

MEMORANDUM

Date: 6/10/2016

To: Agricultural Policy Advisory Commission

From: Sheila McDaniel, Agricultural Planner

Re: Cannabis Cultivation Draft Ordinance

On June 14, 2016, the Board of Supervisors is scheduled to consider the Cannabis Cultivation Draft Ordinance and related Zoning Amendments and to refer it to the Agricultural Policy Advisory Commission for review and comment by September 1, 2016.

Attached are the Cannabis Cultivation Draft Ordinance (Exhibit A) and Zoning Amendments (Exhibit B) for consideration by your Commission. The packet also contains background information including a memorandum from the County Administrative office (Exhibit C) providing a synopsis of the regulations, as well as direction from the Planning Director regarding the Environmental Review Process (Exhibit D).

Given consideration of this material by the Board of Supervisors on June 14, 2016, any Board of Supervisors recommended revisions to the draft ordinance will be forwarded to your Commission for review on the July 14, 2016 Agricultural Policy Advisory Commission agenda. This will allow your Commission sufficient time to review and prepare comments to the Board of Supervisors by September 1, 2016.

Exhibit A

ORDINANCE NO. _____

**ORDINANCE REPEALING CHAPTER 7.128 OF THE SANTA CRUZ COUNTY CODE
AND ADOPTING NEW CHAPTER 7.128 REGARDING LICENSES FOR THE
COMMERCIAL CULTIVATION OF MEDICAL CANNABIS**

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

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

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

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

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

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

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

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

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

cultivation, manufacture, distribution, dispensation, or possession of cannabis for medical purposes; and

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

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

WHEREAS, (1) the unregulated cultivation of cannabis in the unincorporated area of Santa Cruz County can adversely affect the health, safety, and well-being of the county and its residents; and (2) comprehensive civil regulation of premises used for cannabis cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, obnoxious smells, indoor electrical fire hazards that may result from unregulated cannabis cultivation and related risks; and

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

WHEREAS, on February 25, 2014, the Board of Supervisors adopted an ordinance enacting Chapter 7.126 of the Santa Cruz County Code, which prohibited medical cannabis cultivation businesses, but also granted a limited immunity from enforcement for such businesses that did not violate the restrictions and limitations added by that Chapter; and

WHEREAS, after the enactment of Chapter 7.126, County staff identified a sharp rise in illegal cannabis cultivation sites that constitute a public nuisance by degrading the environment, improperly diverting natural resources, creating fire danger, and negatively impacting the quality of life for residents of Santa Cruz County; and

WHEREAS, on April 14, 2015, the Board of Supervisors adopted Ordinance No. 5201, which repealed existing Chapter 7.126 and adopted a new Chapter 7.126 prohibiting the commercial cultivation of cannabis in Santa Cruz County; and

WHEREAS, on June 17, 2015, the Santa Cruz County Clerk of Elections notified the Board of Supervisors that a County Referendum Against County Ordinance No. 5201 contained a sufficient number of qualified signatures to require further action on the part of the Board of Supervisors; and

WHEREAS, on August 18, 2015, the Board of Supervisors repealed Ordinance No. 5201, which had the effect of leaving the prior version of Chapter 7.126 in place; and

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

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

WHEREAS, on December 8, 2015, the Board of Supervisors enacted an ordinance adding Chapter 7.128 to the Santa Cruz County Code, which created an interim licensing scheme to regulate the commercial cultivation of medical cannabis; and

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

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

WHEREAS, (1) the limited right of qualified patients and their primary caregivers under state law to cultivate cannabis plants for medical purposes does not confer the right to create or maintain a public nuisance; and (2) by adopting the regulations contained in this ordinance, Santa Cruz County will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation and dispensing of cannabis in the unincorporated area of the County; and

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

cannabis that may be cultivated in any location or premises, in order to protect the public health, safety, and welfare in Santa Cruz County; and

WHEREAS, the Board of Supervisors has identified as its major policy goals concerning the cultivation of medical cannabis to be 1) an adequate supply of medical cannabis for local qualified patients; 2) protection of the environment; and 3) protection of neighborhood quality; and

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

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

SECTION I

The Santa Cruz County Code is hereby amended by deleting existing Chapter 7.128 in its entirety.

SECTION II

The Santa Cruz County Code is hereby amended by adding new Chapter 7.128 to read as follows:

Chapter 7.128 Medical Cannabis Cultivation Licenses

Sections:

- 7.128.010 Purpose.**
- 7.128.030 Definitions.**
- 7.128.050 Prohibited activities.**
- 7.128.070 Creation of the Medical Cannabis Cultivation Licensing Program.**
- 7.128.090 License categories.**
- 7.128.110 License required.**
- 7.128.130 Enforcement.**
- 7.128.150 No duty to enforce.**

7.128.010 Purpose.

The purpose of this Chapter is to provide a licensing scheme to regulate the cultivation of medical cannabis 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 cannabis activities including, but not limited to, demands placed on law enforcement and administrative

resources; neighborhood disruption; the exposure of children to cannabis; recreational 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.

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 or entity submitting an application for a commercial cultivation license under this Chapter on behalf of the owner or owners of the cannabis cultivation facility seeking to be licensed.
- (B) "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.
- (C) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, as defined under the California Medical Marijuana Regulation and Safety Act at Health and Safety Code section 19300.5(f), as may be amended.
- (D) "Canopy" means the net vegetative growth area of the combined diameters of individual plants. For purposes of this definition, diameter is measured by plotting a straight line from side to side through the widest part of a plant.
- (E) "Coastal Zone" means that portion of the Coastal Zone, as established by the Coastal Act of 1976 and as it may subsequently be amended, which lies within the unincorporated area of Santa Cruz County.
- (F) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (G) "Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed. A licensed cultivation site may be located on more than one parcel as long as the parcels are adjacent and commonly owned.
- (H) "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.
- (I) "Growing Area" means a specific area on a cultivation site where cannabis is grown.

