

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

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SANTA BARBARA AMENDING IN ITS ENTIRETY SECTION  
30.185.110 OF THE SANTA BARBARA MUNICIPAL CODE  
PERTAINING TO CANNABIS CULTIVATION

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS  
FOLLOWS:

SECTION 1. Findings and Determinations.

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 became 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 jurisdictions 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. Section 11362.777 authorized qualified patients to

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cultivate up to 100 square feet of cannabis for personal use and primary caregivers to cultivate up to 500 square feet of cannabis for not more than five qualified patients without obtaining a state license;

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, on January 26, 2016 the City Council found that such uses are obnoxious and detrimental to the welfare of the community and that it was in the best interest of the public to retain local control over cultivation of cannabis by permitting only small-scale cultivation for personal medical use and prohibiting any commercial cultivation with the City of Santa Barbara;

D. On January 26, 2016 the City Council adopted City Ordinance No. 5733 which prohibited commercial cultivation of medical cannabis and limited cultivation of medical cannabis to 100 square feet by a qualified patient for personal medical use at his or her lawful residential unit;

E. On November 8, 2016, Proposition 64, the Adult Use of Marijuana Act (“AUMA”), was approved by the voters of California in a statewide general election. The AUMA legalized, with certain limitations, the possession, use, and cultivation of non-medical cannabis by persons over twenty-one years of age, and established a state licensing scheme to regulate commercial cannabis activities;

F. On June 12, 2017, Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) was enacted to provide a single cohesive licensing scheme for all cannabis related activities. S.B. 94 repealed MMRSA (also later

known as the Medical Cannabis Regulation and Safety Act) and included certain provisions of MMRSA in the licensing provisions of AUMA. Under Senate Bill 94, these consolidated provisions became known as MAUCRSA;

G. MAUCRSA repealed Health and Safety Code section 11362.777, and made it lawful under section 11362.2 for any person over 21 years of age to cultivate up to six live cannabis plants at his or her private residence for medical or non-medical use;

H. Health and Safety Code section 11362.2 restricts local governments from completely prohibiting persons over 21 years of age from cultivating cannabis inside his or her private residence, but authorizes local agencies to enact and enforce reasonable regulations to regulate indoor cultivation. Section 11362.2(b)(3) permits local governments to completely prohibit persons from engaging in outdoor cultivation for personal use; and

I. In order to address the change in state law pertaining to personal cultivation of cannabis, and continue to limit environmental impacts and protect against negative health and safety impacts associated with the unregulated cultivation of cannabis, the City Council finds that it is in the best interest of the City to prohibit personal cultivation of outdoor cannabis, and reasonably regulate the cultivation of indoor cannabis for personal use.

SECTION 2. Section 110 of Chapter 185 of Title 30 of the Santa Barbara Municipal Code is amended in its entirety as follows:

**30.185.110 Cannabis Cultivation for Personal Use**

A. **Purpose.** The purpose of this Section is to reasonably regulate the indoor cultivation of cannabis for personal use within a private residence or accessory structure

to a private residence and prohibit outdoor cultivation of cannabis upon the grounds of a private residence, as authorized under section 11362.2 of the California Health and Safety.

**B. Definitions.** For the purpose of this Section, the following words and phrases shall have the following meanings.

1. “Cannabis” shall have the meaning set forth in section 26001(f) of the California Business and Professions Code, Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), as it was enrolled in June 2017 in S.B. 94, and as subsequently amended in September 2017 by A.B. 133.
2. “Cultivate” or “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
3. “Cultivation site” means the location within a private residence or accessory structure to a private residence where cannabis is cultivated.
4. “Live plants” means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.
5. “Personal cultivation” means the cultivation of cannabis that is not performed in exchange for compensation, including barter, gifts, or promises.
6. “Private residence” means the single primary lawful dwelling unit of a person twenty-one (21) years of age or older.
7. “Family day care home” has the same meaning as in section 1596.78 of the California Health and Safety Code.

C. **Cannabis Cultivation for Personal Use.** It shall be unlawful for a person to cultivate marijuana for personal use in any zone of the City unless all of the following conditions are met.

1. The cultivation is done by a person twenty-one (21) years of age or older;
2. No more than six (6) live plants are being cultivated inside his or her private residence, or inside an accessory structure to a private residence that is fully enclosed and secure;
3. The cultivation site is secured within a locked space that is not visible from anywhere outside the private residence or accessory structure;
4. The cultivation site is not accessible to persons who are under twenty-one (21) years of age;
5. The cultivation site must not produce odors, sounds, or other emissions that are sensible from adjacent properties and may indicate marijuana cultivation;
6. No more than six (6) live plants are being cultivated at the private residence, or accessory structure, at any one time regardless of the number of persons twenty-one (21) years of age or older who live in the private residence; and
7. A family day care home is not being operated at the private residence, or within an accessory structure to the private residence.

D. **Outdoor Cultivation for Personal Use.** Personal cultivation that occurs outdoors is unlawful in any zone.

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

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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.