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Recommended Santa Barbara County Cannabis Ordinance

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Prepared by the Cannabis Business Council of Santa Barbara County

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The following is proposed language to amend Santa Barbara County Ordinance Article X Medical Cannabis Regulations and to amend Santa Barbara County Ordinance Article V Right to Farm Section 2-23(b)(2) to provide regulation of cannabis under the Medical Cannabis Regulation and Safety Act (MCRSA) and the Adult Use of Marijuana Act (AUMA)

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY AMENDING AND ADOPTING, CHAPTER 35 ARTICLE X MEDICAL CANNABIS AND ADULT USE COMMERCIAL CANNABIS REGULATIONS; CHAPTER 3, ARTICLE V, SECTION 2-23 (b)(2) RIGHT TO FARM; CHAPTER 22 LICENSES, SECTION 22-74.

Whereas the Board of Supervisors of the County of Santa Barbara finds and declares:

A. The adoption of this Ordinance is necessary and desirable to protect the public safety, health and environmental resources, and to ensure safe access to cannabis for patients under the Medical Cannabis Regulation and Safety Act (MCRSA) and for adults over the age of 21 under the Adult Use of Marijuana Act.

B. The adoption of this Ordinance is consistent with the clear direction given by the people of California and the voters of Santa Barbara County regarding ending of the prohibition of cannabis. On November 8, 2016, with the Passage of Proposition 64, the Adult Use of Marijuana Act (AUMA), the people of California and the voters of Santa Barbara County sent a clear message that they support the end of prohibition and the reasonable regulation of cannabis by state and local governments. Proposition 64 passed with the support of over 61 percent of the voters in Santa Barbara County, exceeding the statewide support for Proposition 64 (57%) by over four percent.

C. The adoption of this Ordinance provides a regulatory path to permit existing cannabis cultivators to pursue state licenses and permits under the Medical Cannabis Regulation and Safety Act MCRSA and the Adult Use of Marijuana Act AUMA and provides a path for Santa Barbara County to permit other cannabis businesses as allowed for under state law, including cannabis delivery, cannabis manufacturing facilities, cannabis testing facilities, and cannabis dispensaries. Seventeen license types were established under MCRSA in Bus. & Prof. Code section 19300.7 and Bus. & Prof. Code section 19332(g), including: cultivation Types 1-4; manufacturing, license Types 6-7; testing, Type 8; dispensary Types 10 and 10A; distribution, Type 11 and transportation Type 12. Nineteen license types were established under AUMA in Bus. & Prof. Code section 26050, including: cultivation Types 1-5; manufacturing, Type 8; retailers, Type 10; distribution, Type 11, and Microbusiness, Type 12.

D. Recognizing that cannabis cultivation has existed in Santa Barbara County to address the needs of patients, on January 19, 2016, the Board of Supervisors adopted medical cannabis regulations that provided a limited exemption as a

"legal non-conforming use" for cultivation sites, legal under state law, operating prior to the adoption of the regulations.

E. In 1996 the voters of California approved Proposition 215, "The Compassionate Use Act" (codified as Health and Safety Code Section 11362.5), which was intended to decriminalize cultivation and possession of medical cannabis by a seriously ill patient, or the patient's primary caregiver, for the patient's personal use.

F. In 2004, the State enacted SB 420 (known as the "Medical Marijuana Program Act", codified as Health and Safety Code Section 11362.7 et seq.) to expand and clarify the scope of The Compassionate Use Act of 1996 by creating the Medical Marijuana Identification Card program, creating reasonable regulations for cultivating, processing, transporting and administering medical cannabis, as well as limiting the amount of medical cannabis a qualified individual may possess.

G. In 2015, the State enacted the Medical Marijuana Regulation and Safety Act (MMRSA) on (SB 643, AB 266, and AB 243), instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis through numerous changes and additions to the Business & Professions Code and the Health and Safety Code. MMRSA legalizes and regulates for-profit commercial activity related to medical cannabis in California. MMRSA provides that cities and counties retain local regulatory authority over medical cannabis.

H. On June 27, 2016 the Governor signed SB 837, changing the term "marijuana" to "cannabis" and renaming the Medical Cannabis Regulation and Safety Act (MCRSA).

I. Under MCRSA and AUMA, the State will adopt a comprehensive licensing and enforcement scheme, including track and trace, consistent with allowing local governments to regulate and control medical cannabis and adult use cannabis.