(J) “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.

(K) “Indoor” or “indoors,” means any area that is contained within a fully enclosed and secured permanent structure that contains fixed exterior walls and a roof, that is not open to or accessible by the public without authorization by the licensee. Structures of a temporary or non-secure nature, including but not limited to moveable greenhouses, tents, and hoop houses, are not considered “indoor” or “indoors” for purposes of this definition.

(L) “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 land use permit that runs with the land on which cultivation takes place.

(M) “Licensee” means the person or entity holding a valid license to cultivate cannabis under this Chapter.

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

(O) “MCCL Program” means the Medical Cannabis Cultivation Licensing Program created by this Chapter.

(P) “Outdoor” or “Outdoors” means any area that is not “indoors” as defined in this Chapter.

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

(1) If the owner is an entity, “owner” includes within the entity each person participating in the direction, control, or management of the facility.

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

(R) “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. 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.

(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 cultivation site operated by a qualified patient, person with an identification card, or designated primary caregiver, solely for the patient's non-commercial personal use, on a single 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 one hundred (100) square feet of total garden canopy;

(b) Any cannabis cultivated within that geographic area defined by SCCC 2.04.030 must be grown indoors;

(c) Cultivation 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 and manner 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 QPCS 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, 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.

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

(V) "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 residences.

(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 facilities of a temporary or moveable nature.

(X) 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."

7.128.050 Prohibited activities.

Other than as specifically allowed under this Chapter, it is unlawful and shall constitute a public nuisance for anyone to cultivate cannabis.

(A) It is unlawful and shall constitute a public nuisance for any person to cultivate cannabis for commercial purposes (i.e., for purposes of sale, trade, or gain) without 1) a currently valid local license required by this Chapter; and 2) a currently valid State license required under California law, once such licenses are being issued.

(B) It is unlawful and shall constitute a public nuisance for any person to cultivate cannabis for non-commercial purposes (i.e., for personal use) unless the cultivation complies with the definition of a Qualified Patient Cultivation Site as set forth in SCCC Section 7.128.030(T).

(C) 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 to cause or allow such parcel to be used for the cultivation of cannabis in violation of this Chapter.

7.128.070 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 designated by 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:

- (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 such licenses are being accepted;
- (6) Establishing administrative policies, procedures, rules, regulations, or fees necessary to implement the MCCL Program consistent with this Chapter; and
- (7) Working with other officials in the County to ensure that licensees comply with all aspects of the County Code.

7.128.090 License categories.

In order to cultivate cannabis for commercial purposes in the County, cultivators must have both a State license and a local license (for State license categories, *see* Health and Safety Code sections 19300.7 *et seq.*).

The following categories of local licenses are created under this Chapter for the commercial cultivation of cannabis.

- (A) Class CA licenses for cultivation taking place on parcels zoned CA (Commercial Agriculture) per the Santa Cruz County Zoning Ordinance (SCCC section 13.10.311 *et seq.*).
- (B) Class A licenses for cultivation taking place on parcels zoned A (Agriculture) per the Santa Cruz County Zoning Ordinance.
- (C) Class RA licenses for cultivation taking place on parcels zoned RA (Residential Agriculture) per the Santa Cruz County Zoning Ordinance.
- (D) Class C-4 licenses for cultivation taking place on parcels zoned C-4 (Commercial Services) per the Santa Cruz County Zoning Ordinance.
- (E) Class M licenses for cultivation taking place on parcels zoned M-1 (Small Light Industrial), M-2 (Light Industrial), or M-3 (Mining, Agriculture, etc.) per the Santa Cruz County Zoning Ordinance.
- (F) Class TP licenses for cultivation taking place on parcels zoned TP (Timber Production) per the Santa Cruz County Zoning Ordinance.
- (G) Class SU licenses for cultivation taking place on parcels zoned SU (Special Use) per the Santa Cruz County Zoning Ordinance.

7.128.110 License required.

(A) Registration.

(1) In order to be eligible to apply for an original license for an existing or proposed cultivation site, the applicant must have participated in the County's 90-day registration process (including the completion of a registration form) and obtained acknowledgment of registration from the Licensing Official. The Licensing Official shall reject any application for an original license by an applicant who did not participate in the County's registration process.

(a) Exception: The registration process is voluntary for those persons or entities with a documented history of over 3 years of commercial farming or agricultural production unrelated to cannabis production in the CA zone district.

(b) Exception: The registration process is voluntary for the operator of a cultivation site granted an exemption by the Planning Director pursuant to SCCC section 13.10.670(G) as enacted by Ordinance No. 5090.

(2) A registration form shall not be accepted by the Licensing Official without payment of a registration fee to be set by the Licensing Official and approved by the Board of Supervisors.

(B) 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 owner(s);
- (ii) The exact location of the cultivation site by street address and Assessor Parcel Number(s);
- (iii) A map containing the location of the growing area on the cultivation site (cultivation should take place in a single growing area where total garden canopy may be easily measured, or as few areas as reasonably possible, not spread throughout the cultivation site);
- (iv) Previous law enforcement activity at the cultivation site related to the cultivation of cannabis;
- (v) 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, or the enforcement of the conditions of the license;
- (vi) Background information to be determined by the Licensing Official, including but not limited to a statement that the applicant and owners have submitted to a LiveScan background check no earlier than thirty days prior to the date the application is submitted;
- (vii) Tax identification information;
- (viii) Security plans;
- (ix) Information regarding required land use permits; and
- (x) Such other information as the Licensing Official deems reasonably necessary to a thorough review of the application.

