



# CITY OF SANTA BARBARA

## ORDINANCE COMMITTEE REPORT

**AGENDA DATE:** April 13, 2010  
**TO:** Ordinance Committee  
**FROM:** Planning Division, Community Development Department  
**SUBJECT:** Medical Marijuana Dispensary Ordinance Revisions

### **RECOMMENDATION:**

That the Ordinance Committee review a draft Medical Marijuana Dispensary Ordinance, and refer the matter back to Council for subsequent actions.

### **DISCUSSION:**

At the February 23, 2010 City Council meeting, the Council directed the Ordinance Committee to consider major alcohol and drug rehabilitation facilities as protected uses and adjust allowed areas for dispensaries appropriately; to allow dispensaries in the Cottage Hospital area; to further define the operational parameters of storefront collective/cooperatives, in order to ensure compliance with Proposition 215 and SB420; and to return to Council in 60 days. There also seemed to be consensus to eliminate the Mesa and the area around the Salvation Army Hospitality House on the 500 block of Chapala Street as allowed areas for dispensaries.

### **Location Parameters**

On March 16, 2010, the Ordinance Committee held a hearing, and reviewed the allowed areas for dispensaries, which had been reduced by excluding areas that were within 500 feet of the 17 highest priority recovery facilities. The major area affected because of the recovery facilities was in the Downtown West area, with small areas being eliminated from the Downtown East area. The Ordinance Committee did not reach consensus on whether to exclude the area around recovery facilities.

On March 30, 2010, the Ordinance Committee reviewed potential changes to the allowed areas that would protect youth facilities and eliminate downtown from the areas where dispensaries are allowed. The only youth facility that affected the allowable areas was the YMCA at 55 S. Hitchcock Way, by eliminating the 3700 block of State Street and all of South Hope Avenue. Ordinance Committee directed staff to create a protection area around the YMCA but to maintain the 3700 block of State Street and South Hope Avenue as block faces where a dispensary may occur.

The Ordinance Committee also reached consensus on the following:

- Dispensaries not permitted within 500 feet of certain specified rehabilitation and recovery centers.
- Dispensaries not allowed in mixed-use buildings.
- Dispensaries not allowed in a block zoned exclusively for residential use.

The Ordinance Committee did not reach consensus on the topic of the elimination of Downtown as an allowable area for dispensaries. One member supported eliminating this area, one member did not support eliminating this area, and one member believed that the overall maximum number of permitted dispensaries in the City was a more important criteria.

### **Regulations to Ensure Cooperatives and Collectives**

At the March 16<sup>th</sup> meeting, the Ordinance Committee heard a presentation by the City Attorney on state Proposition 215 (approved in 1996) and the SB 420 statutes enacted to implement Prop 215, and questioned the City Attorney on various aspects of the state laws and the ordinances of other jurisdictions concerning access to medical marijuana.

At the March 30<sup>th</sup> meeting, the Ordinance Committee continued the matter to April 13, 2010, with direction to staff to draft additional revisions to the draft medical marijuana ordinance. These amendments would clarify the state law restrictions applicable to collectives/dispensaries which distribute medical marijuana at storefront locations in a manner consistent with the SB 420 statutes.

In this regard, the Ordinance Committee reached consensus on the following issues:

- That Medical Marijuana should only be made available to Qualified Patients at storefront locations if such locations are operated as “collectives” in the manner required by SB 420.
- Requiring cultivation by a Collective only within the tri-county area of Santa Barbara, Ventura or San Luis Obispo Counties.
- Requiring documentation regarding collective/cooperative membership to be confidentially available to specified City staff under certain limited circumstances.
- Allowing on-site inspections by specified City Staff with limited prior notice.
- Requiring proof of local Santa Barbara County residency for Qualified Patients who are members of a collective.
- Imposing a maximum number of permitted collective/dispensaries within the City of five (5).

The Ordinance Committee did not reach consensus on the following issues:

- Permitted hours of operation for a collective/dispensary, including whether a collective's storefront should close during school lunch and immediately after school is dismissed.
- Whether dispensaries should only dispense marijuana to "local" (i.e., Santa Barbara County) residents.

