

Chapter 7.122
MARIJUANA FOR MEDICAL USE

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7.122.010 Title.

The title of this chapter shall be “The Santa Cruz County Medical Marijuana Ordinance.” [Added by Measure A, November 3, 1992].

7.122.020 Purpose.

The purposes of this chapter are:

- (A) To express the compassion of the people of Santa Cruz County for the medically challenged in our community whose sufferings would be alleviated by the use of medical marijuana.
- (B) To express the strong support of the people of Santa Cruz County for the restoration of cannabis/marijuana medical preparations to the list of available medicines which can be prescribed by licensed physicians.
- (C) To direct the elected officials of Santa Cruz County to take whatever actions may be within their power to support the availability of cannabis/marijuana for medical use. [Added by Measure A, November 3, 1992].

7.122.030 Definitions.

For the purposes of this chapter, “cannabis/marijuana medical preparations” shall mean: all products made from cannabis or marijuana, in any form intended or used for human consumption, for the treatment of any disease; the relief of pain; or as an adjunct to any medical procedure for the treatment of cancer, glaucoma, or AIDS; or for any other medical or healing purpose defined within the bounds of the doctor/patient relationship. [Added by Measure A, November 3, 1992].

7.122.040 Findings.

The people of the County of Santa Cruz make the following findings:

- (A) Safe and Effective Medicine. Scientific and medical studies by the National Academy of Science have shown cannabis/marijuana to be a safe and effective medicine with very low toxicity compared

to most prescription drugs. It has been shown to be effective in the treatment of glaucoma; epilepsy; muscle spasticity; arthritis; the nausea, vomiting and appetite loss associated with chemotherapies; anxiety and depression; and the symptoms of withdrawal from alcohol and narcotics.

(B) Doctors and Patients Need the Cannabis/Marijuana Option. Studies show that one-third of all cancer patients discontinue potentially life-saving chemotherapy due to the severe and debilitating side effects. The same is true for many AIDS patients receiving AZT or other similar therapies. Most physicians surveyed said that they would prescribe cannabis/marijuana if legally available. Half of all cancer specialists surveyed said that they have already encouraged at least one of their patients to break the law and use cannabis/marijuana to ease the violent nausea and vomiting associated with their current treatments.

(C) United Nations Approves Prescription Marijuana. In May of 1991, the United Nations Narcotic Control Board voted overwhelmingly to reclassify cannabis/marijuana, placing it back on Schedule 2, and making it available by prescription. The United States Representative to this Board voted in favor of rescheduling.

(D) Federal Court Orders Prescription Marijuana. Despite a Federal court order recognizing the "clearly established medical value" of cannabis/marijuana, and mandating that it be reclassified to Schedule 2 and available by prescription, the Federal government continues to deny access to this safe and effective medicine.

(E) Politics Before Patients. By its own admission, the Federal government continues to deny access to cannabis/marijuana for political rather than medical reasons. Using patients as pawns in the ever-escalating war on drugs, current policies place message before medicine, convenience before compassion, and politics before patients. [Added by Measure A, November 3, 1992].

7.122.050 Implementation.

(A) Within 90 days of the certification of the November 3, 1992, General Election, the Santa Cruz County Board of Supervisors shall transmit the text of this chapter to the President of the United States, the Governor of the State of California, and the Federal and State Legislative Representatives of Santa Cruz County and urge them to take whatever actions that may be in their power to:

- (1) Restore cannabis/marijuana medical preparations to the list of available medicines which can be prescribed by licensed physicians;
- (2) Provide for by law and institute such mechanisms as may be necessary to ensure a safe and affordable supply of cannabis/marijuana for medical use.

(B) The Board of Supervisors shall request the Sheriff and the District Attorney to adhere to the spirit of this chapter in setting their priorities and to exercise whatever discretionary powers they may

possess to minimize the negative impacts of current cannabis/marijuana restrictions, where medical use is apparent.

(C) The Board of Supervisors shall direct the Santa Cruz County Health Services Agency to monitor developments in the field of cannabis/marijuana medicine, including research projects, trial studies, or current governmental programs and to make available, upon request by any doctor or patient, accurate and timely information regarding the efficacy of cannabis/marijuana for various medical conditions. [Added by Measure A, November 3, 1992].

7.122.060 Severability.

If any of these provisions are held to be invalid, all remaining portions of this chapter shall remain in full force and effect. [Added by Measure A, November 3, 1992].

Chapter 7.124 MEDICAL CANNABIS

Sections:

- [7.124.010](#) Purpose.
- [7.124.020](#) Definitions.
- [7.124.030](#) Prohibited business activities.
- [7.124.040](#) Limited immunity for medical cannabis business.
- [7.124.050](#) No vested or nonconforming rights.
- [7.124.060](#) Advertising for cultivation sites.
- [7.124.070](#) Medical cannabis identification card.
- [7.124.080](#) Limited severability.
- [7.124.100](#) Enforcement.
- [7.124.110](#) No duty to enforce.

7.124.010 Purpose.

The purpose of this chapter is to prohibit medical cannabis businesses while granting limited immunity from the enforcement of its prohibition to those medical cannabis businesses that do not violate the restrictions and limitations set forth in this chapter.

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

This chapter is not intended to conflict with Federal or State law. It is the intention of the County that this chapter be interpreted to be compatible with Federal and State enactments and in furtherance of the public purposes that those enactments encompass. [Ord. 5192 § 2, 2014].

7.124.020 Definitions.

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

- (A) “Building” means any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels, or property of any kind.
- (B) “Enforcing officer” means the Planning Director or any other peace officer, public official or employee duly authorized to enforce against violations of the County Code.
- (C) “Location” or “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.

(D) “Manager” means any person to whom a medical cannabis business has delegated discretionary powers to organize, direct, carry on or control its operations. Authority to control one or more of the following functions shall be prima facie evidence that such a person is a manager of the business: (1) to hire, select, direct, schedule or assign employees or staff, including volunteers; (2) to acquire facilities, furniture, equipment or supplies other than the occasional replenishment of stock; (3) to disburse funds of the business other than for the receipt of regularly replaced items of stock; or (4) to make, or participate in making, policy decisions relative to operations of the business.

(E) “Cannabis” shall be construed as the term “marijuana” is defined in California Health and Safety Code Section 11018 and further shall specifically include any product that contains cannabis or a derivative of cannabis.

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

(G) “Medical cannabis business” means either of the following:

(1) Any location where cannabis is distributed, delivered, dispensed, sold or given away to a qualified patient, a person with an identification card, or a primary caregiver.

(2) Any vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, dispense, or give away cannabis to a qualified patient, a person with an identification card, or a primary caregiver.

(3) Notwithstanding subsections (G)(1) and (2) of this section, “medical cannabis business” shall not include any of the following:

(a) A residence or dwelling unit where the requirements of [SCCC 7.124.070\(C\)](#) are met;

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

(c) The location of any clinic licensed pursuant to Chapter 1 (commencing with Section 1200), a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for

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

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

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

(I) "Structure" means anything constructed or erected which is supported directly or indirectly on the earth, but not including any vehicle.

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

(K) The following words or phrases when used in this section shall be construed as defined in California Health and Safety Code Sections 1746, 11362.5, 11362.7, and 11834.02: "Alcoholism or drug abuse recovery or treatment facility"; "Hospice"; "Identification card"; "Person with an identification card"; "Primary caregiver"; and "Qualified patient." [Ord. 5192 § 2, 2014].