(2) Payment Of The Application Fee.

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

(3) Review Of The Application.

(a) Upon receipt of an application for an original license, the Licensing Official will first determine whether the applicant has participated in the County's registration process, as set forth in section 7.128.110(A). If the applicant did not participate in the registration process, the application shall be rejected.

(b) If the Licensing Official determines that the applicant participated in the registration process, the Licensing Official shall create a Licensing File related to the application, and shall inspect the 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.

(c) As part of the inspection outlined above, the Licensing Official shall take photos of the growing area and keep a copy of those photos with the Licensing File for enforcement purposes.

(4) 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 or denied. If the license is denied, any further non-licensed commercial cannabis cultivation may only be carried out in accordance with the limitations set forth in section 7.128.110(1)(2).

(b) The Licensing Official is authorized to impose conditions on the license at the time it is granted in order to ensure the cultivation will meet the intent and requirements of this Chapter.

(5) Payment Of The License Fee.

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

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

(a) The original license shall be valid for one year from the date of issuance. If a licensee wishes to continue cultivating cannabis after expiration of the original license, the licensee must obtain a renewal license, as set forth below in section 7.128.110(C).

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(C) Renewal License.

(1) Requirement To Obtain A Renewal License.

In order to continue cultivating cannabis after the original licenses expires, a licensee must obtain a renewal license. A renewal license must be obtained annually via an application form designated for that purpose.

(2) Submission Of The Renewal License Application.

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

(i) The information required for the submission of an original license under Section 7.128.110(B);

(ii) Identification of any changes to the information the applicant submitted on the original license application, including but not limited to any proposed changes to the growing area on the cultivation site;

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

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

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

(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.

(3) Payment Of The Renewal License Application Fee.

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

(b) A mandatory inspection of the cultivation site due to a proposed change in the location of the growing area shall require payment of an additional fee as set by the Licensing Official and approved by the Board of Supervisors.

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(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 cultivation site, 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 proposes a change in the location of the growing area, the Licensing Official shall conduct an actual inspection of the proposed growing area to ensure that the licensee will remain compliant with the regulations of the MCCL Program if it is granted a renewal license. As part of this mandatory inspection, the Licensing Official shall take photos of the specific location of the proposed new growing area and keep a copy of those photos with the Licensing File for enforcement purposes.

(5) Grant Or Denial Of The Renewal License.

(a) 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.

(b) The Licensing Official is authorized to impose conditions on the renewal license at the time it is granted in order to ensure the cultivation will meet the requirements of this Chapter.

(6) Payment Of The Renewal License Fee.

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

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

The renewal license shall be valid for one year, beginning on the date of issuance. If a licensee wishes to continue cultivating cannabis after expiration of the renewal license, it must obtain a new renewal license per the terms of this section.

(D) Amending A License.

(1) 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.

(2) Applicants seeking an amended license must include with their application a monetary deposit, to be determined by the Licensing Official or his or her designee, based on an estimate of the hours the Licensing Official will need to review the application and perform any

necessary inspections. Additional deposits or payments shall be made as determined necessary by the Licensing Official in order to recover costs associated with processing the application.

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

(2) An acknowledgment that, by accepting the license and cultivating cannabis for commercial purposes, the Licensee 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, or the revocation of the license; and

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

(F) Rules And Restrictions Specific To License Types.

(1) Class CA Licenses.

(a) The minimum parcel size for a Class CA License is one acre.

(b) Size of canopy allowed, subject to approval of the Licensing Official: up to 2 percent of the size of the parcel containing the cultivation site, not to exceed twenty-two thousand (22,000) square feet.

(c) In the geographic area designated as the Coastal Zone, and within one mile beyond the Coastal Zone, cultivation with a Class CA License may only take place outdoors, or in existing indoor spaces (applicants may not construct new structures, including but not limited to greenhouses, in order to cultivate cannabis in this area).

(2) Class A Licenses.

(a) The minimum parcel size for a Class A License is ten acres.

(b) Size of canopy allowed, subject to approval of the Licensing Official: up to 1.5 percent of the size of the parcel containing the cultivation site, not to exceed ten thousand (10,000) square feet.

(c) In the geographic area designated as the Coastal Zone, and within one mile beyond the Coastal Zone, cultivation with a Class A License may only take place outdoors, or in existing indoor spaces (applicants may not construct new structures, including but not limited to greenhouses, in order to cultivate cannabis in this area).

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(3) Class RA Licenses.

- (a) The minimum parcel size for a Class RA License is five acres.
- (b) Size of canopy allowed, subject to approval of the Licensing Official:
 - (i) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed five thousand one hundred (5,100) square feet on parcels between five and ten acres in size.
 - (ii) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed ten thousand (10,000) square feet on parcels greater than ten acres in size.

(4) Class C-4 Licenses.

- (a) Cannabis may only be cultivated indoors with a Class C-4 License.
- (b) Size of canopy allowed, subject to approval of the Licensing Official: not to exceed twenty-two thousand (22,000) square feet.

(5) Class M Licenses.

- (a) Cannabis may only be cultivated indoors with a Class M License.
 - (i) Exception: On parcels zoned M-3 with a Q (Quarry) General Plan Overlay designation, where quarry operations have ceased, outdoor cultivation may be considered for licensure in conjunction with the adoption or amendment of a reclamation plan.
- (b) Size of canopy allowed, subject to approval of the Licensing Official: not to exceed twenty-two thousand (22,000) square feet.