**ATTACHMENT:** Ordinance Draft

**PREPARED BY:** Danny Kato, Senior Planner

**SUBMITTED BY:** Paul Casey, Assistant City Administrator

**APPROVED BY:** City Administrator's Office

**COUNCIL INTRODUCTION DRAFT  
FEBRUARY 23, 2010  
SHOWING CHANGES FROM CURRENT MUNICIPAL CODE  
With possible changes from Ordinance  
Committee Discussion of March/April 2010**

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

**AN ORDINANCE OF THE COUNCIL OF THE  
CITY OF SANTA BARBARA AMENDING THE  
MUNICIPAL CODE BY REVISING CHAPTER  
28.80 AND ESTABLISHING REVISED  
REGULATIONS AND PROCEDURES FOR  
MEDICAL MARIJUANA COLLECTIVES  
~~DISPENSARIES~~.**

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

**SECTION ONE.** Chapter 28.80 of Title 28 of the Santa Barbara Municipal Code, entitled "Medical Marijuana Dispensaries," is amended to read as follows:

**Section 28.80.010 Purpose and Intent.**

It is the purpose and intent of this chapter to regulate the locations of medical marijuana dispensaries operated by medical marijuana collectives or cooperatives in order to promote the health, safety, and general welfare of residents and businesses within the City. Under state law, only qualified patients, persons with identification cards, and primary caregivers may legally cultivate and distribute medical marijuana collectively. It is neither the intent nor the effect of this chapter to condone or legitimize the use or possession of marijuana except as allowed by California law.

**Section 28.80.020 Definitions.**

For the purpose of this chapter, the following words and phrases shall have the following meanings:

**A. Applicant.** A person who is required to file an application for a Medical Marijuana Collective permit under this chapter, including an individual owner, managing

partner, officer of a corporation, or any other operator, ~~manager~~, Management Member, employee, or agent of a Medical Marijuana Collective ~~Dispensary~~.

**B. Drug Paraphernalia.** As defined in California Health and Safety Code Section 11014.5, and as may be amended from time to time.

**C. Identification Card.** As defined in California Health and Safety Code Section 11362.71 and as may be amended from time to time.

D. Management Member. A Medical Marijuana Collective member with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of a Collective including, but not limited to, members who perform the functions of president, vice president, director, operating officer, financial officer, secretary, treasurer, or manager of the Collective.

~~D. Medical Marijuana Dispensing Collective Dispensary or Collective/Collective Dispensary. or Collective Dispensary. Any association, cooperative, affiliation, or collective of persons where multiple qualified patients or primary care givers are organized to provide education, referral, or network services, and facilitation or assistance in the lawful distribution of medical marijuana. "Collective Dispensary" shall include any facility or location where the primary purpose is to dispense medical marijuana (i.e., marijuana) as a medication that has been recommended by an "attending physician" [as that term is defined in Health & Safety Code Section 11362.7(a)] and where medical marijuana is made available to or distributed by or to a primary caregiver or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq.~~

An incorporated or unincorporated association, composed of four (4) or more Qualified Patients and their designated Primary Caregivers who associate at a particular location or real property within the city of Santa Barbara to collectively or cooperatively cultivate marijuana for medical purposes or to distribute medical to the Collective members and Management Members at a storefront location within a non-residential zone of the City, in accordance with California Health and Safety Code sections 11362.5, et seq.. For the purposes of this Chapter, the term Medical Marijuana "cooperative" shall have the same meaning as Medical Marijuana Collective.

~~A Collective Dispensary~~ Medical Marijuana Collective Dispensary shall not include dispensing by primary caregivers to qualified patients in the following locations so long as the location of the clinic, health care facility, hospice, or residential care facility is otherwise permitted by the Municipal Code or by applicable state laws:

1. a clinic licensed pursuant to Chapter 1 of Division 2 of the state Health and Safety Code;
2. a health care facility licensed pursuant to Chapter Two of Division 2 of the state Health and Safety Code;
3. a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the state Health and Safety Code;
4. residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the state Health and Safety Code;
5. a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the state Health and Safety Code;

provided that any such clinic, health care facility, hospice or residential care facility complies with applicable laws including, but not limited to, Health and Safety Code Section 11362.5 et seq..

**E. Permittee.** The person to whom either a Medical Marijuana Collective Dispensary ~~Collective Dispensary~~ permit is issued by the City and who is identified as a primary caregiver in California Health and Safety Code Section 11362.7, subdivision (d), ~~and~~ or (e).

~~**F. Person.** An individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.~~

**G. Person with an Identification Card.** As set forth in California Health and Safety Code Section 11362.5 et seq., and as amended from time to time.

**H. Physician.** A licensed medical doctors including a doctor of osteopathic medicine as defined in the California Business and Professions Code.

**I. Primary Caregiver.** As defined in subdivision (d) of California Health and Safety Code Section 11362.7 as it may be amended from time to time.