J. This Ordinance provides for a well-regulated permitting process for commercial cannabis activities, including the agricultural cultivation and/or processing of cannabis; cannabis delivery; cannabis manufacturing facilities; cannabis testing facilities; and, cannabis dispensaries allowed under the Medical Cannabis Regulation and Safety Act (MCRSA) and the Adult Use of Marijuana Act (AUMA), within the unincorporated portion of Santa Barbara County.

K. Properly regulated and controlled cannabis cultivation can play an important part in promoting the recognized public policy goals of preserving, supporting, and expanding the growth of Santa Barbara County agriculture.

L. The cultivation of cannabis is consistent with the long historic tradition of encouraging agriculture as stated in the Agricultural Element of the Santa Barbara County Comprehensive Plan under. Goal 1 of the Agricultural Element which states: "Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County. Agriculture shall be encouraged. Where conditions allow (taking into consideration environmental impacts) expansion and intensification shall be supported."

M. Cannabis cultivation is consistent with Agriculture Element, Policy 1.B which states, "The County shall recognize the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of

crops and all other functions within the traditional scope of agricultural management decisions."

N. The cultivation of cannabis is consistent with Santa Barbara County ordinances adopted to support the preservation and expansion of greenhouses.

O. Cannabis cultivation can be a benefit to Santa Barbara County's "traditional" agricultural economy and associated business in Santa Barbara County and allow greenhouses and outdoor growing facilities to be regulated, controlled, and expanded where appropriate in order to preserve and protect the county's horticultural and agricultural tradition.

P. Cannabis cultivation encourages the economic recovery and resurgence of long-standing Santa Barbara businesses, land owners, their employees, and associated businesses (construction, irrigation, suppliers, etc.), resulting in revenue for the County and its essential programs.

Q. The Agriculture Commissioner is best equipped and qualified to determine the permitting of locations for the commercial cultivation of medical cannabis and the commercial cultivation of adult use cannabis to ensure that such cultivation is fully integrated with Santa Barbara's rich agricultural tradition, while respecting fully the protection of county environmental resources consistent with traditional agricultural practices.

R. In order to efficiently enforce, track, and trace and to better promote the conservation of natural resources, and to ensure environmental protection, and the rational use of scarce water resources, medical cannabis cultivation and

commercial cannabis cultivation shall be encouraged to be concentrated at locations where it is feasible to site multiple permits on a parcel, which would qualify under MCRSA and AUMA.

S. In order to promote the responsible growth and development of medical cannabis cultivation and commercial cannabis cultivation ownership and employment restrictions should not exceed those in state law.

T. An Initial Study and Negative Declaration was prepared and circulated to the public for a 30-day period from (dates to be included when study complete). The Negative Declaration has been reviewed and considered, together with comments received during the public review process, in accordance with the California Environmental Quality Act (CEQA) and County CEQA Guidelines. The Board finds on the basis of the whole record before it that the Negative Declaration reflects the independent judgment and analysis of the Board and that there is no substantial evidence that the project will have a significant effect on the environment. The Director of Planning and Development is directed to file a Notice of Determination in accordance with CEQA.

The Santa Barbara County Board of Supervisors do hereby enact the following amendments to the Santa Barbara County Code.

THEREFORE, together with such regulations adopted by the California Bureau of Medical Cannabis Regulation and the California Bureau of Cannabis Control, the Board of Supervisors of the County of Santa Barbara ordains as follows:

The following amendments to Chapter 35 ARTICLE X. - MEDICAL CANNABIS AND ADULT USE COMMERCIAL CANNABIS REGULATIONS are adopted:

Sec. 35-1001. - Purpose and authority.

A. The purpose of this article is to enact county regulations for:

1. The agricultural cultivation and/or processing of medical cannabis and adult use commercial cannabis.
2. Cannabis delivery.
3. Cannabis transportation and distribution.
4. Cannabis manufacturing facilities.
5. Cannabis testing facilities.
6. Cannabis dispensaries.

B. This article is enacted in accordance with the authority granted to counties by the California Constitution and California state law, including, but not limited to, the Adult Use of Marijuana Act, the Medical Cannabis Regulation and Safety Act, the Compassionate Use Act, and Medical Cannabis Program Act.

Sec. 35-1002. - Definitions.

