



COUNTY OF SANTA CRUZ

FISH AND WILDLIFE ADVISORY COMMISSION

701 OCEAN STREET, ROOM 312, SANTA CRUZ, CA 95060
(831) 454-3154 FAX: (831) 454-3128

AGENDA

March 2, 2017

7:00 PM

Fifth Floor Conference Room, Room 510

1. CALL TO ORDER
2. ROLL CALL
3. PUBLIC COMMENTS
4. APPROVAL OF MINUTES
5. PRESENTATIONS:
 - A. Jeff Gaffey, Open Space District Proposal (20 minutes)
6. PRESENTATIONS AND ANNOUNCEMENTS BY COMMISSIONERS (15 minutes)
7. BUSINESS MATTERS
 - A. Discuss Cannabis Ordinance Environmental Impact Report Scope (20 minutes)
 - B. Discuss possible federal actions that impact the environment, including proposed bill to eliminate the EPA and discuss making recommendation to Board of Supervisors (20 minutes)
 - C. Discuss topics for FWAC-Environment-Water Advisory Commissions coordination (10 minutes)
 - D. Discuss Storm Season 2017, storm damage and restoration projects (20 minutes)
 - E. Steelhead and Coho Salmon Update (10 minutes)
8. STAFF REPORTS/ANNOUNCEMENTS
9. CORRESPONDENCE
 - A. Fish and Game Commission Notices
 - A. Notice of Proposed Emergency Action notification
 - B. Notice of availability re: Spiny Lobster Fishery Management Plan
 - C. Notice re: use of dogs to pursuit/take mammals
 - D. Notice re: listing of Livermore tarplant as endangered
 - E. Notice or regulation about deer tagging and reporting
 - F. Notice of Findings for coast yellow leptosiphone as endangered
 - G. Notice of proposed regulatory actions re: Pacific halibut fishing
 - H. Notice of proposed regulatory action re: ocean salmon sport fishing
 - I. Notice re: Lower Klamath sport fishing
 - J. Notice or proposed regulatory action for ocean sport fishing
 - K. Notice re: Central Valley salmon sport fishing
 - L. Notice of Receipt of Petition to list foothill yellow-legged frog as threatened
 - M. Notice of Proposed Emergency Action re: Tricolored Blackbird
10. ADJOURNMENT

The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Planning Department Conference Room is located in an accessible facility. If you are a person with a disability and require special assistance in order to participate in the meeting, please contact Kristen Kittleson at (831)454-3154 or TDD number (454-2123) at least 72 hours in advance of the meeting in order to make arrangements. Persons with disabilities may request a copy of the agenda in an alternative format. As a courtesy to those affected, please attend the meeting smoke and scent free.



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Fish and Game Advisory Commission

MINUTES

Santa Cruz County Governmental Center
Fifth Floor
Santa Cruz, California

December 1, 2016

1. CALL TO ORDER. The meeting was called to order at 7:00 PM
2. ROLL CALL.

Present: Commissioners Berry, Robin, Johnson, Baron, Frediani, Shikuma,
Freeman
Excused: Noyes
Absent: Maridon, Grant

3. PUBLIC COMMENTS. Becky Steinburner is concerned that the removal of the diesel tank in Aptos Village did not remove all contaminated soil. She also expressed concern that the new Soquel Creek Water District Well could impact flows in Valencia, Trout Gulch and Aptos creeks. (Staff responded to comments in an email).
4. APPROVAL OF MINUTES. Commissioner Freeman made a motion to approve the November 3, 2016 minutes; Commissioner Shikuma seconded the motion. All aye, the motion passed.
5. PRESENTATIONS:
 - A. Dr. Rikki Dunsmore, California Marine Sanctuary Foundation, gave a presentation that covered the development of California's Marine Protected Areas and the foundation's outreach and education efforts.
6. BUSINESS MATTERS
 - A. Discuss and make recommendations for Public Grants Program. The commission received 10 grant proposals that requested \$22,968.50. The commission has \$11,000 allocated but can request an allocation of an additional \$4,000. Grant recommendations will clarify which are recommended for these amounts. After some discussion, Commissioner Robin made a motion to give each group \$1,000 and then decide how to allocate the remaining \$5,000; Commissioner Frediani seconded the motion. Ayes 5; Nays 2; the motion passed. After additional discussion about process and partial funding, Commissioner Baron made a motion to stick with the agreed upon process for ranking the proposals and then deciding on full or partial funding. This motion would supercede the previous motion. Commissioner Shikuma seconded the motion. Ayes: 5 Nays: 2; the motion passed. All commissioners submitted

their ranking for the proposals, which were added for a final ranking. The commission went down the ranked list and made full or partial funding recommendations. Commissioner Freeman made a motion to recommend the following proposals for funding as noted; Commissioner Johnson seconded the motion. All aye, the motion passed. The following groups will be recommended for funding:

1. Transportation for Santa Cruz Stewards/O'Neill Sea Odyssey - \$1,000
2. Calif Dept of Fish and Wildlife CalTIP Program/CalTIP - \$1,000
3. Exploring San Lorenzo River Series/Santa Cruz Museum of Natural History and Coastal Watershed Council - \$2,000
4. Wildlife Food and Supplies/Native Animal Rescue - \$,2000
5. Snowy Plover Signage and Coastal Dune Enhancement at Seabright State Beach - \$1,000
6. Raising Awareness of Santa Cruz Counties' Ocean Conservation Efforts – California Marine Sanctuary Foundation - \$1,000
7. Watershed Conservation Hallway Display - County of Santa Cruz Water Resources Division
8. Invasive Weed Management through the Santa Cruz Weed Management Area - Resource Conservation District of Santa Cruz County - \$3,000
9. Winter Preparedness Workshop for the South Santa Cruz County - Resource Conservation District of Santa Cruz County - \$2,000

B. Discuss FWAC Report to the Board. Commissioners reviewed the report. Staff will correct a few minor errors and submit.

C. 2017 Meeting Schedule. Commissioners now have a 2017 schedule.

D. Coho Recovery Update. NOAA Fisheries, California Dept of Fish and Wildlife and the City toured a few potential locations for a new coho salmon hatchery in the San Lorenzo Watershed.

7. STAFF REPORTS/ANNOUNCEMENTS.

A. There was not enough time for the County of Santa Cruz Fish Passage Update presentation. Staff will reschedule it.

B. A brochure about Corcoran Lagoon has been completed. The brochure is intended to discourage illegal breaching of the lagoon and provide information and contacts for neighborhood residents.

8. CORRESPONDENCE

9. ADJOURNMENT – 9:00 PM.

NOTE: The next meeting is scheduled for March 2, 2017.

Submitted by K. Kittleson; Water Resources/Fish and Wildlife/2017 FWAC Meetings

ORDINANCE NO. __

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

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

SECTION I

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

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

SECTION II

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

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

SECTION III

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

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

SECTION IV

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

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

SECTION V

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

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

SECTION VI

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

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

SECTION VII

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

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

SECTION VIII

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

PASSED AND ADOPTED this ____ day of _____, 2017, by the Board of Supervisors of the County of Santa Cruz by the following vote:

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

Attest: _____
Clerk of the Board

Chairperson of the
Board of Supervisors

Approved as to form:

Assistant County Counsel



County of Santa Cruz

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR
www.sccoplanning.com

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT

Date: February 9 2017

To: Interested Parties
All Recipients on the Distribution List

Lead Agency: County of Santa Cruz Planning Department

Contact: Matt Johnston
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Subject: Notice of Preparation of Draft Environmental Impact Report

Project Title: Commercial Cannabis Regulations and Licensing Program for Cultivation and Manufacturing

NOTICE IS HEREBY GIVEN THAT the County of Santa Cruz (County), as Lead Agency under the California Environmental Quality Act (CEQA), has prepared a Notice of Preparation (NOP) for a Draft Environmental Impact Report (EIR) for the proposed *Commercial Cannabis Regulations and Licensing Program for Cultivation and Manufacturing* (Project). The NOP includes a project background, description, attachments, and an overview of the potential impacts that will be addressed in the EIR. This NOP was prepared in accordance with Section 15082 of the CEQA Guidelines.