**J. Qualified Patient.** As defined in California Health and Safety Code Section 11362.5 et seq., and as it may be amended from time to time.

**K. School.** An institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle, or junior high school, senior high school, or any special institution of education for persons under the age of eighteen years, whether public or private.

**28.80.030 ~~Collective Dispensary~~ Medical Marijuana Collective Dispensary Permit Required to Operate.**

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the operation of a ~~Collective Dispensary~~ Medical Marijuana Collective Dispensary unless the person first obtains and continues to maintain in full force and effect a ~~Collective Dispensary Use~~ Medical Marijuana Collective Dispensary Permit issued by the City Staff Hearing Officer pursuant to this Chapter, or by the Planning Commission on an appeal from a decision by the Staff Hearing Officer.

**28.80.040 Business License Tax Liability.**

An operator of a Collective Dispensary shall be required to apply for and obtain a Business Tax Certificate pursuant to Chapter 5.04. as a prerequisite to obtaining a permit pursuant to the terms of this Chapter, as required by the State Board of Equalization. Collective Dispensary sales shall be subject to sales tax in a manner required by state law.

**28.80.050 Imposition of ~~Collective Dispensary~~ Medical Marijuana Collective Dispensary Permit Fees.**

Every application for a Medical Marijuana Collective Dispensary ~~Collective Dispensary~~ permit or renewal shall be accompanied by an application fee, in an amount established by resolution of the City Council from time to time at a amount calculated to recover the City's full cost of reviewing and issuing the Collective Dispensary permit pursuant to this chapter. This application or renewal fee shall not include the standard City fees for fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or permit fee imposed by this Code or other governmental agencies.

**28.80.060 Limitations on the Permitted Location of a Medical Marijuana Collective Dispensary.** ~~Collective Dispensary.~~

**A. Permissible Zoning for Collective Dispensaries** ~~Dispensaries.~~

A ~~Collective Dispensary~~ may only be located within the C-2 or C-M zoned areas of the City as so designated in the General Plan, Title 28 of the Municipal Code, and City Zoning map provided, however, that Medical Marijuana Collectives ~~Dispensaries~~ may only also be located on parcels within the City zoned for commercial uses and on those street block faces listed in the exhibit to this Chapter designated as "Medical Marijuana Collectives Dispensaries - Allowed Locations" and dated as of February 23, 2010. ~~situated~~ as follows:

- ~~1. any parcel fronting on State Street between Calle Laureles and the westerly boundary of the City at the intersection State Street and Calle Real;~~
- ~~2. any parcel fronting on Milpas between Canon Perdido Street and Carpinteria Street;~~
- ~~3. any C P zoned parcel fronting on Cliff Drive within 1000 feet of the intersection of Cliff Drive and Meigs Road;~~
4. any parcel fronting on De La Vina Street between Alamar Street and State Street;
5. any parcel fronting on Mission Street between State Street and De La Vina Street;
6. any parcel on Chapala, Anacapa, or Santa Barbara Street between Sola Street and U.S. Highway 101;
7. any parcel on Haley Street or Gutierrez Street between Santa Barbara Street and Olive Street.

**B. Storefront Locations.** Except for those locations shown as allowed within the Cottage Hospital Area on the exhibit attached to this Chapter which have been specifically approved by the Staff Hearing Officer as non-storefront locations pursuant to this Chapter, a Collective Dispensary shall only be located in a visible store-front type location which provides good public views of the Collective Dispensary entrance, its windows, and the entrance to the Collective Dispensary premises from a public street.

**C. Areas and Zones Where ~~Dispensaries~~ Medical Marijuana Collective Dispensaries Not Permitted.** Notwithstanding subparagraph (A) above, a ~~Collective Dispensary~~ Medical Marijuana Collective Dispensaries shall not be allowed or permitted in the following locations or zones:

- ~~1. On a parcel located within 500 feet of a school or a park; or~~
- ~~1.2. On a parcel located within 500 1000 feet of another permitted Collective Dispensary ~~Collective Dispensary~~; or~~
- ~~2.3. On a parcel fronting on State Street between Cabrillo Boulevard and Arrellaga Street; or~~
- ~~4. On a parcel zoned R O or zoned for residential use.~~
3. On a parcel being used as a mixed residential/commercial use condominium project at the time of the adoption of the ordinance enacting this Chapter.

