

## ARTICLE X. - MEDICAL MARIJUANA REGULATIONS

Sec. 35-1001. - Reserved.

**Editor's note**— Ord. No. 5025, § 1, adopted February 6, 2018, repealed the former section 35-1001 in its entirety, which pertained to purpose and authority, and derived from Ord. No. 4954, § 1, adopted January 19, 2016.

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 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(1), 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.

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.

(Ord. No. 4954, § 1, 1-19-2016)

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

- A. Prior Prohibition of Medical Marijuana Cultivation. Under a prior ordinance (Ordinance No. 4954), medical marijuana cultivation was prohibited in all zones, districts, properties, and areas within the unincorporated areas of Santa Barbara County with an exception for legal nonconforming uses that remains in subsection B., below, until terminated as provided in subsection C., below.
- B. Legal Nonconforming Uses Exemption. Medical marijuana cultivation locations already existing on January 19, 2016, if they are legal under California state law; these are legal nonconforming uses.
- C. Legal Nonconforming Uses Termination.
  - 1. The legal nonconforming uses described in subsection B. shall terminate:
    - a. In the inland areas (i.e., the areas located outside of the coastal zone of Santa Barbara County), either (1) six months after the board of supervisors' action on February 6, 2018, regarding a county cannabis cultivation ordinance, or (2) 18 months from December 15, 2017, the effective date of Ordinance No. 5019, whichever is longer; and
    - b. In the coastal zone, either (1) six months after the coastal commission certifies the board-adopted amendments to the local coastal program regarding the cannabis cultivation ordinance, pursuant to Public Resources Code Section 30514, or (2) if the board does not adopt a county cannabis cultivation ordinance on February 6, 2018, then 18 months from December 15, 2017, the effective date of Ordinance No. 5019, whichever is longer.
  - 2. If the county cannabis ordinance referenced above allows for cultivation of medical cannabis but requires a zoning permit to do so, operators of nonconforming medical marijuana cultivation locations that have submitted a complete application to the Santa Barbara County Planning and Development Department to permit their nonconforming cultivation site by the termination date listed above may continue to operate their same existing nonconforming medical marijuana cultivation site while their permit application is being processed, as long as the operator continues to manage the cultivation location in compliance with the requirements of article X, state law, and the applicable provision

of either the County Land Use and Development Code Section 35.101.020 (Nonconforming Uses of Land and Structures), the Montecito Land Use and Development Code Section 35.491.020 (Nonconforming Uses of Land and Structures), or article II, the coastal zoning ordinance section 35-161 (Nonconforming Uses of Land, Buildings, and Structures). It is solely within the department's discretion to determine if it has received a complete permit application.

3. If the permit application is denied, the applicant shall cease all cannabis cultivation operations until a permit is obtained.

(Ord. No. 4954, § 1, 1-19-2016; Ord. No. 5019, § 1, 11-14-2017; Ord. No. 5025, §§ 1, 2, 2-6-2018)

Sec. 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.

(Ord. No. 4954, § 1, 1-19-2016)

**Editor's note**— Ord. No. 5025, § 2, adopted February 6, 2018, repealed the former section 35-1005 in its entirety, which pertained to existing County Code not affected, and derived from Ord. No. 4954, § 1, adopted January 19, 2016.