this chapter pursuant to the procedures in [SCCC 1.12.070](#). Notwithstanding the limitations on civil penalties set forth in [SCCC 1.12.070\(A\)](#), civil penalties for violation of this chapter shall be assessed pursuant to the daily fines set forth in this Enforcement section. Whenever a Notice of Violation is issued by the Licensing Official for violation of a provision of this chapter, the violator shall not be provided with additional time to correct the violation before the imposition of civil penalties are assessed. All other provisions set forth herein pertaining to administrative hearings and administrative hearing officers shall be controlling for Notice of Violations issued pursuant to this chapter.

(F) Where feasible and consistent with the press of business and available resources, the Licensing Official shall use the summary abatement procedures set forth in SCCC [1.14.030](#) to abate nuisances related to the unlicensed cultivation, manufacture, or distribution of cannabis. If the person responsible for the unlicensed cannabis business activity or occupying the premises refuses to accept service of any notice related to the summary abatement procedure, or if the premises is unoccupied at the time service is attempted, notice is deemed appropriately given when it is posted in a conspicuous place on the real property containing the nuisance. Anyone filing an administrative appeal of a summary abatement order shall pay a fee as set forth in the Unified Fee Schedule. All other provisions set forth herein pertaining to administrative hearings and administrative hearing officers shall be controlling for summary abatement orders issued pursuant to this chapter.

(G) The County or the Office of the District Attorney may also pursue any and all remedies and actions available and applicable under State and local laws for any violations committed by the licensee, property owner, operator, or persons related to, or associated with, the unlawful cannabis activity. [Ord. 5328 § 4, 2020; Ord. 5301 § 1, 2019; Ord. 5273 § 2, 2018].

#### **7.128.230 Appeals and Administrative Hearings.**

(A) **General Requirements.** A person served with an administrative citation or other enforcement measure issued pursuant to this chapter may file an appeal within fifteen (15) calendar days from the date of service.

- (1) The appeal shall be made in writing and submitted to the Licensing Official or their designee.
- (2) The appeal shall be accompanied by an appeal fee in an amount established by resolution of the Board of Supervisors.
- (3) Upon the filing of a proper appeal, the Licensing Official shall have the discretion to cease all fines being imposed unless such cessation would contribute to the continuation of an imminent life, health, or safety risk, as determined by the Licensing Official.
- (4) After receiving the written notice of appeal, the Licensing Official shall schedule an administrative hearing before a Hearing Officer.
- (5) Written notice of the date, time, and place of the administrative hearing shall be served at least fifteen (15) calendar days prior to the date of the hearing by personal service or by first class mail to the responsible party or parties alleged to have violated the County Code.

(B) **Hardship Wavier.** A person served with an administrative citation or other enforcement measure issued pursuant to this chapter may request a financial hardship waiver by following the

appeal procedures of subsections (A)(1)-(3) of this section. The request must show that the responsible party made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party. Upon receipt of a request for a hardship waiver, the Licensing Official has the discretion to lower the fine imposed. The Licensing Official will respond to a request for a hardship waiver by personal service or by first class mail.

(C) Hearing Officers.

(1) The County shall provide neutral Hearing Officers hired through independent contracts 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, issue enforcement orders with regard to violations of the County Code, and provide for the recovery of civil penalties, enforcement costs, and any other costs of abatement.

(2) In conducting an administrative hearing, the Hearing Officer shall consider the previously established interpretation of an ordinance provision by the department charged with its enforcement unless that interpretation is shown to be clearly erroneous or unauthorized.

(3) In determining the amount of civil penalties to be assessed against any person violating a provision of the County Code, the Hearing Officer shall take into consideration the following:

- (a) The extent to which the person who violated the County Code is a responsible party.
- (b) The magnitude of the violation(s).
- (c) The extent to which the person derived a financial benefit from the violation(s).
- (d) Any prior history of related violations by the same person on the subject property or on other parcels within the County or related violations on the same subject property.
- (e) The financial ability of the person to pay.
- (f) Any corrective action voluntarily undertaken by the person prior to the hearing to eliminate the violation and any other mitigating circumstances justifying a reduction of the amount of the penalties.



(g) The extent to which there was any environmental damage, nuisance, or danger to the health, safety, and welfare of the public on the subject property or surrounding properties related to the violation(s).