**D. Locational Measurements.** The distance between a ~~Collective Dispensary~~ Medical Marijuana Collective Dispensary and above-listed uses shall be made in a straight line from any parcel line of the real property on which the Collective Dispensary is located to the parcel line the real property on which the facility, building, or structure, or portion of the building or structure, in which the above listed use occurs or is located. For the purposes of determining compliance with the locational restrictions imposed by this section, the permissibility of a proposed Medical Marijuana Collective Dispensary location shall be determined by City staff based on the date the permit application has been deemed complete by the City with the earliest complete applications deemed to have priority over any subsequent Medical Marijuana Collective Dispensary application for any particular allowed location.

**E. Maximum Number of ~~Collective Dispensary~~ Medical Marijuana Collective Dispensaries Allowed Permits.** Notwithstanding the above, the City may not issue a total of more than five(5) Collective Dispensary permits at any one time and no more than five (5) permitted Collective Dispensaries ~~dispensaries~~ may legally operate within the City including those dispensaries which are open and operating in a legal nonconforming manner at the time of the adoption of the ordinance amending this Chapter.

**F. One Collective Dispensary for Each Area of the City.** No more than one Medical Marijuana Collective Dispensary may open and operate in each of the eight areas of the City designated as allowed Collective Dispensary location areas in the exhibit attached to this Chapter except for those areas which, at the time of the adoption of the ordinance amending this Chapter, already have more than one Collective Dispensary or Collective on a legal non-conforming basis - in which case a legal non-conforming Dispensary or Collective Dispensary may be allowed to continue to operate in such an area.

**28.80.070 Operating Requirements for ~~Medical Marijuana Collective Dispensaries~~Dispensaries.**

~~Collective Dispensary~~ Medical Marijuana Collective Dispensary operations shall permitted and maintained only in compliance with the following operational standards:

**A. Criminal History.** A ~~Collective Dispensary~~ Medical Marijuana Collective Dispensary permit applicant, ~~his or her agents or employees, volunteer workers,~~ a Management Member, or any person exercising managerial authority over a Medical Marijuana Collective Dispensary applicant shall not have been convicted of a felony or be on probation or parole for the sale or distribution of a controlled substance.

**B. Minors.** It is unlawful for any Medical Marijuana Collective Dispensary permittee, Management Member, ~~operator~~, or other person in charge of any Medical Marijuana Collective Dispensary to employ any person who is not at least 18 years of age. Persons under the age of 18 shall not be allowed on the premises of a Medical Marijuana Collective Dispensary unless they are a qualified patient or a primary caregiver member of the Collective, and they are in the presence of their parent or guardian. The entrance to a Collective Dispensary shall be clearly and legibly posted with a notice indicating that person under the age of 18 are precluded from entering the premises

unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian.

**C. Marijuana Collective Dispensary Size and Access.** The following access restrictions shall apply to all ~~dispensaries~~ Medical Marijuana Collectives permitted by the Chapter:

1. A Collective Dispensary ~~Dispensary~~ shall not be enlarged in size (i.e., increased floor area) without a prior approval from the Staff Hearing Officer amending the existing Medical Marijuana Collective Dispensary permit pursuant to the requirements of this Chapter.
2. The entrance area of the Medical Marijuana Collective Dispensary building shall be strictly controlled; A viewer or video camera shall be installed in the door that allows maximum angle of view of the exterior entrance.
3. Collective ~~personnel or~~ Management Members shall be responsible for monitoring the real property of the Collective Dispensary ~~site~~ activity (including the adjacent public sidewalk and rights-of-way) of the block within which the Collective Dispensary is operating for the purposes of controlling loitering.
4. Only Collective members ~~Collective Dispensary staff,~~ primary caregivers, and qualified patients ~~and persons with bona fide purposes for visiting the site~~ shall be permitted within a Collective building ~~Collective Dispensary.~~
5. Qualified patients or primary caregivers shall not visit a Medical Marijuana Collective Dispensary without first having obtained a valid written recommendation from their physician recommending use of medical marijuana.
6. Only a primary caregiver and qualified patient members of the Collective Dispensary shall be permitted in the designated marijuana dispensing area along with Collective Dispensary ~~personnel.~~
7. Restrooms shall remain locked and under the control of Collective Dispensary Management Members at all times.

**D. Medical Marijuana Dispensing Operations.** The following restrictions shall apply to all medical marijuana dispensing operations by a Medical Marijuana Collective Dispensary:

1. A Medical Marijuana Collective Dispensary shall only dispense to qualified patients or a primary caregivers with a currently valid physicians approval or recommendation in compliance with the criteria in California Health and Safety Code Section 11362.5 et seq. who are registered as members of that Collective Dispensary. Collectives Dispensaries shall require such persons to provide valid official identification, such as a Department of Motor Vehicles driver's license or State Identification Card.