7.124.030 Prohibited business activities.

(A) It is unlawful and shall constitute a public nuisance to own, establish, operate, use, or permit the establishment or operation of a medical cannabis business, or to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity in any medical cannabis business.

(B) The prohibition in subsection (A) of this section includes renting, leasing, or otherwise permitting a medical cannabis business to occupy or use a location, vehicle, or other mode of transportation.

[Ord. 5192 § 2, 2014].

7.124.040 Limited immunity for medical cannabis business.

Notwithstanding the activities prohibited by SCCC [7.124.030](#), and notwithstanding that medical cannabis business is not and shall not become a permitted use in the County for so long as this chapter remains in effect, a medical cannabis business shall not be subject to the enforcement remedies set forth in the Santa Cruz County Code solely on the basis of: (A) an activity prohibited by SCCC [7.124.030](#); and (B) the fact that medical cannabis business is not a permitted use in the County; provided, however, that, as authorized by California Health and Safety Code Section 11362.83, this limited immunity is available and may be asserted as an affirmative defense only so long as: (1) subsections (A) through (R) of this section remain in effect in their entirety; (2) it is asserted by a medical cannabis business at the one location identified in its original or any amended seller's permit issued by the State Board of Equalization; and (3) the medical cannabis business does not violate any of the following:

(A) Every medical cannabis business is prohibited that has not obtained a valid seller's permit from the California State Board of Equalization by January 10, 2014, for operating within the County of Santa Cruz as a medical cannabis business.

(1) A medical cannabis business obtaining a seller's permit by January 10, 2014, and operating at an address in violation of a location restriction described by subsections (H), (P) and/or (R) of this section, may, by March 10, 2014, relocate to a new location in compliance with all location restrictions imposed by this chapter; however, such a business located in the San Lorenzo Valley General Plan Area shall have until April 10, 2014, to relocate within the same general plan area to a site in compliance with the location restrictions imposed by subsections (H) and (P) of this section, but not the location restriction imposed by subsection (R) of this section;

(B) Every medical cannabis business is prohibited that remains open and/or operating between the hours of 10:00 p.m. and 8:00 a.m.;

(C) Every medical cannabis business is prohibited where cannabis and/or alcohol are consumed at the premises including any area used for parking any vehicle;

(D) Every medical cannabis business is prohibited that allows a minor unaccompanied by a parent or legal guardian to enter its premises;

(E) Every medical cannabis business is prohibited that allows a person less than 21 years of age to transport, distribute, deliver, dispense, or give away cannabis on behalf of the business;

(F) Every medical cannabis business is prohibited where cannabis is visible from the exterior of the premises;

(G) Every medical cannabis business is prohibited that illuminates any portion of its premises between the hours of 10:00 p.m. and 8:00 a.m. by lighting that is visible from the exterior of the premises, except such lighting as is reasonably utilized for the security of the premises;

(H) Every medical cannabis business is prohibited unless it is located in a zone district designated as PA (Professional and Administrative Offices), C-1 (Neighborhood Commercial), C-2 (Community Commercial), C-4 (Commercial Services), or C-T (Tourist Commercial) by the Santa Cruz County Zoning Ordinance;

(I) Every medical cannabis business is prohibited where one or more members of its ownership interest have failed an annual LiveScan background check. The LiveScan background check shall be completed by January 31st of each year. The results of each LiveScan check conducted shall be maintained in the offices of the business for a period of at least three years, and made available for review upon the request of any enforcing officer.

(1) "Ownership interest" for the purposes of this subsection shall mean any person with an ownership interest in the business of more than 10 percent, or if incorporated, a directing role, including, but not limited to:

- (a) A sole proprietor;
- (b) A general or limited partner;
- (c) A member of the board of directors;
- (d) A corporate officer;

(2) A failed LiveScan is a LiveScan that includes any felony conviction within the past 10 years and/or current parole or probation, but not including a felony conviction for a cannabis-related offense unless that particular offense involved sales to a minor;

(J) Every medical cannabis business is prohibited that has one or more managers who are also managers at the same time of another medical cannabis business in the County;

(K) Every medical cannabis business is prohibited that provides an on-site location for physicians or medical professionals to write recommendations;

(L) Every medical cannabis business is prohibited that does not provide litter and graffiti removal services for the business premises on a daily basis;

(M) Every medical cannabis business is prohibited that does not provide dedicated security personnel during its hours of operation;

(N) Every medical cannabis business is prohibited that prints, publishes, advertises or disseminates in any way or by any means of communication, or causes to be printed, published, advertised or disseminated in any way or by any means of communication, including but not limited to the use of the Internet, any notice or advertisement that mentions or refers to the distribution, delivery, dispensing, sale, or giving away of cannabis.

Notwithstanding the limitations imposed by this subsection (N), a medical cannabis business may provide the following: (1) an entry in the telephone directory with the name, location and phone number of the business; (2) signage as permitted by this section; or (3) a website with the name, location and phone number of the business. Such directory entry or website may identify the business as a "medical cannabis dispensary," but shall not include the display of sales prices for any product, except on a password required portal that may only be accessed by cooperative or collective members of the business.

A third-party website that is neither owned, operated nor maintained by a person or entity that has a commercial relationship with the medical cannabis business is not subject to the restrictions of this subsection;

(O) Every medical cannabis business is prohibited that provides signage for the business other than one identifying sign stating the business name, address and hours of operation; such signs shall not exceed four square feet in area, shall not be directly illuminated, and shall not contain graphics identifying cannabis;

(P) Every medical cannabis business is prohibited that is located within: (1) 600 feet from a school; or (2) 600 feet from another medical cannabis business. The distance specified in this subsection shall be the horizontal distance measured in a straight line from the property line of the school or other medical cannabis business, to the closest property line of the lot on which the medical cannabis business is located without regard to intervening structures. In the event that two or more medical cannabis businesses are located within 600 feet of one another, only the medical cannabis business with the earliest issuance date on a State Board of Equalization seller's permit for its operation at the location may assert the limited immunity provided by this chapter. The distance requirements set forth in this subsection shall not apply to: (1) those licensed health care and other facilities identified in California Health and Safety Code Section 11362.7(d)(1); or (2) a medical cannabis business that is in violation of the distance requirement of this subsection as a result of the establishment of a conflicting use (a school or other medical cannabis business) after the date on which the State Board of Equalization issued a seller's permit to the medical cannabis business for its location;

(Q) Every medical cannabis business is prohibited that fails to obtain the information required by subsections (Q)(1) and (2) of this section. The information collected shall be maintained in the offices of the business for a period of at least one year, and made available for review upon the request of

any enforcing officer:

(1) Documentation from the cannabis cultivator that the residence or structure where cultivation takes place is in compliance with the building code requirements applicable to the cultivation methods employed. The medical cannabis business shall employ a licensed contractor to conduct at least one site inspection each year to verify the documentation provided by the cultivator.

(2)(a) The name and telephone number of the person cultivating the cannabis.

