



# COUNTY OF SANTA CRUZ

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## PLANNING DEPARTMENT

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KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

Agenda Date: January 26, 2011

Item No: 14

Time: 9:00 AM

Planning Commission  
701 Ocean Street  
Santa Cruz, CA 95060

**SUBJECT: Proposed Medical Marijuana Cooperative Ordinance**

**Commissioners:**

On September 28, 2010, the Board of Supervisors adopted Ordinance No. 5075, imposing a temporary 45 day moratorium on the establishment of medical marijuana dispensaries and production houses in the unincorporated area of Santa Cruz County. On November 9, 2010, the Board extended the moratorium for an additional period of 10 months and 15 days consistent with the authority granted by Government Code Section 65858 to allow formal consideration of a proposed ordinance by the Planning Commission, Board of Supervisors and California Coastal Commission.

The proposed ordinance would establish standards to regulate the lawful distribution of medical marijuana by cooperatives and collectives in unincorporated areas of Santa Cruz County in the C-1 (Neighborhood Commercial,) C-2 (Community Commercial) and C-4 (Commercial Services) zones, when located more than 600 feet from a public or private school and licensed pre-school. The standards are designed to conform with the legal requirements of Proposition 215, the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5) and Senate Bill 420 (2003) (Health and Safety Code Sections 11362.7-11632.9).

Proposition 215, a voter initiative referred to as the Compassionate Use Act of 1996 was approved in November 1996 and enables persons who are in need of medical marijuana to obtain and use it under limited circumstances without violating state criminal laws related to marijuana. Senate Bill 420 that became effective on January 1, 2004, clarified the scope of the Compassionate Use Act and established the mechanism by which cities and counties should create local regulations to ensure that marijuana is not distributed in an illicit manner, to protect the public health, safety and welfare of its residents and businesses, and to preserve the peace and quiet of the neighborhoods in which medical marijuana cooperatives operate, and in providing compassionate access to medical marijuana to seriously ill residents.

The adoption of Proposition 215 did not eliminate the federal laws prohibiting possession and use of marijuana and until recently, the federal government continued to prosecute some patients and vendors for possession of medical marijuana. In 2009, the U. S. Attorney General announced a significant change in federal policy regarding medical marijuana. Federal prosecutors would no longer target individuals or dispensaries unless they violated both state and federal laws regarding the use or distribution of marijuana.

The State established a Medical Marijuana Identification Card Program to facilitate the lawful use of medical marijuana. The Medical Marijuana Identification Card Program was designed to provide patients an identification card that could be used as evidence that they had received a recommendation from their physician to use marijuana for medicinal purposes. The card allows law enforcement agencies to determine if an individual using marijuana meets the requirements of the Compassionate Use Act.

In accordance with Health and Safety Code, the Santa Cruz Health Services Agency through Board direction collects fees under the state Medical Cannabis (Marijuana) Identification Card Program. As noted in County Code Section 7.124.010, the County recognizes that "not all medical cannabis users will elect to access the medical cannabis user identification card and the existence of the program shall not limit the protections afforded by the Compassionate Use Act of 1996." Under the current regulations, medical marijuana cultivation in an amount not to exceed one hundred square feet may be conducted and qualified patients or persons may possess up to three pounds of dried cannabis bud or conversion per year. In 2010, the County Department of Public Health issued 348 Medical Marijuana Identification Cards to qualified patients and 24 Medical Marijuana Identification Cards to primary caregivers within Santa Cruz County.

Patients and caregivers may also form medical marijuana cooperatives to facilitate the lawful distribution of medical marijuana to members of the cooperative. In this way, members who are unable to cultivate their own marijuana may obtain it from other members of the cooperative who are able to grow it. There may be as many as 200 medical marijuana cooperatives in California, although no state agency tracks these numbers (Source: California Lawyer, June 2006).

The exact number of Santa Cruz County based cooperatives or dispensaries is difficult to determine due to the fact that some circumvent the law and utilize only a telephone number, or operate in locations without signage or notification provided to the local government. To staff's knowledge there are an estimated six medical marijuana cooperatives and dispensaries operating in unincorporated areas of the County. To date, the County has treated medical marijuana dispensaries as an unpermitted land use in all districts.

#### **Board Direction**

On September 28, 2010, Supervisors John Leopold and Neal Coonerty recognized the impact of the changes in federal drug enforcement policy and recommended modifying

planning rules to address medical marijuana uses in unincorporated areas of the county. In a September 22, 2010 Board letter, the Supervisors stated:

"While patient collectives such as the Wo/Men's Alliance for Medical Marijuana (WAM) have existed in our community since before the passage of Prop. 215, only the City of Santa Cruz has established rules in our county regulating medical marijuana dispensaries. Over the last year, medical marijuana dispensaries have opened throughout the unincorporated areas. It is time to develop a set of reasonable regulations that modify our planning rules to cover these dispensaries in commercial areas of our county. Development of an ordinance will establish clear rules for our Sheriff's Office to enforce, provide planning guidance for this new business segment, and ensure that patients of all income levels have access to prescribed medicine." (See letter included as Exhibit "C").

Planning Department staff worked with the County Counsel to develop proposed regulations for consideration by the Planning Commission and Board of Supervisors.

Key features of the proposed ordinance are as follows:

#### **Definition**

The proposed Ordinance would add the following definition as Section 13.10.700-M:

"Medical Marijuana Cooperative. Any cooperative or collective of 10 or more persons where the primary purpose is to provide the lawful distribution of medical cannabis that has been recommended by a licensed physician, in strict accordance with Health and Safety Code Section 11362.5 et. seq."

The state law does not define collectives, cooperatives or dispensaries. However, in guidelines prepared by the California Attorney General in 2008, (Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use), the terms collectives or cooperatives were defined to mean "an organization that merely facilitates the collaborative efforts of patients and caregiver members—including the allocation of costs and revenues."

Under the proposed regulations, dispensaries that do not meet the definition of cooperative or collective would be prohibited. The Attorney general's guidelines require that the cooperative must file articles of incorporation with the state and use earnings and savings of the business for the general welfare of its members, thereby removing the ability of a cooperative to function as a profit generating business enterprise.