(6) Class TP Licenses.

- (a) The minimum parcel size for a Class TP License is five acres.
- (b) Size of canopy allowed, subject to approval of the Licensing Official:
 - (i) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed five thousand one hundred (5,100) square feet on parcels between five and ten acres in size.
 - (ii) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed ten thousand (10,000) square feet on parcels greater than ten acres in size.

(7) Class SU Licenses.

- (a) The minimum parcel size for a Class SU License is five acres.
- (b) Size of canopy allowed, subject to approval of the Licensing Official:
 - (i) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed five thousand one hundred (5,100) square feet on parcels between five and ten acres in size.
 - (ii) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed ten thousand (10,000) square feet on parcels greater than ten acres in size.

(G) Additional Rules And Restrictions Applicable To All Licensees.

(1) General Eligibility And Restrictions.

- (a) Cultivation licenses may only be issued to applicants who provide the Licensing Official with sufficient reliable evidence documenting that they 1) have been cultivating cannabis in Santa Cruz County since January 2013; or 2) have been engaged in commercial farming or agricultural production unrelated to cannabis production for over 3 years in the CA zone district, and are applying for a Class CA license.
- (b) All licenses issued under this Chapter must be consistent with the County's policies, objectives, laws, regulations, and programs related to land use, including those related to the County's General Plan and Local Coastal Program. In utilizing discretion in the issuance of licenses, the Licensing Official shall use the County's established standards for determining consistency with agricultural uses and neighborhood compatibility.
- (c) In issuing a license under this Chapter, the Licensing Official may add conditions to the license to ensure compliance with environmental regulations related to slope, grading, and similar requirements set forth in County Code Chapter 16, as well as the Forest Practices Act and any other controlling State or local law.
- (d) In issuing a license under this Chapter, the Licensing Official may place restrictions on canopy size to maintain consistency with other laws, agricultural uses, and neighborhood compatibility.
- (e) With the exception of Class CA, C-4, and M Licenses, 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.
- (f) 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.
- (g) No license may be issued to a person who has failed the background investigation required by the Licensing Official, including but not limited to those individuals who have a disqualifying felony criminal record. Felonies over ten years old and felonies related

to cannabis occurring prior to January 2013 that did not involve sales to a minor shall not alone result in failure of a background investigation.

(h) No license may be issued to cultivate cannabis in solely residential zoned districts, including home-based cultivation for commercial purposes.

(2) Geographical Restrictions.

(a) With the exception of Class CA and A Licenses, no license may be issued to cultivate cannabis in the geographic area designated as the Coastal Zone, and within one mile beyond the Coastal Zone.

(b) With the exception of Class C-4 and Class M Licenses, cultivation licenses may not be issued for parcels located within that geographic area included within the Urban Services Line or the Rural Services Line.

(c) Within that geographic area defined by section 2.04.030 of the Santa Cruz County Code, a licensee may only cultivate cannabis indoors, and only on a parcel which is at least five acres in size.

(3) Setbacks.

(a) Cannabis shall not be cultivated within six hundred (600) feet of (1) a municipal boundary; (2) a school; (3) a library; (4) an alcohol or drug treatment facility; (5) a perennial stream; (6) any habitable structure on a neighboring parcel; or (7) any park other than a State Park located within the urban area defined by the Urban Services Line.

(b) Cannabis shall not be cultivated within three hundred (300) feet of a State Park located within the urban area defined by the Urban Services Line.

(c) On parcels ranging in size from one to five acres, cannabis shall not be cultivated within one hundred (100) feet of a public right-of-way.

(d) On parcels ranging in size from five to ten acres, cannabis shall not be cultivated within two hundred (200) feet of a public right-of-way.

(e) On parcels over ten acres in size, cannabis shall not be cultivated within three hundred (300) feet of a public right-of-way.

(f) Cannabis shall not be cultivated within fifty (50) feet of an intermittent stream or in violation of SCCC sections 16.30 (riparian corridor and wetlands protection) or 16.32 (sensitive habitats).

(g) Cannabis shall not be cultivated within twenty-five (25 feet) of an ephemeral stream or in violation of SCCC Sections 16.30 (riparian corridor and wetlands protection) or 16.32 (sensitive habitats).

(h) Cannabis shall not be cultivated within 100 feet of the high water mark of a lake, estuary, lagoon, or natural body of standing water.

(i) The distance specified in this sub-section for municipal boundaries, schools, libraries, and drug treatment facilities shall be the horizontal distance measured in a straight line from the municipal boundary, school, library, park, and drug treatment facility to the closest property line of the parcel on which cannabis is being cultivated, without regard to intervening structures.

(j) The distance specified in this sub-section for public rights-of-way, streams, and habitable structures shall be the horizontal distance measured in a straight line from the public right-of-way, streams and water areas, or habitable structure and the growing area on the cultivation site, without regard to intervening structures.

(k) Exceptions. With respect to all setbacks other than the 600 foot setback imposed by State law regarding schools, the Licensing Official has discretion to allow for exceptions to the rules set forth herein for setbacks. If the Licensing Official is prepared to authorize such an exception, the Licensing Official must first require owners and occupants of all parcels within at least 300 feet of the parcel at issue to be notified and given an opportunity to be heard in a public forum before making a decision.

(4) Neighborhood And Land Use Compatibility Restrictions.

(a) No license to cultivate may be issued if the Licensing Official determines there is substantial evidence that issuance of the license may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, which has not been previously considered by appropriate environmental review.