If any of the definitions in this article conflict with definitions in other provisions of the County Code, these definitions shall control for the purposes of this article. If a word is not defined in this article, or in other provisions of the Santa Barbara County Code or the Adult Use of Marijuana Act, or the Medical Cannabis Regulation and Safety Act, the Agriculture Commission shall determine the correct definition utilizing the latest edition standard dictionary.

Unless otherwise specifically provided in this article, words and phrases used in this article are defined as follows:

Agricultural Commissioner. Agricultural Commissioner shall mean the Agricultural Commissioner of Santa Barbara County.

County. County shall mean Santa Barbara County.

Identification Card. Identification card shall have the meaning set forth in the California Health and Safety Code Section 11362.7.

Cannabis or Marijuana. Cannabis, or marijuana, shall have the meaning set forth in the California Business and Professions Code Section 19300.5(f), the Medical Cannabis Regulation and Safety Act, as it was enrolled in 2015 in AB 266. This definition also includes medical marijuana or medical cannabis. Cannabis or Marijuana has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include cannabis that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8, as provided for in Business and Professions Code Section 26001(s) of the Adult Use of Marijuana Act.

Commercial Cultivation of Cannabis. "Commercial Cultivation of Cannabis" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, as provided for in Business Professions Code Section 26001(e) of the Adult Use of Marijuana Act.

Cultivation Site. "Cultivation site" shall have the meaning set forth in the California Business and Professions Code Section 19300.5(x), the Medical Cannabis Regulation and Safety Act, as it was enrolled in 2015 in AB 266. Cultivation, or medical cannabis cultivation, includes the processing of cannabis for medical purposes. Medical Cannabis Cultivation site and Adult Use Commercial Cannabis Cultivation site shall include indoor, outdoor, and mixed-light cultivation sites.

Delivery. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer, up to an amount allowed under state law, to persons authorized under state law to receive cannabis or cannabis products.

Dispensary. "Dispensary" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.

Distribution. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities licensed pursuant to this chapter.

Manufacturing facility "Manufacturing facility" means a location that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

Medical Cannabis Cultivation. "Medical Cannabis Cultivation" shall have the meaning set forth in the California Business and Professions Code Section 19300.5(1), the Medical Cannabis Regulation and Safety Act, as it was enrolled in 2015 in AB 266. Cultivation, or medical cannabis cultivation, includes the processing of cannabis for medical purposes.

Person. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

Person with an Identification Card. "Person with an Identification Card." Person with an identification card shall have the meaning set forth in the California Health and Safety Code Section 11362.7.

Primary Caregiver. "Primary caregiver" shall have the meaning set forth in the California Health and Safety Code Section 11362.7.

Qualified Patient. "Qualified patient" shall have the meaning set forth in the California Health and Safety Code Section 11362.7.

Testing Laboratory. "Testing laboratory" means a facility, entity, or site in the state that offers or performs test of cannabis or cannabis products and that is registered with the California State Department of Public Health.

Transport. "Transport" means the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized under state law.

Sec. 35-1003. - Prohibited acts and exemptions.

A. Prohibitions

1. Medical Cannabis Cultivation and Commercial Cannabis Cultivation Prohibited. Except for the limited exemptions in subsection B (Exemptions) below, medical cannabis cultivation for personal use and commercial cannabis cultivation is prohibited in all zones, districts, properties, and areas within the unincorporated areas of Santa Barbara County.
2. Cannabis delivery prohibited. Except for the limited exemptions in subsection B (Exemptions) below, commercial cannabis delivery is prohibited in all zones, districts, properties, and areas within the unincorporated areas of Santa Barbara County.
3. Cannabis transportation and distribution prohibited. Except for the limited exemptions in subsection B (Exemptions) below, commercial cannabis transportation and distribution is prohibited in all zones, districts, properties, and areas within the unincorporated areas of Santa Barbara County.
4. Cannabis manufacturing facilities prohibited. Except for the limited exemptions in subsection B (Exemptions) below, commercial cannabis manufacturing is prohibited in all zones, districts, properties, and areas within the unincorporated areas of Santa Barbara County.
5. Cannabis testing facilities prohibited. Except for the limited exemptions in subsection B (Exemptions) below, cannabis testing facilities are prohibited in all zones, districts, properties, and areas within the unincorporated areas of Santa Barbara County.
6. Cannabis dispensaries prohibited. Except for the limited exemptions in subsection B (Exemptions) below, cannabis dispensaries are prohibited in all zones, districts, properties, and areas within the unincorporated areas of Santa Barbara County.