#### **Zone Districts**

The proposed ordinance would limit the location of medical marijuana collectives or cooperatives to commercial zones including C-1 (Neighborhood Commercial,) C-2 (Community Commercial) and C-4 (Commercial Services). Ensuring that the cooperative is visible from an adjacent prominent commercial street is an important

siting criteria and therefore the commercial zone locations would act in furtherance of this proposed code section. Also since the use in certain aspects is to a pharmacy use that dispenses medicine, it may be reasonable to consider zones where pharmacies are typically permitted.

Collectives and cooperatives would be prohibited from residential zones and all other non-residential zones not specified in the ordinance. Allowing the establishment of medical marijuana cooperatives throughout the unincorporated commercial zones will ensure that medical marijuana is available throughout the county to residents that are most in need and ensure that uses are not concentrated in one or two isolated areas only. Consideration was given to allowing cooperatives in the industrial zones and it was determined that the siting of cooperatives in industrial zones where limited properties are available, could reduce the amount of land required for "for profit" economic development purposes.

The attached map (Exhibit D) shows the location of the 115 public and private elementary, secondary and high schools located throughout the county in relation to commercial zoned properties. There are 24 schools located within 600 feet of C-1, C-2 or C-4 zoned properties.

### **Zoning Review**

The proposed ordinance would create a Level 5 Use Permit requirement that would include a Zoning Administrator public hearing and potential appeal of the Administrator's action to the Planning Commission. This approach differs from some other jurisdictions that allow facilities by right subject to a 'license' process, in some cases administered by a City Manager or County Administrator.

### **Cooperative Exemptions**

The approval of medical marijuana cooperatives that existed on September 28, 2010, that are located outside of a C-1, C-2, or C-4 zone district would be processed through an exemption process structured similar to an amortization process. The exemption provision will allow existing medical marijuana cooperatives to submit specific documents normally required for their operation and to demonstrate they are operational. Within 90 days of the effective date of this code ordinance, existing cooperatives would be required to file for an exemption pursuant to this code section and the Planning Director would begin to determine if a cooperative was eligible for an exemption. In some cases, evidence of existing cooperatives would not be reflected in official records and the applicant would be required to submit the necessary proof that the facility existed on or before September 28, 2010. Under Section 13.10.670(g)(4), the Director is not required to make a determination within a specified period of time. Director investigation will involve review of building permits, utility records, advertising and rental listings, field inspections, and interviews with property owners. The exemption periods are set forth below:

Number of years in operation

10 or more years

5 to 9 years

0 to 5 years

Length of Exemption

7 years

5 years

1 year

The exempted cooperatives would be subject to the Level 5 review process once the exemption period had run its course. Other cooperatives located in a designated commercial zone or that are established after September 28, 2010 would also be subject to Level 5 review.

**Parking**

Parking demand for cooperative facilities is not expected to exceed normal parking required for a medical pharmacy. Therefore, the proposed ordinance establishes a minimum parking standard for collectives of five spaces per 1,000 square feet of gross floor area, consistent with the pharmacy parking requirement. The County generally does not exercise discretion when an existing building changes uses and therefore a change of use will require compliance with the current parking rate.

**Minimum Separation**

Consistent with Health and Safety Code Section 11362.5 et. seq., the proposed ordinance requires a minimum separation of 600 feet between a collective property location and a private or public (K-12 years) school use, a licensed pre-school or from another collective. (Home based schools are not included.)

Section 13.10.670 (c)(2) of the proposed ordinance requires that an applicant of a cooperative located within 300 feet of any residential zoned property must demonstrate that "the use would not create an intensity of use that is incompatible with the nearby residential use and that the applicant would employ security measures that would insure that the use would not adversely affect the security of the neighboring residential uses." This provision would comply with a requirement contained in the Supervisor's September 22, 2010 letter to require specific findings about impacts for a cooperative located within 300 feet of a residentially zoned area.

**Concentration**

The 600 foot separation required between two or more medical marijuana cooperatives is intended to prevent undue concentration of facilities and to ensure that no one particular neighborhood is inundated with medical marijuana facilities.

**Security**

Several provisions of the ordinance are designed to address security issues, including requirements for background checks, providing the Planning Director, Sheriff and adjoining property owners with the name, address and phone number of an on-site community relations staff person assigned to address operational problems and concerns.

## **Cultivation and Processing**

The proposed ordinance defines the term “cooperative” to include all activities associated with the provision of medical marijuana by a Primary Care-giver to a Patient. If approved as drafted, medical marijuana would only be grown in Santa Cruz County at patient, or primary care-giver locations. Such activities at a patient’s residence would be limited to the quantity of marijuana legally possessed by the individual patient as determined by the Health and Safety Code.

## **Performance Standards**

In addition to proposing changes to the County’s Ordinance, the draft ordinance would establish other performance criteria for any person wishing to establish a medical marijuana cooperative.

(1) No product shall be smoked, ingested or otherwise consumed within the cooperative or within 50 feet of the cooperative building.

This standard would not only protect nonsmokers from secondhand smoke but also ensure that members that may require close monitoring following the consumption of medical marijuana can be supervised as necessary by family members or others at their homes or an appropriate location. On-site consumption of marijuana would potentially allow greater community impacts from odor, noise and loitering. On site use could result in a use that more closely resembles a coffee shop—thereby affecting parking and onsite circulation. The objective of the proposed limitation is to minimize the impacts associated with a valuable community service. This provision would typically require posting of signage or other information to alert members about the limitations on use of their cooperative.

(2) The hours of operation shall be limited to no more than 7:00 AM to 7:00 PM, daily.

Considerations for proposed hours included operating needs from a business perspective, as well staffing levels of enforcement staff. The Commission may determine it prudent to recommend limited hours of use to ensure that neighboring residential uses are not adversely impacted by traffic, light, glare and other factors that typically are present for the use of non-residential property. Most jurisdictions that allow medical marijuana cooperatives have established operating hours. To eliminate debate regarding varying days and hours of use, the proposed ordinance establishes hours consistent with pharmacy or medical uses. The County would always have the right to further limit hours of use if issues arose.

(3) The cooperative shall prohibit loitering by persons within 50 feet of any entryway into or exit from the cooperative.

This provision is intended to avoid the appearance of intimidation or concealment of illegal activities by patients and caregivers remaining around the cooperative. This

provision will also reduce the potential for greater community impacts from odor, noise and loitering in the surrounding area.

(4) The cooperative shall provide litter removal services each day of operation on and in front of the premises and, if necessary, on public sidewalks within fifty feet of any entry into or exit from the cooperative.

