



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
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KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

October 12, 2011

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Subject: **ORDINANCE AMENDMENTS TO SANTA CRUZ COUNTY CODE SECTION 13.10.670, REGARDING MEDICAL MARIJUANA COOPERATIVES.**

Members of the Planning Commission:

On May 3, 2010 The Board of Supervisors adopted Ordinance No. 5090, based on your recommendation to create standards to allow medical marijuana cooperatives in the P-A (Professional and Administrative Offices), C-1 (Neighborhood Commercial), C-2 (Community Commercial) and C-4 (Commercial Services) zone districts. Shortly thereafter, the item was forwarded to and approved by the California Coastal Commission on August 11, 2011.

The purpose of this letter is to seek Planning Commission approval of two minor amendments that would further clarify and strengthen the new Code provisions. The two affected sections state:

13.10.670 (c) (3): The proposed location shall not be located within eight hundred feet of (a) any other medical marijuana cooperative, or within six hundred feet of (b) any licensed preschool, or (c) 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.

13.10.670 (c) (4): The distance specified in subsection (2) and (3) shall be the horizontal distance measured in a straight line from the property line of the referenced use to the closest property line of the lot on which the cooperative is to be located without regard to intervening structures.

The first minor amendment that follows would replace the phrase "licensed preschool" contained in Code Section 13.10.670 (c) (3) e with the phrase "preschool or child care center".

- (3) The proposed location shall not be located within eight hundred feet of (a) any other medical marijuana cooperative, or within six hundred feet of (b) any

licensed preschool, any preschool or child care center for children, infant age to grade 1 that complies with the definition of child care center contained in Title 22, Division 12, California Code of Regulations or (c) any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but not including any private school in which education is primarily conducted in private homes.

The State of California does not define licensed preschool. This change would provide consistency with Section 101152 (c) (7) of Title 22, Division 12 of the California Code of Regulations that defines a child care center as:

"Child Care Center" or "Day Care Center" (or "center") means any child care facility of any capacity, other than a family child care home as defined in Section 102352f.(1), in which less than 24-hour per day nonmedical care and supervision are provided to children in a group setting. The term "Child Care Center" supersedes the term "Day Care Center" as used in previous regulations.

Also, Section 101152 (7) explicitly excludes home based large family child care facilities that provide child care for 8-14 children. Finally, this amendment would specify the age of children covered by the provision.

Staff identified a second amendment that would reduce confusion regarding measurement of the 800 foot minimum separation between medical marijuana cooperatives specified in Section 13.10.670 (4). As currently written, the 800 foot separation is based on the horizontal measurement from property line to property line. The following proposed amendment would make a further distinction and base measurement from primary public entrance to primary public entrance:

- (4) The distance specified in subsection (2) and (3) shall be the horizontal distance measured in a straight line from the property line of the referenced use to the closest property line of the lot on which the cooperative is to be located without regard to intervening structures, except that the 800 foot minimum distance specified in subsection (2) shall be measured from the primary public entrance of one facility to the primary public entrance of another facility on property on which the cooperative is to be located, without regard to intervening structures.

This minor change would address the location of a building on a site. Following Board action on the ordinance, staff determined that due to the variable sizes of parcels the standard would result in highly variable separation requirements. In that the intent is to regulate separation between facilities, the proposed language would better implement that intent. The proposed amendment that would therefore focus on the location of buildings in relation to other buildings, would not modify the stated ordinance purpose contained in Section 13.10.670 (a) to assure that the operations of medical marijuana cooperatives are in compliance with California Health and Safety Code Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996"), and to mitigate the adverse secondary effects from operations of cooperatives and to reduce the impact that a proliferation and/or over concentration of medical marijuana cooperatives may have on the community as a whole.

Because this proposal modifies the standards approved by the Board during the May 2011 hearing, this amendment is also subject to public hearings conducted by the Planning Commission and Board of Supervisors.

CEQA Determination

The attached resolution with ordinance amendment (Attachments 1) is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) in that there is nothing in the proposed amendment or its implementation that could have a foreseeable significant effect on the environment. The ordinance amendment will not affect the physical environment. The exemptions described in Attachment 2, extend to State CEQA Guidelines Sections 15060 (b) (2) and (3) in that there is no possibility the activity in question may have a significant effect on the environment).