(b) If the cultivator does not own the property where the cannabis cultivation takes place, the name and phone number of the property owner. The medical cannabis business shall contact the property owner and confirm that the property owner does not object to use of the property for cultivation;

(R) After January 10, 2014, every medical cannabis business is prohibited if it is located within 300 feet of any parcel zoned RA (Single-Family Residential and Agriculture); RR (Single-Family Residential, Rural); R-1 (Single-Family Residential, Urban/Rural); RB (Single-Family Residential, Oceanfront/Urban); or RM (Multiple-Family Residential).

(1) This prohibition shall not apply to a medical cannabis business with a valid seller's permit from the California State Board of Equalization for an address within the unincorporated area of Santa Cruz County on October 29, 2013, that is in compliance with all requirements of this section except for the residential setback required by this subsection (R).

(2) The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the residentially zoned property to the closest property line of the lot on which the medical cannabis business is to be located.

The limited immunity provided by this section shall not be available to and shall not be asserted as an affirmative defense to any violation of law except as expressly set forth in this chapter. Further, nothing contained in this limited immunity is intended to provide or shall be asserted as a defense to a claim for violation of law brought by any County, State, or Federal governmental authority. Finally, the limited immunity provided by this section shall be available and may be asserted only so long as each and every provision and clause of subsections (A) through (R) of this section remain valid, effective and operative. [Ord. 5192 § 2, 2014].

7.124.050 No vested or nonconforming rights.

(A) This chapter prohibits medical cannabis businesses. Neither this chapter, nor any other provision of this code or action, failure to act, statement, representation, certificate, approval, or permit issued by the County or its departments, or their respective representatives, agents,

employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any medical cannabis business. Any immunity or benefit conferred by this chapter shall expire permanently and in full upon repeal of this chapter.

(B) All existing medical cannabis businesses must immediately cease operation; except that any medical cannabis business that does not violate any of the medical cannabis business prohibitions described in SCCC [7.124.040](#), Limited immunity for medical cannabis business, may continue to operate but only so long as subsections SCCC [7.124.040](#)(A) through (R) remain valid, effective and operative. [Ord. 5192 § 2, 2014].

7.124.060 Advertising for cultivation sites.

No person shall print, publish, advertise or disseminate in any way or means of communication, or cause to be printed, published, advertised or disseminated in any way or means of communication, including but not limited to the use of the Internet, any notice or advertisement with respect to either seeking or offering the availability of space to cultivate cannabis, regardless of whether the space is within a structure or outdoors. [Ord. 5192 § 2, 2014].

7.124.070 Medical cannabis identification card.

(A) The County of Santa Cruz shall establish a voluntary State identification card program operated by the Health Services Agency as authorized by Health and Safety Code Section 11362.7 et seq. The purpose of this voluntary identification card program is to help law enforcement officers identify individuals whose possession of medical cannabis qualifies under California Health and Safety Code Section 11362.5. The County recognizes that individuals who qualify to use medical cannabis may require the support of numerous caregivers to meet their needs for housing, health, or safety under California Health and Safety Code Section 11362.5(e). The County of Santa Cruz also recognizes that not all medical cannabis users will elect to access the medical cannabis user identification card and the existence of the program shall not limit the protections afforded by the Compassionate Use Act of 1996.

(B) In addition to the fee charged by the State of California, the Health Services Agency is authorized to charge a fee sufficient to cover the County's costs of the medical cannabis user identification and primary caregiver identification cards program. The County fees charged are set by resolution of the Board of Supervisors. The Health Services Agency shall consider the extent of an applicant's ability to pay the whole or partial fee and may provide for fee waiver or reduction in appropriate cases.

(C) Possession and Cultivation. A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of cannabis up to three pounds of dried cannabis bud or conversion per year. A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient

or person, may cultivate cannabis in an amount not to exceed more than 100 square feet of total garden canopy, as measured by the combined vegetative growth area.

(D) If a qualified medical cannabis patient or primary caregiver has an attending physician's written, dated and signed recommendation that the quantities described in subsection (C) of this section are not sufficient to meet the medical cannabis patient's needs, said patient or caregiver may possess an amount of cannabis consistent with the attending physician's written recommendation. [Ord. 5192 § 2, 2014].

7.124.080 Limited severability.

(A) If any provision or clause of SCCC [7.124.040](#) is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall invalidate every other provision, clause and application of the invalidated section, and to this end the provisions and clauses of SCCC [7.124.040](#) are declared to be inseverable.

(B) Except for the inseverability of the provisions, clauses and applications of SCCC [7.124.040](#) on the terms set forth hereinabove, if any other provision or clause of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect those provisions, clauses or applications of this chapter which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of this chapter other than SCCC [7.124.040](#) are declared to be severable. [Ord. 5192 § 2, 2014].

7.124.100 Enforcement.

(A) Enforcement of this chapter may be pursued by one or more of those alternatives set forth in SCCC 19.01.030(A). It shall be a separate offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of this chapter is committed, continued or permitted.

(B) Whenever the enforcing officer determines that a public nuisance as defined in this chapter exists at any location within the unincorporated area of Santa Cruz County, he or she is authorized to issue a notice of violation pursuant to SCCC 1.12.070, except that the requirements for notice of the opportunity to correct or remedy the violation without civil penalties under SCCC 1.12.070(D)(2)(a) shall be seven calendar days.

(C) In the event a court of competent jurisdiction preliminarily or permanently enjoins, or holds to be unconstitutional or otherwise invalid, any enforcement remedy provided for in this section, then the remainder of the enforcement remedies provided for by this section shall remain in full force and effect. [Ord. 5192 § 2, 2014].

7.124.110 No duty to enforce.

Nothing in this chapter shall be construed as imposing on the enforcing officer or the County of Santa Cruz any duty to issue a notice of violation, nor to abate any unlawful cannabis business activity or cultivation, nor to take any other action with regard to any unlawful cannabis business activity or cultivation, and neither the enforcing officer nor the County shall be held liable for failure to issue an order to abate any unlawful cannabis business activity or cultivation, nor for failure to abate any unlawful cannabis business activity or cultivation, nor for failure to take any other action with regard to any unlawful cannabis business activity or cultivation. [Ord. 5192 § 2, 2014].

Chapter 7.126
MEDICAL CANNABIS CULTIVATION

Sections:

- [7.126.010](#) Purpose.
- [7.126.020](#) Definitions.
- [7.126.030](#) Prohibited business activities.
- [7.126.040](#) Limited immunity for medical cannabis cultivation business.
- [7.126.050](#) No vested or nonconforming rights.
- [7.126.060](#) Limited severability.
- [7.126.070](#) Enforcement.
- [7.126.080](#) No duty to enforce.

7.126.010 Purpose.

The purpose of this chapter is to prohibit medical cannabis cultivation while granting limited immunity from the enforcement of its prohibition to those medical cannabis cultivation activities that do not violate the restrictions and limitations set forth in this chapter.

It is also the purpose of this chapter to mitigate the negative impacts and secondary effects associated with ongoing medical cannabis cultivation activity including, but not limited to, demands placed on law enforcement and administrative resources; neighborhood disruption; the exposure of children to medical cannabis; robberies; burglaries; assaults; drug trafficking and other violent crimes; and the damage to the natural environment resulting from destructive cultivation activity.

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. [Ord. 5176 § 1, 2014].