This provision would ensure that the use of the facility did not create a visual problem due to a lack of proper waste handling and disposal and ensure that the cooperative implemented scheduled trash and litter removal practices.

(5) All employees of the cooperative shall be at least 18 years of age, except for immediate family members of the owner/operator of the cooperative.

(6) Signage shall be limited to one identifying sign stating the business name, address and hours of operation not to exceed 4 square feet in area; such signs shall not be directly illuminated and shall not contain graphics identifying marijuana. In addition to an identification sign, appropriate directional signage may be required.

The limited sign area reflects the need for limited identification and safety signs for medical marijuana cooperatives. The draft ordinance will regulate the size, illumination, location, and height for all exterior cooperative medical marijuana signs.

(7) No advertising for sale of medical marijuana shall be permitted.

The provision is intended to reflect the community's desire to limit commercial-oriented signage but leaves open other alternative channels for effectively communicating information regarding the medical marijuana use.

(8) The cooperative shall provide the Planning Director, the Sheriff and all adjoining property owners located within fifty feet of the building in which the cooperative is located with a current name, phone number, email address and facsimile number of an on-site community relations staff person to whom one can provide notice if there are concerns regarding operating problems associated with the establishment. The establishment shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the county.

The presence of a local on-site community relations staff person that can interact with adjacent property owners, law enforcement, qualified patients and care-givers will ensure that performance criteria, conditions or approval and safe business practices are observed by the cooperative.

The standard will also enhance law enforcement interaction with the cooperative. Legally, collectives and cooperatives can only receive medicinal marijuana from their registered members and provide it to other members. This arrangement can provide for

both controls regarding the quantity and quality of medicine but also ensures that medicine does not flow into the illegal drug market. Requiring medical marijuana distribution to cooperative or collective members only will prevent misuse of medicine and ensure that patients and caregivers establish a working relationship with providers.

(9) The cooperative shall post a copy of the conditions of approval for the permit on the premises in a place where it may be readily viewed by any member of the general public. All members shall be required to sign a "good neighbor" agreement agreeing to abide by the requirements of the Level 5 Approval and this Section and indicating that if a member is found in violation, their membership may be revoked.

Observance of conditions of approval by new and long-term members will promote a good neighbor policy.

(10) The cooperative shall meet any specific operating procedures and measures imposed as additional conditions of approval that are reasonably related to the health, safety or welfare of the community.

This is a standard condition that will ensure that qualified patients, caregivers and adjacent neighbors are not harmed or adversely affected by operation of the medical marijuana cooperative.

(11) Identification of product. Medical marijuana shall be labeled as grown indoors or outdoors and whether or not pesticides were used in its production.

This provision will allow easy identification of product.

### **Other Standards**

(14) All cooperatives shall operate in strict compliance with Health and Safety Code Section 11362.5, et seq., as amended, and any related state regulations. No cooperative shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by members towards the cooperative's actual expenses for the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in strict compliance with State Law. All such cash and in-kind amounts and items shall be fully documented. A cooperative shall not: (1) unreasonably deny membership in the cooperative to any otherwise eligible county resident, or (2) unreasonably deny access to a cooperative member's prescribed medication. The demonstrated financial inability of a cooperative member to pay for medical marijuana shall not, in and of itself, constitute a reasonable basis for denying membership in the cooperative, or denying or otherwise limiting the member's access to medical marijuana appropriate for the member's medical needs.

The proposed ordinance would establish cooperative sharing or distribution without assessing user costs. Per The State Attorney General's August 2008 "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use," it is stipulated that



collectives and cooperatives are to operate in a non-profit manner to ensure lawful operation.

(15) Release of the county from liability. The owner(s) and permittee( s) of each cooperative shall release the county, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of cooperative owners, operators, employees, or clients for violation of state or federal laws by executing a release of liability in a form satisfactory to the county planning director.

(16) County indemnification. The owner(s) and permittee(s) of each cooperative shall indemnify and hold harmless the county and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cooperative, and for any claims brought by any of their members for problems, injuries, damages or liabilities of any kind that may arise out of the distribution and any use of medical cannabis provided at the cooperative.

### **STAFF ANALYSIS**

In creating the draft ordinance, staff considered a number of factors related to medical marijuana and how the use might impact the community. In addition, staff researched ordinances from other communities in California and elsewhere.

The intent of the proposed ordinance is to make marijuana reasonably available for medical purposes in unincorporated county areas while minimizing the potentially negative impacts associated with the nature and value of the product.

### **CEQA Determination**

The attached proposed ordinance (Appendix A) 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 ordinance 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).

### **CONCLUSION and RECOMMENDATION**

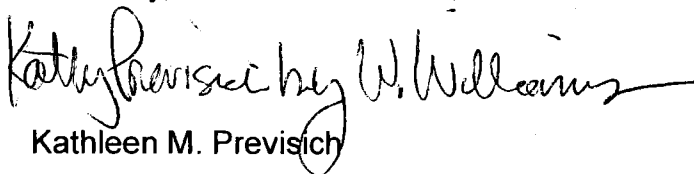
The County of Santa Cruz has a compelling interest in ensuring that marijuana is not distributed in an illicit manner, to protect the public health, safety and welfare of its

residents and businesses, and to preserve the peace and quiet of the neighborhoods in which medical marijuana dispensaries operate, and in providing compassionate access to medical marijuana to seriously ill residents.

Numerous concerns have been raised in the community regarding the need for regulations to address impacts including, but, not limited to, safety and the impact a proliferation and/or over concentration of medical marijuana dispensaries may have on the community as a whole; and many County residents seek access to medical marijuana, provided that the facilities are designed and located to minimize the concerns described above.

Therefore, the Planning Commission is asked to recommend to the Board of Supervisors amendments to the Santa Cruz County Zoning Ordinance addressing medical marijuana cooperatives. The attached draft ordinance is based on the direction of the Board of Supervisors during the November 10, 2010 meeting, with limited additions. The draft ordinance that would amend the Zoning Ordinance is attached to this staff report.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen M. Previsich", followed by a horizontal flourish.