THE PURPOSE OF THIS NOTICE IS: (1) to serve as the NOP to provide interested parties, including members the public, potential Responsible Agencies, agencies involved in funding or approving the Project, and Trustee Agencies responsible for natural resources affected by the Project, with sufficient information to provide meaningful responses as to the scope and content of the EIR, pursuant to Section 15082 of the CEQA Guidelines; and (2) to advise and solicit comments and suggestions regarding the preparation of the EIR, environmental issues and alternatives to be addressed in the EIR, and any related issues, from interested parties.

Notice of Preparation
Commercial Cannabis Regulations and Licensing Program for Cultivation and Manufacturing

As specified by the CEQA Guidelines, the NOP will be circulated for a 30-day review period from February 13, 2017 to Wednesday, March 15, 2017. The County of Santa Cruz Planning Department welcomes responsible and trustee agency input during this review.

A 30-DAY NOP REVIEW PERIOD: Written comments should be submitted or postmarked no later than **5:00 p.m. on Wednesday, March 15, 2017**. Please indicate a contact person in your response and send your comments to:

Matt.Johnston@santacruzcounty.us

or

Matt Johnston
County of Santa Cruz
Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Scoping Session: The County will hold a Public **Scoping Session** on February 27, 2017 from **4:30 to 7:00 p.m.** at Simpkins Swim Center meeting room, 979 17th Avenue, Santa Cruz California 95062 to: 1) inform the public and interested agencies about the proposed Project; and 2) solicit public comment on environmental issues and alternatives to the Project to be considered in the EIR.

DOCUMENTS AVAILABLE FOR PUBLIC REVIEW: The NOP and related Project documents are available for public review at the following location:

County of Santa Cruz Planning Department
Records Room
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

The NOP and related Project documents are also available for public review online at:

<http://www.sccoplanning.com/PlanningHome/Environmental/CEQAInitialStudiesEIRs/CannabisRegulation/EnvironmentalReview.aspx>

PROJECT LOCATION AND SETTING:

The Project involves proposed adoption of regulations and policies that license and regulate cannabis cultivation within select zoning districts Countywide (see Figure 1). The regulations include a licensing ordinance and zoning ordinance amendments as well as possible General Plan/Local Coastal Program (LCP) amendments. The County is located within the central coast region of California between San Mateo County to the north, Monterey County to the south, Santa Clara County to the east, and the Pacific Ocean to the west. The County comprises a diverse range of settings, including small mountain communities set within redwood forests, beach communities and urbanized areas, and agricultural areas characterized primarily by cultivation of

row crops, greenhouse crops, orchards and ranch operations. Agriculture, tourism, and education/government are strong industries in the County. Under the proposed Project, the regulations would specify that cultivation may occur in Commercial Agriculture, Agriculture, Commercial (C2 and C4) , Industrial, Timber Production, Residential Agricultural and Special Use (where the General Plan designation is consistent with the Project) zoning districts, subject to controls on size of parcel, amount of cannabis grown, setbacks to natural resources such as creeks, to neighbor parcels and to locations such as schools, as well as other regulations. See Attachment 2 for the text of the proposed cultivation licensing ordinance that is the Project, as well as the proposed **zoning amendment**.

Under the proposed cultivation ordinance, cannabis cultivation would occur primarily in rural areas. In particular, the Santa Cruz Mountains, with elevations rising over 3,000 feet, and south county agricultural areas are a key areas anticipated for licensing of existing and future cannabis cultivation sites, as well as the coastal agricultural areas in the County's northern and southern areas. These areas include the San Lorenzo Valley, community of Bonny Doon, and the Pajaro Valley, respectively. The land use pattern in the County's rural areas is generally low density and includes rural residential, agriculture, timberlands, public parks and recreation, education, and open space uses. The terrain is varied with agricultural valleys, grassland, and low ridgelines forested with mature trees, including dense redwood forests. Primary regional access to these areas, including the towns of Felton, Ben Lomond, and Boulder Creek in the San Lorenzo Valley and Soquel and Aptos in the middle portion of the County, is provided by Highway 1 and State Routes 9, 17, 35, 129, 152, and 236, but access to many areas is commonly via rural County roads, some of which are constrained by lack of pavement, narrow width, and narrow bridges.

The description in the EIR of the existing conditions of cannabis cultivation in the County, called the "baseline", has been informed through the County's recent pre-application registration process, which recorded approximately 950 initial applicants that currently cultivate cannabis and would seek a license for continued cannabis operations. Where these existing operations do not meet the proposed regulations the registrants would seek to continue operations at new locations located throughout the County, primarily in rural and mountainous areas. The baseline also includes an amount of additional cultivation for which registration was not sought, or for which registration was initially sought but not completed, which the EIR will estimate. Over time an increasing percentage of cultivation is expected to come under the County's licensing and regulation program.

An undetermined amount of manufacturing of cannabis products currently occurs in Santa Cruz County, in many cases associated with cultivation sites. The EIR will evaluate allowing manufacturing in zone districts where agricultural and commercial/industrial manufacturing is currently allowed under existing regulations.

PROJECT BACKGROUND:

The *Cannabis* plant is prescribed for a range of medical conditions, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief, as identified by Section 11362.5 of the California Health and Safety Code, and is also used recreationally. However, commercial cultivation of cannabis can have

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adverse effects including but not limited to increased service demands placed on emergency services and administrative resources, neighborhood disruption, and environmental disturbance.

In 2015, the California Legislature passed the Medical Marijuana Regulation and Safety Act (MMRSA or MCRSA), enabling permitting for marijuana cultivation at the state level (with local approval). The law went into effect on January 1, 2016; however, the state estimates that the program will require two years (January 2018) to set up the necessary agencies, information systems, and regulations to begin issuing state commercial cultivation licenses. In the interim, local governments may choose to adopt new ordinances to permit or license local cannabis cultivation businesses in preparation for state licensing. Under the MMRSA, facilities currently operating in accordance with state and local laws may continue to do so until such time as their license applications are approved or denied.

State law also includes provisions for regulation of cannabis related manufacturing activities. These activities may range from making edible products to activities that include use of volatile chemicals and hazardous materials. It is anticipated that existing land use and other regulations addressing agricultural processing and commercial/industrial manufacturing will largely be suitable for regulation of cannabis manufacturing, however, further limitations on type and extent of manufacturing may be contemplated.

In addition, a ballot measure that passed in November, 2016, made use of recreational marijuana legal in certain circumstances.

Over the past 25 years, the County has responded to state-level legislative actions and community advocacy for issues related to medical cannabis use, availability, and most recently, commercial cultivation. Table 1 provides a timeline of County actions related to medical cannabis consistent with evolving state law.

Table 1. History of County Actions Related to Medical Cannabis		
1992	Measure A/ County Code Chapter 7.122	<ul style="list-style-type: none"> Directed the elected officials of Santa Cruz County to take whatever actions may be within their power to support the availability of cannabis/marijuana for medical use
2003	County Code Chapter 7.124	<ul style="list-style-type: none"> Established identification card program for medical cannabis use
2004	County Code Chapter 7.124 Amendment	<ul style="list-style-type: none"> Established local guidelines for the possession and non-commercial cultivation of medical cannabis by qualified patients and caregivers
2013	County Code Chapter 7.124 Deletion, then Reenacting	<ul style="list-style-type: none"> Prohibited medical cannabis dispensary businesses Granted limited immunity from enforcement for cannabis dispensary businesses that operated consistent with the reenacted Chapter 7.124
2014	County Code Chapter 7.126	<ul style="list-style-type: none"> Prohibited medical cannabis cultivation dispensary businesses Granted limited immunity from enforcement for medical cannabis cultivation businesses that operated consistent with the reenacted Chapter 7.124
2015	Ordinance No. 5201/County Code Chapter 7.126 Repeal and Referendum	<ul style="list-style-type: none"> Banned medical cannabis cultivation entirely; the only cannabis cultivation allowed under Ordinance No. 5201 was a personal 10 by 10 sf allowance per residence/parcel Petition to halt Ordinance No. 5201 received 11,210 signatures (7,248 valid signatures were required to qualify the referendum) County Board of Supervisors opted to repeal Ordinance No. 5201 prior to election, leaving Chapter 7.126 in place Established the County Cannabis Cultivation Choices Committee (C4) tasked with developing recommendations regarding regulation of medical cannabis cultivation
2015/2016	County Code 7.128 Adoption and Proposed Repeal/Re-adoption	<ul style="list-style-type: none"> Created interim regulations for commercial cultivation of medical cannabis while C4 worked with County Project involves replacement of 7.128 to address commercial cultivation of cannabis Countywide, including further regulations to recognize recreational cultivation and cannabis manufacturing activities.
2016	County Code Chapter 7.130	<ul style="list-style-type: none"> Adopted cannabis dispensary licensing ordinance, accommodating existing compliant dispensaries
2016/2017	Environmental Review	<ul style="list-style-type: none"> Preparation of EIR and finalization of cannabis regulations for medical and recreational cultivation and cannabis manufacturing activities

Of particular relevance to the scope of the EIR is the effect that adoption of County Code Chapter 7.126 in 2014 had on the environment and community. While cannabis cultivation was not legal, the ordinance granted limited immunity from enforcement for cultivation business that complied with the adopted standards. As a result, cannabis cultivation expanded rapidly in the County and

resulted in a range of adverse environmental effects, such as clearing of forest areas, grading of hillsides, erosion and sedimentation, diversions and damming of streams including habitats for Coho salmon and steelhead, and establishment of unpermitted camps that pose fire and other safety hazards.

