

**Attachment D: Montecito Land Use and Development Code
Amendments**

11ORD-00000-00030

Board of Supervisors Hearing of November 1, 2011

- a. Clean Copy (Exhibit 1.2)
- b. Montecito Planning Commission Resolution and Ordinance – Tracked Changes

This page is intentionally blank

EXHIBIT 1.2

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 35-2, THE MONTECITO LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY AMENDING DIVISION 35.2, MONTECITO ZONES AND ALLOWABLE USES, DIVISION 35.4, MONTECITO STANDARDS FOR SPECIFIC LAND USE, AND DIVISION 35.10, GLOSSARY, TO IMPLEMENT NEW REGULATIONS PROHIBITING MEDICAL MARIJUANA DISPENSARIES.

Case No. 11ORD-00000-00030

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

SECTION 1:

DIVISION 35.2, MONTECITO ZONES AND ALLOWABLE LAND USES, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend the Section 35.420.030 (Allowable Development and Planning Permit Requirements), of Chapter 35.420 (Development and Land Use Approval Requirements), to read as follows:

35.420.030 - Allowable Development and Planning Permit Requirements

- A. Allowable land uses.** The land uses allowed by this Development Code in each zone and overlay zone are listed in Chapters 35.421 through 35.428, together with the type of planning permit required for each use. Each listed land use type is defined in Division 35.10 (Glossary).
- 1. Establishment of an allowable use.** Any land use identified by Chapter 35.421 through Chapter 35.428 as being allowable within a specific zone may be established on any lot within that zone, subject to the planning permit requirements of Subsection B. (Permit requirements) below and compliance with all applicable requirements of this Development Code.
 - 2. Use not listed.** A land use not listed in Chapter 35.421 through Chapter 35.428 or not shown in the table of allowable land uses and permit requirements for a particular zone is not allowed, except as otherwise provided in Subsection A.3 (Similar and compatible use may be allowed) below.
 - 3. Similar and compatible use may be allowed.** In the following zones the Montecito Commission may determine that a proposed use not listed in this Division is allowable in compliance with Section 35.472.170 (Use Determinations):
 - a. Applicable zones:**
 - (1) CN (Neighborhood Commercial)

- (2) PU (Public Utilities)
 - (3) REC (Recreation)
 - (4) TC (Transportation Corridor)
- b. Applicable standards and permit requirements.** When the Montecito Commission determines that a proposed but unlisted use is similar to a listed allowable use, the proposed use will be treated in the same manner as the listed use in determining where it is allowed, what permits are required, and what other standards and requirements of this Development Code apply.
- c. Medical Marijuana Dispensaries.** Medical Marijuana Dispensaries are not allowed in any zone district and shall not be approved through a Use Determination (Section 35.472.180).

SECTION 2:

DIVISION 35.4, MONTECITO STANDARDS FOR SPECIFIC LAND USES, of Section 35-2, the Santa Barbara Montecito County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Chapter 35.430, Montecito Standards for Specific Land Uses, to add a new Section 35.430.125 titled “Medical Marijuana Dispensaries” to read as follows:

35.430.125 – MEDICAL MARIJUANA DISPENSARIES (MMD)

Medical Marijuana Dispensaries Prohibited. Medical Marijuana Dispensaries are not allowed in any zone district and shall not be approved through a Use Determination (Section 35.472.170).

SECTION 3:

DIVISION 35.10, GLOSSARY, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Sections 35.500.020 (Definition of Specialized Terms and Phrases) of Chapter 35.500 (Definitions) to add new Medical Marijuana definitions to read as follows:

1. **Medical Marijuana.** Shall mean marijuana, as set forth in the California Health and Safety Code Section 11018 (as that Section now appears and may be amended or renumbered) as used for medical purposes, in compliance with Health and Safety Code Section 11362.5 et seq.
2. **Medical Marijuana Dispensary.** A facility or location that dispenses marijuana through a storefront, including but not limited to storefronts organized and operated by a collective or a cooperative as defined by the 2008 California Attorney General Guidelines or its successor.
 - a. **Medical Marijuana Cooperative.** Shall mean a statutory Cooperative which conducts its business for the mutual benefit of its members, must file articles of incorporation, is

a non-profit entity, and is subject to all legal requirements of a statutory Cooperative, as outlined in the California Corporations Code or Food and Agriculture Code.