B Exemptions

1. Nothing in this Ordinance shall be construed to allow the use of cannabis or allow any activity relating to the cultivation or consumption of cannabis that is otherwise not expressly allowed in the Santa Barbara County Code or is illegal under State law.
2. No person may cultivate, process, deliver, transport and distribute, manufacture, or test cannabis for commercial purposes, or operate a cannabis dispensary except in compliance with applicable state law.
3. The commercial cultivation, processing, delivery, transportation and distribution, manufacturing, and testing of cannabis or operation of a cannabis dispensary for medical use or adult use within the jurisdiction of the County of Santa Barbara inside the Coastal Zone and in the Non-Coastal Zone shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.
4. These regulations shall apply to the location and permitting of commercial cultivation, processing, delivery, transportation and distribution, manufacturing, and testing of cannabis or operation of a cannabis dispensary for medical use or adult use in zoning districts within which such use is authorized, as specified in this section.
5. Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, delivery, transportation, distribution, manufacturing, or testing of cannabis, from compliance with all other applicable Santa Barbara County zoning, and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.
6. Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water

discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

7. Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation of cannabis on private property.

8. The definitions in this Section are intended to apply solely to the regulations in this Section. Applicable definitions in Santa Barbara County Code Section (sections from Planning Code to be added in official version) _____ et seq. may also apply to this Section.

9. The cultivation of cannabis under this ordinance is declared to be consistent with Health and Safety Code Section 11362.777 which declares that medical cannabis is an agricultural product for purposes of that Section and the Medical Cannabis Regulation and Safety Act (MCRSA), Business and Professions Code Section 19300, et. seq., and the provisions of Proposition 64, the Adult Use of Marijuana Act (AUMA) enacted by the people on November 8, 2016, and the provisions of the Right to Farm Ordinance, Article V of the Santa Barbara County Code, except that all cannabis cultivation shall be permitted only after a cultivation permit is first obtained from the Agricultural Commissioner of Santa Barbara County. A person engaged in commercial cannabis cultivation shall apply for all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available.

10. Commercial cultivation of cannabis under MCRSA and AUMA may be allowed provided that persons engaged in cultivation of cannabis first obtain a Santa Barbara County commercial cannabis cultivation permit, and comply with all other regulations under this code and comply with applicable state law.

11. Medical Cannabis Cultivation for Personal Medical Use Exemption.

- a. A qualified patient or person with an identification card or that patient's or person's primary caregiver is allowed to engage in indoor or outdoor medical cannabis cultivation for personal medical use provided:

- b. The cultivation occurs on the lot that contains the lawful residential structure occupied by the qualified patient or person with an identification card; and
- c. The cultivation occurs on a single cultivation site that does not exceed one hundred square feet; and
- d. The cultivation conforms to all applicable zoning regulations and current California and county building codes; and
- e. The qualified patient or person with an identification card does not sell, distribute, donate, or provide cannabis to any other person or entity; and
- f. The primary caregiver does not sell, distribute, donate, or provide cannabis to any other person or entity for which they are not acting as the primary caregiver in accordance with the Medical Cannabis Regulation and Safety Act.

12. Cannabis Cultivation for Personal Adult Use Exemption

In accordance with the state law, a person over the age of 21 may for personal use cultivate, harvest, dry, or process cannabis plants, provided:

- a. Any cannabis produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place or adjacent private property, and
- b. Not more than 100 square feet of cannabis may be cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

13. Medical and Commercial Cannabis Cultivation Exemptions.

- a. Nothing in this Ordinance shall be construed to allow the indoor or outdoor use of cannabis or allow any activity relating to the cultivation or consumption of cannabis that is otherwise not expressly allowed in the Santa Barbara County Code or is illegal under State law.
- b. No person may cultivate cannabis for medical or commercial purposes except in compliance with applicable state law.
- c. All persons engaged in medical or commercial cannabis cultivation shall each year obtain a commercial cannabis cultivation permit from the Agriculture Commissioner.
- d. These regulations shall apply to the location and permitting of commercial cultivation, of cannabis for medical use and for adult use in zoning districts within which such use is authorized, as specified in this section.
- e. The medical and commercial cultivation, processing, manufacturing, and distribution of cannabis within the jurisdiction of the County of Santa Barbara inside the Coastal Zone and in the Non-Coastal Zone shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.
- f. Nothing in this Section is intended, nor shall it be construed, to exempt the medical or commercial cultivation, processing, manufacture, or distribution of cannabis, from compliance with all other applicable Santa Barbara County zoning, and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

