

ORDINANCE NO. NS - 2889

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SANTA ANA TO REAFFIRM A BAN ON
THE CULTIVATION AND DELIVERY OF
MARIJUANA

WHEREAS, in 1996, the California electorate approved Proposition 215, the Compassionate Use Act of 1996 ("CUA"), which allows a patient, with a doctor's recommendation, to use marijuana for medical purposes without the fear of prosecution or arrest; and

WHEREAS, in 2003, the California legislature passed Senate Bill 420 (Medical Marijuana Program Act ["MMP"]) which amended the Health and Safety Code to permit the establishment of medical marijuana dispensaries for the distribution of marijuana for medical purposes; and

WHEREAS, in 2013, the California Supreme Court held that cities could regulate or ban medical marijuana dispensaries; and

WHEREAS, on November 4, 2014, the voters of the City of Santa Ana approved Measure BB (Ordinance No. NS-2864) to regulate the establishment, operation, and taxation of Medical Marijuana Collectives and Cooperatives. This Ordinance amended Chapter 18 of the Santa Ana Municipal Code and included sections that addressed operational standards, business taxation requirements, and enforcement regarding medical marijuana collectives; and

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills (AB 243, AB 266, and SB 643) that regulate marijuana from "seed to sale" in the state of California. Specifically, AB 266 provides local control to ban cultivation and delivery services of marijuana. For municipalities that elect to ban cultivation and delivery services, AB266 requires that local government enact specific ordinances to ban the cultivation and delivery services of marijuana within their borders; and

WHEREAS, Ordinance NS-2864 addressed on-site cultivation and impliedly addressed delivery services of marijuana within the City; and

WHEREAS, the City of Santa Ana has a compelling interest in ensuring that marijuana is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, and in preserving the lawful use of land within its borders;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA ANA
DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council hereby adopts the recitals and findings set forth above and in the request for Council action-staff report prepared in connection with this ordinance.

Section 2. Article XIII of Chapter 18 of the Santa Ana Municipal Code is hereby amended as follows:

Chapter 18

ARTICLE XIII. MEDICAL MARIJUANA COLLECTIVES/COOPERATIVES


18-620. Compliance with this article and state law

(e) Cultivation of marijuana or medical marijuana is prohibited anywhere in the City. No person, including a qualified patient or primary caregiver, shall cultivate marijuana or medical marijuana in the City.

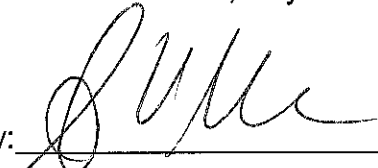
(f) Delivery services of marijuana or medical marijuana are prohibited anywhere in the City. No person or business shall operate delivery services of marijuana or medical marijuana or mobile dispensaries within the City.

Section 3. The City Clerk shall certify the adoption of this Ordinance and shall cause the same to be posted as required by law.

ADOPTED this 19th day of January, 2016.


Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: 
Sandra M. Schwarzmann
Senior Assistant City Attorney

AYES: Councilmembers: Benavides, Martinez, Pulido, Reyna, Sarmiento, Tinajero (6)

NOES: Councilmembers: None (0)

ABSTAIN: Councilmembers: None (0)

NOT PRESENT: Councilmembers: Amezcuca (1)

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA HUIZAR, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-2889 to be the original ordinance adopted by the City Council of the City of Santa Ana on January 19, 2016 and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: 2/23/2016

Maria D. Huizar
Clerk of the Council
City of Santa Ana