(4) Hearing Officers shall be licensed attorneys of the State Bar of California in good standing. A Hearing Officer shall disqualify themselves from serving as Hearing Officer in a particular matter where they have a conflict of interest within the meaning of the Political Reform Act (Government Code Section 87100 et seq.), and shall otherwise comply with the disqualification provisions of Canon 3.E. of the Code of Judicial Ethics. The notice of hearing shall also identify the Hearing Officer designated to conduct the hearing and advise the recipient(s) of their right to submit within ten (10) business days of the date of the notice of hearing a written objection to the designated Hearing Officer. In the event of such a disqualification, a new Hearing Officer shall be randomly selected from the panel of alternate Hearing Officers. Each party shall only have the right to disqualify one Hearing Officer for a particular matter.

(D) Administrative hearing procedures.

(1) In any proceeding before a Hearing Officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the Hearing Officer, their clerk, or other designee shall have the power to administer oaths and affirmations and to certify to official acts. Oaths of witnesses may be given individually or to a group together. Witnesses shall be asked to raise their right hands and to swear or affirm that the testimony they shall give will be the truth, the whole truth, and nothing but the truth.

(2) 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.

(3) All parties to the hearing may choose to be represented by an attorney.

(4) Formal rules of evidence or procedure shall not apply. The Hearing Officer has the discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time. The rules of privilege and of official or judicial notice shall be effective to the same extent as in civil and criminal proceedings. Irrelevant and repetitious evidence shall be excluded.

(5) The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified as an interpreter by either the State of California or Santa Cruz County.

(6) At the discretion of the Hearing Officer, each party may have the opportunity to submit written briefs. The Hearing Officer will inform the parties in advance of the hearing whether the Hearing Officer will or will not accept written briefs.

(a) A Pre-Hearing brief may be submitted to the Hearing Officer and served on the opposing party no later than seven (7) days prior to the hearing. Subject to the discretion of the Hearing Officer, the Pre-Hearing brief may be no longer than ten (10) double-spaced pages, not including exhibits.

(b) A Post-Hearing brief may be submitted to the Hearing Officer and served on the opposing party no later than ten (10) days after the hearing. Subject to the discretion of the Hearing Officer, the Post-Hearing brief may be no longer than five (5) double-spaced pages, not including exhibits.

(c) No rebuttal briefs will be accepted, unless the Hearing Officer informs the parties they are appropriate.

(7) The Hearing Officer may postpone the hearing date upon a showing of good cause, continue the hearing during the course of the hearing, and make such other procedural orders and ruling as appropriate.

(8) In the event that the responsible party fails to appear and present evidence at the hearing, the Hearing Officer may base their decision solely upon the evidence submitted by the Licensing Official.

(9) Within thirty (30) calendar days of the conclusion of the hearing or forty (40) days if Post-Hearing briefs are accepted, the Hearing Officer shall render a decision supported by written findings, which:

(a) Determines whether the person given notice has committed, maintained, permitted, or is otherwise strictly liable for the alleged violation(s) of this chapter;

(b) Orders the payment of civil penalties, including any other applicable enforcement or abatement costs, upon affirmation that the person given notice committed, maintained, permitted, or is otherwise strictly liable for the alleged violation(s) of this chapter; and

(c) Orders any other necessary action to be taken pursuant to Federal, State, and local law to correct any violations including, but not limited to, the termination of tenancies and the vacating of illegal structures. A decision imposing a special assessment shall follow the procedures set forth in SCCC 1.12.070(B).

(10) The decision of the Hearing Officer shall be final when issued in writing to the parties, and shall be enforceable twenty-one (21) days after service of the decision by mail, unless an appeal of the decision has been filed by the person in accordance with subsection (E) of this section. The decision of the Hearing Officer shall include a statement of the appeal rights of any party to the proceeding as set forth in subsection (E) of this section.

(E) The provisions of Government Code section 53069.4 shall be applicable to obtain judicial review of the decisions of the Hearing Officer. The decision of the Hearing Officer shall be subject to judicial review pursuant to the provisions of Government Code section 53069.4 only if an appeal is filed with the Santa Cruz Superior Court Clerk, together with the applicable appeal fee, within twenty (20) days after service of the decision of the Hearing Officer by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing. Any person filing an appeal shall serve a copy of the notice of appeal in person or by first class mail on the Hearing Officer with a copy to the Licensing Official.