2. Prior to dispensing medical marijuana, the Collective Dispensary shall obtain a verification from the recommending physician's office personnel that the individual requesting medical marijuana is or remains a qualified patient pursuant to state Health & Safety Code Section 11362.5.

3. A Medical Marijuana Collective Dispensary shall not have a physician on-site to evaluate patients and provide a recommendation or prescription for the use of medical marijuana.

**E. Consumption Restrictions.** The following medical marijuana consumption restrictions shall apply to all permitted Collective Dispensaries:

1. Marijuana shall not be consumed by patients on the premises of the Collective Dispensary.

The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the Collective Dispensary's entrance. Collective Dispensary employees who are qualified patients may consume marijuana within the enclosed building area of the premises, provided such consumption occurs only via oral consumption (i.e., eating only) but not by means of smoking or vaporization.

2. Collective Dispensary operations shall not result in illegal re-distribution or sale of medical marijuana obtained from the Collective Dispensary, or use or distribution in any manner which violates state law.

**F. Retail Sales of Other Items by a Collective Dispensary.** The retail sales of Collective Dispensary related or marijuana use items may be allowed under the following circumstances:

1. With the approval of the Staff Hearing Officer, a Collective Dispensary may conduct or engage in the commercial sale of specific products, goods, or services in addition to the provision of medical marijuana on terms and conditions consistent with this chapter and applicable law.

2. No Collective Dispensary shall sell or display any drug paraphernalia or any implement that may be used to administer medical marijuana.

~~3. A Collective Dispensary shall meet all the operating criteria for the dispensing of medical marijuana as is required pursuant to California Health and Safety Code Section 11362.5 et seq.~~

**G. Operating Plans.** In connection with a permit application under this Chapter, the applicant for a Collective Dispensary permit shall provide, as part of the permit application, a detailed Operations Plan and, upon issuance of the Collective Dispensary permit, shall operate the Collective Dispensary in accordance with the Operations Plan as such plan is approved by the Staff Hearing Officer:

**1. Floor Plan.** A Collective Dispensary shall have a lobby waiting area at the entrance to the Collective Dispensary to receive clients, and a separate and secure designated area for dispensing medical marijuana to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

**2. Storage.** A Collective Dispensary shall have suitable locked storage on premises, identified and approved as a part of the security plan, for after-hours storage of medical marijuana.

**3. Security Plans.** A Collective Dispensary shall provide adequate security on the premises, in accordance with a security plan approved by the Chief of Police and as reviewed by the Staff Hearing Officer, including provisions for adequate lighting and alarms, in order to insure the safety of persons and to protect the premises from theft. All security guards used by dispensaries shall be licensed and employed by a state licensed private-party operator security company retained by the Collective Dispensary and each security guard used shall possess a valid state Department of Consumer Affairs "Security Guard Card" at all

times. Security guards shall not possess or carry firearms or tazers while working at a Collective Dispensary.

~~5. **Security Cameras.** Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage and to report loitering, crime, illegal or nuisance activities. Security video shall be maintained for a period of not less than 72 hours.~~

5. Security Cameras. The Property is monitored at all times by closed-circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on or adjacent to the Property. The recordings shall be maintained at the Property for a period of not less than thirty (30) days.

6. **Alarm System.** Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition within the Collective Dispensary at all times.

7. **Emergency Contact.** A Collective Dispensary shall provide the Chief of Police with the name, cell phone number, and facsimile number of an on-site community relations staff person to whom the City may provide notice of any operating problems associated with the Collective Dispensary.

8. **Public Nuisances.** The Management Members of the Collective Dispensary shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject Collective Dispensary.

9. Loitering Adjacent to a Dispensary. The Management Members of the Collective Dispensary shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.

~~3. The operator shall provide patients with a list of the rules and regulations governing medical marijuana use and consumption within the City and recommendations on sensible marijuana etiquette.~~

**10. Trash, Litter, Graffiti.** The Management Members of a Collective Dispensary shall clear the sidewalks adjoining the premises plus 10 feet beyond property lines along the street as well as any parking lots under the control of the operator as needed to control litter, debris and trash.

**11. Removal of Graffiti.** The Management Members of the Collective Dispensary shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.

~~**M.P. Compliance with Other Requirements.** The Collective Dispensary operator shall comply with all provisions of all local, state, or federal laws, regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.~~

**12. Display of Permit.** Every Collective Dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such Collective Dispensary in a conspicuous place so that the same may be readily seen by all persons entering the Collective Dispensary.