Local Coastal Program Consistency

The proposed amendments will modify the approval by the California Coastal Commission on August 11, 2011, to approve or medical marijuana cooperatives in the P-A, C-1, C-2 and C-4 zone districts. Subsequent Coastal Commission approval must be obtained based on Board approval of amendments. The proposed amendments do not pertain to medical marijuana cooperatives on agricultural lands thereby not resulting in loss of agricultural lands. Ordinance amendment will not, in itself, impact coastal access or negatively impact public viewsheds. The amendments are not proposed to allow development or uses in the VA (Visitor Accommodations) or CT (Tourist Commercial) zone districts and, thereby, will not impact visitor serving opportunities in the County.


Conclusion and Recommendation

The proposed amendments are intended to strengthen and clarify the medical marijuana code provisions.

It is therefore RECOMMENDED that your Commission take the following actions:

1. Conduct a public hearing to consider the proposed ordinance amendments;
2. Recommend Board of Supervisors adoption of the attached resolution, making findings, certifying the Environmental Notice of Exemption and approving the proposed ordinance amendment (Attachment3)
3. Recommend Board of Supervisors adoption of the ordinance (clean version) amending Chapter 13.10 of the Santa Cruz County Code

Sincerely,



Kathy Molloy Previsich
Planning Director

Attachments:

1. Resolution with marked up copy of Ordinance Amendment
2. Environmental Exemption

**BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA
RESOLUTION NO. _____**

On the motion of Commissioner _____
duly seconded by Commissioner _____
the following is adopted:

**PLANNING COMMISSION RESOLUTION RECOMMENDING BOARD
APPROVAL OF AN AMENDMENT TO CHAPTER 13.10 OF THE SANTA CRUZ
COUNTY CODE RELATING TO THE REGULATION OF MEDICAL
MARIJUANA COOPERATIVES**

WHEREAS, the Planning Commission finds that the public convenience, necessity, and general welfare require implementation of standards to regulate the siting and operation of medical marijuana cooperatives in the unincorporated area of the County; and

WHEREAS, on February 9, 2011, the Planning approved Resolution No. 2011-02, to recommend Board of Supervisor approval of regulations and restrictions for medical marijuana cooperatives; and

WHEREAS, on May 3, 2011, the Board of Supervisors considered and adopted Ordinance No. 5040, to establish regulations and restrictions for medical marijuana cooperatives located in the P-A (Professional and Administrative Offices), C-1 (Neighborhood Commercial), C-2 (Community Commercial) and C-4 (Commercial Services) zone districts; and

WHEREAS, County Code Section 13.10.670 of Chapter 13.10 contains medical marijuana siting criteria and performance standards approved by the Board of Supervisors, to ensure that medical marijuana cooperatives are operated in compliance California Health and Safety Code Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") and related State regulations and guidelines adopted in furtherance thereof to mitigate the adverse secondary effects from operations of cooperatives; and

WHEREAS, on October 12, 2011, the Planning Commission conducted a duly noticed public hearing and considered minor amendments to clarify and strengthen the medical marijuana cooperative regulations that are contained in Section 13.10.670; and

WHEREAS, the Planning Commission hereby finds that the amendment of the County Code to implement minor changes to Chapter 13.10.670 of Chapter 13.10, as described herein, is consistent with all elements of the County General Plan; and

WHEREAS, Chapter 13.10 is an implementing ordinance of the Local Coastal Program (LCP) and the proposed amendments to these chapters constitute amendments to the LCP; and

WHEREAS, the proposed amendment to Chapter 13.10 has been determined to be consistent with the Coastal Act; and

WHEREAS, the County of Santa Cruz has a compelling interest in ensuring that marijuana is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and integrity of the neighborhoods in which medical marijuana cooperatives operate, and in providing seriously ill residents with compassionate access to medical marijuana; and

NOW THEREFORE, BE IT RESOLVED AND ORDERED that the Planning Commission recommends that the amendment to Chapter 13.10 of the Santa Cruz County Code, and the Notice of Exemption, incorporated by reference, be approved by the Board of Supervisors.