PROJECT DESCRIPTION:

The regulations that will comprise the Project are intended to address the demands on County services and potential adverse effects on the environment and local community of cannabis cultivation by regulating cannabis cultivation consistent with state law, and manufacturing consistent with County zoning and other regulations that govern manufacturing in general. The Project involves the repeal of chapters 7.126 and 7.128 of the Santa Cruz County Code (SCCC) and the adoption of a new chapter 7.128 regarding licenses for the commercial cultivation of cannabis; associated revisions to the County Zoning Ordinance to implement the Project; and associated General Plan/Local Coastal Program amendments to set the policy framework for the commercial cultivation of medical cannabis. The proposed Chapter 7.128 would create the Cannabis Cultivation Licensing Program, operated by the Licensing Official, to provide a comprehensive licensing program to monitor and control cultivation sites throughout the County. Licensing would allow the County to coordinate growers and manage implementation of the development standards proposed under the Project. In order to be eligible to apply for a license to cultivate, an applicant must have been operating an established cultivation site since 2013, or must have been engaged in commercial farming of another crop on a parcel zoned for commercial agriculture for 3 consecutive years. The registration process, completed in 2016, identified existing and potential cultivators with grow sites that already conform to the proposed ordinance, sites that may be brought into conformance, and sites that are not suitable for cultivation. In this third instance, growers may still seek a license, but must move their operations to a parcel that meets the criteria established by the ordinance.

Under the Project, cannabis cultivation would become an allowable use within areas zoned residential agriculture (RA), special use (SU), timber production (TP), agriculture (A), commercial agriculture (CA), and heavy commercial and manufacturing (C4, M1, M2, M3), except not including RA, SU, and TP in the Coastal Zone plus a one mile buffer inland of the Coastal Zone (see Figure 1). Cultivation would also be subject to a range of exclusions, such as setbacks and prohibitions, which restrict the area that would be available for cultivation. Cultivation sites would also be controlled by a range of development standards that constrain the location on the property, the size property, and amount that may be grown on each site.

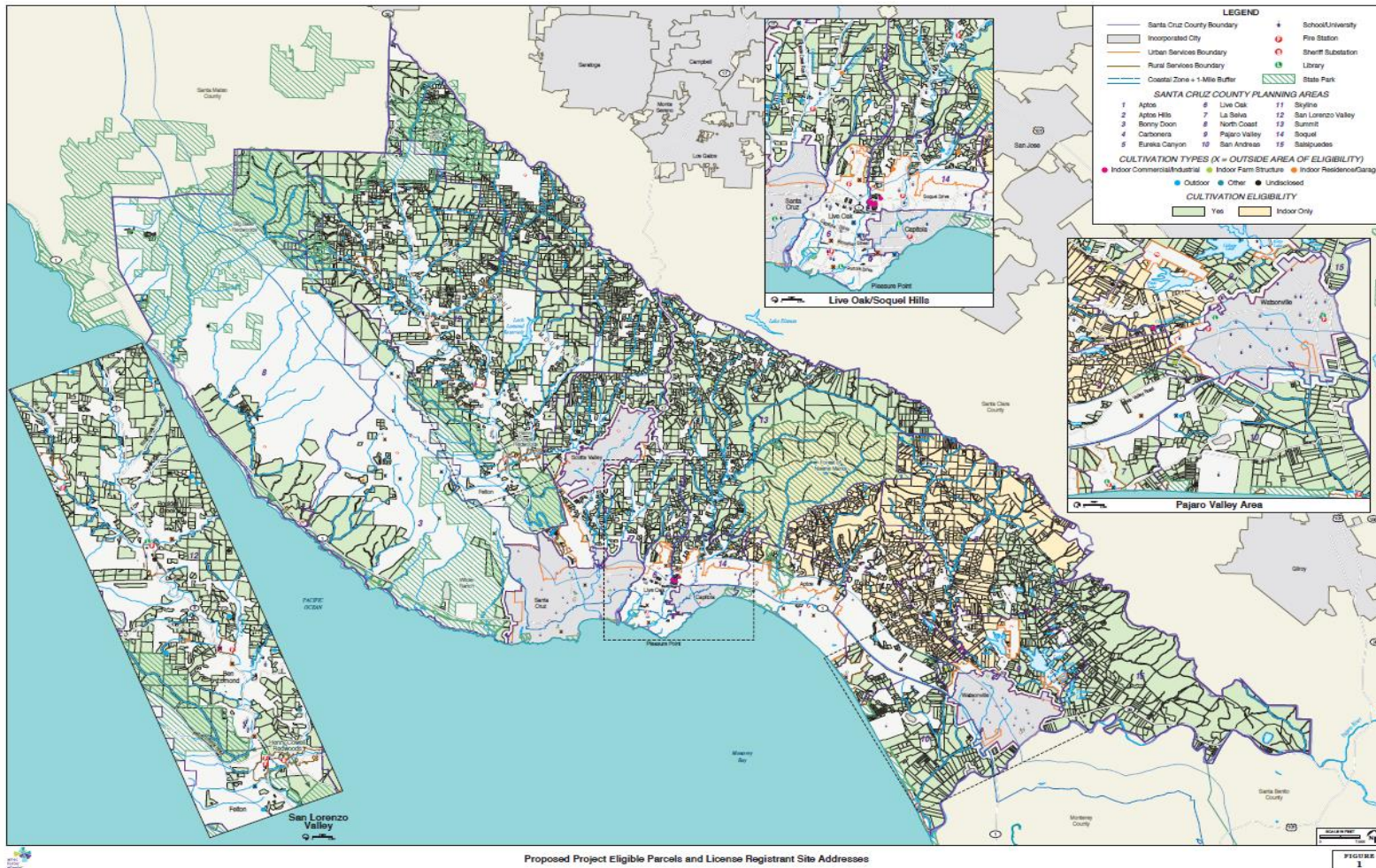
The EIR will analyze the Project and also a More Permissive Project. The More Permissive Project would generally be more accommodating of a greater level of cultivation of cannabis, including greater allowable percentage of a site to be cultivated and smaller parcels allowed to be cultivated. Multiple licenses allowed on a parcel may be contemplated, and regulations allowing manufacturing of cannabis products in some zone districts will also be evaluated. This dual analysis will allow the County to compare the tradeoffs and benefits of increased cannabis production against the environmental and neighborhood impacts. In addition to the Project and More Permissive Project, the EIR will analyze a more restrictive alternative, which will allow cultivation in fewer settings and with more constraints, and an alternative that represents a yet

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more permissive set of regulations. Lastly, in compliance with CEQA, the EIR will consider a “No Project” alternative. The EIR will also describe alternatives that were considered but not analyzed, and why they were not analyzed.

With regard to manufacturing, the EIR will analyze accommodating a range of manufacturing activities that involve cannabis, from those which involve the use of volatile and hazardous materials, to those that involve production of edibles and topicals which incorporate cannabis ingredients. It is anticipated that existing zoning regulations that address a variety of agricultural processing and other commercial/industrial manufacturing activities will be largely suitable for regulating the range of cannabis manufacturing activities projected to occur, however new limitations on nature and extent may be created.