(b) No license to cultivate may be issued until the applicant has obtained whatever permits are required under the Santa Cruz County Code (development, building, grading, etc.), for the type of land use authorized under the license (including rules specific to location and public notice).

(c) The total amount of garden canopy approved for licensure under the Class C-4 and Class M Licenses shall not exceed one hundred thousand (100,000) square feet for the unincorporated area of the county. Once this amount is reached, the Licensing Official shall provide a report to the Board of Supervisors with a recommendation on whether this limitation should be adjusted.

(d) Cannabis shall not be cultivated within a residence.

(e) Cannabis cultivation shall not be visible from any adjacent public right-of-way.

(f) No lighting for cultivation purposes, except that necessary for security, shall be visible at cultivation sites from sunset to sunrise.

(g) Cannabis shall not be cultivated without written consent from the owner of the parcel where cultivation will take place, if the applicant is not the owner of the parcel.

(h) No on-site advertising is allowed at cultivation sites, other than one business identification sign that complies with all existing rules and restrictions regarding signs.

(i) Occupied residences located on parcels with cultivation sites must comply with all appropriate County ordinances, including but not limited to use of water, power, septic, and fire suppression.

(j) Outside of an emergency, generators may not be used as a power source for cultivation purposes.

(k) Direct sales to the public from cultivation sites are prohibited, unless otherwise authorized as part of a licensed dispensary.

(l) If cannabis cultivation occurs outdoors, the growing area must be fully secured and enclosed within an opaque fence at least six feet in height, and include a locked gate to prevent unauthorized entry.

(m) Licensees must utilize energy efficient cultivation methods.

(n) The applicant shall ensure that impacts on sensitive species and habitat are minimized.

(5) Indoor Cultivation Sites.

(a) Cannabis shall not be cultivated indoors unless the facility has a commercial air scrubbing or filtration system sufficient to prevent the odors associated with cannabis production from escaping the structure where cannabis is cultivated.

(b) No license may be issued to cultivate cannabis indoors unless all land use and building code requirements are met. Moreover, the applicant shall provide 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.

(c) No license may be issued to cultivate cannabis indoors where plants or lights are visible from a public right-of-way, an adjacent private right-of-way with public access, or a habitable structure.

(6) Water Restrictions.

(a) All water used for cultivation purposes must be obtained from an approved on-site source (except for water used in the case of emergencies).

(b) No license may be issued to cultivate cannabis with the use of a shared water source or water extraction equipment without the express permission of all of the persons

holding an ownership interest in that water source or water extraction equipment. Water extraction equipment includes, but is not limited to, wells, pumps, pipes, or any other instrumentality or machinery designed to move water.

(c) No license may be issued to cultivate cannabis where the cultivation relies on the diversion of surface water, unless the applicant provides proof of valid rights to the water being diverted; however, proof of valid rights to diverted water does not guarantee issuance of a license.

(d) No license may be issued to cultivate cannabis unless the cultivation site has appropriate water storage or access to water for fire-fighting purposes, as well as appropriate emergency road access for fire-fighting purposes.

(7) Miscellaneous Restrictions.

(a) No 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.

(b) Cannabis shall not be cultivated in violation of County Code section 7.31.030 (prohibition on cultivation of genetically engineered crops).

(c) Employees at cultivation sites must be at least 18 years of age. Employees between the ages of 18-21 must receive specialized training and education to be determined by the Licensing Official.

(d) Licensees must comply with all requirements of the California Medical Marijuana Regulation and Safety Act, as may be amended.

(e) Licensees must comply with all applicable requirements of County, State, and Federal laws and regulations, including environmental and water regulations related to storm water management and fertilizer, pesticide, herbicide, and rodenticide storage and use at the cultivation site.

(f) Licensees must comply with all applicable requirements of County, State, and federal regulations pertaining to worker safety and storage and use of hazardous materials.

(h) Licensees are prohibited from manufacturing cannabis products at a cultivation site (edibles, tinctures, salves, etc.) unless the licensee also has a local manufacturing license for that specific site.

(i) Licensees are required to maintain an adequate security plan approved by the Licensing Official, which is intended to protect crops from unauthorized diversion and to protect the health, safety, and welfare of cultivation workers and the general public.

(j) Licensees are required to post and maintain at the cultivation site in a prominent location a copy of the local license issued pursuant to this section and a copy of any State license required to cultivate medical cannabis.

(H) 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 younger than 18 years of age to enter the cultivation site without a parent or legal guardian.

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

(d) Use of a generator for non-emergency purposes or illegal hazardous materials for cultivation of cannabis.

(e) Failure to contain all irrigation run-off, fertilizer, pesticides, and contaminants on-site.

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

(g) Failure to timely pay any local, State, or federal tax associated with or required by the cultivation of cannabis.

(h) Violation of any provision of the California Medical Marijuana Regulation and Safety Act.

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

(j) Possession, storage, or use of any firearm on the parcel where cultivation takes place.

(k) Violation of, or failure to comply with, any of the rules or restrictions relating to licensure promulgated by the County and the Licensing Official.

(l) Creation or maintenance of a public nuisance.

(m) Violation of, or failure to comply with, any land use or other permit requirements associated with the licensee's cultivation of cannabis, including but not limited to zoning, building, and agricultural permits as may be required for the cultivation activity and cultivation site.

(I) 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 cannabis.
- (c) 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, including any permit conditions associated with the cultivation of cannabis.
- (d) Failure of the background check conducted by the Licensing Official, including the applicant's most recent LiveScan report. 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 June 1, 2013 will not result in a failed LiveScan, unless the offense involved sales to a minor.