- b. **Medical Marijuana Collective.** Shall mean a non-profit organization, with five or more members, which exists merely to facilitate the collaborative efforts of Qualified Patient, Persons with ID Card, and Primary Caregiver members and to coordinate transactions between members involving Medical Marijuana.

SECTION 4:

All existing indices, section references, and figure and table numbers contained in Divisions 35.2, 32.4, and 35.10 of the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, are hereby revised as appropriate to reflect the revisions enumerated above.

SECTION 5:

Except as amended by this Ordinance, Divisions 35.2, 35.4, and 35.10, of Article 35-2, the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 6:

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 _____, 2011, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

JONI GRAY
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By _____
Deputy County Counsel

ATTACHMENT C: RESOLUTION AND PROPOSED MLUDC ORDINANCE

RESOLUTION OF THE SANTA BARBARA COUNTY MONTECITO PLANNING
COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING TO THE)
BOARD OF SUPERVISORS THE ADOPTION OF)
AN AMENDMENT TO SECTION 35-2 OF) RESOLUTION NO.: 11 - 19
CHAPTER 35 OF THE COUNTY CODE, THE)
SANTA BARBARA COUNTY MONTECITO) CASE NO.: 11ORD-00000-00030
LAND USE AND DEVELOPMENT CODE,)
REGARDING MEDICAL MARIJUANA)
DISPENSARIES)

WITH REFERENCE TO THE FOLLOWING:

- A. California state law, including the Compassionate Use Act of 1996 (CUA) and the Medical Marijuana Program Act of 2003 (MMP), grants seriously ill Californians access to marijuana for medical purposes and provides an affirmative legal defense against prosecution for cultivating, possessing, consuming, transporting, processing, or selling medical marijuana.
- B. The 2008 Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use attempted to provide some guidance for local jurisdictions and law enforcement officials regarding implementation and regulation of the resultant Medical Marijuana Program, but currently state law contains no regulations defining MMDs.
- C. The County of Santa Barbara Code of Ordinances regulates, among other things, the uses, location, and operation of commercial activities but currently does not include permanent regulations for Medical Marijuana Dispensaries.
- D. The Board of Supervisors is concerned with the potential proliferation of MMDs within the County. This concern is based on expert and citizen testimony at public hearings (Board of Supervisors hearings on January 19, 2010; February 16, 2010; December 7, 2010; and October 4, 2011), the experience of cities within the County, and studies from other jurisdictions and from law enforcement agencies.
- E. The Board of Supervisors enacted an Interim Urgency Ordinance (Ordinance Nos. 4739, 4743, 4770) establishing a moratorium on the establishment and operation of MMDs, in order to provide staff with adequate time to study and recommend options for addressing MMDs in the County unincorporated area.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.

2. In compliance with the provisions of Section 65855 of the Government Code, this Montecito Planning Commission recommends that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, adopt 11ORD-00000-00030, based on the findings included as Attachment A of the Montecito Planning Commission staff report dated October 12, 2011.
3. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
4. The Chair of this Montecito Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above-mentioned action by Montecito Planning Commission.

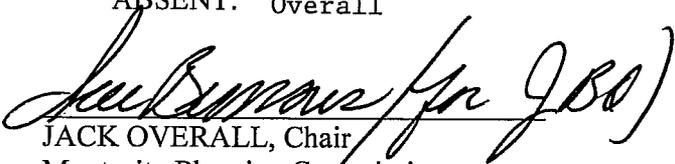
PASSED, APPROVED AND ADOPTED this day, October 19, 2011 by the following vote:

AYES: Phillips, Burrows, Gottsdanker, Eidelson

NOES:

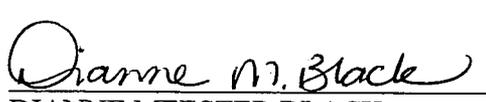
ABSTAIN:

ABSENT: Overall



JACK OVERALL, Chair
Montecito Planning Commission

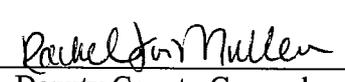
ATTEST:



DIANNE MEEESTER BLACK
Secretary to the Commission

APPROVED AS TO FORM:

DENNIS A. MARSHALL
COUNTY COUNSEL

By 

Deputy County Counsel

EXHIBIT:

1.2 11ORD-00000-00030, Montecito Land Use Development Code

EXHIBIT 1.2

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 35-2, THE MONTECITO LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY AMENDING DIVISION 35.2, MONTECITO ZONES AND ALLOWABLE USES, DIVISION 35.4, MONTECITO STANDARDS FOR SPECIFIC LAND USE, AND DIVISION 35.10, GLOSSARY, TO IMPLEMENT NEW REGULATIONS PROHIBITING MEDICAL MARIJUANA DISPENSARIES.