Figure1



Visit this link to view a map that may be enlarged:

<http://www.sccoplanning.com/PlanningHome/Environmental/CEQAInitialStudiesEIRs/CannabisRegulationsEnvironmentalReview.aspx>

SUMMARY OF KEY ENVIRONMENTAL ISSUES TO BE ADDRESSED IN EIR

Pursuant to CEQA Section 15064, the discussion of potential project effects on the environment in the EIR will concentrate on those impacts that the County has determined may be potentially significant. The EIR also will evaluate the cumulative impacts of the Project when considered in conjunction with other related past, present, and reasonably foreseeable future projects. The County has determined that the proposed Project could potentially result in environmental impacts in the following topic areas:

- Aesthetics and Visual Resources
- Agricultural and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions and Climate Change
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Public Services
- Utilities and Service Systems
- Other CEQA Issues

These topic areas will be evaluated in the EIR, and feasible and practicable mitigation measures will be recommended to reduce any potentially significant and significant impacts. Brief descriptions of proposed analyses follow:

Aesthetics: The EIR will evaluate the proposed Project and the More Permissive Project's potential impacts on scenic vistas, public views, existing visual character, as well as potential impacts from agricultural operation light and glare. Scenic roads and highways, such as Highway 1 and State Routes 9, 17, 35, 129, 152, and 236, afford public views of the Monterey Bay, agricultural fields, redwood forests, open meadows, and mountain hillsides, which are recognized as protected visual resources in Policy 5.10.2 of the Conservation and Open Space Element of the County's General Plan/LCP. Impacts to these key visual resources may result from grading of hillsides, fencing, light and glare from greenhouses, and conversion of existing agricultural and grazing land to support outdoor cannabis cultivation, as well as effects associated with indoor cultivation. The EIR will evaluate adverse and beneficial changes to the visual character of the County associated with the Proposed Project and More Permissive Project, factoring in the existing resource protection policy framework.

Agricultural Resources: The EIR will evaluate Project and the More Permissive Project's potential impacts to agricultural resources within the County. County regulations provide strong protection for agricultural lands and uses, including the Measure J Growth Management Program and County Code Chapters 17.01 and 17.02, which control growth and maintain the Urban/Rural Services Lines, with generally stricter protections in the coastal zone. The County also includes large areas of forested land used for timber harvest operations, located primarily in the Santa Cruz Mountains. Implementation of the Proposed Project and the More Permissive Project could utilize and/or cover prime and non-prime soils and may impact forested land. Existing crop and timber land and related agricultural development could also be replaced with cannabis cultivation. Existing uses within existing heavy commercial and industrial buildings could be replaced by

indoor cannabis cultivation and manufacturing activities. If that occurs there may be environmental and land use impacts, as Cannabis has different cultivation requirements than many other products currently being grown. These may include water use, equipment, employees, peak season activities, harvesting, trimming, soil preparation with fertilizers and pesticides, and use of rodenticides and other wildlife control. On timber land, agricultural cultivation would generally be limited by County Code to cleared areas as an ancillary use to timber production, though the EIR will analyze whether cannabis cultivation could preclude timber production, which may in turn create environmental impacts related to wildfire and climate change. There also may be substantial cultivation allowed under State rules that allow a certain amount of conversion of timber land on each parcel of land.

Air Quality: The EIR will evaluate the proposed Project's and the More Permissive Project's consistency with applicable air quality plans and evaluate Project-specific air quality issues, including those related to cultivation, manufacturing, construction activities and operations. The air quality analysis would document existing conditions and Monterey Bay Unified Air Pollution Control District, state and federal regulatory standards and thresholds, and describe attainment/non-attainment pollutants for the North Central Coast Air Basin. Particular attention would be paid to potential generation of objectionable odors including fumes from equipment and cannabis odor during harvest, trimming, storage, manufacturing and transport activities. The EIR will additionally assess the consistency of the Proposed Project and the More Permissive Project with County regulations and policies, including the County's General Plan and Local Coastal Program and Air Quality Management Plan, as well as the standards of the Monterey Bay Unified APCD and the County's Air Quality Management Plan.

Biological Resources: The EIR will evaluate potential direct and indirect biological impacts of the Project and the More Permissive Project. Impacts may include direct loss of vegetation and habitats due to grading and vegetation removal to prepare for new cannabis cultivation sites and associated residences, potential interference with wildlife from cultivation activities and management including use of rodenticide and pesticides, and possible secondary consequences, such impacts to riparian habitats from aquifer drawdown. Additional indirect adverse effects on sensitive species could be caused by increased water demand, noise, fences and night-lighting, and increased human activity in open spaces from cultivation, processing and manufacturing. The EIR would address relevant policies and ordinances that govern biological resource protection in the County, including the General Plan and Local Coastal Program, County Code, Habitat Conservation Plans, and Town and Community Plans (to the extent applicable), other policies and development standards, and state and federal regulations.

Cultural Resources: The EIR will evaluate the Project and the More Permissive Project's impacts on unknown subsurface cultural resources, including the disturbance of human remains and impacts to known historic resources. The County contains many archaeological, paleontological, and Native American cultural sites and historic resources, as well as the potential for unrecorded archaeological sites and historic resources. These resources are addressed by County Code Chapter 16.40 – 16.44, which provide protection and preservation of these resources. Potential for development of cannabis cultivation sites, supporting structures, manufacturing areas, parking areas and driveways could impact cultural resources. The County's General Plan/LCP

Conservation and Open Space Element and County Code include policies to conserve cultural and appropriate historical, paleontological, and archaeological resources.

Preparation of the EIR would include consultation with the California Native American Heritage Commission (NAHC), consistent with the Tribal Consultation Policy adopted by the California Natural Resources Agency.

Geology and Soils: As is true for many communities in California, the County would likely be subject to one or more severe earthquakes and associated seismic hazards during the life of the Project. The EIR will evaluate seismic issues as well as any risks of soil instability and other geotechnical hazard that could impact existing and future cultivation sites, indoor and outdoor, and future structures. Where grading and erosion are not well controlled on existing cultivation sites that may contribute to risks. The EIR would assess direct, indirect, and cumulative geologic hazards and impacts posed by new cannabis cultivation operations, including grading for terracing and access roads, which may have the potential to increase erosion, landslides, unstable slopes, sedimentation, and seismic hazards (fault rupture, ground shaking, liquefaction, expansive soils). This analysis would also consider any beneficial effects of implementation of the regulations and licensing program to eliminate or limit illegal grading and ground disturbance in sensitive areas.

Greenhouse Gases: The County is vulnerable to climate change through water shortages and drought, increase in climatic temperatures, changing pest patterns, changing fog dynamics, and increased potential for floods. The EIR will evaluate the proposed Project and the More Permissive Project's contribution to greenhouse gas emissions (GHG) and compliance with applicable GHG reduction strategies and goals. Energy demand may increase to support both indoor and outdoor cultivation, and manufacturing, which would increase GHG emissions Countywide. There may be a potential for a loss of carbon sequestration from loss of trees due to clearing for cannabis cultivation or conversion of rangeland or other "no till" agricultural land to active cultivation. The analysis will address GHG emissions and climate change-related impacts and mitigations. The analysis will address the County's Climate Action Strategy and the Monterey Bay Unified Air Pollution Control District guidance to determine the appropriate threshold of significance for the Project.

Hazards and Hazardous Materials: The EIR will discuss possible risks associated with the Project and the More Permissive Project that could result in the exposure of the public to hazards or the release of hazardous materials into the environment. Cannabis cultivation would require the use of fertilizers, pesticides, herbicides, and rodenticides, all of which are hazardous materials to the natural environment. Some manufacturing processes include the use of volatile and/or other hazardous materials, and those impacts would be analyzed as well. The EIR would assess hazards and hazardous materials impacts from cultivation and manufacturing sites by considering storage, handling, and application practices of hazardous materials.

Hydrology, Water Quality, and Flooding: The EIR will evaluate the Project and the More Permissive Project for consistency with local and regional water quality standards and will assess any impacts they will have on existing drainage patterns. Construction of new cultivation sites could impact in-stream water quality and hydrology through increased grading, vegetation clearing, erosion and sedimentation, or be impacted by flood flows from nearby rivers and creeks.

Groundwater quality issues, such as salinity, may be exacerbated if water demand from existing and new cultivation and manufacturing operations increases, possibly contributing to increased drawdown of groundwater resources. The EIR would provide an estimate of current water use, broken down by cultivation methods; characterize water sources for existing cultivation operations and analyze any change in water use associated with new cannabis cultivation and manufacturing, potential crop conversion to accommodate cannabis, and change of use in commercial buildings to accommodate cannabis cultivation. The EIR would also assess impacts of importing water to cultivation sites and potential impacts to aquifers such as overdraft and seawater intrusion. Note that municipal water supply and demand would be addressed under *Utilities and Service Systems*.