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

(a) 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 following exception:

(i) If the applicant or operator (1) is currently cultivating commercial cannabis under an issued license and; 2) files a petition with the superior court challenging the Licensing Official's denial or revocation decision within 10 days of the date the decision is issued and; 3) within 10 days thereafter obtains from the Superior Court an order authorizing continued cultivation of commercial cannabis for up to 30 days from the date that the Licensing Official's decision was issued, then the applicant or operator may continue to cultivate medical cannabis for up to 30 days. Any commercial cannabis cultivation that occurs on the parcel after the 30 days has elapsed may only be conducted with a valid local license.

(ii) The purpose of this exception is to allow those appealing the Licensing Official's denial or revocation decision to, with Court permission, complete the harvesting cycle for any existing growing plants that are close to harvest. Under no circumstances does this exception authorize the applicant to start cultivating new cannabis plants during the 30 day period discussed above.

(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. By applying for a license, the applicant and owners

associated with a cannabis cultivation facility waive any and all claims for monetary damages against the County, the Licensing Official, and all other officials of the County of Santa Cruz that may be associated with the denial or revocation of a license.

7.128.130 Enforcement.

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

(B) Notwithstanding the limitations on civil penalties set forth in SCCC Section 1.12.070(A)(2), civil penalties for violation of Chapter 7.128 shall be assessed as follows:

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

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

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

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

7.128.150. No duty to enforce.

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 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.

SECTION II

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

PASSED AND ADOPTED this __ day of _____ 2016, by the Board of Supervisors of the County of Santa Cruz by the following vote:

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

Chairperson of the
Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

Office of the County Counsel

cc: County Administrative Office
Planning Director
Sheriff's Office

Exhibit B

ORDINANCE NO. __

**ORDINANCE AMENDING CHAPTER 13.10 OF
THE SANTA CRUZ COUNTY CODE RELATING
TO CANNABIS CULTIVATION USES**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Santa Cruz County Code is hereby amended by adding the following definition to Section 13.10.700-C “C” definitions:

“Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis, as defined in SCCC 7.128.030. This definition is limited to the use and shall not include any development activities or infrastructure associated with Cannabis Cultivation activities which may require a development permit or other approvals pursuant to other provisions of the SCCC.

SECTION II

Section 13.10.312 of the Santa Cruz County Code shall be amended to add the following to the agricultural use chart:

USE	CA	A	AP
Cannabis Cultivation, with a Class CA license (for CA) or Class A license (for A), pursuant to SCCC Chapter 7.128	P	P	_____

SECTION III

Section 13.10.322 of the Santa Cruz County Code shall be amended to add the following to the residential use chart:

USE	RA	RR	R-1	RB	RM
Cannabis Cultivation, with a Class RA license pursuant to SCCC Chapter 7.128	P	_____	_____	_____	_____

SECTION IV

Section 13.10.332 of the Santa Cruz County Code shall be amended to add the following to the commercial use chart:

USE	PA	VA	CT	C-1	C-2	C-4
Cannabis Cultivation, with a Class C-4 license (for C-4) pursuant to SCCC Chapter 7.128	_____	_____	_____	_____	_____	P

SECTION V

Section 13.10.342 of the Santa Cruz County Code shall be amended to add the following to the industrial use chart:

USES	M-1	M-2	M-3
Cannabis Cultivation, with a Class M license pursuant to SCCC Chapter 7.128	P	P	P

SECTION VI

Section 13.10.372 of the Santa Cruz County Code shall be amended to add the following to the Timber Production (TP) use chart:

USE	PERMIT REQUIRED
Cannabis Cultivation, with a Class TP license pursuant to SCCC Chapter 7.128	P

SECTION VII

Section 13.10.382 of the Santa Cruz County Code shall be amended to add the following new subsection (C), and subsection (D) shall be renumbered accordingly:

(C) Cannabis Cultivation shall be a principally permitted use with a Class SU License pursuant to SCCC Chapter 7.128, and no use approval shall be required.

SECTION VIII

This ordinance shall take effect in areas outside the Coastal Zone on the 31st day after the date of final passage, and shall take effect in areas within the Coastal Zone on the 31st day after the date of final passage, or upon certification by the Coastal Commission, whichever is later.

PASSED AND ADOPTED this ____ day of _____, 2016, by the Board of Supervisors of the County of Santa Cruz by the following vote:

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

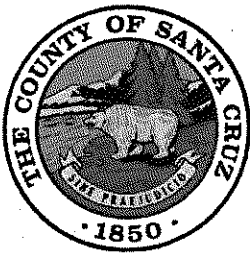
Attest: _____
Clerk of the Board

Chairperson of the
Board of Supervisors

Approved as to form:

Assistant County Counsel

Exhibit C



County of Santa Cruz

County Administrative Office

701 Ocean Street, Suite 520, Santa Cruz, CA 95060-4073
Phone: (831) 454-2100 Fax: (831) 454-3420 TDD: (831) 454-2123
Susan A. Mauriello, J.D., County Administrative Officer

Meeting Date: June 14, 2016
Date: June 9, 2016
To: The Board of Supervisors
From: Susan Mauriello, County Administrative Officer
Subject: Cannabis Cultivation Draft Ordinance and Environmental Review Information

On May 10, 2016, your Board received a report from this office relating to the cultivation of cannabis in Santa Cruz County and directed County Counsel to consolidate the recommendations of that report into a proposed draft ordinance addressing the issuance of licenses for commercial cannabis cultivation. Your Board also directed the Planning Department to return with a recommended approach to environmental review of the proposed ordinance.

