

# ATTACHMENT 3: 15ORD-00000-00018 ORDINANCE

ORDINANCE NO. \_\_\_\_\_

A NEW ARTICLE X, TITLED "MEDICAL MARIJUANA REGULATIONS" ADDED TO SECTION 35, ZONING, OF THE SANTA BARBARA COUNTY CODE, TO GENERALLY PROHIBIT MEDICAL MARIJUANA CULTIVATION AND DELIVERY WITH A LIMITED EXEMPTION WITHIN THE UNINCORPORATED AREAS OF SANTA BARBARA COUNTY.

Case No. 15ORD-00000-00018

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

## **SECTION 1:**

A new Article X, titled "Medical Marijuana Regulations" is hereby added to Section 35, Zoning, of the Santa Barbara County Code, and reads as follows:

### **Article X. - Medical Marijuana Regulations**

- Section 35-1001 - Purpose and Authority.
- Section 35-1002 - Definitions.
- Section 35-1003 - Prohibited Acts and Exemption.
- Section 35-1004 - Legal Actions.
- Section 35-1005 - Existing County Code Not Affected.

### **Section 35-1001. - Purpose and Authority.**

- A. The purpose of this Article is to enact a complete and total prohibition except as provided in this Article of:
  - 1. The cultivation and/or processing of medical marijuana, and
  - 2. The delivery of medical marijuana, including, but not limited to, mobile 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 Medical Marijuana Regulation and Safety Act, the Compassionate Use Act, and Medical Marijuana Program Act.

### **Section 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 Medical Marijuana Regulation Act, the Director of the Planning and Development Department 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:

**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 Marijuana Regulation and Safety Act, as it was enrolled in 2015 in AB 266. This definition also includes medical cannabis or medical marijuana.

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

**Cultivation Site.** Cultivation Site shall have the meaning set forth in the California Business and Professions Code Section 19300.5(x), the Medical Marijuana Regulation and Safety Act, as it was enrolled in 2015 in AB 266. Cultivation, or Medical Marijuana Cultivation includes the processing of marijuana for medical purposes.

**Delivery, or Medical Marijuana Delivery.** Delivery, or Medical Marijuana Delivery shall have the meaning set forth in the California Business and Professions Code Section 19300.5(m), the Medical Marijuana Regulation and Safety Act, as it was enrolled in 2015 in AB 266.

**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.

### **Section 35-1003 - Prohibited Acts and Exemption.**

A. **Medical marijuana cultivation prohibited.** Except for the limited exemption in Subsection A.1, below, medical marijuana cultivation is prohibited in all zones, districts, properties, and areas within the unincorporated areas of Santa Barbara County.

1. **Medical marijuana cultivation for personal medical use exemption.** 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 marijuana cultivation for personal medical use provided:
  - a. The cultivation occurs on the lot that contains the lawful residential structure occupied by the qualified patient or person with an identification card; and
  - b. The cultivation occurs on a single cultivation site that does not exceed 100 square feet; and
  - c. The cultivation conforms to all applicable zoning regulations and current California and County building codes; and
  - d. The qualified patient or person with an identification card does not sell, distribute, donate, or provide marijuana to any other person or entity; and
  - e. The primary caregiver does not sell, distribute, donate, or provide marijuana to any other person or entity for which they are not acting as the primary caregiver in accordance with the Medical Marijuana Regulation and Safety Act.

- B. **Medical marijuana delivery prohibited.** The medical marijuana delivery by any means is prohibited in all zones, districts, properties, and areas within the unincorporated areas of Santa Barbara County.
- C. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the activities of marijuana cultivation or marijuana delivery in the unincorporated areas of Santa Barbara County, and no person shall otherwise establish or conduct such activities in the unincorporated areas of Santa Barbara County.

**Section 35-1004 - 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 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 medical marijuana 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.

**Section 35-1005 - 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.

**SECTION 2:**

Except as amended by this Ordinance, Chapter 35, Zoning, of the Santa Barbara County Code, shall remain unchanged and shall continue in full force and effect.

**SECTION 3:**

This ordinance shall take effect and be in force 30 days from the date of its passage and before the expiration of 15 days after its passage a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara,  
State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
PETER ADAM, CHAIR  
BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI  
COUNTY COUNSEL

By   
Deputy County Counsel