**13. Alcoholic Beverages.** No Collective Dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

**14. Parking Requirements.** Collective Dispensaries shall be considered office uses relative to the parking requirements imposed by Section 28.90.100(I).

**15. Collective Dispensary Signage and Notices.** A notice shall be clearly and legibly posted in the Collective Dispensary indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the Collective Dispensary is prohibited. Signs on the premises shall not obstruct the entrance or windows. Address identification shall comply with Fire Department illuminated address signs requirements.

**16. Compliance with City Sign Ordinance.** Business identification signage for Collective Dispensaries shall comply with the City's Sign Ordinance (SBMC Chapter 22.70)

and be limited to that needed for identification only, consisting of a single window sign or wall sign that shall not exceed six square feet in area or 10 percent of the window area, whichever is less.

~~**I. Employee Records.** Each owner or operator of a Collective Dispensary shall maintain a current register of the names of all volunteers and employees currently working at or employed by the Collective Dispensary on site at the Collective Dispensary at all times, and shall disclose such registration for inspection by any City officer or official but only for the purposes of determining compliance with the requirements of this chapter.~~

~~**J. Qualified Patient Records.** A dispensary shall maintain confidential health care records of all qualified patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., (as a protection of the confidentiality of the cardholders) or a copy of the written recommendation from a physician or doctor of osteopathy stating the need for medical marijuana under state Health & Safety Code Section 11362.5. Such records shall be maintained on site at the Collective Dispensary at all times.~~

~~**M. Staff Training.** Collective Dispensary staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with state and local law and this Chapter, and properly trained or professionally hired security personnel.~~

**I. Operation as a Collective Dispensary; Recordkeeping Requirements; Maintenance of Collective Dispensary Records.**

**1. State Law Compliance Warning.** Each Collective Dispensary shall have a sign posted in a conspicuous location inside the Collective Dispensary advising of the following:

- a. The diversion of marijuana for non-medical purposes is a criminal violation of state law.
- b. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.
- c. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of state law.

**2. Not For Profit Operation of the Collective.** No Collective Dispensary shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by Management Members and members toward the Collective's actual expenses of the growth, cultivation, and provision of Medical Marijuana shall be allowed provided that they are in strict compliance with state law. All such cash and in-kind amounts and items shall be fully documented in accordance with Section 28.90. of this Chapter.

**3. Cultivation of Medical Marijuana.** Collective cultivation of Medical Marijuana shall be limited to the Medical Marijuana Collective members and Management Members. Cultivation of Medical Marijuana by the Medical Marijuana Collective members and the Management Members shall occur exclusively within the boundaries of the counties of Santa Barbara, Ventura, or San Luis Obispo County and only at the real property identified on the Medical Marijuana Permit application.

No cultivation of Medical Marijuana at the property shall be visible with the naked eye from any public or other private property, nor shall cultivated Medical Marijuana or dried Medical Marijuana be visible from the building exterior. No cultivation shall occur at the real property of the Collective unless the area devoted to the cultivation is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.

**4. Distribution of Medical Marijuana within Santa Barbara Only.** Distribution of the Medical Marijuana collectively cultivated by the Medical Marijuana Collective members and Management Members to Collective members and Management Members shall occur exclusively within the boundaries of the City of Santa Barbara and only at the real property identified on the Medical Marijuana Collective Dispensary Permit application.

**5. Membership Limited to One Collective.** Medical Marijuana Collective membership and Management Membership, as established pursuant to this Chapter, shall be limited to one Collective Dispensary fully permitted in accordance with this Chapter.

**6. Maintenance of Appropriate Collective Records Regarding Cultivation.** Every Medical Marijuana Collective Dispensary shall maintain, on-site at the real property which is permitted to operate as a Collective Dispensary, cultivation records, signed under penalty of perjury by each Management Member, identifying the location within the county of Santa Barbara, Ventura, or San Luis Obispo at which the Medical Marijuana was cultivated, and the total number of said plants cultivated at each location. The Collective Dispensary shall also maintain an inventory record documenting the dates and amounts of Medical Marijuana cultivated at the Property, and the daily amounts of Medical Marijuana stored on the Property.

**7. Maintenance of Collective Dispensary Membership Records.** Every Medical Marijuana Collective Dispensary shall maintain records of the full name, date of birth, residential address, and telephone number(s) of each Collective member and Management Member; the date each member and Management Member joined the Collective; the exact nature of each member's and Management Member's participation in the Collective; and the status of each member and management member as a Qualified Patient or Primary Caregiver.