Land Use and Planning: The EIR will evaluate the proposed Project and the More Permissive Project's consistency with local policies and regulations, including any applicable habitat conservation plan or airport land use plans. Intensified commercial agricultural operations may create conflicts with nearby residential uses related to noise, odors, dust, security, and traffic associated with development and operation of cannabis cultivation and manufacturing sites. In addition, the proximity of commercial agriculture, manufacturing and sensitive uses can result in conflicts between County policies that strongly promote agricultural uses and those that protect quality of life and neighborhood character in the rural lands. The Land Use and Planning analysis in the EIR will address cultivation and manufacturing in each zoning district where they are allowed and consider the tradeoffs related to conversion of existing uses to cannabis cultivation or manufacturing. In particular, the EIR would address potential policy consistency issues regarding the conversion of existing space in industrial and commercial areas to cannabis cultivation or manufacturing, neighborhood compatibility, resource preservation, traffic congestion, and other land use issues of possible community concern while acknowledging the priority placed on commercial agriculture and timber production in certain zone districts. Additionally, the EIR will provide an overview of the existing policy framework in the General Plan, particularly the Land Use Element, Conservation and Open Space Element, housing and resource protection policies, and neighborhood compatibility. The Project involves General Plan/LCP amendments as needed and ordinance update, which could help to mitigate some of these land use and planning impacts.

Public Services and Utilities: The EIR will discuss the proposed Project's and the More Permissive project's impact on public services including fire protection, police protection, schools, and other public facilities. Most of the County is designated as a high fire hazard area by the California Department of Forestry and Fire Protection (CalFire). In the event of fire, emergency access to cannabis cultivation and manufacturing sites is critical to ensure adequate and timely response. The County is served by a number of fire districts and by CalFire. The County is served by police stations operated by the Santa Cruz County Sheriff's Office and the City of Santa Cruz Police Department, as well as the California Highway Patrol. Development permitted under the Project and the More Permissive Project may incrementally increase demand for public services, particularly fire protection. Incremental increases in demand for law enforcement along with other services, such as road maintenance, may also occur. The EIR would provide an overview of public service issues and focus on services that could be adversely affected. The EIR would assess fire protection issues and potential increases in demand for other public services associated with

existing and new cannabis cultivation and manufacturing sites, such as access, response time, and defensible space, accounting for existing regulations and development standards.

Utilities & Service Systems: The EIR will evaluate the proposed Project's and the More Permissive Project's direct and indirect effects on utilities to serve cannabis cultivation and manufacturing operations. The Pacific Gas and Electric Company (PG&E) provides electricity and natural gas to the County. Waste Management provides garbage services and the Santa Cruz County Sanitation District provides for wastewater management and treatment. Major water suppliers include City of Santa Cruz Municipal Utilities, Soquel Creek Water District, San Lorenzo Valley Water District, Central Water District, Pajaro Valley Water Management District; other districts, mutual water companies, and water purveyors will be identified. Nearly all of the County's domestic water is supplied from local surface (streams and reservoirs) and groundwater sources, which are fed entirely by precipitation and do not receive any imported water. The urban pipe distribution system is generally located beneath public streets. The Project and the More Permissive Project may increase demand for water and power to support cannabis cultivation and manufacturing and may generate solid waste and wastewater requiring treatment. While many cultivation sites are anticipated to be rural and served by wells, indoor cultivation is likely to require municipal water sources and use existing infrastructure. The EIR would identify impacts of cannabis cultivation sites on existing utility systems and services, as well as operation-related impacts from existing and new cultivation sites related to the increase in demand for utility services and increase in waste associated with cultivation.

Cumulative Impacts: As required by CEQA, potential cumulative impacts of the Project will be addressed within the EIR consistent with CEQA Guidelines Section 15130.

Other CEQA Issues: The EIR would provide a brief discussion of less than significant and insignificant issues, which at this time are expected to include transportation/traffic, noise, mineral resources, and population and housing. CEQA allows a lead agency to limit the detail of discussion of the environmental effects that are not considered potentially significant (PRC Section 21100, CCR Sections 15126.2[a] and 15128). Environmental analyses outside the scope of this EIR will be addressed, and a discussion provided that finds these resource issues would not result in significant environmental effects and will require no further evaluation.

Alternatives In accordance with the State CEQA Guidelines (14 CCR Section 15126.6), the EIR will describe a range of reasonable alternatives to the proposed Project and More Permissive Project that are capable of meeting most of the Projects' objectives, and would avoid or substantially lessen any potential significant effects that may be identified. The EIR will provide an analysis of the No-Project Alternative and will also identify the environmentally superior alternative. The alternatives will include analysis of a reduced alternative that is more permissive than both the Project and More Permissive Project, and also a more restrictive alternative to ensure the County has a range of scenarios to consider during future discretionary proceedings. The EIR will also identify any alternatives that were considered but rejected by the lead agency as infeasible and briefly explain the reasons why.

Attachments:

1. NOP Distribution List
2. Proposed ordinance 7.128 ADD FOOTNOTE and confirm version
3. Proposed ordinance amendments xxx

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, on June 17, 2015, the Santa Cruz County Clerk of Elections notified the Board of Supervisors that a County Referendum Against County Ordinance No. 5201 contained

a sufficient number of qualified signatures to require further action on the part of the Board of Supervisors; and

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

WHEREAS, on or about September 11, 2015, the California Legislature approved Assembly Bill 266, Assembly Bill 243, and Senate Bill 643, together constituting the “Medical Marijuana Regulation and Safety Act,” and subsequently renamed the “Medical Cannabis Regulation and Safety Act” (hereinafter “MCRSA”), which the Governor thereafter signed into law; and

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

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

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

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

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

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

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

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

SECTION I

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

SECTION II

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

Chapter 7.128 Medical Cannabis Cultivation Licenses

Sections:

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

7.128.010 Purpose.

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

This Chapter is not intended to conflict with federal or State law. It is the intention of the County that this Chapter be interpreted to be compatible with federal and State enactments and in furtherance of the public purposes that those enactments encompass.

7.128.030 Definitions.

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

- (A) “Applicant” means the person or entity submitting an application for a commercial cultivation license under this Chapter on behalf of the owner or owners of the cannabis cultivation business seeking to be licensed.
- (B) “Approved on-site source” means a source of water on the parcel at issue for which the applicant has obtained 1) the permission of all persons holding a legal right to the use of that water; and 2) the permission of all relevant federal, State, and local government agencies having authority to control or regulate the use of that water.
- (C) “Building” means any structure consisting of walls and a roof, which is used for the housing, shelter, or enclosure of persons, animals, chattels, or property of any kind.
- (D) “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not, as defined under the California Medical Cannabis Regulation and Safety Act at Health and Safety Code section 19300.5(f), as may be amended.
- (E) “Canopy” means the net vegetative growth area of the combined diameters of individual plants. For purposes of this definition, diameter is measured by plotting a straight line from side to side through the widest part of a plant.
- (F) “Coastal Zone” means that portion of the Coastal Zone, as established by the Coastal Act of 1976 and as it may subsequently be amended, which lies within the unincorporated area of Santa Cruz County.
- (G) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (H) “Cultivation site” means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed. A licensed cultivation site may be located on more than one parcel as long as the parcels are adjacent and commonly owned.
- (I) “Fence” means a wall or barrier connected by boards, masonry, rails, panels, or any other materials for the purpose of enclosing space or separating and securing parcels of land. For purposes of this Chapter, the term “Fence” does not include tarpaulins, scrap material, hedges, or bushes.
- (J) “Growing Area” means a specific area on a cultivation site where cannabis is grown.

(K) “Hazardous material” means any material as defined in California Health and Safety Code Section 25501(n), as may be amended.

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

(M) “License” means the written evidence of permission given by the Licensing Official for a licensee to cultivate cannabis. “License” does not mean “permit” within the meaning of the Permit Streamlining Act, and a license does not constitute a land use permit that runs with the land on which cultivation takes place.

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

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

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

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

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

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

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

(S) “Parcel” means that unit of land assigned a unique Assessor’s Parcel Number by the County Assessor, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area. The Licensing Official shall have the discretion to consider contiguous parcels under common ownership as a single parcel for purposes of this Chapter, where appropriate.