7.126.020 Definitions.

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

- (A) “Building” means any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels, or property of any kind.
- (B) “Cultivation” or “cultivate” means the planting, growing, harvesting, drying, processing or storage of one or more cannabis plants or any part thereof in any location, indoor or outdoor, including within a fully enclosed and secure building.
- (C) “Enforcing Officer” means the Planning Director or any other peace officer, public official or employee duly authorized to enforce against violations of the County Code.

- (D) "Fence" means a wall or barrier connected by boards, masonry, rails, panels or any other materials for the purpose of enclosing space or separating parcels of land. For purposes of this chapter, the term "fence" does not include tarpaulins, scrap material, bushes or hedgerows.
- (E) "Garden canopy" means the net vegetative growth area measured by the combined diameters of individual cannabis plants.
- (F) "Hazardous materials" means any substance that is "flammable, reactive, corrosive or toxic," as further defined in California Health and Safety Code Sections 25501 and 25503.5, as may be amended.
- (G) "Location" or "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. Where contiguous legal parcels are under common ownership, such contiguous legal parcels shall be counted as a single "location" or "parcel" for purposes of this chapter.
- (H) "Manager" means any person to whom a medical cannabis business has delegated discretionary powers to organize, direct, carry on or control its operations. Authority to control one or more of the following functions shall be prima facie evidence that such a person is a manager of the business: (1) to hire, select, direct, schedule or assign employees or staff, including volunteers; (2) to acquire facilities, furniture, equipment or supplies other than the occasional replenishment of stock; (3) to disburse funds of the business other than for the receipt of regularly replaced items of stock; or (4) to make, or participate in making, policy decisions relative to operations of the business.
- (I) "Cannabis" shall be construed as the term "marijuana" is defined in California Health and Safety Code Section 11018 and further shall specifically include any product that contains cannabis or a derivative of cannabis.
- (J) "Cannabis plant" means any mature or immature cannabis plant, or any cannabis seedling, unless otherwise specifically provided herein.
- (K) "Medical cannabis cultivation business" means any location where cannabis is started, planted, cultivated, harvested, dried or processed. Medical cannabis cultivation business shall not include:
- (1) A qualified medical cannabis patient or person holding a valid identification card, or their designated primary caregiver, cultivating medical cannabis solely for the patient's personal use on a parcel that includes the residence of the patient or caregiver. The amount of cannabis grown shall not exceed 100 square feet of total garden canopy, as measured by the combined vegetative growth area and shall be subject to the following limitations:
 - (a) If the parcel is located within that area defined by SCCC 2.04.030, outdoor cultivation

of cannabis is prohibited. If the parcel is located outside of that area defined by SCCC 2.04.030, evidence of cultivation taking place outdoors shall not be visible from any public right-of-way; and

(b) If cultivation takes place within a residence or a structure other than a residence: (i) lighting for cultivation purposes shall not exceed 1,200 watts unless a written certification is first obtained from a licensed electrician that the cultivation site has all necessary electrical permits required by the California Building Codes to ensure that the growing operations can be carried out safely; (ii) the use of flammable products such as butane or alcohol for cultivation or processing purposes is prohibited; and (iii) exterior evidence of cultivation is prohibited.

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

(L) "Outdoor" or "outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

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

(N) "Residence" means a fully enclosed structure, including any attached garage or ancillary structure, used as the primary dwelling unit of a "person with an identification card"; "primary caregiver"; or "qualified patient."

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

(P) "Structure" means anything constructed or erected which is supported directly or indirectly on the earth, but not including any vehicle.

(Q) "Third-party standards and certification program" means a form of certification in which a medical cannabis cultivator's claim of conformity with growing and processing standards is validated by a technically competent body other than one controlled by the cultivator. A third-party standards and certification program shall include, at a minimum, the following elements:

(1) Monitor compliance with State and local regulations including: (a) zoning, water quality, and building code requirements; (b) grading and riparian regulations; and (c) timber management practices;

- (2) Certify that the medical cannabis cultivation business either owns or has the consent of the owner(s) to carry out cultivation activities on the property;
 - (3) Monitor the safety of products used in the cultivation process;
 - (4) Certify that the cannabis produced does not contain unacceptable levels of contaminants;
 - (5) Certify compliance with all labor laws and monitor worker safety practices;
 - (6) Certify adequate security plan;
 - (7) A conflict of interest element containing the following requirements:
 - (a) Not certifying a cannabis production or handling operation if the certifying agent or a responsibly connected party of such certifying agent has or has held a commercial interest in the production or handling operation, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;
 - (b) Excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;
 - (c) Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any business inspected; and
 - (d) Requiring all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report.
- (R) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a street, sidewalk or waterway, including but not limited to a device moved exclusively by human power.
- (S) The following words or phrases when used in this section shall be construed as defined in California Health and Safety Code Sections 1746, 11362.5, 11362.7, and 11834.02:
- "Alcoholism or drug abuse recovery or treatment facility"; "hospice"; "identification card"; "person with

an identification card”; “primary caregiver”; and “qualified patient.” [Ord. 5176 § 1, 2014].

7.126.030 Prohibited business activities.

(A) It is unlawful and shall constitute a public nuisance for any medical cannabis cultivation business to cultivate cannabis.

(B) The prohibition in subsection (A) of this section includes renting, leasing, or otherwise permitting a medical cannabis cultivation business to occupy or use a location. [Ord. 5176 § 1, 2014].

7.126.040 Limited immunity for medical cannabis cultivation business.

Notwithstanding the activities prohibited by SCCC [7.126.030](#), and notwithstanding that a medical cannabis cultivation business is not and shall not become a permitted use or activity in the County for so long as this chapter remains in effect, a medical cannabis cultivation business shall not be subject to the enforcement remedies set forth in the Santa Cruz County Code solely on the basis of: (1) an activity prohibited by SCCC [7.126.030](#); and (2) the fact that medical cannabis cultivation business is not a permitted use or activity in the County; provided, however, that as authorized by California Health and Safety Code Section 11362.83, this limited immunity is available and may be asserted as an affirmative defense only so long as: (a) subsections (A) through (O) of this section remain in effect in their entirety; and (b) only if that medical cannabis cultivation business does not violate any of the following:

(A) Every medical cannabis cultivation business is prohibited that is not collectively or cooperatively cultivating cannabis for medicine: (1) for use among its members or (2) to provide medicine to a Santa Cruz County medical cannabis business as defined in and operating under Chapter [7.124](#) SCCC;

(B) Every medical cannabis cultivation business is prohibited that does not operate in a manner that ensures the security of the crop and safeguards against diversion for nonmedical purposes;

(C) Every medical cannabis cultivation business is prohibited that employs or otherwise allows a person 21 years of age or younger unaccompanied by a parent or legal guardian to enter its premises;

(D) Every medical cannabis cultivation business is prohibited where cannabis is visible from any public right-of-way;

(E) Every medical cannabis cultivation business is prohibited that illuminates any portion of its premises between the hours of 6:00 p.m. and 9:00 a.m. by lighting that is visible from the exterior of the premises, except such lighting as is reasonably utilized for the security of the premises;

(F) Every medical cannabis cultivation business is prohibited unless it is outside of the urban area defined by both the Urban Services Line and Rural Services Line, located in a zone district designated

as SU (Special Use), TP (Timber Production), CA (Commercial Agriculture), A (Agriculture), AP (Agriculture Preserve) or RA (Residential Agriculture) by the Santa Cruz County Zoning Ordinance;