- g. Nothing in this Section is intended, nor shall it be construed, to exempt the medical or commercial cultivation, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.
- h. Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting medical or commercial cultivation of cannabis on private property.
- i. All medical cannabis and commercial cannabis cultivation locations shall adopt security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or cannabis products.
- j. The definitions in this Section are intended to apply solely to the regulations in this Section. Applicable definitions in Santa Barbara County Code Section **(sections from Planning Code to be added if further definitions are necessary)** _____ et seq. may also apply to this Section.

14. Medical Cannabis Cultivation Exemption for Pre-existing Locations

- a. Medical Cannabis Cultivation Locations already existing on January 19, 2016 in Agricultural Zones AG I and AG II, Resource Protection Zones, Commercial Zones and Industrial Zones, if they are legal under California state law, as permitted by the Agricultural Commissioner, upon determination by the Agricultural Commissioner that the locations conform

to relevant zoning and land use restrictions and requirements. The Agriculture Commissioner shall ensure that permit applications for Medical Cannabis Cultivation locations existing on January 19, 2016 receive priority processing. Medical cannabis cultivation locations under this exemption may continue to operate as a "legal non-conforming use" until permitted or until a permit application is denied.

- b. Medical cannabis cultivation locations permitted under Section 14, subject to the approval of the Agricultural Commissioner, may contain one or more permits which conform to the following license type requirements described in Business and Professions Code, section 19332(g):

(1) Type 1, or "specialty outdoor," for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) Type 1A, or "specialty indoor," for indoor cultivation using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises.

(3) Type 1B, or "specialty mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than or equal to 5,000 square feet of total canopy size on one premises.

(4) Type 2, or "small outdoor," for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(5) Type 2A, or "small indoor," for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square

feet, inclusive, of total canopy size on one premises.

(6) Type 2B, or “small mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(7) Type 3, or “outdoor,” for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(8) Type 3A, or “indoor,” for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(9) Type 3B, or “mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises.

(10) Type 4, or “nursery,” for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

15. Commercial Cannabis Cultivation Exemption for Locations on Pre-Existing Medical Cannabis Sites.

- a. Commercial Cannabis Cultivation locations on Medical Cannabis Cultivation sites existing on January 19, 2016 in Agricultural Zones AG I and AG II, Resource Protection Zones, Commercial Zones and Industrial Zones, as permitted by the Agricultural Commissioner, upon determination by the Agricultural Commissioner that the locations conform to relevant zoning and land use restrictions and requirements. The Agriculture Commissioner shall ensure that parcel applications for Commercial Cannabis Cultivation locations on Medical Cannabis Cultivation locations existing on January 19, 2016 receive priority processing.

16. Commercial Cannabis Cultivation Locations

- a. Commercial cannabis cultivation locations permitted under this section subject to the approval of the Agricultural Commissioner, may contain one or more permits which conform the license type requirements in Business and Professions Code section 26061:

(1) Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, Type 5, Type 5A, and Type 5B unless otherwise provided by law.

(2) Except as otherwise provided by law, Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis as specified in subdivision (g) of Section 19332.

(3) Except as provided by law, Type 5, or "outdoor," means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises, Type 5A, or "indoor," means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises, Type 5B, or "mixed-light," means for cultivation using a combination of natural and

supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

- b. No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023. (e) Commencing on January 1, 2023, A Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

c. (LOCATION FOR REFERENCE TO ZONING PERMIT LANGUAGE (IF REQUIRED) AND FOR REFERENCES TO ANY LAND USE CHARTS FOR AGRICULTURAL COMMISSONER'S PERMIT APPLICATION PROCESS.)

17. Commercial cannabis delivery exemption.

- a. Commercial delivery of cannabis or cannabis products to persons qualified under MCRSA and AUMA may be allowed provided that persons engaged in commercial delivery of cannabis first obtain a Santa Barbara County commercial cannabis delivery business license, and comply with all other regulations under this code and comply with applicable state law.
- b. No delivery of commercial cannabis to a person under this exemption shall exceed that permitted by law.

