

Chapter 7.124 MEDICAL CANNABIS

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7.124.010 Purpose.

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

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

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

7.124.020 Definitions.

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

- (A) "Building" means any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels, or property of any kind.
- (B) "Enforcing officer" means the Planning Director or any other peace officer, public official or employee duly authorized to enforce against violations of the County Code.
- (C) "Location" or "parcel" means that unit of land assigned a unique assessor's parcel number by the County Assessor, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.
- (D) "Manager" means any person to whom a medical cannabis business has delegated discretionary powers to organize, direct, carry on or control its operations. Authority to control one or more of the following functions shall be prima facie evidence that such a person is a manager of the business: (1) to hire, select, direct, schedule or assign employees or staff, including volunteers; (2) to acquire facilities, furniture, equipment or supplies other than the occasional replenishment of stock; (3) to disburse funds of the business other than for the receipt of regularly replaced items of stock; or (4) to make, or participate in making, policy decisions relative to operations of the business.
- (E) "Cannabis" shall be construed as the term "marijuana" is defined in California Health and Safety Code Section [11018](#) and further shall specifically include any product that contains cannabis or a derivative of cannabis.

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

(G) "Medical cannabisbusiness" means either of the following:

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

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

(3) Notwithstanding subsections (G)(1) and (2) of this section, "medical cannabisbusiness" shall not include any of the following:

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

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

(c) The location of any clinic licensed pursuant to Chapter 1 (commencing with Section 1200), a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725), all of Division 2 of the California Health and Safety Code where: (i) a qualified patient or person with an identification card receives medical care or supportive services, or both, from the clinic, facility, hospice, or home health agency, and (ii) the owner or operator, or one of not more than three employees designated by the owner or operator, of the clinic, facility, hospice, or home health agency has been designated as a primary caregiver pursuant to California Health and Safety Code Section [11362.7\(d\)](#) by that qualified patient or person with an identification card; or

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

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

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

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

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

7.124.030 Prohibited business activities.

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

(B) The prohibition in subsection (A) of this section includes renting, leasing, or otherwise permitting a medical cannabis business to occupy or use a location, vehicle, or other mode of transportation. [Ord. 5192 § 2, 2014].

7.124.040 Limited immunity for medical cannabis business.

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

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

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

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

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

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

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

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

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

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

(I) Every medical cannabis business is prohibited where one or more members of its ownership interest have failed an annual LiveScan background check. The LiveScan background check shall be completed by January 31st of each year. The results of

each LiveScan check conducted shall be maintained in the offices of the business for a period of at least three years, and made available for review upon the request of any enforcing officer.

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

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

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

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

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

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

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

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

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

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

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

(P) Every medical cannabis business is prohibited that is located within: (1) 600 feet from a school; or (2) 600 feet from another medical cannabis business. The distance specified in this subsection shall be the horizontal distance measured in a straight line from the property line of the school or other medical cannabis business, to the closest property line of the lot on which the medical cannabis business is located without regard to intervening structures. In the event that two or more medical cannabis businesses are located within 600 feet of one another, only the medical cannabis business with the earliest issuance date on a State Board of Equalization seller's permit for its operation at the location may assert the limited immunity

provided by this chapter. The distance requirements set forth in this subsection shall not apply to: (1) those licensed health care and other facilities identified in California Health and Safety Code Section [11362.7\(d\)\(1\)](#); or (2) a medical cannabis business that is in violation of the distance requirement of this subsection as a result of the establishment of a conflicting use (a school or other medical cannabis business) after the date on which the State Board of Equalization issued a seller's permit to the medical cannabis business for its location;

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

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

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

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

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

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

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

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

7.124.050 No vested or nonconforming rights.

(A) This chapter prohibits medical cannabis businesses. Neither this chapter, nor any other provision of this code or action, failure to act, statement, representation, certificate, approval, or permit issued by the County or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any medical cannabis business. Any immunity or benefit conferred by this chapter shall expire permanently and in full upon repeal of this chapter.

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

7.124.060 Advertising for cultivation sites.

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

7.124.070 Medical cannabis identification card.

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

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

(C) Possession and Cultivation. A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of cannabis up to three pounds of dried cannabisbud or conversion per year. A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may cultivate cannabis in an amount not to exceed more than 100 square feet of total garden canopy, as measured by the combined vegetative growth area.

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

7.124.080 Limited severability.

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

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

7.124.100 Enforcement.

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

(B) Whenever the enforcing officer determines that a public nuisance as defined in this chapter exists at any location within the unincorporated area of Santa Cruz County, he or she is authorized to issue a notice of violation pursuant to SCCC [1.12.070](#),

except that the requirements for notice of the opportunity to correct or remedy the violation without civil penalties under SCCC [1.12.070](#)(D)(2)(a) shall be seven calendar days.

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

7.124.110 No duty to enforce.

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