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ORDINANCE NUMBER O- 20043 (NEW SERIES)

DATE OF FINAL PASSAGE APR 27 2011

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 2, DIVISION 13 OF THE SAN DIEGO MUNICIPAL CODE BY RENAMING DIVISION 13 TO "MEDICAL MARIJUANA REGULATIONS: PATIENTS AND CAREGIVERS," AMENDING SECTIONS 42.1301 AND 42.1302; REPEALING SECTIONS 42.1303, 42.1304, 42.1305, 42.1306 AND 42.1307; AMENDING AND RENUMBERING SECTION 42.1308 TO SECTION 42.1303; REPEALING SECTIONS 42.1309, 42.1310, 42.1311, AND 42.1312; AND AMENDING AND RENUMBERING SECTION 42.1313 TO SECTION 42.1304, AND BY AMENDING CHAPTER 4, ARTICLE 2, BY ADDING A NEW DIVISION 15, TITLED "MEDICAL MARIJUANA CONSUMER COOPERATIVES," AND ADDING NEW SECTIONS 42.1501, 42.1502, 42.1503, 42.1504, 42.1505, 42.1506, 42.1507, 42.1508, 42.1509, 42.1510, 42.1511, 42.1512, AND 42.1513 ALL RELATING TO MEDICAL MARIJUANA REGULATIONS FOR QUALIFIED PATIENTS, CAREGIVERS, AND MEDICAL MARIJUANA CONSUMER COOPERATIVES.

WHEREAS, on October 6, 2009, the City Council created a citizen advisory task force known as the Medical Marijuana Task Force (MMTF) for the purpose of recommending guidelines for patients and caregivers, the structure and operation of collectives and cooperatives, and police enforcement related to medical marijuana; and

WHEREAS, the MMTF produced two reports, one addressing land use and zoning issues dated November 12, 2009, and one addressing regulations outside of land use and zoning dated April 21, 2009; and

WHEREAS, on May 26, 2010, the Public Safety and Neighborhood Services Committee directed the City Attorney to prepare an ordinance incorporating the MMTF recommendations for regulations outside land use and zoning, to add a requirement that all cooperatives organize

as statutory entities, and to add additional labeling requirements on medical marijuana in the ordinance; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 4, Article 2, Division 13 of the San Diego Municipal Code is amended by amending the title of Division 13, by amending sections 42.1301 and 42.1302, by repealing sections 42.1303, 42.1304, 42.1305, 42.1306, 42.1307, 42.1309, 42.1310, 42.1311, and 42.1312, by amending and renumbering section 42.1308 to section 42.1303, and by amending and renumbering section 42.1313 to section 42.1304, to read as follows:.

Division 13: Medical Marijuana Regulations: Patients and Caregivers

§ 42.1301 Purpose and Intent

- (a) It is the intent of the Council to adopt regulations consistent with California Health and Safety Code section 11362.5 (Compassionate Use Act) and California Health and Safety Code sections 11362.7-11362.83 (Medical Marijuana Program), to protect the public health, safety, and welfare.
- (b) Nothing in this Division is intended to override a peace officer's judgment and discretion based on a case-by-case evaluation of the totality of the circumstances, or to interfere with a peace officer's sworn duty to enforce applicable law.

- (c) Nothing in this Division is intended to reduce the rights of a *qualified patient* or *primary caregiver* otherwise authorized by California Health and Safety Code section 11362.5(d).
- (d) This Division shall be interpreted in a manner consistent with state law. Nothing in this Division is intended to authorize the sale, distribution, possession of *marijuana*, or any other transaction, in violation of state law.

§ 42.1302 Definitions

For the purpose of this Division the following definitions shall apply and appear in italicized letters:

Marijuana has the same meaning as in California Health and Safety Code section 11018.

Primary caregiver means the individual designated by the *qualified patient* who has consistently assumed responsibility for the housing, health, or safety of the *qualified patient*, in accordance with state law, including California Health and Safety Code section 11362.5. As explained in *People v. Mentch*, 45 Cal. 4th 274 (2008), a *primary caregiver* is a person who consistently provides caregiving to a *qualified patient*, independent of any assistance in taking medical *marijuana*, at or before the time he or she assumed responsibility for assisting with medical *marijuana*.

Processed marijuana means harvested *marijuana* that is in a form other than a live plant.