Kathleen M. Previsich  
Planning Director

Exhibits:

- Exhibit A: Resolution approving the proposed ordinance amendments
- Exhibit B: CEQA Notice of Exemption
- Exhibit C: September 22, 2010 Letter from Supervisors
- Exhibit D: Private, Public School Location Map
- Attachment 1 to Exhibit A- Clean copy of proposed ordinance amendments

cc: County Counsel  
Coastal Commission

**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:

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**PLANNING COMMISSION RESOLUTION RECOMMENDING AMENDMENTS TO  
CHAPTER 13.10 OF THE SANTA CRUZ COUNTY CODE RELATING TO THE  
REGULATION OF MEDICAL MARIJUANA COOPERATIVES**

**WHEREAS**, in 1996 the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5, *et seq.* and entitled the Compassionate Use Act of 1996 ("the Act"); and

**WHEREAS**, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances; and

**WHEREAS**, on January 1, 2004, Senate Bill 420 became effective to clarify the scope of the Act and to allow cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the Act; and

**WHEREAS**, County staff has received inquiries from members of the public as to the possibility of establishing medical marijuana cooperatives in the unincorporated area of the County of Santa Cruz; and

**WHEREAS**, concerns have been raised in the community regarding the need for regulations to address impacts including, but not limited to, safety and the impact that a proliferation and/or over concentration of medical marijuana cooperatives may have on the community as a whole; and

**WHEREAS**, many County residents would likely seek access to medical marijuana provided that the facilities are designed and located to minimize the concerns described above; and

**WHEREAS**, on September 28, 2010, the County of Santa Cruz Board of Supervisors enacted an urgency ordinance imposing a temporary moratorium on the establishment of medical marijuana dispensaries and production houses in the unincorporated area of Santa Cruz County; and

**WHEREAS**, on November 9, 2010, the County of Santa Cruz Board of Supervisors extended the urgency moratorium for a period of 10 months and 15 days to prohibit the establishment of medical marijuana dispensaries and production houses in the

unincorporated area of Santa Cruz County and to consider in concept an ordinance amending Section 13.10.700-M and Section 13.10.332 (B) and adding Section 13.10.670 of the Santa Cruz County Code Relating to the Regulation of Medical Marijuana Cooperatives; 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

**WHEREAS**, consistent with these goals, in June of 2010 the Board of Supervisors directed Planning staff to work with County Counsel to develop land regulations to allow medical marijuana cooperatives, subject to administrative discretionary review to ensure that such cooperative uses do not negatively impact neighboring properties or the environment; and

**WHEREAS**, Planning Commission finds and determines that this ordinance is exempt from environmental review pursuant to, including but not limited to, State CEQA Guidelines Sections 15061(b)(3), 15060(b)(2), 15060(b)(3), 15308 and 15321 in that there is nothing in this ordinance or its implementation that could have a foreseeable significant effect on the environment, and actions proposed to be taken as authorized by local ordinance will assure protection of the environment) and enforcement of a law, general rule, standard or objective administered or adopted by the Count, and there is no possibility the activity in question may have a significant effect on the environment; and

**WHEREAS**, on January 26, 2011, the Planning Commission conducted a public hearing to consider the medical marijuana amendments to the Santa Cruz County Code; and

**WHEREAS**, the Planning Commission finds that the proposed amendments will be consistent with the policies of the General Plan and other provisions of the County Code, and will be consistent with State law; 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.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED**, that the Planning Commission recommends that the amendments 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 2011 by the following vote:

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

\_\_\_\_\_  
Chairperson of the Planning Commission

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
APPROVED AS TO FORM:

DISTRIBUTION:  
County Counsel  
Coastal Commission

**ORDINANCE No. \_\_\_\_\_**

**AN ORDINANCE AMENDING SECTION 13.10.700-M AND SECTION 13.10.332(B) AND  
ADDING SECTION 13.10.670 OF THE SANTA CRUZ  
COUNTY CODE RELATING TO THE REGULATION OF  
MEDICAL MARIJUANA COOPERATIVES**

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

**WHEREAS**, in 1996 the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5, *et seq.* and entitled the Compassionate Use Act of 1996 ("the Act"); and

**WHEREAS**, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances; and

**WHEREAS**, on January 1, 2004, Senate Bill 420 became effective to clarify the scope of the Act and to allow cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the Act; and

**WHEREAS**, in February 2009 the U.S. Attorney General stated that federal law enforcement officials would cease enforcement at California medical marijuana facilities; and

**WHEREAS**, County staff has received inquiries from members of the public as to the possibility of establishing medical marijuana cooperatives in the unincorporated area of the County of Santa Cruz; and

**WHEREAS**, County staff is aware that there are currently several medical marijuana distribution operations in the unincorporated area of the County of Santa Cruz operating without any land use permits; and

**WHEREAS**, concerns have been raised in the community regarding the need for regulations to address impacts including, but not limited to, safety and the impact that a proliferation and/or over concentration of medical marijuana cooperatives may have on the community as a whole; and

**WHEREAS**, many County residents would likely seek access to medical marijuana provided that the facilities are designed and located to minimize the concerns described above; and

**WHEREAS**, on September 28, 2010, the County of Santa Cruz enacted an urgency ordinance imposing a temporary moratorium on the establishment of medical marijuana dispensaries and production houses in the unincorporated area of Santa Cruz County; 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

**WHEREAS**, the Board of Supervisors finds and determines that this ordinance is exempt from environmental review pursuant to, including but not limited to, State CEQA Guidelines 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.

**NOW, THEREFORE BE IT ORDAINED** by the Board of Supervisors of the County of Santa Cruz as follows:

### **SECTION I**

Section 13.10.700-M of the Santa Cruz County Code is hereby amended to add the following definition after "Matrix Unit" to read as follows:

Medical Marijuana Cooperative. Any cooperative or collective of 10 or more persons where the primary purpose is to provide the lawful distribution of medical cannabis that has been recommended by a licensed physician, in strict accordance with Health and Safety Code Section 11362.5 *et seq.*

### **SECTION II**

The Commercial Uses Chart in Section 13.10.332 (b) of the Santa Cruz County Code is hereby amended by adding the category "Medical Marijuana Cooperatives, subject to the provisions of Section 13.10.670" below the category "Cottage Industry" to read as follows:

USE	PA	VA	CT	C-1	C-2	C-4
Medical Marijuana Cooperatives, subject to the provisions of Section 13.10.670	-	-	-	5	5	5

### **SECTION III**

The Santa Cruz County Code is hereby amended by adding Section 13.10.670 entitled "Medical Marijuana Cooperatives" to read as follows:

13.10.670 Medical Marijuana Cooperatives.

(a) Purpose. Standards are required to assure that the operations of a medical marijuana cooperative is in compliance with California Health and Safety Code Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") or any State regulations and/or guidelines adopted in furtherance thereof, and to mitigate the adverse secondary effects from operations of cooperatives. This Ordinance is enacted as a health and safety measure pursuant to the county's police power. Nothing contained herein shall excuse, facilitate or promote a violation of federal law.