(G) Every medical cannabis cultivation business is prohibited that prints, publishes, advertises or disseminates in any way or means of communication, or causes to be printed, published, advertised or disseminated in any way or means of communication, including, but not limited to, the use of the Internet, any notice or advertisement with respect to either seeking or offering the availability of space to cultivate cannabis, regardless of whether the space is within a structure or outdoors;

(H) Every medical cannabis cultivation business is prohibited that is located within: (1) 600 feet from a school; or (2) 600 feet from a park. The distance specified in this subsection shall be the horizontal distance measured in a straight line from the property line of the school or park to the closest property line of the lot on which the medical cannabis cultivation business is located without regard to intervening structures;

(I) Every medical cannabis cultivation business is prohibited that fails to maintain the following information and thereafter make said information immediately available upon the request of any law enforcement officer or enforcing officer: (1) the name of the person or business to which the cannabis is supplied; (2) the address of the location to which the cannabis is supplied; (3) written documentation from the owner of the property where the cannabis cultivation takes place that he or she has agreed to the use of the site for cultivation of specialty crops; and (4) if the cannabis is being cultivated indoors, a written certification from a licensed electrician that the cultivation location has all necessary electrical permits required by the California Building Codes to ensure that the growing operations can be carried out safely;

(J) Every medical cannabis cultivation business is prohibited that allows the transfer or delivery of cannabis except to a Santa Cruz County medical cannabis business as defined in and operating under Chapter [7.124](#) SCCC. Except as otherwise provided by this subdivision, the distribution, delivery, dispensing, or sale of cannabis by a medical cannabis cultivation business is prohibited;

(K) Every medical cannabis cultivation business is prohibited if:

- (1) It is located on a parcel less than one acre in size;
- (2) It is located on a parcel zoned RA (Residential Agriculture) which is less than five acres in size;
- (3) It is located on any parcel within that area defined by SCCC 2.04.030 which is less than five acres in size;
- (4) The location contains more than 99 cannabis plants; or

- (5) If the total garden canopy for any parcel exceeds the following limits:
- (a) For a parcel of one acre but less than five acres in size: 1,000 square feet of garden canopy with all cannabis plants set back at least 100 feet from any habitable structure located on an adjacent parcel;
 - (b) For a parcel greater than five acres but less than 10 acres in size: 2,000 square feet of garden canopy with all cannabis plants set back at least 200 feet from any habitable structure located on an adjacent parcel;
 - (c) For a parcel greater than 10 acres in size: 3,000 square feet of garden canopy with all cannabis plants set back at least 300 feet from any habitable structure located on an adjacent parcel;
- (L) The cultivation of cannabis outdoors by a medical cannabis cultivation business is prohibited unless the area cultivated is fully enclosed by an opaque fence at least six feet in height. The fence must be adequately secured by a locked gate to prevent unauthorized entry. Evidence of cultivation shall not be visible from a public right-of-way;
- (M) No person owning, leasing, occupying, or having charge or possession of any parcel within the County shall cause, allow, suffer, or permit such premises to be used for the outdoor or indoor cultivation of cannabis plants in violation of this chapter;
- (N) The cultivation of cannabis shall be carried out in compliance with all requirements of SCCC Title 16, Environmental and Resource Protection, and those applicable provisions of SCCC Title 7, Health and Safety, relating to water used in the commercial cultivation of cannabis including, but not limited to, Chapter 7.69 SCCC, Water Conservation; Chapter 7.70 SCCC, Water Wells; Chapter 7.71 SCCC, Water Systems; and Chapter 7.73 SCCC, Individual Water Wells;
- (O) A medical cannabis cultivation business shall only operate if it is subject to a third-party standards and certification program.

The limited immunity provided by this section shall not be available to and shall not be asserted as an affirmative defense to any violation of law except as expressly set forth in this chapter. Further, nothing contained in this limited immunity is intended to provide or shall be asserted as a defense to a claim for violation of law brought by any County, State, or Federal governmental authority. Finally, the limited immunity provided by this section shall be available and may be asserted only so long as each and every provision and clause of subsections (A) through (O) of this section remain valid, effective and operative. [Ord. 5176 § 1, 2014].

7.126.050 No vested or nonconforming rights.

- (A) This chapter prohibits medical cannabis cultivation businesses. Neither this chapter, nor any

other provision of this code or action, failure to act, statement, representation, certificate, approval, or permit issued by the County or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any medical cannabis cultivation business. Any immunity or benefit conferred by this chapter shall expire permanently and in full upon repeal of this chapter.

(B) All existing medical cannabis cultivation businesses must immediately cease operation; except that any medical cannabis cultivation business that does not violate any of the medical cannabis cultivation business prohibitions described in SCCC [7.126.040](#), Limited immunity for medical cannabis cultivation business, may continue to operate but only so long as SCCC [7.126.040](#)(A) through (O) remain valid, effective and operative. [Ord. 5176 § 1, 2014].

7.126.060 Limited severability.

(A) If any provision or clause of SCCC [7.126.040](#) and/or [7.126.070](#) are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall invalidate every other provision, clause and application of the invalidated section, and to this end the provisions and clauses of SCCC [7.126.040](#) and [7.126.070](#) are declared to be inseverable.

(B) Except for the inseverability of the provisions, clauses and applications of SCCC [7.126.040](#) and/or [7.126.070](#) on the terms set forth hereinabove, if any other provision or clause of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect those provisions, clauses or applications of this chapter which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of this chapter other than SCCC [7.126.040](#) and/or [7.126.070](#) are declared to be severable. [Ord. 5176 § 1, 2014].

7.126.070 Enforcement.

(A) Enforcement of this chapter may be pursued by one or more of those alternatives set forth in SCCC 19.01.030(A). It shall be a separate offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of this chapter is committed, continued or permitted.

(B) Whenever the Enforcing Officer determines that a public nuisance as defined in this chapter exists at any location within the unincorporated area of Santa Cruz County, he or she is authorized to issue a notice of violation pursuant to SCCC 1.12.070, except that the violator shall be provided with notice of the opportunity to remedy the violation within seven calendar days without civil penalties.

(C) In the event a court of competent jurisdiction preliminarily or permanently enjoins, or holds to be unconstitutional or otherwise invalid, any enforcement remedy provided for in this section, then the remainder of the enforcement remedies provided for by this section shall remain in full force and

effect. [Ord. 5176 § 1, 2014].

7.126.080 No duty to enforce.

Nothing in this chapter shall be construed as imposing on the Enforcing Officer or the County of Santa Cruz any duty to issue a notice of violation, nor to abate any unlawful cannabis business activity or cultivation, nor to take any other action with regard to any unlawful cannabis business activity or cultivation, and neither the Enforcing Officer nor the County shall be held liable for failure to issue an order to abate any unlawful cannabis business activity or cultivation, nor for failure to abate any unlawful cannabis business activity or cultivation, nor for failure to take any other action with regard to any unlawful cannabis business activity or cultivation. [Ord. 5176 § 1, 2014].

Chapter 7.128
MEDICAL CANNABIS CULTIVATION LICENSES

Sections:

- [7.128.001](#) Purpose.
- [7.128.003](#) Definitions.
- [7.128.005](#) Prohibited activities.
- [7.128.007](#) Creation of the medical cannabis cultivation licensing program.
- [7.128.009](#) License categories.
- [7.128.011](#) License required.
- [7.128.013](#) Enforcement.