Case No. 11ORD-00000-00030

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

SECTION 1:

DIVISION 35.2, MONTECITO ZONES AND ALLOWABLE LAND USES, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend the Section 35.420.030 (Allowable Development and Planning Permit Requirements), of Chapter 35.420 (Development and Land Use Approval Requirements), to read as follows:

35.420.030 - Allowable Development and Planning Permit Requirements

- A. Allowable land uses.** The land uses allowed by this Development Code in each zone and overlay zone are listed in Chapters 35.421 through 35.428, together with the type of planning permit required for each use. Each listed land use type is defined in Division 35.10 (Glossary).
1. **Establishment of an allowable use.** Any land use identified by Chapter 35.421 through Chapter 35.428 as being allowable within a specific zone may be established on any lot within that zone, subject to the planning permit requirements of Subsection B. (Permit requirements) below and compliance with all applicable requirements of this Development Code.
 2. **Use not listed.** A land use not listed in Chapter 35.421 through Chapter 35.428 or not shown in the table of allowable land uses and permit requirements for a particular zone is not allowed, except as otherwise provided in Subsection A.3 (Similar and compatible use may be allowed) below.
 3. **Similar and compatible use may be allowed.** In the following zones the Montecito Commission may determine that a proposed use not listed in this Division is allowable in compliance with Section 35.472.170 (Use Determinations):
 - a. **Applicable zones:**
 - (1) CN (Neighborhood Commercial)

- (2) PU (Public Utilities)
 - (3) REC (Recreation)
 - (4) TC (Transportation Corridor)
- b. Applicable standards and permit requirements.** When the Montecito Commission determines that a proposed but unlisted use is similar to a listed allowable use, the proposed use will be treated in the same manner as the listed use in determining where it is allowed, what permits are required, and what other standards and requirements of this Development Code apply.
- c. Medical Marijuana Dispensaries.** Medical Marijuana Dispensaries are not allowed in any zone district and shall not be approved through a Use Determination (Section 35.472.180).

SECTION 2:

DIVISION 35.4, MONTECITO STANDARDS FOR SPECIFIC LAND USES, of Section 35-2, the Santa Barbara Montecito County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Chapter 35.430, Montecito Standards for Specific Land Uses, to add a new Section 35.430.125 titled “Medical Marijuana Dispensaries” to read as follows:

35.430.125 – MEDICAL MARIJUANA DISPENSARIES (MMD)

Medical Marijuana Dispensaries Prohibited. Medical Marijuana Dispensaries are not allowed in any zone district and shall not be approved through a Use Determination (Section 35.472.170).

SECTION 3:

DIVISION 35.10, GLOSSARY, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Sections 35.500.020 (Definition of Specialized Terms and Phrases) of Chapter 35.500 (Definitions) to add new Medical Marijuana definitions to read as follows:

1. **Medical Marijuana.** Shall mean marijuana, as set forth in the California Health and Safety Code Section 11018 (as that Section now appears and may be amended or renumbered) as used for medical purposes, in compliance with Health and Safety Code Section 11362.5 et seq.
2. **Medical Marijuana Dispensary.** A facility or location that dispenses marijuana through a storefront, including but not limited to storefronts organized and operated by a collective or a cooperative as defined by the 2008 California Attorney General Guidelines or its successor.
 - a. **Medical Marijuana Cooperative.** Shall mean a statutory Cooperative which conducts its business for the mutual benefit of its members, must file articles of incorporation, is

a non-profit entity, and is subject to all legal requirements of a statutory Cooperative, as outlined in the California Corporations Code or Food and Agriculture Code.

- b. **Medical Marijuana Collective.** Shall mean a non-profit organization, with five or more members, which exists merely to facilitate the collaborative efforts of Qualified Patient, Persons with ID Card, and Primary Caregiver members and to coordinate transactions between members involving Medical Marijuana.

SECTION 4:

All existing indices, section references, and figure and table numbers contained in Divisions 35.2, 32.4, and 35.10 of the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, are hereby revised as appropriate to reflect the revisions enumerated above.

SECTION 5:

Except as amended by this Ordinance, Divisions 35.2, 35.4, and 35.10, of Article 35-2, the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 6:

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 _____, 2011, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

JONI GRAY
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By _____
Deputy County Counsel