(T) “Park” means any playground, hiking or riding trail, recreational area, beach, community center or building, historic structure or facility, conservation land, biological mitigation area, or open space owned, managed or controlled by any public entity or conservation entity such as a non-profit land trust.

(U) “Qualified Patient Cultivation Site” or “QPCS” means:

(1) A cultivation site operated by a qualified patient, person with an identification card, or designated primary caregiver, solely for the patient's non-commercial personal use, on a single parcel that includes the residence of the patient or caregiver, and subject to the following restrictions:

(a) The amount of cannabis grown must not exceed one hundred (100) square feet of total garden canopy;

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

(c) Cultivation must not be visible from any adjacent public right-of-way;

(d) If cultivation takes place indoors, (i) lighting must not exceed 1,200 watts without a written certification from a licensed electrician that the cultivation site has all necessary electrical permits required by the California Building Codes to ensure that the level and manner of electricity use is safe; (ii) there must be no flammable products used for cultivation purposes; and (iii) there must be no exterior evidence of cultivation; and

(e) None of the cannabis that is cultivated at the QPCS is sold to, donated to, transferred to, or used by any person other than the qualified patient or person with an identification card for whom the medical cannabis is cultivated.

(2) A cultivation site granted an exemption by the Planning Director pursuant to SCCC 13.10.670(G) as enacted by Ordinance No. 5090 (now repealed), as long as the area subject to cultivation is not expanded or enlarged beyond what existed on January 1, 2010 at the location where the exemption was granted. The holder of the exemption may move its location to another site in the County, as long as the area subject to cultivation does not exceed what existed on January 1, 2010 at the location where the exemption was originally granted, and as long as the new site meets all other requirements of this Chapter, other than those specifically waived by the Licensing Official.

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

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

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

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

7.128.050 Prohibited activities.

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

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

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

(C) It is unlawful and shall constitute a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the County to cause or allow such parcel to be used for the cultivation of cannabis in violation of this Chapter.

7.128.070 Creation of the Medical Cannabis Cultivation Licensing Program.

(A) There is hereby created the Medical Cannabis Cultivation Licensing Program. The MCCL Program shall be operated by the Licensing Official. The Licensing Official shall be designated by the County Administrative Officer.

(B) The Licensing Official shall take the necessary steps to build and manage the MCCL Program. This includes, but is not limited to, accomplishing the following tasks:

- (1) Creating application forms for licensees;
- (2) Conducting pre-licensure inspections;
- (3) Approving and denying license applications;
- (4) Issuing and revoking licenses;
- (5) Creating a system on the County's website to communicate the number of licenses issued and notifying the public as to whether applications for such licenses are being accepted;
- (6) Designing a system to facilitate access to medical cannabis for very low and low income residents;
- (7) Establishing administrative policies, procedures, rules, regulations, or fees necessary to implement the MCCL Program consistent with this Chapter; and
- (8) Working with other officials in the County to ensure that licensees comply with all aspects of the County Code.

7.128.090 License categories.

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

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

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

7.128.110 License required.

(A) Registration.

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

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

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

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

(B) Original License.

(1) Submission Of The Application.

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

(i) The names of the applicant(s) and owner(s);

(ii) The exact location of the cultivation site by street address and Assessor's Parcel Number(s);

(iii) A map containing the location of the growing area on the cultivation site (cultivation should take place in a single growing area where total garden canopy may be easily measured, or as few areas as reasonably possible, not spread throughout the cultivation site);

(iv) Previous law enforcement activity at the cultivation site related to the cultivation of cannabis;

(v) The applicants' and owners' waiver and release of the County from any and all liability for monetary damages related to or arising from the application for a license, the issuance of the license, or the enforcement of the conditions of the license;

(vi) Background information to be determined by the Licensing Official, including but not limited to a statement that the applicant and owners have submitted to a Live Scan background check no earlier than thirty days prior to the date the application is submitted;

(vii) Tax identification information;

(viii) Security plans;

(ix) Information regarding required land use permits;

(x) Identification of water supply to be used for cultivation and documentation demonstrating that the source is in compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board, Division of Water Rights, including copies of any pending application to appropriate water, applicable permit, license, or registration, or copy of a statement of water diversion and use of surface water from a stream,

river, underground stream, or other watercourse with the California State Water Resources Control Board's Division of Water Rights, if required by Water Code section 5101; and

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

(2) Payment Of The Application Fee.

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

(3) Review Of The Application.

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

(b) If the Licensing Official determines that the applicant participated in the registration process, the Licensing Official shall create a Licensing File related to the application, and shall inspect the cultivation site to determine whether it meets the requirements of the MCCL Program. The Licensing Official shall be the custodian of the Licensing File. The Licensing File is a public record within the meaning of the California Public Records Act.

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

(4) Grant Or Denial Of The License.

(a) After concluding the required pre-license investigation, the Licensing Official shall notify the applicant in writing whether the license has been granted or denied. If the license is denied, any further non-licensed commercial cannabis cultivation may only be carried out in accordance with the limitations set forth in section 7.128.110(I)(2).

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

(5) Payment Of The License Fee.

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

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

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

(C) Renewal License.

(1) Requirement To Obtain A Renewal License.

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

(2) Submission Of The Renewal License Application.

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

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

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

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

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

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

(b) Renewal license applications must be submitted at least 90 days before an existing license expires. The Licensing Official is not authorized to accept an untimely renewal license application.

(3) Payment Of The Renewal License Application Fee.

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

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

(4) Review Of The Renewal License Application.

(a) Upon receipt of an application for a renewal license, the Licensing Official shall update the licensee's Licensing File and perform whatever investigation the Licensing Official deems necessary to determine whether to grant or deny the renewal license. The investigation may include a physical inspection of the cultivation site, at the discretion of the Licensing Official, to determine whether the licensee remains in compliance with the regulations of the MCCL Program.

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

(5) Grant Or Denial Of The Renewal License.

(a) After concluding the required renewal license investigation, the Licensing Official shall notify the applicant in writing of whether the renewal license has been granted or denied.

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

(6) Payment Of The Renewal License Fee.

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

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

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

(D) Amending A License.

(1) Licensees may submit an application to amend an existing license on a form promulgated by the Licensing Official for that purpose. Applications to amend a license will be reviewed by the Licensing Official in a manner consistent with the review of original and renewal license applications.

(2) Applicants seeking an amended license must include with their application a monetary deposit, to be determined by the Licensing Official or his or her designee, based on an estimate of the hours the Licensing Official will need to review the application and perform any necessary inspections. Additional deposits or payments shall be made as determined necessary by the Licensing Official in order to recover costs associated with processing the application.

(E) Required Statements On Licenses.

All licenses issued by the Licensing Official must contain the signature of the owner(s) of the license. In addition, all licenses shall contain the following statements, displayed prominently on the license itself:

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

(2) An acknowledgment that, by accepting the license and cultivating cannabis for commercial purposes, the Licensee has released the County from any and all liability for monetary damages related to or arising from the application for a license, the issuance of the license, the enforcement of the conditions of the license, or the revocation of the license; and

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

(F) Rules And Restrictions Specific To License Types.

(1) Class CA Licenses.

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

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

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

(2) Class A Licenses.

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

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

(c) In the geographic area designated as the Coastal Zone, and within one mile beyond the Coastal Zone, cultivation with a Class A License may only take place outdoors,

or in existing indoor spaces (applicants may not construct new structures, including but not limited to greenhouses, in order to cultivate cannabis in this area).

(3) Class RA Licenses.

(a) The minimum parcel size for a Class RA License is five acres.

(b) Size of canopy allowed, subject to approval of the Licensing Official:

(i) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed five thousand one hundred (5,100) square feet on parcels between five and ten acres in size.

(ii) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed ten thousand (10,000) square feet on parcels greater than ten acres in size.

(4) Class C-4 Licenses.

(a) Cannabis may only be cultivated indoors with a Class C-4 License.

(b) Size of canopy allowed, subject to approval of the Licensing Official: not to exceed twenty-two thousand (22,000) square feet.

(5) Class M Licenses.

(a) Cannabis may only be cultivated indoors with a Class M License.

(i) Exception: On parcels zoned M-3 with a Q (Quarry) General Plan Overlay designation, where quarry operations have ceased, outdoor cultivation may be considered for licensure in conjunction with the adoption or amendment of a reclamation plan.

