

ORDINANCE NO.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SANTA BARBARA ADDING SECTION 28.87.300 TO THE
SANTA BARBARA MUNICIPAL CODE TO REGULATE
CANNABIS CULTIVATION

The City Council of the City of Santa Barbara does ordain as follows:

SECTION 1. Findings.

A. The Medical Marijuana Regulation and Safety Act (MMRSA) comprising Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 was enacted on October 9, 2015 and will become effective on January 1, 2016. MMRSA establishes a state licensing program for commercial medical cannabis related activities, including the dispensing and cultivation of cannabis. AB 266, through the addition of Chapter 3.5, Division 8 (Commencing with section 19300) of the Business and Professions Code, allows local jurisdiction to adopt and enforce local regulations and permitting requirements relating to commercial medical cannabis activities so long as they meet the minimum state licensing standards and regulations;

B. Assembly Bill 243 adds Article 6 (commencing with section 19331) to Chapter 3.5 of Division 8 of the Business and Professions Code, which requires the Department of Food and Agriculture to promulgate regulations and standards for the cultivation of cannabis to address the associated environmental impacts. The bill further adds section 11362.777 to the Health and Safety Code, which provides that the Department of Food and Agriculture shall establish the Medical Cannabis Cultivation Program to license commercial cultivation of cannabis and that unless a local jurisdiction has a land use regulation or ordinance regulating or prohibiting the cultivation of cannabis before March 1, 2016, then the State shall be the sole licensing authority for medical marijuana cultivation applicants in that jurisdiction; and

C. Pursuant to Santa Barbara Municipal Code section 28.87.030 C., and due to the environmental impacts and negative health and safety impacts associated with commercial cultivation and personal cultivation of more than one hundred square feet of cannabis, the City Council finds that such uses are obnoxious and detrimental to the welfare of the community and that it is in the best interest of the public to retain local control over cultivation of cannabis by permitting small-scale cultivation for personal medical use and prohibiting any commercial cultivation with the City of Santa Barbara.

SECTION 2. The Santa Barbara Municipal Code is amended to add section 28.87.300 to read as follows:

28.87.300 Cannabis Cultivation

A. Definitions.

For the purposes of this section, the following word and phrases shall be defined as set forth below:

1. "Cannabis" shall have the meaning set forth in California Business and Professions Code section 19300.5(f), the Medical Marijuana Regulation and Safety Act, as it was enrolled in 2015 in A.B. 266.
2. "Commercial" shall have the meaning set forth in section 28.04.180 of the Zoning Ordinance.
3. "Cultivation" shall have the meaning set forth in California Business and Professions Code section 19300.5(l) of the Medical Marijuana Regulation and Safety Act, as it was enrolled in 2015 in A.B. 266.
4. "Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.
5. "Parcel" shall have the meaning set forth in section 28.04.515 of the Zoning Ordinance.
6. "Personal Medical Use" shall mean non-commercial cannabis cultivation by a qualified patient for their personal use.
7. "Qualified Patient" shall have the meaning set forth in California Health and Safety Code section 11362.7, and shall not include primary caregivers.
8. "Residential unit" shall have the meaning set forth in section 28.04.590 of the Zoning Ordinance.

B. Cannabis Cultivation for Personal Medical Use. A qualified patient is permitted to engage in indoor or outdoor cannabis cultivation for personal medical use on a single contiguous cultivation site, existing in a horizontal plane not exceeding a footprint of one hundred (100) square feet in area, in any zone, provided that the parcel is occupied by the qualified patient living in a lawful residential unit, but in no event may more than one cultivation site be permitted at any single lawful residential unit.

C. Commercial Cannabis Cultivation Prohibited. Commercial cannabis cultivation for any purpose or use is prohibited in all zones.

D. All Other Cannabis Cultivation Prohibited. Except to the extent expressly permitted by this section, cannabis cultivation of any kind and for any purpose shall not be construed as a permitted agricultural or other use in any zone under the Zoning Ordinance.

E. Permissive Zoning. For the purposes of California Health and Safety Code section 11362.777(b)(3), the Zoning Ordinance shall be construed as establishing

permissive zoning so that cannabis cultivation is permitted only where expressly allowed by this section.

F. Nuisance. Nothing in this section shall be construed to permit the establishment or maintenance of any use which constitutes a public nuisance.

SECTION 3. Coastal Zone. This ordinance enacts a citywide policy that does not affect, burden, or otherwise conflict with the goals of the California Coastal Act, as set forth in Public Resources Code section 30001.5, and is not subject to Public Resources Code section 30514. Further, this ordinance limits marijuana cultivation activity that would otherwise be more broadly permitted under State law, including within the Coastal Zone, and is intended to regulate nuisance activity within the City of Santa Barbara. This ordinance is exempt from certification or review by the Coastal Commission under Public Resources Code section 30005.

SECTION 4. CEQA Findings. This ordinance is exempt from CEQA pursuant to State CEQA Guidelines section 15305, minor alterations in land use limitations in areas with an average slope of less than 20% that do not result in any changes in land use or density, and section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.