Attached as Exhibit A is the proposed draft ordinance (new Chapter 7.128) developed by County Counsel. Also attached as Exhibit B is a proposed draft ordinance to amend the County's Zoning Ordinance to allow for cannabis cultivation as a permitted use in relevant zoning districts. Lastly, attached as Exhibit C is the Planning Department's memo addressing the recommended approach to environmental review.

General Provisions of the Draft Ordinance

The draft ordinance distills the many recommendations reviewed at the May 10th meeting into a framework for a viable licensing program that builds on the licensing ordinance adopted by the Board earlier this year. Because the policy recommendations encompass different rules for cultivation sites depending on the zoning district where the cultivation site is located, the proposed license types are based on the zoning districts themselves (applicants can apply for a Type CA license, Type TP license, etc.). Certain rules would apply to specific types of licenses, and some rules would apply to all license types.

Under this regulatory framework, the Licensing Official has discretion to place conditions on licenses to ensure consistency with the County's General Plan, zoning requirements and other regulations. Licensees would also be required to obtain any necessary permits (building, development, etc.) for any development proposed under the license prior to the license being effective.

Registration Program

In drafting the ordinance and considering the environmental review requirements, it became clear that the registration program should be separate from the ordinance itself. Environmental review must be conducted before the cultivation ordinance is adopted. In order to conduct adequate environmental review, it is necessary to form a "baseline" of the existing cultivation activities and conditions in the County. The registration process will serve the purpose of establishing a baseline, exploring existing conditions and related impacts and determining whether and how these conditions should be appropriately regulated in a final ordinance and allow staff to identify environmental and neighborhood impacts in order to prioritize the enforcement of current rules. Accordingly, staff intends to engage in the registration process independently of the ordinance adoption process.

In order to meet these goals, staff is recommending that the Board authorize the creation of the limited-term Registration Program. Registration would be open for a period of ninety days, during which potential applicants would have a chance to review the proposed ordinance and receive feedback on the extent to which the site is compliant with existing codes and proposed codes. The failure to register would disqualify a potential applicant from obtaining a cultivation license, if and when they are ultimately available.

As previously discussed, registration would be accomplished through completion of a form created by staff and accompanied by a fee to be set by the Board. The registration form would require the registrant to provide information on ownership, tax identification, the specific location and size of the existing or proposed cultivation site, the size of the growing area, the degree to which various criteria such as setbacks, lighting, etc. are met, as well as security, auditing and any other information determined to be necessary by the Licensing Official.

At the close of the 90 day registration period, staff would compile the baseline information and cease collecting registration forms and the environmental review process would begin. During the environmental review period, staff would be available to work with registrants' regarding their eligibility for a license under the proposed ordinance.

Changes to the Zoning Ordinance and General Plan/Local Coastal Program

Some of the zoning districts identified in the proposed cultivation licensing ordinance allow agriculture as a principal permitted use and others do not explicitly allow it, but may allow similar uses. In order to be as clear as possible and avoid any legal disputes regarding this issue, Counsel believes that it makes the most sense to amend the zoning ordinance to add cannabis cultivation as a permitted use in those zoning districts where commercial cannabis cultivation is expected to be taking place, however, the use would only be allowed in conjunction with a cannabis cultivation license issued by the Licensing Official. In order to provide a policy basis for cannabis cultivation as an agricultural use, it is also proposed to amend the General Plan/Local Coastal Program (GP/LCP). Assuming this process moves forward as outlined it would be necessary to direct staff to forward these GP/LCP and zoning amendments to the Planning Commission for review and comment at a future date.

The Path Forward

The Planning Department's recommendation for the environmental review process is attached as

Exhibit C. In short, once a baseline of information is created, staff will determine what level of environmental review is appropriate based on the number and type of license that may be issued under the proposed ordinance.

County Counsel is currently reviewing approaches to encourage applications from minority, women and disabled-owned businesses during future cultivation licensing application periods.

Staff recognizes that the public and the Board would like to keep this process moving forward in a deliberate manner. Staff is therefore recommending that the Board consider moving forward as follows:

1. Consider the draft ordinance and refer it to the Fire Advisory Commission, the Water Advisory Commission, the Commission on the Environment, the Agricultural Policy Commission, and the Fish and Wildlife Advisory Commission for review and comment by September 1, 2016;
2. Direct staff to incorporate Board and Commission input into the draft ordinance during September;
3. Authorize the Licensing Official to open a 90-day Registration Program, after notice to the public, including translation of materials in Spanish, between August 1, 2016 and October 31, 2016;
4. Direct the Planning Director to issue Request for Proposals (RFP) to obtain a qualified environmental consultant, and return to the Board in October with a consultant contract for environmental review;
5. Direct the Planning Commission to hold a public hearing after environmental review is completed and prepare a recommendation on the proposed GP/LCP and zoning ordinance amendments for Board consideration;
6. Hold a public hearing to make required environmental determinations and adopt the cultivation licensing ordinance in final form, and approve the land use amendments and authorize submittal to the California Coastal Commission (CCC); and
7. Begin accepting license applications outside of the coastal zone after Board approval and inside of the Coastal Zone after Coastal Commission certification. The exact dates would be determined as the process advances.
8. Begin to issue licenses. The exact dates would be determined as the process advances.

Conclusion

Staff has worked diligently to provide your Board with a draft ordinance that includes the policy

recommendations of various stakeholders and we believe that a reasonable process has been identified for moving forward to implementation of a licensing ordinance. We look forward to any further Board input.