(b) Size of canopy allowed, subject to approval of the Licensing Official: not to exceed twenty-two thousand (22,000) square feet.

(6) Class TP Licenses.

(a) The minimum parcel size for a Class TP License is five acres.

(b) Size of canopy allowed, subject to approval of the Licensing Official:

(i) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed five thousand one hundred (5,100) square feet on parcels between five and ten acres in size.

(ii) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed ten thousand (10,000) square feet on parcels greater than ten acres in size.

(7) Class SU Licenses.

(a) The minimum parcel size for a Class SU License is five acres.

(b) Size of canopy allowed, subject to approval of the Licensing Official:

(i) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed five thousand one hundred (5,100) square feet on parcels between five and ten acres in size.

(ii) Up to 1.25 percent of the size of the parcel containing the cultivation site, not to exceed ten thousand (10,000) square feet on parcels greater than ten acres in size.

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

(1) General Eligibility And Restrictions.

(a) Cultivation licenses may only be issued to applicants who provide the Licensing Official with sufficient reliable evidence documenting that they 1) have been cultivating cannabis in Santa Cruz County since before January 2013; or 2) have been engaged in commercial farming or agricultural production unrelated to cannabis production for over 3 years in the CA zone district, and are applying for a Class CA license.

(b) All licenses issued under this Chapter must be consistent with the County's policies, objectives, laws, regulations, and programs related to land use, including those related to the County's General Plan and Local Coastal Program. In utilizing discretion in the issuance of licenses, the Licensing Official shall use the County's established standards for determining consistency with agricultural uses and neighborhood compatibility.

(c) In issuing a license under this Chapter, the Licensing Official may add conditions to the license to ensure compliance with environmental regulations related to slope, grading, and similar requirements set forth in County Code Chapter 16, as well as the Forest Practices Act and any other controlling State or local law.

(d) In issuing a license under this Chapter, the Licensing Official may place restrictions on canopy size to maintain consistency with other laws, agricultural uses, and neighborhood compatibility.

(e) With the exception of Class CA, C-4, and M Licenses, no license may be issued to cultivate cannabis on a parcel unless the cultivator or cultivation manager resides in a permitted residence on the parcel.

(f) No license may be issued to cultivate cannabis on a parcel that has active violations of the Santa Cruz County Code, including but not limited to those sections related to grading, building, zoning, environmental, or fire code violations.

(g) No license may be issued to a person who has failed the background investigation required by the Licensing Official, including but not limited to those individuals who have a disqualifying felony criminal record. Felonies over ten years old and felonies related to cannabis occurring prior to January 2013 that did not involve sales to a minor shall not alone result in failure of a background investigation.

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

(i) Multiple licenses may not be issued on a single parcel.

Exception: At the discretion of the Licensing Official, multiple licenses may be issued on a single parcel zoned CA that is over forty (40) acres in size. The Licensing Official shall promulgate rules and regulations for the equitable implementation of this section.

(2) Geographical Restrictions.

(a) With the exception of Class CA, A, C-4 and M Licenses, no license may be issued to cultivate cannabis in the geographic area designated as the Coastal Zone, and within one mile beyond the Coastal Zone.

(b) With the exception of Class C-4 and M Licenses, and Class CA and A Licenses issued in the geographic area designated as the Coastal Zone, and within one mile beyond the Coastal Zone, no license may be issued for parcels located within that geographic area included within the Urban Services Line or the Rural Services Line.

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

(3) Setbacks.

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

(b) Cannabis shall not be cultivated within two hundred (200) feet of any habitable structure on a neighboring parcel. No exception shall be granted allowing a setback of less than one hundred (100) feet of a habitable structure on a neighboring parcel.

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

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

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

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

(g) Cannabis shall not be cultivated within one hundred (100) feet of a perennial stream.

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

(i) Cannabis shall not be cultivated within fifty (50) feet of an ephemeral stream or in violation of SCCC sections 16.30 (riparian corridor and wetlands protection) or 16.32 (sensitive habitats), whichever is most restrictive.

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

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

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

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

(4) Neighborhood And Land Use Compatibility Restrictions.

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

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

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

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

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

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

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

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

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

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

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

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

(m) Licensees must utilize energy efficient cultivation methods.

(n) The applicant shall ensure compliance with all federal, State, and local environmental protection laws and regulations, including, but not limited to, those protecting threatened and endangered species, sensitive habitats, water quality, air quality, and cultural/archeological resources, and that any and all required permits involving environmental resources are obtained as may be required for the cannabis cultivation activity.

(5) Indoor Cultivation Sites.

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

(b) No license may be issued to cultivate cannabis indoors unless all land use and building code requirements are met. Moreover, the applicant shall provide written certification from a licensed electrician that the cultivation location has all necessary electrical permits required by the California Building Codes to ensure that the growing operations can be carried out safely.

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

(6) Water Restrictions.

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

(b) No license may be issued to cultivate cannabis with the use of a shared water source or water extraction equipment without the express permission of all of the persons holding an ownership interest in that water source or water extraction equipment. Water extraction equipment includes, but is not limited to, wells, pumps, pipes, or any other instrumentality or machinery designed to move water.

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

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

(7) Miscellaneous Restrictions.

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

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

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

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

(e) Licensees must comply with all applicable requirements of County, State, and federal laws and regulations, including environmental and water regulations related to storm

water management and fertilizer, pesticide, herbicide, and rodenticide storage and use at the cultivation site.

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

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

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

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

(H) Grounds For License Revocation.

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

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

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

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

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

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

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

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

- (h) Violation of any provision of the California Medical Cannabis Regulation and Safety Act.
- (i) Three or more citations for violation of SCCC Chapter 8.30 (Noise) within a single year.
- (j) Possession, storage, or use of any firearm on the parcel where cultivation takes place.
- (k) Violation of, or failure to comply with, any of the rules or restrictions relating to licensure promulgated by the County and the Licensing Official.
- (l) Creation or maintenance of a public nuisance.
- (m) Violation of, or failure to comply with, any land use or other permit requirements associated with the licensee's cultivation of cannabis, including but not limited to zoning, building, and agricultural permits as may be required for the cultivation activity and cultivation site.

(I) Denial Or Revocation of License; Remedies.

(1) The Licensing Official may deny an application for an original or renewal license, or revoke an original or renewal license, for any of the following reasons:

- (a) Discovery of untrue statements submitted on a license application.
- (b) Revocation or suspension of any State license required to cultivate cannabis.
- (c) Previous violation by the applicant, or violation by the licensee, of any provision of the Santa Cruz County Code or State law related to the cultivation of cannabis, including any permit conditions associated with the cultivation of cannabis.
- (d) Failure of the background check conducted by the Licensing Official, including the applicant's most recent Live Scan report. A failed Live Scan is a Live Scan report that includes any felony conviction within the past 10 years and/or reflects that the applicant is currently on parole or probation related to a felony conviction. Felony convictions for cannabis-related offenses prior to June 1, 2013 will not result in a failed Live Scan, unless the offense involved sales to a minor.

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

(a) If an application for an original or renewal license is denied, or if a license is revoked, all commercial cannabis cultivation on the parcel shall cease immediately, subject to the following exception:

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

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

(3) Under no circumstances shall a cause of action for monetary damages be allowed against the County of Santa Cruz, the Licensing Official, or any County employee as a result of a denial or a revocation of a license. By applying for a license, the applicant and owners associated with a cannabis cultivation business waive any and all claims for monetary damages against the County, the Licensing Official, and all other officials of the County of Santa Cruz that may be associated with the denial or revocation of a license.

7.128.130 Enforcement.

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

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

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

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

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

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

the violation before the imposition of civil penalties under section 1.12.070(D)(2)(a) of this Code.

7.128.150. No duty to enforce.

Nothing in this chapter shall be construed as imposing on the Licensing Official or the County of Santa Cruz any duty to issue a Notice of Violation, nor to abate any unlawful cannabis business activity or cultivation, nor to take any other action with regard to any unlawful cannabis business activity or cultivation, and neither the enforcing officer nor the County shall be held liable for failure to issue an order to abate any unlawful cannabis business activity or cultivation, nor for failure to abate any unlawful cannabis business activity or cultivation, nor for failure to take any other action with regard to any unlawful cannabis business activity or cultivation.