(b) Level 5 Approval Required. It shall be unlawful to establish, cause, or permit the operation of a medical marijuana cooperative without first obtaining a development permit required by this section. A medical marijuana cooperative shall meet the siting criteria and performance standards described below if authorized pursuant to the procedures for a Level 5 Approval. The Planning Department shall provide notice of the application to the Department of Health Services, Sheriff's Department and other relevant county departments.

(c) Siting Criteria. Applicants for a medical marijuana cooperative must meet the following siting criteria prior to consideration of a permit application:

(1) The proposed location shall lie within a C-1 (Neighborhood Commercial), C-2 (Community Commercial) or C-4 (Commercial Services) zone district.

(2) If the proposed location is located within 300 feet of any residentially zoned area, the applicant shall be required to demonstrate to the decision-maker that the use would not create an intensity of use that is incompatible with the nearby residential use and that the applicant would employ security measures that would insure that the use would not adversely affect the security and safety of the neighboring residential uses.

(3) The proposed location shall not be located within six hundred feet of (A) any other medical marijuana cooperative, or (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.

(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.

(d) Performance Standards. Medical marijuana cooperatives, once permitted, shall meet the following operating procedures and performance standards for the duration of the use:

(1) No product shall be smoked, ingested or otherwise consumed within the cooperative or within 50 feet of the building in which the cooperative is located.

(2) The hours of operation shall be limited to no more than 7:00 AM to 7:00 PM, daily.

(3) Parking shall be provided according to the standard for a retail pharmacy. Exterior lighting of the parking area shall be kept at a sufficient intensity so as to provide adequate lighting for patrons, while not disturbing surrounding residential or commercial areas.

(4) The cooperative shall prohibit loitering by persons within 50 feet of any entryway into or exit from the cooperative.

(5) The cooperative shall provide litter removal services each day of operation on and in front of the premises and, if necessary, on public sidewalks within fifty feet of any entry into or exit from the cooperative.



- (6) The cooperative shall provide adequate security on the premises, including lighting, alarms and dedicated security personnel, to insure the safety of persons and to protect the premises from theft.
- (7) All employees of the cooperative shall be at least 18 years of age, except for immediate family members of the owner/operator of the cooperative.
- (8) Signage shall be limited to one identifying sign stating the business name, address and hours of operation not to exceed 4 square feet in area; such signs shall not be directly illuminated and shall not contain graphics identifying marijuana. In addition to an identification sign, appropriate directional signage may be required.
- (9) No advertising for sale of medical marijuana shall be permitted. An entry in the telephone directory with the name, location and phone number of the cooperative is allowed. Each cooperative is allowed a website with the name, location and phone number of the cooperative. Such websites must include the cooperative's bylaws, membership criteria, employee compensation schedules and operating procedures but may not include a sales price for any marijuana product that is dispensed by the cooperative.
- (10) The cooperative shall provide the Planning Director, the Sheriff and all adjoining property owners located within fifty feet of the building in which the cooperative is located with a current name, phone number, email address and facsimile number of an on-site community relations staff person to whom one can provide notice if there are concerns regarding operating problems associated with the establishment. The establishment shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the county.
- (11) The cooperative shall post a copy of the conditions of approval for the permit on the premises in a place where it may be readily viewed by any member of the general public. All members shall be required to sign a "good neighbor" agreement restating and agreeing to abide by the requirements of the Level 5 Approval and this Section and indicating that if a member is found in violation, their membership may be revoked.
- (12) The cooperative shall meet any specific operating procedures and measures imposed as additional conditions of approval that are reasonably related to the health, safety or welfare of the community.
- (13) Identification of product. Medical marijuana shall be labeled as grown indoors or outdoors and whether or not pesticides were used in its production. The marijuana used in the products dispensed by the cooperative shall be grown locally only.
- (14) All cooperatives shall operate in strict compliance with Health and Safety Code Section 11362.5, *et seq.*, as amended, and any related state regulations. No cooperative shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by members towards the cooperative's actual expenses for the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in

strict compliance with State Law. All such cash and in-kind amounts and items shall be fully documented. A cooperative shall not: (1) unreasonably deny membership in the cooperative to any county resident, or (2) unreasonably deny access to a cooperative member's prescribed medication. The demonstrated financial inability of a cooperative member to pay for medical marijuana shall not, in and of itself, constitute a reasonable basis for denying membership in the cooperative, or denying or otherwise limiting the member's access to medical marijuana appropriate for the member's medical needs. The County may audit the membership and financial records of the cooperative at any time.

(15) Release of the county from liability. The owner(s) and permittee(s) of each cooperative shall release the county, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of cooperative owners, operators, employees, or clients for violation of state or federal laws by executing a release of liability in a form satisfactory to the county planning director.

(16) County indemnification. The owner(s) and permittee(s) of each cooperative shall indemnify and hold harmless the county and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cooperative, and for any claims brought by any of their members for problems, injuries, damages or liabilities of any kind that may arise out of the distribution and any use of medical cannabis provided at the cooperative.

(e) Findings. In approving a Level 5 Approval, it shall be determined by the hearing body that all of the following apply:

(1) The proposed use complies with all of the mandatory requirements of this section and other applicable sections of this code and applicable policies of the General Plan;

(2) The proposed use will not adversely affect the health, safety or welfare of area residents or businesses, or uses; and will not result in an undue concentration in any one neighborhood;

(3) The operational characteristics of the proposed use, such as hours of operation, noise, odor, amount and location of parking, signage, safety, loitering and litter, will not have a negative impact upon the surrounding area;

(4) The proposed use is compatible with the sizes and types of other neighboring uses in the surrounding area;

(5) The proposed use is not located in what has been determined by the Santa Cruz County Sheriff's Department to be an area where a disproportionate number of law enforcement service calls occur; and

(6) The proposed use, as a nonresidential occupancy, shall meet all building code requirements for such occupancy and, if proposing to locate in a legal dwelling unit, shall comply with all local standards, requirements and provisions for converting dwelling units to nonresidential use; and

(7) The bylaws, membership criteria, employee compensation schedules and operating procedures are all consistent with a bona fide medical marijuana cooperative.