IT IS THEREFORE RECOMMENDED THAT YOUR BOARD TAKE THE FOLLOWING ACTIONS:

1. Consider the draft ordinance entitled "Ordinance Repealing Chapter 7.128 Of The Santa Cruz County Code And Adopting New Chapter 7.128 Regarding Licenses For The Commercial Cultivation Of Medical Cannabis," and direct County Counsel to make any requested changes;
2. Refer the draft ordinance to the Fire Advisory Commission, the Water Advisory Commission, the Commission on the Environment, the Agricultural Policy Commission, and the Fish and Wildlife Commission for review and comment by September 1, 2016;
3. Authorize the Licensing Official to open a 90-day Registration Program, after notice to the public, between August 1, 2016 and October 31, 2016;
4. Direct the General Services Department to work with the Planning Department and County Counsel to issue a Request for Proposals to obtain a qualified environmental consultant, and return to the Board in October, 2016 with the proposed contract for the consultant to commence environmental review; and
5. Direct staff, after environmental review is completed, to bring the proposed GP/LCP and zoning ordinance amendments before the Planning Commission for a public hearing and recommendation, and then return to the Board for a public hearing to consider the Planning Commission's recommendation on the land use amendments, and to consider the final proposed cannabis cultivation licensing ordinance, with any necessary amendments to the proposed land use regulations and cultivation ordinance based on the environmental review process.

Submitted by:

Attachments:

- a Exhibit A - Draft Cannabis Cultivation Ordinance
- b Exhibit B - Zoning Amendments
- c Exhibit C - Environmental Review Process

Exhibit D

MEMORANDUM

FROM: Kathy Prevesich, Planning Director

TO: Board of Supervisors

DATE: June 7, 2016

RE: RECOMMENDED APPROACH TO ENVIRONMENTAL REVIEW OF PROPOSED CANNABIS
CULTIVATION LICENSING PROGRAM

The proposed approach to regulating cannabis cultivation within the Santa Cruz County unincorporated area has been developed with input from a broad variety of stakeholders. While cannabis cultivation can be considered an "agricultural use", it is an unusual one because of its characteristics of being both a sanctioned medical but illegal recreational drug, being of very high value, having a strongly offensive odor, and involving high potential for impacts on the quality of life in neighborhoods, creating public safety risks and potential environmental damage.

For these reasons, the proposed approach involves land use regulation in combination with licensing program criteria and restrictions. The overall approach requires compliance with all applicable land use and environmental regulations, including those pertaining to water use and hazardous substances. The totality of the approach is intended to protect the environment, neighborhoods, and public health and safety, while ensuring appropriate access to cannabis.

Given the defined objectives of the proposed program, along with current uncertainties about the number and level of existing cannabis growers that will elect to participate in the program, it is not clear at this time what type of CEQA environmental document will be required. The Planning Department recommends that after close of the Registration Period, an Initial Study be prepared in order to evaluate whether the program has the possibility of creating unavoidable significant environmental impacts, or whether any potential impacts can be reduced to less than significant levels through incorporation of mitigation measures and/or modifying aspects of the proposed program regulations.

The Planning Department is not able to prepare the required environmental document(s), and therefore it is recommended that a qualified environmental consultant be retained to carry out the work. A portion of the registration fees or other taxes can be made available to fund the work. Planning Department staff would be available as needed to collaborate with the selected consultant, County Counsel's Office and Licensing Official as the environmental document is being prepared. It is recommended that the Board of Supervisors direct preparation and issuance of a Request for Proposals, with the objective that a consultant contract be placed on a Board agenda in October for approval. On that same date, the Board will be presented with the final drafts of the proposed ordinances and GP/LCP amendments, incorporating comments from Board members and Commissions. The final drafts presented would constitute "the project" for the purpose of CEQA review.

It is envisioned that the consultant would first prepare an Initial Study, and preparation of that document would commence upon closing of the Registration Period at the end of October 2016. The registration process will provide very useful information for environmental review, in that all future applicants for cannabis cultivation licenses must register within the 90-day registration period. The number of registrants and the information on the registration form will allow for definition of the environmental setting "baseline", or existing physical environmental conditions. The Initial Study will describe the existing baseline, and then identify potential impacts of the cannabis cultivation program and whether it is reasonably foreseeable that significant adverse impacts might occur to these baseline existing conditions, in a variety of potential impact categories.

If the Initial Study determines that there is no potential for significant environmental impacts, or that all potential physical environmental impacts can be mitigated, then preparation of a Negative Declaration (ND) or Mitigated Negative Declaration (MND), respectively, could be appropriate. If there is the possibility of unavoidable significant physical environmental impacts due to implementation of the ordinances and regulations, then it will be necessary to prepare an Environmental Impact Report (EIR). An EIR would evaluate alternatives to the proposed project which may avoid or lessen impacts.

The estimated time needed to prepare an ND/MND is about 5-6 months, with completion allowing for the required Planning Commission public hearing to occur in the Spring of 2017. The Board of Supervisors will then hold its public hearing on the final proposed ordinances/ amendments. Upon Board approval, the land use component of the regulatory approach (GP/LCP and zoning ordinance amendments) would be submitted to the California Coastal Commission for certification. In that the proposed ordinance includes very significant restrictions on cannabis cultivation within the coastal zone, and would not allow new physical development within the coastal zone (only some amount of cultivation within existing greenhouses), it is possible that the Coastal Commission will be able to certify the materials without significant delay.

It is contemplated that the Licensing Official could be able to begin to accept applications for cannabis cultivation licenses upon Board approval of the licensing ordinance for sites outside of the coastal zone, with applications accepted for sites within the coastal zone after Coastal Commission certification of the amendments.

If after preparation of the Initial Study it is determined that an EIR should be prepared, then the above timelines should be adjusted to add another 6 months.