18. Commercial cannabis transportation exemption.

- a. Commercial transportation of cannabis or cannabis products to persons qualified under MCRSA and AUMA may be allowed provided that persons engaged in commercial transportation and distribution of cannabis first obtain a Santa Barbara County commercial cannabis transportation business license, and comply with all other regulations under this code and comply with applicable state law.

- b. Commercial cannabis transportation facilities may be permitted Agricultural Zones AG I and AG II, Resource Protection Zones, Commercial Zones, and Industrial Zones.
- c. Cannabis transportation facilities shall comply with all of the following requirements:

- 1. Cannabis transportation facilities shall be located only in zoning districts that specifically provide for this use.

- 2. Cannabis transportation facilities shall not be located within six hundred (600) feet from any school.

- 3. Cannabis and medical cannabis products shall only be transported between permitted and licensed commercial cannabis operations.

- 4. Cannabis transportation facilities shall maintain appropriate records of transactions and shipping manifests. An organized and clean method of storing and transporting cannabis and cannabis products shall be provided to maintain a clear chain of custody.

- 5. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or cannabis products.

19. Commercial cannabis distribution exemption.

- a. Commercial distribution of cannabis or cannabis products to persons qualified under MCRSA and AUMA may be allowed provided that persons engaged in commercial distribution of cannabis first obtain a Santa Barbara County commercial cannabis distribution business license, and comply with all other regulations under this code and comply with applicable state law.

b. Commercial cannabis distribution facilities may be permitted Agricultural Zones AG I and AG II, Resource Protection Zones, Commercial Zones, and Industrial Zones.

c. Cannabis distribution facilities shall comply with all of the following requirements:

1. Cannabis distribution facilities shall be located only in zoning districts that specifically provide for this use.

2. Cannabis distribution facilities shall not be located within six hundred (600) feet from any school.

3. Cannabis and medical cannabis products shall only be distributed between permitted and licensed commercial cannabis operations.

4. Cannabis distribution facilities shall maintain appropriate records of transactions and shipping manifests. An organized and clean method of storing and transporting cannabis and cannabis products shall be provided to maintain a clear chain of custody.

5. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or cannabis products.

20. Cannabis manufacturing facility exemption

a. Cannabis manufacturing facilities to manufacture cannabis products for persons qualified under MCRSA and AUMA may be allowed provided that persons engaged in cannabis manufacturing first obtain a Santa Barbara County commercial cannabis manufacturing business license, and comply with all other regulations under this code and comply with applicable state law.

b. Cannabis manufacturing facilities may be permitted Agricultural Zones AG I and AG II, Resource Protection Zones, Commercial Zones, and Industrial Zones.

c. Cannabis manufacturing facilities shall comply with all of the following requirements:

1 Cannabis manufacturing facilities shall be located only in zoning districts that specifically provide for this use.

2. Cannabis manufacturing facilities shall not be located within six hundred (600) feet from any school.

3. All cannabis manufacturing operations shall ensure that cannabis is obtained from permitted and licensed cultivation sources and shall implement best practices to ensure that all manufactured cannabis products are properly stored, labeled, transported, and inspected prior to distribution at a legally permitted and licensed dispensary.

4. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or cannabis products shall be provided and maintained.

5. Any employees of a cannabis manufacturing facilities operating potentially hazardous equipment shall be trained on the proper use of equipment and on the proper hazard response protocols in the event of equipment failure. In addition, employees handling edible cannabis products or ingredients shall be trained on proper food safety practices.

21. Cannabis testing facility exemption

a. Cannabis testing of cannabis or cannabis products to be provided to qualified persons under MCRSA and AUMA may be allowed provided that persons engaged in cannabis testing first obtain a Santa Barbara

County cannabis testing facility license, and comply with all other regulations under this code and comply with applicable state law.

b. Cannabis testing facilities may be permitted Agricultural Zones AG I and AG II, Resource Protection Zones, Commercial Zones, and Industrial Zones.

c. Cannabis testing facilities shall comply with all of the following requirements:

1. Cannabis testing facilities shall be located only in zoning districts that specifically provide for this use.

2. Cannabis testing facilities shall not be located within six hundred (600) feet from any school.

3. All cannabis testing operations shall ensure that cannabis is obtained from permitted and licensed cultivation sources and shall implement best practices to ensure that all manufactured cannabis products are properly stored, labeled, transported, and inspected prior to distribution at a legally permitted and licensed dispensary.

4. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or cannabis products shall be provided and maintained.

5. Any employees of cannabis testing facilities operating potentially hazardous equipment shall be trained on the proper use of equipment and on the proper hazard response protocols in the event of equipment failure. In addition, employees handling edible cannabis products or ingredients shall be trained on proper food safety practices.

22. Cannabis dispensary exemption

- a. Cannabis dispensaries intended to serve persons qualified under MCRSA and AUMA may be allowed provided that cannabis dispensaries first obtain a Santa Barbara County cannabis dispensary license, and comply with all other regulations under this code and comply with applicable state law.
- b. Cannabis dispensaries may be permitted Agricultural Zones AG I and AG II, Resource Protection Zones, Commercial Zones, and Industrial Zones.
- c. Cannabis dispensary facilities shall comply with all of the following requirements:
 1. Cannabis dispensary facilities shall be located only in zoning districts that specifically provide for this use.
 2. Cannabis dispensary facilities shall not be located within six hundred (600) feet from any school.
 3. Cannabis dispensaries shall not be located within six hundred (600) feet of another dispensary.
 4. All cannabis dispensary operations shall ensure that cannabis is obtained from permitted and licensed cultivation sources and shall implement best practices to ensure that all manufactured cannabis products are properly stored, labeled, transported, and inspected prior to distribution at a legally permitted and licensed dispensary.
 5. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or cannabis products shall be provided and maintained.
 6. Dispensaries shall keep accurate records of all business operations and provide such records for inspection.

7. Dispensaries shall implement and maintain sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis or any cannabis rules promulgated by the licensing authority. Security measures shall include, but are not limited to, the following:

A. Prevent individuals from loitering on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary;

B. Establish limited access areas accessible only to authorized dispensary personnel;

C. Store all cannabis and cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis and cannabis products used for display purposes, samples or immediate sale; and

D. Install security cameras on site.

8. If the dispensary operations are proposed to include delivery, all employees of dispensary delivering cannabis or cannabis products shall carry a copy of the documentation listed below when making deliveries. The following information shall be provided upon request to law enforcement' officers and to employees of state and local agencies enforcing this Chapter:

A. A copy of the dispensary's current permits, licenses, and entitlements authorizing them to provide delivery services;

B. The employee's government-issued identification; and

C. A copy of the delivery request.

9. Dispensaries shall ensure that all cannabis and cannabis products at the dispensary are cultivated, manufactured, transported, distributed, and tested by licensed and permitted facilities that maintain operations in full conformance with state and local regulations.

10. Dispensaries shall not distribute any cannabis or cannabis product unless the cannabis and cannabis products are labeled and in a tamper-evident package.

11. Dispensaries shall notify the Santa Barbara County Sheriff's Office and the licensing authority within 24 hours after discovering any of the following:

A. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary;

B. The loss or unauthorized alteration of records related to cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents; or

C. Any other breach of security.

12. Possession or delivery of any other form of illegal drugs at a cannabis dispensary without proper legal authorization shall be grounds for revocation of permits.

Sec. 35-1004. - Commercial Cannabis Business Licenses.

A. All persons engaged in commercial cannabis activities as provided herein shall obtain each year from the County of Santa Barbara a commercial cannabis business license. This license shall be displayed prominently at each commercial cannabis facility and shall be available for inspection upon lawful request.

B. The annual fee for each cannabis business licenses to support administrative costs shall be set forth in Section 22-74 as follows:

- 1 Cannabis cultivation: \$_____.
2. Cannabis delivery: \$_____.
3. Cannabis transportation: \$_____.
4. Cannabis distribution: \$_____.
5. Cannabis manufacturing facility: \$_____.
6. Cannabis testing facility. \$_____.
7. Cannabis dispensary \$_____.

Sec. 35-1005. - Legal actions.