(f) Basis for denial. The decision-maker may deny any application which is inconsistent with the above-noted findings.

(g) Previously existing medical marijuana cooperative. Notwithstanding any other provisions of this Code, a cooperative in operation on September 28, 2010, that is located outside of a C-1 (Neighborhood Commercial), C-2 (Community Commercial, or C-4 (Commercial Services) zone district shall be exempt from the requirements of this chapter for the period of time allowed by subsection (3) if the cooperative also meets the requirements of subsections (1) and (2):

(1) The cooperative is not located within a residential zone district or an area shown as residential on a local general plan.

(2) The cooperative is not in violation of the siting criteria established by subsection (2) or (3) of subdivision (c) of section 13.10.670.

(3) The exemption period for a cooperative is set forth below:

<u>Number of years in Operation</u>	<u>Length of Exemption</u>
10 or more years	7 years
5 to 9 years	5 years
0 to 5 years	1 year

(4) Each cooperative seeking an exemption pursuant to this subdivision shall apply for and obtain a written determination from the planning director as to its eligibility for and the duration of an exemption. To be eligible for an exemption, an application shall be filed with the director within ninety (90) days after the effective date of this chapter. The director may require all information necessary to make a determination.

(h) Liability. The provisions of this Section shall not be construed to protect cooperative owners, permittee's, operators, and employees, or their members from prosecution pursuant to any laws that may prohibit the cultivation, sale, use, or possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of marijuana remain violations of federal law as of the date of adoption of the ordinance creating this section and this section is not intended to, nor does it, protect any of the above described persons from arrest or prosecution under those federal laws. Owners and permittee's must assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from operation of a medical marijuana cooperative. Further, to the fullest extent permitted by law, any actions taken under the provisions of this section by any public officer or employee of the County or the County itself, shall not become a personal liability of such person or the liability of the County. A warning and disclaimer shall be put on medical marijuana zoning application forms and shall include the following: a warning that cooperative operators and their employees may be subject to prosecution under federal marijuana laws; and a disclaimer that the county will not accept any legal liability in connection with any approval and/or subsequent operation of a cooperative.

(i) Private enforcement. Any interested person may file a civil action to enforce the membership and access requirements of subsection (d)(14). In cases where a cooperative is found by a court of law to have acted unreasonably in denying membership in a cooperative, or in denying access to a person's medicine as a result of that person's inability to pay, the cooperative shall be liable for reasonable attorney fees. The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

#### **SECTION IV**

This Ordinance shall take effect on the 31<sup>st</sup> day after the date of final passage outside the Coastal Zone and upon certification by the California Coastal Commission within the Coastal Zone.

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

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

## 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 C-1 (Neighborhood Commercial), C-2 and C-4 zone districts that are located more than 600 feet from a public or private school.

**Project Location:** Santa Cruz County

**Project Description:** The proposed ordinance would establish standards to regulate the lawful distribution of medical marijuana by cooperatives and collectives in unincorporated areas of Santa Cruz County in the C-1 (Neighborhood Commercial,) C-2 (Community Commercial) and C-4 (Commercial Services) zones, when located more than 600 feet from a public or private school. The proposed project ordinance would amend Section 13.10.700-M of the Santa Cruz County Code to add a medical marijuana cooperative definition, amend Section 13.10.332 (b) to add the category "Medical Marijuana Cooperatives, subject to the provisions of a new Code Section 13.10.670 entitled "Medical Marijuana Cooperatives."

The purpose of the proposed ordinance is to assure that medical marijuana cooperatives operate in compliance with California Health and Safety Code Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") or any State regulations and/or guidelines adopted in furtherance thereof, and to mitigate the adverse secondary effects from operations of cooperatives.

The proposed medical marijuana cooperative ordinance would 1) apply countywide; 2) require a Level 5 approval permit for new non-profit cooperatives, 3) provide a limited exemption for existing non-profit medical marijuana cooperatives, 4) operate in strict compliance with Health and Safety Code Section 11362.5, *et seq.*, as amended, and any applicable state or county regulations.

**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).

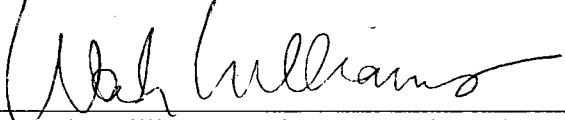
Specify type:

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

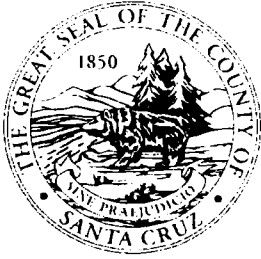
F. **Reasons why the project is exempt:**

The attached proposed ordinance 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 ordinance 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: December 21, 010



# County of Santa Cruz

## BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069  
(831) 454-2200 FAX: (831) 454-3262 TDD: (831) 454-2123

**JOHN LEOPOLD**  
FIRST DISTRICT

**ELLEN PIRIE**  
SECOND DISTRICT

**NEAL COONERTY**  
THIRD DISTRICT

**TONY CAMPOS**  
FOURTH DISTRICT

**MARK W. STONE**  
FIFTH DISTRICT

AGENDA: 9/28/10

September 22, 2010

BOARD OF SUPERVISORS  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

RE: ACCESS TO ALTERNATIVE MEDICINE(S)

Dear Members of the Board:

In 1996, the voters of Santa Cruz County passed Proposition 215, the California Compassionate Use Act, by a 74% margin. This overwhelming support demonstrated the resolve of our community to ensure access to alternative medicine(s) that provide relief to those suffering from illness. Santa Cruz County residents knew the stories of patients living with cancer, AIDS, chronic pain and multiple sclerosis, and the benefits they experienced using medical marijuana.

Since that time there has been an evolving set of regulations to fulfill the voters' wishes. In 2003, the Legislature passed and the Governor signed Senate Bill 420 (Senator Vasconcellos) that clarified rules for dispensaries and gave discretionary powers to local government to set guidelines for the establishment of dispensaries. Later, in 2008, the State Attorney General also came out with a set of guidelines concerning distribution and medical marijuana dispensaries. Thirteen other states and the District of Columbia have passed compassionate use regulations. The election of President Barak Obama led to a new direction in federal drug policies. A memo from Attorney General Eric Holder specifically articulated that U.S. Justice Department law enforcement agencies will not pursue cases involving dispensaries operating within local laws.