7.128.001 Purpose.

The purpose of this chapter is to provide local rules to regulate the cultivation of medical cannabis for commercial sale in the unincorporated area of Santa Cruz County. This chapter is intended to be an interim chapter enacted in order to be in compliance with relevant provisions of the California Medical Marijuana Regulation and Safety Act by March 1, 2016. It is intended that this chapter will be amended after March 1, 2016, to further address the topics herein.

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

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. [Ord. 5216 § 1, 2015].

7.128.003 Definitions.

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

- (A) "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.
- (B) "Cannabis" shall be construed as the term "marijuana" is defined in California Health and Safety Code Section 11018 and further shall specifically include any product that contains cannabis or a derivative of cannabis.

- (C) “Cannabis plant” means any mature or immature cannabis plant, or any cannabis seedling, unless otherwise specifically provided herein.
- (D) “Cottage garden cultivator” or “CGC” means a licensee under this chapter that is authorized to cultivate up to 200 square feet of garden canopy for commercial purposes, per the restrictions set forth in this chapter.
- (E) “Cottage garden license” means the license issued to a cottage garden cultivator.
- (F) “Cultivation” or “cultivate” means the planting, growing, developing, propagating, harvesting, drying, processing, or storage of, one or more cannabis plants or any part thereof in any location, indoor or outdoor, including within a fully enclosed and secure building.
- (G) “Fence” means a wall or barrier connected by boards, masonry, rails, panels, or any other materials for the purpose of enclosing space or separating parcels of land. For purposes of this chapter, the term “fence” does not include tarpaulins, scrap material, bushes, or hedgerows.
- (H) “Garden canopy” means the net vegetative growth area measured by the combined diameters of individual cannabis plants.
- (I) “Hazardous materials” means any substance that is “flammable, reactive, corrosive or toxic,” as further defined in California Health and Safety Code Sections 25501 and 25503.5, as may be amended.
- (J) “Indoor” or “indoors” means any location that is contained within a fully enclosed and secured permanent structure that contains walls and a roof, and which is reasonably intended to prevent unauthorized access. Other structures of a temporary or moveable nature, including but not limited to moveable greenhouses, tents, and hoop houses, are not considered “indoor” or “indoors” for purposes of this definition.
- (K) “Level one cultivator” means a licensee under this chapter that is authorized to cultivate up to 500 square feet of garden canopy for commercial purposes, per the restrictions of this chapter.
- (L) “Level one cultivator license” means the license issued to a level one cultivator.
- (M) “License” means the written evidence of permission given by the Licensing Official for a licensee to cultivate cannabis. “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 cultivation takes place.
- (N) “Licensee” means the person or entity holding a valid license to cultivate medical cannabis under this chapter.

- (O) “Licensing Official” means the official appointed by the County Administrative Officer who is responsible for implementing the provisions of this chapter.
- (P) “Location” or “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.
- (Q) “MCCL program” means the medical cannabis cultivation licensing program created by this chapter.
- (R) “Outdoor” or “outdoors” means any location that is not “indoors” as defined in this chapter.
- (S) “Park” means any playground, hiking or riding trail, recreational area, beach, community center or building, historic structure or facility, owned, managed or controlled by any public entity.
- (T) “Qualified patient cultivation site” or “QPCS” means:
- (1) A location where medical cannabis is cultivated by a qualified patient, person with an identification card, or designated primary caregiver, solely for the patient’s personal use, on a parcel that includes the residence of the patient or caregiver, and subject to the following restrictions:
 - (a) The amount of cannabis grown must not exceed 100 square feet of total garden canopy;
 - (b) Any medical cannabis cultivated within that area defined by SCCC 2.04.030 must be grown indoors;
 - (c) Any medical cannabis cultivated must not be visible from any adjacent public right-of-way;
 - (d) If cultivation takes place indoors:
 - (i) Lighting must not exceed 1,200 watts without a written certification from a licensed electrician that the cultivation site has all necessary electrical permits required by the California Building Codes to ensure that the level of electricity use is safe;
 - (ii) There must be no flammable products such as butane used for cultivation or processing purposes; and
 - (iii) There must be no exterior evidence of cultivation; and
 - (e) None of the cannabis that is cultivated at the qualified patient cultivation site is sold to, donated to, transferred to, or used by any person other than the qualified patient or person

with an identification card for whom the medical cannabis is cultivated.

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

(U) "Residence" means a fully enclosed structure or structures, including any garage or ancillary structure, used as a primary dwelling unit.

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

(W) "Structure" means any secure building constructed or erected, supported directly or indirectly on the earth, the interior of which is protected from the elements and meant to be occupied by people or property. "Structure" does not include a greenhouse, tent, hoop house, vehicle, carport, or other structures of a temporary or moveable nature.

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

(Y) The following words or phrases when used in this section shall be construed as defined in California Health and Safety Code Section 11362.7: "qualified patient"; "identification card"; "person with an identification card"; "primary caregiver"; and "qualified patient." [Ord. 5216 § 1, 2015].

7.128.005 Prohibited activities.

(A) It is unlawful and shall constitute a public nuisance for anyone to cultivate cannabis for commercial purposes without (1) a valid local license required by this chapter; and (2) a valid State license required under California law. No person owning, leasing, occupying, or having charge or possession of any parcel within the County shall cause, or allow such premises to be used for, the cultivation of cannabis in violation of this chapter. A qualified patient cultivation site is not considered to constitute cultivation for commercial purposes.

(B) A qualified patient cultivation site is unlawful and prohibited if it fails to comply with the restrictions for qualified patient cultivation sites contained in SCCC [7.128.003](#)(T). [Ord. 5216 § 1, 2015].

7.128.007 Creation of the medical cannabis cultivation licensing program.

(A) There is hereby created the medical cannabis cultivation licensing program. The MCCL program shall be operated by the Licensing Official. The Licensing Official shall be appointed by the County

Administrative Officer and shall report directly to the County Administrative Officer.

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

- (1) Creating application forms for licensees;
- (2) Conducting pre-licensure inspections;
- (3) Approving and denying license applications;
- (4) Issuing and revoking licenses;
- (5) Creating a system on the County's website to communicate the number of licenses issued and notifying the public as to whether applications for licenses are being accepted; and
- (6) Creating and/or adopting any policies, procedures, rules, regulations, or fees necessary to implement the MCCL program. [Ord. 5216 § 1, 2015].

7.128.009 License categories.

The following categories of licenses are created under this chapter for the commercial cultivation of medical cannabis:

- (A) Cottage Garden License. A license issued to cultivate up to 200 square feet of garden canopy.
- (B) Level One Cultivator License. A license issued to cultivate up to 500 square feet of garden canopy. [Ord. 5216 § 1, 2015].

7.128.011 License required.

- (A) Original License.
 - (1) Submission of the Application.
 - (a) An application for an original license under this chapter shall be made on a form designated for that purpose promulgated by the Licensing Official, submitted under penalty of perjury, and shall include the following information:
 - (i) The name of the applicant;
 - (ii) The names of each person with an ownership interest in the cultivation;
 - (iii) The exact location by street address and Assessor parcel number of the parcel on which the cultivation of medical cannabis shall occur;

- (iv) A map containing the exact spot on the parcel where cultivation shall take place (cultivation shall take place in a single area where total garden canopy may be easily measured, not spread throughout the parcel);
- (v) Identification of any previous law enforcement activity at the parcel related to the cultivation of cannabis;
- (vi) The applicant's 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, or the enforcement of the conditions of the license;
- (vii) A statement that the applicant has submitted to a LiveScan background check no earlier than 30 days prior to the date the application is submitted; and
- (viii) Such other information as the Licensing Official deems reasonably necessary to a thorough review of the application.