**8. Maintenance of Collective Dispensary Contributions and Financial Records.** The Collective Dispensary shall also maintain a written accounting of all cash and in-kind contributions, reimbursements, and reasonable compensation provided by the Collective Management Members and members to the Collective, and all expenditures and costs incurred by the Collective in accordance with standard accounting practices.

**9. Record Retention Period.** The records required above by subparagraphs (6), (7), and (8) of this subsection shall be maintained by the Medical Marijuana Collective Dispensary for a period of three (3) years and shall be made available by the Collective to the City upon request, subject to the authority set forth in Section 28.90.080.

**Section 28.80.080 City Inspection of Required Collective Records.** A duly designated City Police Department representative may, upon obtaining a search or inspection warrant, enter and inspect the property of every Medical Marijuana Collective Dispensary between the hours of ten o'clock (10:00) A.M. and eight o'clock (8:00) P.M., or at any appropriate time to ensure compliance and enforcement of the provisions of this Chapter,

except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order for such records.

It shall be unlawful for any property owner, landlord, lessee, Medical Marijuana Collective Dispensary member or Management Member or any other person having any responsibility over the operation of the Medical Marijuana Collective Dispensary to refuse to allow, impede, obstruct or interfere with an inspection of the Collective Dispensary.

**Section 28.80.090 Sale, Distribution or Exchange of Medical Marijuana with a non-Medical Marijuana Collective Member.** A Collective Dispensary, Management Member, or member shall not cause or permit the sale, distribution, or exchange of Medical Marijuana or of any Edible Medical Marijuana product to any non Collective Management Member or member. No Medical Marijuana Collective shall possess Medical Marijuana that was not collectively cultivated by its Management Members or members either at the Property or at its predecessor location fully permitted in accordance with this Chapter.

**28.80.100 Collective Dispensary Permit Application - Preparation and Filing.**

**A. Application Filing.** A complete Performance Standard Permit use permit application submittal packet shall be submitted including all necessary fees and all other information and materials required by the City and this chapter. All applications for permits shall be filed with the Community Development Department, using forms provided by the City, and accompanied by the applicable filing fee. It is the responsibility of the applicant to provide information required for approval of the permit. The application shall be made under penalty of perjury.

**B. Eligibility for Filing.** Applications may only be filed by the owner of the subject property, or by a person with a lease signed by the owner or duly authorized agent of the owner expressly allowing them the right to occupy the property for the intended Collective Dispensary use.

**C. Filing Date.** The filing date of any application shall be the date when the City receives the last submission of information or materials required in compliance with the submittal requirements specified herein.

**D. Effect of Incomplete Filing.** Upon notification that an application submittal is incomplete, the applicant shall be granted an extension of time to submit all materials required to complete the application within 30 days. If the application remains incomplete in excess of 30 days the application shall be deemed withdrawn and new application submittal shall be required in order to proceed with the subject request. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

**E. Effect of Other Permits or Licenses.** The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a Collective Dispensary permit.

**28.80.110 Criteria for Review of Collective Dispensary Applications by Staff Hearing Officer.**

**A. Decision on Application.** Upon an application for a Collective Dispensary permit being deemed complete, the Staff Hearing Officer, or the Planning Commission on appeal of a decision of the Staff Hearing Officer, shall either issue a Collective Dispensary permit, issue a Collective Dispensary permit with conditions in accordance with this chapter, or deny a Collective Dispensary permit.

**B. Criteria for Issuance.** The Staff Hearing Officer, or the Planning Commission on appeal, shall consider the following criteria in determining whether to grant or deny a Collective Dispensary permit:

1. That the Collective Dispensary permit is consistent with the intent of the state Health & Safety Code for providing medical marijuana to qualified patients and primary caregivers and the provisions of this Chapter and the Municipal Code, including the application submittal and operating requirements herein.

2. That the proposed location of the Collective Dispensary is not identified by the City Chief of Police as an area of increased or high crime activity. ~~(e.g., based upon crime reporting district/statistics as maintained by the Police Department.~~

3. For those applicants operating other Collective Dispensaries within the City, that there have not been significant numbers of calls for police service, crimes or

arrests in the area or to the applicant's existing Collective Dispensary location.

4. That all required application fees have been paid and reporting requirements have been satisfied in a timely manner.

5. That issuance of a Collective Dispensary permit for the Collective Dispensary size requested is appropriate justified to meet needs of community for access to medical marijuana.