BOARD OF SUPERVISORS  
 September 22, 2010  
 Page 2

As these new rules and policy directions were implemented, medical marijuana dispensaries began to be more widely established throughout California and across the country. The responses from local governments have varied, but jurisdictions have increasingly recognized the need to establish clear guidelines for this new element in the health care system.

Since the passage of Proposition 215, regular biennial surveys have been conducted by the California Attorney General's office of youth in grades 7, 9 and 11. These surveys have demonstrated that there has been no increase in usage among youth since voters approved Proposition 215, and in fact in many years the usage of marijuana among youth has gone down.

While patient collectives such as the Wo/Men's Alliance for Medical Marijuana (WAMM) have existed in our community since before the passage of Prop. 215, only the City of Santa Cruz has established rules in our county regulating medical marijuana dispensaries. Over the last year, medical marijuana dispensaries have opened throughout the unincorporated areas. It is time to develop a set of reasonable regulations that modify our planning rules to cover these dispensaries in commercial areas of our county. Development of an ordinance will establish clear rules for our Sheriff's Office to enforce, provide planning guidance for this new business segment, and ensure that patients of all income levels have access to prescribed medicine.

#### **Scope of Ordinances in California**

There are 37 cities and eight counties that have some type of regulations in place for medical marijuana dispensaries in California. Additional cities and counties have features of their ordinances on this November's ballot.

**Cities:** Albany, Angels Camp, Berkeley, Cotati, Citrus Heights, Diamond Bar, Dunsmuir, Eureka, Fort Bragg, Jackson, La Puente, Laguna Woods, Long Beach, Los Angeles, Malibu, Martinez, Oakland, Palm Springs, Placerville, Plymouth, Richmond, Ripon, Redding, Sebastopol, San Francisco, San Jose, San Mateo, Santa Barbara, Santa Cruz, Santa Rosa, Selma, South El Monte, Sutter Creek, Tulare, Visalia, West Hollywood, and Whittier

**Counties:** Alameda, Calaveras, Kern, Los Angeles, San Luis Obispo, San Mateo, Santa Clara, and Sonoma.

To see copies of the ordinances for these jurisdictions, please visit: <http://www.safeaccessnow.org/article.php?id=3165>.



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### Zoning Regulations

When medical marijuana dispensaries are permitted, they commonly include the following components:

- Identification of zoning districts where dispensaries are allowed
- Conditions for cultivation of cannabis
- Approval process and public notification
- Permit, signage, business licensing, and tax collection considerations

### Regulatory Methods

The attached table shows the range of regulatory methods used by communities in California. However, the following is a brief summary of some of the regulations in effect.

#### **Cities**

City of Santa Cruz - Allows up to two dispensaries within the city limits. The dispensaries must be at least 600 feet apart; they can only be established within commercial zones and no less than 600 feet from a residentially zoned area. The city's ordinance also includes reporting requirements to assure that dispensaries are non-profit operations. Dispensaries are allowed up to 2,000 square feet for cultivation.

Eureka - Allows up to eight dispensaries within city limits. Dispensaries are allowed in commercial districts. Personal cultivation is limited to 50 square feet, must not be seen from the public right of way, and results in no change from residential use. Each dispensary is limited to two growers. Permission to open a dispensary is determined by a procedure identified by the city.

Santa Rosa - Some limits on number of dispensaries. Not allowed within 500 feet of a youth-serving facility or residential zone. Restrictions on management of dispensary based on criminal record. Dispensary limited to 500 patients. Annual permit required.

#### **Counties**

San Mateo - No limit on number of dispensaries. No advertising of marijuana is allowed. Signage is limited to site addressing only and security requirements are detailed. No edible products are allowed. Must be located 1,000 feet from a school, recreation center, or youth center.

## BOARD OF SUPERVISORS

September 22, 2010

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San Luis Obispo - No limit on number of dispensaries. Must be located 1,000 feet from schools, libraries, parks, and recreation centers. Security requirements detailed. No cultivation allowed at the dispensary. Hours limited from 11:00 a.m. until 6:00 p.m.

Sonoma - No limit on number of dispensaries. Must be located at least 1,000 feet from youth-serving facilities, shops that sell drug paraphernalia, and other dispensaries. Two levels of permit: Level 1 for small dispensary serving no more than 20 patients; Level 2 for larger dispensary serving up to 299 patients. Limits on parking, signage, and hours of use. All employees must be certified as medical marijuana patients. Annual permit process.

Santa Clara - No limits on number of dispensaries. Must be located at least 1,000 feet from youth-serving facilities or another dispensary. No retail sales of any products are permitted at the dispensary. Delivery services are not permitted.

**Proposed Features of a Medical Marijuana Ordinance**

Our community has spoken clearly in support of compassionate use of medical marijuana. Therefore, we believe it is time to move forward with a set of reasonable guidelines that balance the ongoing goals of our Board to create access to medical marijuana for qualified patients with the need for clear regulations that can be enforced by our Sheriff's Office. Our county's responsibility should not interfere with the patient/doctor relationship, but should focus on good planning principles that support access for medical marijuana patients.

We do not support an arbitrary limit on the number of dispensaries. A limit creates a monopoly which may not be in the best interests of the public and may drive up prices.

The following regulation components should be included in an ordinance governing the unincorporated area:

- Geographic Boundaries: Dispensaries should be allowed in every commercial district. They should not be closer than 600 feet together and at least 600 feet from any K-12 public or private school. Specific findings about impacts should be required if a dispensary seeks to open within 300 feet of a residentially zoned area.
- Permit and Licensing: A use permit or enforcement fee should be required on an annual basis. An annual review of the permit by an appropriate body with clear revocation procedures should be included in the ordinance.