A. Civil Actions.

1. Public Nuisance. Any act or practice contrary to the provisions of this article shall be and the same is hereby declared to be unlawful and a public nuisance.
2. Injunctive Relief. Whenever, in the judgment of the planning and development department or other county department, any person, firm, or corporation is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of this article or any rule, regulation, order, or permit issued thereunder, and at the request of the Agricultural Commissioner, the planning and development department or other county department, the district attorney or county counsel of the county may make application to the Superior Court for an order enjoining such act or

practice, or for an order directing compliance, and upon a showing by the planning and development department or other county department that such person, firm, or corporation has engaged in or is about to engage in any such act or practice, a temporary, preliminary, or permanent injunction, restraining order, or other order may be granted.

3. Abatement. In the event that any person, firm, or corporation shall fail to abate a violation hereunder after notice of same and opportunity to correct or end the violation the planning and development department or other county department may request the county counsel or district attorney to apply to the Superior Court of this county for an order authorizing planning and development to undertake those actions necessary to abate the violation and requiring the violator to pay for the costs of such undertaking.

B. Civil Remedies and Penalties.

1. Civil Penalties. Any person, whether acting as principal, agent, employee, or otherwise, violating the provisions of this article or any rule, regulation, order, or permit issued thereunder, shall be liable for a civil penalty not to exceed twenty-five thousand dollars for each violation of any provision of this article or any rule, regulation, order, or permit issued hereunder.

2. Costs and Damages. Any person, whether as principal, agent, employee, or otherwise, violating any provisions of this article or the rules, regulations, orders, or permits issued thereunder, shall be liable to the county of Santa Barbara for the costs incurred, including litigation support, and the damages suffered by the county, its agents, and agencies as a direct and proximate result of such violations.

3. Procedure. In determining the amount of the civil penalty to impose, the court may consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by defendant.

C. Criminal Actions and Penalties.

1. Infractions. Any person, firm, or corporation, whether as a principal, agent, employee, or otherwise, who shall cultivate or deliver cannabis contrary to the provisions of this article, or the rules, regulations, orders, or permits issued thereunder, is guilty of an infraction and upon conviction thereof, the crime shall be punishable by (1) a fine not exceeding one hundred dollars for a first violation; (2) a fine not exceeding two hundred dollars for a second violation of this article within one year; and (3) a fine not exceeding five hundred dollars for each additional violation of this article within one year.

2. Misdemeanors. Any infraction which would otherwise be an infraction may, at the discretion of the district attorney, be filed as a misdemeanor, and upon conviction thereof, the punishment shall be a fine of not less than five hundred dollars nor more than twenty-five thousand dollars per violation of any of the provisions of this article, or imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

3. Violations. Each and every day during any portion of which any violation of this article or the rules, regulations, orders, or permits issued hereunder, is committed or permitted, or permitted to exist without remedy, by such person, firm, or corporation shall be deemed a separate and distinct offense.

Sec. 35-1006. - Existing County Code not affected.

This article is meant to supplement, not amend, any existing provision of the County Code. In the event a conflict arises between a provision of the County Code and any provision of this article, this article shall prevail.

The following amendments to CHAPTER 22 LICENSES, ARTICLE II SECTION 22-74 Fee Schedule are adopted:

Sec. 22-74. - Fee schedule.

A. The annual fee for each cannabis business licenses to support administrative costs shall be:

- 1 Cannabis cultivation: \$_____
2. Cannabis delivery: \$_____
3. Cannabis transportation and distribution \$_____.
4. Cannabis manufacturing facility: \$_____.
5. Cannabis testing facility. \$_____
6. Cannabis dispensary \$_____.

The following amendments to CHAPTER 3, ARTICLE V, SECTION 2-23 (b)(2) RIGHT TO FARM are adopted:

Sec. 2-23(b)(2)

"Agricultural use" means and includes, but is not limited to, the tilling of the soil, the raising of crops, horticulture, cultivation of cannabis, aviculture, apiculture, livestock farming, the raising of small animals and poultry, dairying, animal husbandry, wineries processing grapes produced on the premises, and the sorting, cleaning, packing and storing of agricultural products preparatory to sale and/or shipment in their natural form when such products are produced on the premises, including all uses customarily incidental thereto, but not including slaughterhouse, fertilizer works, commercial packing or processing plant or plant for the reduction of animal matter, or any other use which is similarly

objectionable because of odor, smoke, dust, fumes, vibration or danger to life or property.

Effective Date

This Ordinance shall be in full force and effect sixty days after the date of its adoption by the Board of Supervisors.