(b) For the year 2016, applications for an original license shall only be accepted from June 1st through September 30th in order to allow the Licensing Official to timely investigate the original applications submitted for that calendar year. In every year thereafter, original applications shall only be accepted from January 1st through June 15th of any calendar year.

(2) Payment of the Application Fee. An application for an original license hereunder shall be accompanied by the payment of a nonrefundable application fee as established by the Board of Supervisors. The purpose of any and all fees assessed under this chapter is to pay for the costs of the MCCL program.

(3) Issuance of a Provisional License. If the applicant provides evidence sufficient to the Licensing Official that the applicant has been cultivating medical cannabis on the parcel at issue since before January 2013, the Licensing Official may award the applicant a provisional license to cultivate medical cannabis for commercial purposes. A provisional license shall only be valid once the applicant receives written confirmation from the Licensing Official that the provisional license has been issued. Unless revoked for another reason, the provisional license shall be valid until the Licensing Official notifies the applicant in writing that the original license has either been granted or denied, after which time the provisional license will be void.

(4) Review of the Application.

(a) Upon receipt of an application for an original license, the Licensing Official will create a licensing file related to the application, and will conduct an actual inspection of the

designated cultivation site to determine whether it meets the requirements of the MCCL program. 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.

(b) As part of the inspection outlined above, the Licensing Official shall take photos of the specific site on the parcel where cannabis will be cultivated under the license, and will keep a copy of those photos with the licensing file for enforcement purposes.

(c) Meeting the requirements of the MCCL program does not automatically entitle an applicant to receive a license.

(5) Grant or Denial of the License. After concluding the required pre-license investigation, the Licensing Official shall notify the applicant in writing whether the license has been granted or denied. If the license is denied, any provisional license issued shall be rendered immediately void, and all activity on the applicant's premises associated with the commercial cultivation of medical cannabis shall cease immediately.

(6) Payment of the License Fee.

(a) If an original license is granted to the applicant under this chapter, the applicant shall pay a nonrefundable original license fee as established by the Board of Supervisors.

(b) If the license fee is not paid in full within 30 days of the date the license is issued, the license will be automatically revoked. If the applicant wishes to be reconsidered for a license, the applicant must submit a new license application and nonrefundable license application fee. The new application will be reviewed as a new application and will not be given priority over other applications.

(7) Length of Time the Original License Is Valid.

(a) The original license shall be valid for one calendar year, or part thereof, beginning January 1st of the year in which it is issued. The original license will expire on December 31st of the year in which it was issued. If a licensee wishes to continue cultivating cannabis after December 31st of the year in which the original license was issued, it must obtain a renewal license, as set forth in subsection (B) of this section.

(B) Renewal License.

(1) Requirement to Obtain a Renewal License. In order to continue cultivating cannabis after December 31st of the year in which the original license was issued, 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

timely in order to continue cultivation operations into the next calendar year.

(2) Submission of the Renewal License Application.

(a) An application for a renewal license shall be made on a form designated for that purpose promulgated by the Licensing Official, submitted under penalty of perjury, and shall include the following information:

- (i) Any changes to the information the applicant submitted on the original license application;
- (ii) Any law enforcement or license enforcement activity related to the licensee's operations during the past calendar year;
- (iii) A representation that the applicant continues to hold in good standing any license required by the State of California for the cultivation of medical cannabis;
- (iv) A statement as to whether the location of the licensee's cultivation operation is moving to a new location on the parcel;
- (v) If the location of the cultivation operation is moving to a new location on the parcel, a map containing the exact spot on the parcel where cultivation shall take place (cultivation shall take place in a single area where total garden canopy may be easily measured, not spread throughout the parcel);
- (vi) The applicant's waiver and release of the County from any and all liability for monetary damages related to or arising from the application for a renewal license, the issuance of the license, or the enforcement of the conditions of the license;
- (vii) A statement that the applicant has submitted to a LiveScan background check no earlier than 30 days prior to the date the application is submitted; and
- (viii) Such other information as the Licensing Official deems reasonably necessary to a thorough review of the application.

(b) Renewal license applications will be accepted starting in the year 2017. Applications for a renewal license shall only be accepted from July 1st through September 30th of any calendar year, in order to allow the Licensing Official to timely investigate the renewal license applications submitted for that calendar year.

(3) Payment of the Renewal License Application Fee.

(a) An application for a renewal license shall be accompanied by the payment of a

nonrefundable renewal license application fee as established by the Board of Supervisors.

(b) A mandatory inspection of the property due to a change in the location of the cultivation operation on the parcel shall result in an additional fee as established by the Board of Supervisors.

(4) 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 or deny the renewal license. The investigation may include a physical inspection of the licensee's premises, at the discretion of the Licensing Official, to determine whether the licensee remains in compliance with the regulations of the MCCL program.

(b) If the renewal license application indicates that the location of the cultivation operation on the parcel will be changing with issuance of a renewal license, the Licensing Official shall conduct an actual inspection of the licensee's premises to ensure that the licensee will remain compliant with the regulations of the MCCL program if it is granted a renewal license for cultivation at the new location. As part of this mandatory inspection, the Licensing Official shall take photos of the specific site on the parcel where cannabis will be cultivated under the renewal license, and will keep a copy of those photos with the licensing file for enforcement purposes.

(5) Grant or Denial of the Renewal License. On or before December 31st of the year in which the renewal application is submitted, and after concluding the required renewal license investigation, the Licensing Official shall notify the applicant in writing of whether the renewal license has been granted or denied. If the renewal license is denied, all activity on the applicant's premises associated with cannabis cultivation for commercial purposes shall cease on December 31st of that year, or 30 days after notification, whichever is earlier.

(6) Payment of the Renewal License Fee.

(a) If a renewal license is granted to the applicant under this chapter, the applicant shall pay a nonrefundable renewal license fee as established by the Board of Supervisors. The purpose of this fee is to pay for the licensing program.

(b) If the renewal license fee is not paid in full within 30 days of the date the renewal license is issued, the renewal license will be automatically revoked. If the renewal license is automatically revoked under this subsection, all activity on the applicant's premises associated with cannabis cultivation for commercial purposes shall cease on December

31st of that year, or 30 days after notification, whichever is earlier.

(7) Length of Time the Renewal License Is Valid. The renewal license shall be valid for one calendar year, beginning January 1st of the year following issuance, and expiring on December 31st of that year. If a licensee wishes to continue cultivating cannabis after December 31st of that year, it must obtain a new renewal license per the terms of this section.

(C) Required Statements on Licenses. All licenses issued by the Licensing Official shall contain the following statements, displayed prominently on the license itself:

(1) A warning that operators, employees, and members of facilities where cannabis is cultivated may be subject to prosecution under Federal laws; and

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

(D) Restrictions Relating to the Issuance of a License.

(1) Cottage Garden Licenses.