(F) Upon receipt of a final decision of a Hearing Officer who orders the payment of civil penalties or payment of enforcement costs or other abatement costs, the County Counsel may file a civil action on behalf of the County in any court of competent jurisdiction to recover the civil penalties and costs of enforcement provided by this section and for injunctive or any other appropriate relief.

(G) In the event a civil action is initiated to obtain enforcement of the decision of the Hearing Officer and/or to abate a nuisance, and judgment is entered in favor of the County, the person against whom the judgment has been entered shall be liable to pay the County's total costs of enforcement, including reasonable attorneys' fees.

(H) The remedies and civil penalties provided by this section shall be in addition to any other remedies and penalties provided by law.

### **SECTION III**

The Board of Supervisors finds and determines for the reasons stated in the recitals that adoption of this ordinance is for the immediate preservation of the public peace, health or safety, as those terms are defined in California Government Code Section 25123(d), and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the Board of Supervisors.

### **SECTION IV**

The adoption of this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Business and Professions Code Section 26055(h). That section states that Division 13 of the Public Resources Code does not apply to the adoption of an ordinance that requires

discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity if such discretionary review will include any applicable environmental review required under Division 13.

**SECTION V**

The Board of Supervisors further finds and determines in its reasonable discretion on the basis of the entire record before it that the proposed amendments to SCCC 7.128 are consistent and compatible with and will not frustrate the objectives, policies, general land uses, and programs specified in the General Plan and Local Coastal Program.

**SECTION VI**

Should any section, clause, or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

**SECTION VII**

This urgency ordinance shall take effect immediately.

PASSED AND ADOPTED this 30<sup>th</sup> day of June 2020, by the Board of Supervisors of the County of Santa Cruz by the following vote:


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

DocuSigned by:  
*Greg Caput*  
8FA3502FBE7F43C...


**GREG CAPUT**  
Chairperson of the  
Board of Supervisors

DocuSigned by:  
*Susan Galloway*  
5F3EB32A693849D...

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

DocuSigned by:  
  
Clerk of the Board of Supervisors  
F2707B2E5811438...

APPROVED AS TO FORM:

DocuSigned by:  


EE22601B55E6434... 6/25/2020 (AMS# 9201)

Office of the County Counsel

cc: County Administrative Office  
Cannabis Licensing Office

## Certificate Of Completion

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Subject: Urgency ORD-5333 adopted Jun 30 BOS (DOC-2020-614) eSignature	
Source Envelope:	
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Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Susan Galloway
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	2633 Camino Ramon Ste 500
	San Ramon, CA 94583
	susan.galloway@co.santa-cruz.ca.us
	IP Address: 69.5.90.9

## Record Tracking

Status: Original 7/3/2020 10:01:11 AM	Holder: Susan Galloway susan.galloway@co.santa-cruz.ca.us	Location: DocuSign
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## Signer Events

Daniel Zazueta  
Daniel.Zazueta@co.santa-cruz.ca.us  
eSign  
Security Level: Email, Account Authentication (None)

## Signature

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Greg Caput  
Greg.Caput@co.santa-cruz.ca.us  
eSign  
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### Electronic Record and Signature Disclosure: Not Offered via DocuSign

Susan Galloway  
Susan.Galloway@co.santa-cruz.ca.us  
Chief Deputy, Clerk of the Board of Supervisors  
County of Santa Cruz  
Security Level: Email, Account Authentication (None)

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### Electronic Record and Signature Disclosure: Not Offered via DocuSign

CBD eSignature  
CBD.eSignature@co.santa-cruz.ca.us  
Clerk of the Board of Supervisors  
County of Santa Cruz  
Security Level: Email, Account Authentication (None)

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Freeform Signing

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## In Person Signer Events

## Signature

## Timestamp

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<b>Agent Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
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<b>Intermediary Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
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<b>Certified Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
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<b>Carbon Copy Events</b>	<b>Status</b>	<b>Timestamp</b>
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County Administrative Office  
Nancy.Weitzel@santacruzcounty.us  
Accela, Inc.

**COPIED**

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(None)

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Not Offered via DocuSign

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<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
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<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
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Envelope Sent	Hashed/Encrypted	7/6/2020 5:02:50 PM
Certified Delivered	Security Checked	7/6/2020 5:02:50 PM
Signing Complete	Security Checked	7/6/2020 5:02:50 PM
Completed	Security Checked	7/6/2020 5:02:50 PM

<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
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