SECTION III

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

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

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

Chairperson of the
Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

Office of the County Counsel

cc: County Administrative Office
Planning Director
Sheriff's Office

BY ALISON HAWKES

conservation in action



HANK CHRISTENSEN, HANKCHRISTENSEN.COM

California Condor No. 340 is an adult male hatched at the Oregon Zoo in 2004 and released at Pinnacles National Park in 2005. The box above the number is the radio transmitter.

sive scavengers—the largest soaring birds on the continent—in a core part of their home range, stretching from Pinnacles to the Big Sur coast. Condors once patrolled the skies as far north as British Columbia, but Pinnacles now marks their northernmost breeding area. Other condor populations have been reestablished to the south in Southern California, Baja California, and Arizona.

The condors have fared better than expected, with an estimated 80 wild individuals in the Central California flock in 2016, but their recovery has hinged on a highly orchestrated effort to keep them on the upswing. When Neidhardt first saw No. 550, suspended in midair near a cliff face, she was a captive-bred foster egg headed to the nest of first-time parents who'd failed at producing a viable egg earlier in the season. With a whole lot of human help, she became the first condor chick to hatch at Pinnacles in a century.

Now he occasionally spots her as an adult bird in his volunteer work as a condor tracker at the park, though usually not by sight. Every bird is outfitted with a radio transmitter or GPS device and marked with a unique number. The park service, in collaboration with the Ventana Wildlife Society, which covers the Big Sur side of the range, aims to get a signal or a visual on every bird at least every three days. The goal is to track the birds' locations, and be able to swoop in to help an ailing bird or retrieve it for a necropsy if it dies.

Doing so requires a dedicated team of volunteer condor trackers—currently 12 in all—to hike the high peaks or drive through the privately owned ranchland outside the park. The birds rarely stay put for long in their determined search for carrion—from small lizards to large mammals. “We’ve definitely come to rely on volunteers,” says Rachel Wolstenholme, Pinnacles’ condor program manager and a national park employee. “There would be a lot less done if we didn’t have them.”

On a hot July morning, we hike up the

A Pinnacles Partnership for Condors

RICHARD NEIDHARDT CAN easily name his favorite California condor. She’s No. 550 in the condor studbook, a small-statured female who has—remarkably, given all the obstacles—turned six this year, the age of sexual maturity in females. “I’m crossing my fingers I’ll have another grandchild,” jokes Neidhardt, a retired construction estimator from Point Richmond, who already has four of the human kind.

In 2010, he first spotted No. 550, or rather her benefactor, while hiking among the high peaks of Pinnacles National Monument—recently redesignated as a national park—an hour south of Gilroy. She was a pipping egg at that time, ready to hatch, in a padded box strapped to the body of a member of the California condor crew who was rappelling down a cliff face. “She was

the one who started it all for me,” recalls Neidhardt, who has since become a ringleader in recruiting volunteers to the park service’s condor program and is raising thousands of dollars for the recovery work through the nonprofit Pinnacles Partnership, a “friends of the park” group.

California condors need all the help they can get. Saved from the brink of extinction with a controversial plan in the mid-1980s to bring the remaining nine wild individuals into a captive breeding program, condors have become one of the most highly managed endangered species in history. Wildlife officials, with the help of several zoos, have been steadily growing the population. And in 1992 they began releasing captive-bred fledglings into the wild in an effort to reestablish these mas-

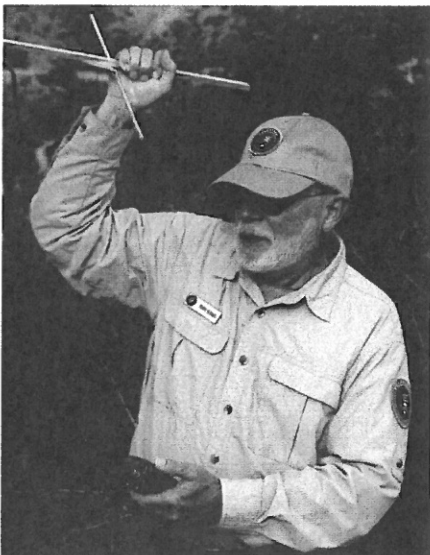
park's Condor Gulch Trail to a lookout informally called Doodle & Dottie, a rocky peak studded with chamise and featuring a view of a barren ridge in one direction and a parched valley of ranchlands in the other. Wolstenholme doesn't get out on the trail much, relying on volunteers to do most of the condor tracking work, but on this day she is demonstrating how it all works. "You have about a 50-50 chance of seeing a condor," she warns, removing a radio receiver and antenna from her daypack. Though turkey vultures are ever-present, when it comes to tracking condors, you're most likely to hear one via its transmitter.

Beep, beep, beep. Wolstenholme has waved the antenna to a spot where the receiver dial picks up the frequency of No. 525, a female born in 2009. "Each bird is its own radio station," she tells me. She loses the signal before picking it up again. "It means she's flying up into range and then out. She could be close, just behind those hills."

Just as important as finding a bird's signal is not finding it, or even worse, picking up the transmitter's rapidly beeping signal that warns of inactivity, sort of like a patient in distress on an EKG. We get one of those for No. 463, but Wolstenholme thinks it's probably a transmitter attached to a tail feather that fell off, though she makes a note to double-check the records back at the office.

Although the condor population faces a number of stressors—from urban-

Volunteers like Richard Neidhardt use antennae and handheld receivers to track the condors.



ization and power lines to ravens preying on the young—by far the greatest threat to their existence is lead poisoning, caused by lead ammunition fragments in the carrion they eat when hunters or ranchers leave behind animal remains. In California, it's illegal to hunt with lead bullets within the condor's range for most types of prey, and by 2019 that restriction will apply statewide to all hunting and wildlife pest management. But condors cover a vast territory—flying up to 150 miles in a day—which makes enforcement of the law tricky, particularly in the enormous private ranchlands surrounding the park. So the park service and other condor advocacy groups have focused on public education to turn the tide of tradition and switch people to lead-free bullets.

"Ranchers feel like they're under the burden of so many regulations, so just the fact that there is a lead ban in our area, people are like 'Holy crap, this is a whole other thing government is telling me I can't do on my property,'" says Karminder Brown, who heads the San Benito Working Landscapes group for the Pinnacles Partnership.

Though the public education effort seems to be helping—through outreach and raffles for non-lead ammunition—condors are still dying from lead poisoning, and many require chelation therapy to reduce elevated levels of lead. Blood tests done annually on every captured bird indicate the majority have elevated levels of lead. "We are managing a population of birds with chronic lead poisoning," Wolstenholme says.

Toxicology research out of UC Santa Cruz is looking at the physiological and behavioral impacts of sublethal doses of lead in condors by measuring changes in the birds' corticosterone levels, the avian equivalent of the human stress hormone cortisol. The studies, made possible by all the data collected by tracking and trapping birds over the years, should help scientists get a better handle on condor survival and has implications for other bird species, such as eagles and hawks, similarly affected by lead poisoning. "These condors are giving scientists a great gift in that we're able to learn



COURTESY OF RICHARD NEIDHARDT

A Pinnacles Partnership volunteer holds a condor as its blood is drawn to check for lead poisoning.

from them about the impacts of lead poisoning on avian species," says Zeka Kuspa, a UCSC doctoral student who is leading the research.

Despite the challenges, the condors are showing remarkable resilience. By the end of 2015, the condor population in California, 155 birds strong, had exceeded the federal recovery goal for California of 150 free-flying birds in a wild, spatially distinct population, though it will take more good years for scientists to conclude that the birds are self-sustaining. The state's flocks are intermixing and reaching new areas, with one juvenile spotted by a motion-activated wildlife camera on a private forested property near the San Mateo coast in 2014, the first condor sighting in the county since 1904. To Neidhardt, one fact stands out: Last year for the first time in the recovery effort the number of chicks born in the wild in Central California exceeded condor deaths. "That's a huge victory. What that means is that there are enough breeding pairs out there in the wild that they are able to start replacing themselves," he says.

If the trajectory continues and people stop using lead ammunition, Wolstenholme reckons that in about five to 10 years the population will have grown so large that intensive monitoring of individual birds will no longer be possible—a problem she welcomes. "There's this feeling, why can't you just leave the birds alone? My goal is that ultimately we don't need the tags, the transmitters, the capture and handle. These are wild birds that should eventually be able to live their lives without interference." 🐾