(a) No cottage garden license may be issued to cultivate medical cannabis on a parcel unless the parcel has been used for medical cannabis cultivation since before January 2013.

(b) No cottage garden license may be issued to cultivate medical cannabis on a parcel within the urban area defined by either the urban services line or the rural services line.

(c) No cottage garden license may be issued to cultivate medical cannabis on a parcel less than one acre in size.

(d) No cottage garden license may be issued to cultivate medical cannabis on a parcel zoned RA (Residential Agriculture) that is less than five acres in size.

(e) No cottage garden license may be issued to cultivate medical cannabis outdoors on a parcel in that area defined by SCCC 2.04.030.

(f) No cottage garden license may be issued to cultivate medical cannabis on any parcel within that area defined by SCCC 2.04.030 which is less than five acres in size.

(g) No cottage garden license may be issued to cultivate medical cannabis within 600 feet

of (i) a habitable structure on a neighboring parcel; (ii) a municipal boundary; (iii) a perennial stream; (iv) a school; or (v) a park.

(h) No cottage garden license may be issued to cultivate medical cannabis where the cultivation is visible from any adjacent public right-of-way.

(i) No cottage garden license may be issued to cultivate medical cannabis within 600 feet of a public-right-of-way.

(j) No cottage garden license may be issued to operate a cottage garden unless the parcel contains the permanent residence of at least one of the owners of the cottage garden.

(k) No cottage garden license may be issued to cultivate cannabis if the cultivation site would be in violation of any administrative rule or regulation promulgated by the Licensing Official.

(2) Level One Cultivator Licenses.

(a) No level one cultivator license may be issued to cultivate medical cannabis in violation of any of the restrictions set forth in subsection (D)(1) of this section for issuance of a cottage garden license.

(b) No level one cultivator license may be issued to cultivate medical cannabis on a parcel unless that parcel is located in a zone district designated as SU (Special Use), TP (Timber Production), CA (Commercial Agriculture), A (Agriculture), AP (Agriculture Preserve) or RA (Residential Agriculture) by the Santa Cruz County Zoning Ordinance.

(E) Grounds for License Revocation.

(1) Grounds for revocation of a license include, but are not limited to:

(a) Failure to conduct cultivation operations in a manner that ensures the security of the crop and safeguards against diversion for nonmedical purposes.

(b) Allowance of any person 21 years of age or younger to enter the cultivation site without a parent or legal guardian.

(c) Illumination of any portion of the cultivation site between the hours of 8:00 p.m. and 8:00 a.m. by lighting that is visible from the exterior of the cultivation site, except such lighting as is reasonably utilized for the security of the cultivation site.

(d) Printing, publishing, advertising, or disseminating in any way, including but not limited to the Internet, any notice or advertisement seeking or offering the availability of space to

cultivate cannabis, regardless of whether the space is within a structure or outdoors.

(e) Failure to maintain and produce to the Licensing Official or any law enforcement officer upon request the following information:

(i) If the parcel where cultivation occurs is not owned by the licensee, written documentation from the owner of the parcel that he or she has agreed to the use of the site for cultivation of medical cannabis; and

(ii) If the medical cannabis is being cultivated indoors, written certification from a licensed electrician that the cultivation location has all necessary electrical permits required by the California Building Codes to ensure that the growing operations can be carried out safely.

(f) If cannabis cultivation occurs outdoors, the failure to fully enclose the cultivation area by an opaque fence at least six feet in height, and secured by a locked gate to prevent unauthorized entry.

(g) Violation of any requirement of the Santa Cruz County Code, including SCCC Title 16, Environmental and Resource Protection, and those applicable provisions of SCCC Title 7, Health and Safety, relating to water used in the commercial cultivation of cannabis including, but not limited to, Chapter 7.69 SCCC, Water Conservation, Chapter 7.70 SCCC, Water Wells, Chapter 7.71 SCCC, Water Systems, and Chapter 7.73 SCCC, Individual Water Systems.

(h) The cultivation of cannabis within sight of any adjacent public right-of-way.

(i) Use of a generator, hazardous materials, or flammable products for cultivation of medical cannabis.

(j) Failure to contain all irrigation runoff, fertilizer, and contaminants on site.

(k) Failure to allow unannounced inspections of the premises by the Licensing Official or law enforcement at any time, without notice.

(l) Failure to post and maintain at the cultivation site in a prominent location a copy of the local license issued pursuant to this section.

(m) Failure to post and maintain at the cultivation site in a prominent location a copy of any State license required to cultivate medical cannabis.

(n) Failure to timely pay any local or State tax associated with cultivation of medical cannabis.

- (o) Violation of any provision of the California Medical Marijuana Regulation and Safety Act.
 - (p) Use of water from any water source that is not located on the parcel on which cultivation is taking place.
 - (q) If the licensee is cultivating medical cannabis indoors, the failure to use a commercial air scrubbing device that prevents the odors associated with cannabis production from escaping the structure where medical cannabis is cultivated.
 - (r) Three or more citations for violation of Chapter 8.30 SCCC within a single year.
 - (s) Possession, storage, or use of any firearm on the parcel where cultivation takes place.
 - (t) Violation of any of the restrictions relating to the issuance of a license set forth in subsection (D) of this section.
- (F) Denial or Revocation of License—Remedies.
- (1) The Licensing Official may deny an application for an original or renewal license, or revoke an original or renewal license, for any of the following reasons:
 - (a) Discovery of untrue statements submitted on a license application.
 - (b) Revocation or suspension of any State license required to cultivate medical cannabis.
 - (c) Previous violation by the applicant, or previous violation at the proposed cultivation site, of any provision of the Santa Cruz County Code or State law related to the cultivation of cannabis.
 - (d) Cultivation of cannabis in a manner contrary to any of the conditions set forth in subsection (D) of this section, Restrictions Relating to the Issuance of a License, or subsection (E) of this section, Grounds for License Revocation.
 - (e) The applicant failed his or her last annual LiveScan background check. A failed LiveScan is a LiveScan report that includes any felony conviction within the past 10 years and/or reflects that the applicant is currently on parole or probation related to a felony conviction. Felony convictions for cannabis-related offenses prior to January 1, 2014, will not result in a failed LiveScan, unless the offense involved sales to a minor.
 - (f) The creation or maintenance of a public nuisance.
 - (2) The Licensing Official's denial of a license application or revocation of a license is a final

action that is not subject to any further administrative remedy. The only legal remedy available to appeal the Licensing Official's action is to file a petition for writ of mandate in the superior court under California Code of Civil Procedure 1085.

(3) Under no circumstances shall a cause of action for monetary damages be allowed against the County of Santa Cruz, the Licensing Official, or any County employee as a result of a denial or a revocation of a license. [Ord. 5216 § 1, 2015].

7.128.013 Enforcement.

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

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

(C) Nothing in this chapter shall be construed as imposing on the Licensing Official or the County of Santa Cruz any duty to issue a notice of violation, nor to abate any unlawful cannabis business activity or cultivation, nor to take any other action with regard to any unlawful cannabis business activity or cultivation, and neither the Licensing Official nor the County shall be held liable for failure to issue an order to abate any unlawful cannabis business activity or cultivation, nor for failure to abate any unlawful cannabis business activity or cultivation, nor for failure to take any other action with regard to any unlawful cannabis business activity or cultivation. [Ord. 5216 § 1, 2015].