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this _____ day of October, 2011 by the following vote:

AYES: COMMISSIONERS
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Chairperson of the Planning Commission

ATTEST:

Secretary



APPROVED AS TO FORM:
COUNTY COUNSEL

DISTRIBUTION:
County Counsel
Sheriff

ORDINANCE No. _____

**ORDINANCE AMENDING SECTION 13.10.670-C (3) AND SECTION 13.10.670 –C
(4) TO THE SANTA CRUZ COUNTY CODE RELATING TO THE REGULATION
OF MEDICAL MARIJUANA COOPERATIVES**

SECTION I

The Board of Supervisors finds that the public convenience, necessity, and general welfare require amendment of the County Zoning Regulations to implement minor modifications regarding standards to regulate the siting and operation of medical marijuana cooperatives in the unincorporated area of the County and approves the Categorical Exemption under the California Environmental Quality Act; and

SECTION II

Sections 13.10.670-C (3) and (4) of the Santa Cruz County Code are hereby amended to read as follows:

- (3) The proposed location shall not be located within eight hundred feet of (a) any other medical marijuana cooperative, or within six hundred feet of (b) any licensed preschool or child care center for children, infant age to grade 1 that complies with the definition of child care center contained in Title 22, Division 12, California Code of Regulations or (c) any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but not including any private school in which education is primarily conducted in private homes.
- (4) The distance specified in subsection (2) and (3) shall be the horizontal distance measured in a straight line from the property line of the referenced use to the closest property line of the lot on which the cooperative is to be located without regard to intervening structures, except that the 800 foot minimum distance specified in subsection (2) shall be measured from the primary public entrance of one facility to the primary public entrance of another facility on property on which the cooperative is to be located, without regard to intervening structures.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this _____ day of _____, 2011, by the following vote:

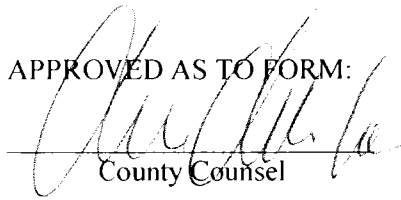
AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: _____

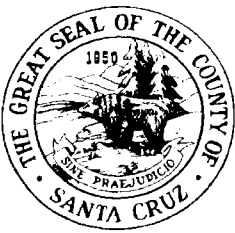
Clerk of the Board

APPROVED AS TO FORM:



County Counsel

Copies to: Planning
 County Counsel
 Sheriff



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

Attachment 2

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: N/A

Assessor Parcel Number: county wide application to P-A Professional and Administrative Offices), C-1 (Neighborhood Commercial), C-2 and C-4 zone districts that are located more than 600 feet from a public or private school, and subject to a Level 5 approval permit for new non-profit cooperatives.

Project Location: Santa Cruz County

Project Description: The proposed ordinance amendment would remove "licensed" from the phrase licensed preschool that is contained in Section 13.10.670 (c) (3). The minor amendment would provide consistency with the state definition of child care center. The amendment would also modify Section 13.10.670(c) (4) that requires a minimum 800 foot horizontal measurement between properties that contain medical marijuana cooperatives. The amendment would require an 800 foot measurement between the primary public entrances of facilities.

The purpose of the proposed ordinance amendment is to clarify and strengthen medical marijuana cooperative provisions contained in Code Section 13.10.670.

Person or Agency Proposing Project: Wanda Williams, Assistant Planning Director

Contact Phone Number: (831) 484-2580

- A. _____ The proposed activity is not a project under CEQA Guidelines Section 15378.
- B. _____ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).

- C. _____ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
- D. _____ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).


Specify type:

- E. X **Categorical Exemption Section 15061 (b)(3), Section 15060 (b)(2), 15060 (b)(3), Section 15308, Section 15321**

F. **Reasons why the project is exempt:**

The attached proposed ordinance amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) in that there is nothing in this ordinance or its implementation that could have a foreseeable significant effect on the environment. The amendment will not affect the physical environment. The exemptions extend to State CEQA Guidelines Sections 15060 (b) (2) and (3) in that there is no possibility the activity in question may have a significant effect on the environment. In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement).

In addition, none of the conditions described in Section 15300.2 apply to this project.


Wanda Williams, Assistant Planning Director

Date: September 19, 2011