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September 22, 2010  
Page 5

- Signage: Limited signage should be allowed with name and address and hours of operation.
- Advertising: No advertising for sale of medicine should be allowed.
- Patient Anonymity: Dispensaries should be required to use a method of identifying qualified patients that preserves a patient's anonymity.
- Security: Professional security should be provided to ensure that patients are safe and that the surrounding area is not negatively impacted. All employees should be at least 21 years of age. No one should be allowed to ingest medicine on the premises.
- Good Neighbor Agreement: Dispensaries should be required to have all members sign a "good neighbor" agreement before purchasing medicine. This agreement should include rules such as: no smoking or ingesting of medicine outside the premises and no loitering, excessive noise or purchasing medicine for non-members. If a member is found in violation of these rules, their membership may be revoked.
- Access for low-income patients: We should develop a method to ensure that low-income patients have access to medicine that has been prescribed by their doctor. This could include a licensing fee that would provide resources for a community-based organization to purchase medicine to meet the needs of low-income patients.
- Identification of medicine: Medicine should be labeled as grown indoors versus outdoors and in which county the medicine is grown. We should require that a patient's name be included on each dosage or bag of medicine.
- Safety of medicine: To ensure that medical marijuana is unadulterated, the dispensary should use an independent laboratory to analyze a representative sample of dried medical marijuana and a representative sample of edible marijuana for pesticides and any other regulated contaminants.
- Growing/Cultivation: Personal cultivation for cardholders and caregivers should be limited to 100 square feet unless a patient's medical recommendation allows for more, pursuant to State law. Enforcement provisions should be developed.

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 September 22, 2010  
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- Taxes: Dispensary owners should be required to pay all applicable taxes on sales.

**Recommendations**

To honor the wishes of voters of Santa Cruz County and to address the proliferation of medical marijuana dispensaries in the county, we recommend that the Board take the following actions:

1. Direct Planning, in conjunction with the Information Services Department, to provide a map of where dispensaries could be located given the recommended restrictions outlined above.
2. Direct County Counsel and Planning to draft an ordinance that includes regulation as described above in the following areas:
  - Geographic Boundaries
  - Permit and Licensing
  - Signage
  - Advertising
  - Patient Anonymity
  - Security
  - Good Neighbor Agreement
  - Access for Low-Income Patients
  - Identification of Medicine
  - Safety of Medicine
  - Growing/Cultivation
  - Taxes
3. Approve the attached interim ordinance, on an urgency basis, imposing a temporary moratorium on the establishment of medical marijuana dispensaries and production houses in the unincorporated area of Santa Cruz County until November 10, 2010.
4. Direct staff to return to our Board with a recommended ordinance regulating medical marijuana dispensaries on or before November 9, 2010.

Sincerely,



JOHN LEOPOLD, Supervisor  
 First District



NEAL COONERTY, Supervisor  
 Third District

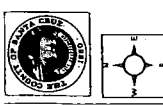
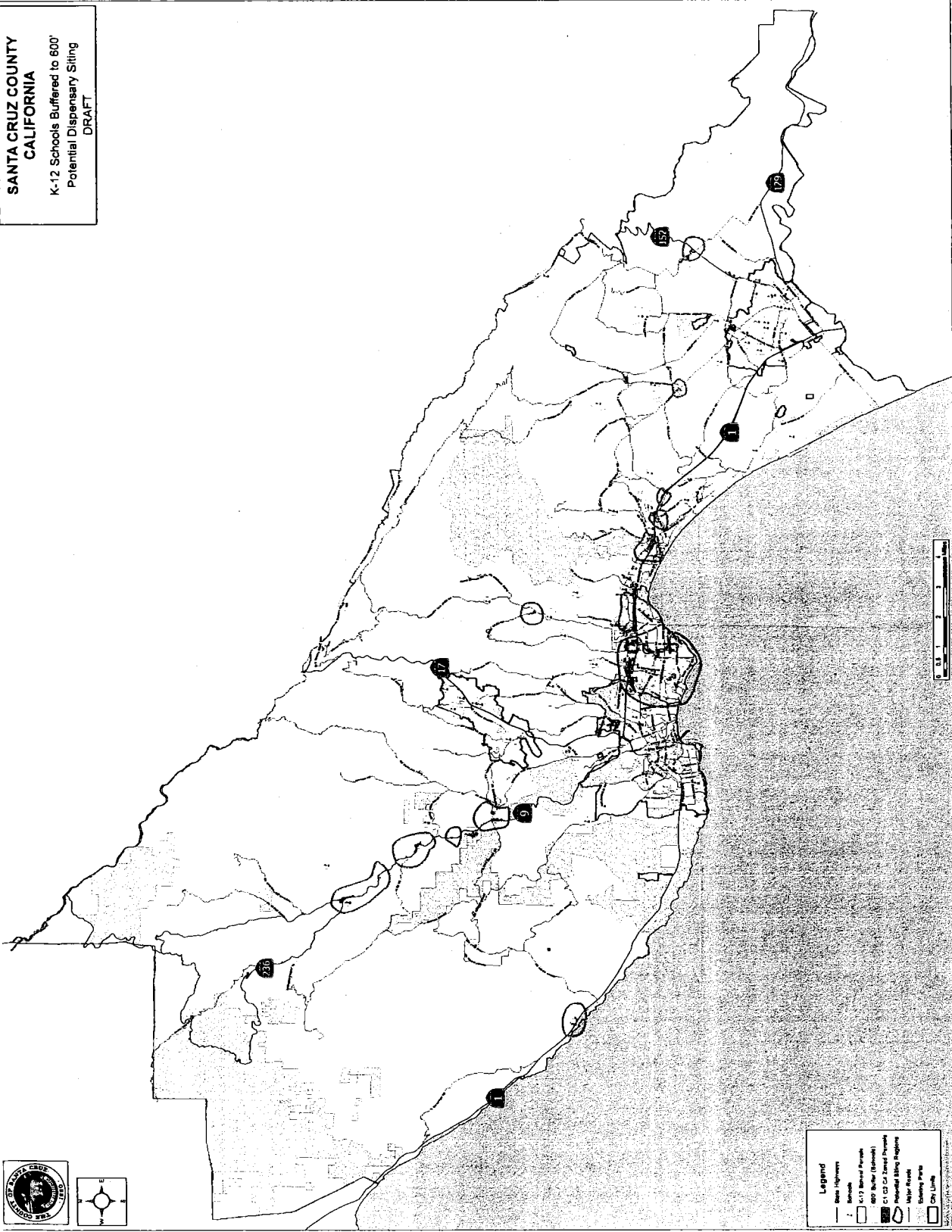
JL/NC:ted  
 Attachments

cc: Planning; County Counsel; Information Services; Sheriff

44

2356M1

**SANTA CRUZ COUNTY  
CALIFORNIA**  
K-12 Schools Buffered to 800'  
Potential Dispensary Siting  
DRAFT



**Legend**

- Main Highways
- State Routes
- 800' Buffer (Shaded)
- 800' Buffer (Dashed)
- City Limits
- Major Roads
- State Routes
- City Limits