6. That issuance of the Collective Dispensary permit would serve needs of City residents within a proximity to this location.

7. That the location is not prohibited by the provisions of this chapter or any local or state law, statute, rule, or regulation and no significant nuisance issues or problems are likely or anticipated ~~or resulted~~ and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished.

8. That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises; the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.

9. That all reasonable measures have been incorporated into the security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, marijuana use in public, or creation of a public or private nuisance, or interference of the operation of another business.

10. That the Collective Dispensary is likely to have no potentially ~~would not~~ adversely affect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or

contribute to a public nuisance; or that the Collective Dispensary will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

11. That any provision of the Municipal Code or condition imposed by a City issued permit, or any provision of any other local, or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws will not be violated.

12. That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

13. That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City.

**28.80.120 Appeal from Staff Hearing Officer or Planning Commission Determination.**

**A. Appeal to the Planning Commission.** An applicant or any interested party who disagrees with the Staff Hearing Officer's decision to issue, issue with conditions, or to deny a Collective Dispensary permit may appeal such decision to the City Planning Commission by filing an appeal pursuant to the requirements of subparagraph (B) of Section 28.05.020 of the Municipal Code.

**B. Notice of Planning Commission Appeal Hearing.** Upon the filing of an appeal pursuant to subparagraph (A) above, the Community Development Director shall provide public notice in accordance with the notice provisions of SBMC Section 28.87.380.

**C. Appeal of Planning Commission Decision.** ~~Notwithstanding subparagraph (C) of Section 28.05.020, Section 28.87.360, and Section 1.30.050, A~~ decision by the Planning Commission on appeal of the Staff Hearing Officer pursuant to this Chapter may be appealed to the City Council pursuant to the authority of Section 28.05.020(C). ~~shall be final and may not be appealed to the City Council.~~

**28.80.110 Suspension and Revocation by Planning Commission.**

**A. Authority to Suspend or Revoke a Collective Dispensary Permit.** Consistent with Section 28.87.360, any Collective Dispensary permit issued under the terms of this chapter may be suspended or revoked by the Planning Commission when it shall appear to the Commission that the permittee has violated any of the requirements of this chapter or the Collective Dispensary is operated in a manner that violates the provisions of this chapter, including the operational requirements of this Chapter, or in a manner which conflicts with state law.

**B. Annual Review of Collective Dispensary Operations.** The staff of the Community Development Department and the Police Department are hereby authorized to conduct an annual review of the operation of each permitted Collective Dispensary within the City for full compliance with the operational requirements of this Chapter, including specifically a verification that all persons employed or volunteering at the Collective Dispensary have not been convicted of or on probation for a crime related to the possession, sale, or distribution of controlled substances. A fee in an amount established by resolution of the City Council may be established in order to reimburse the City for the time involved in this review process. The staff may initiate a permit suspension or revocation process for any Collective Dispensary which is found not to be in compliance with the requirements of this Chapter or which is operating in a manner which constitutes a public nuisance.

**C. B- Suspension or Revocation - Written Notice.** Except as otherwise provided in this chapter, no permit shall be revoked or suspended by virtue of this chapter until written notice of the intent to consider revocation or suspension of the permit has been served upon the person to whom the permit was granted at least ten (10) days prior to the date set for such review hearing and the reasons for the proposed suspension or revocation have been provided to the permittee in writing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the permittee, or by depositing such notice in the U.S. mail in a sealed envelope, postage prepaid, (via regular mail and return receipt requested), addressed to the person to be notified at his or her address as it appears in his or her application for a Collective Dispensary permit.

**C. Appeal of Planning Commission Decision.** ~~Notwithstanding subparagraph (C) of Section 28.05.020, Section 28.87.360, and Section 1.30.050, A decision by the Planning Commission to suspend or revoke a Collective Dispensary permit issued pursuant to this Chapter shall be final and may not be appealed to the City Council.~~ may be appealed to the City Council pursuant to the authority of section 28.05.020(C).

#### **28.80.120 Transfer of Collective Dispensary Permits.**

**A. Permit - Site Specific.** A permittee shall not operate a Collective Dispensary under the authority of a Collective Dispensary permit at any place other than the address of the Collective Dispensary stated in the application for the permit. All Collective Dispensary permits issued by the City pursuant to this chapter shall be non-transferable.

**B. Transfer of a Permitted Collective Dispensary.** A permittee shall not transfer ownership or control of a Collective Dispensary or attempt to transfer a Collective Dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the Staff Hearing Officer pursuant to the permitting requirements of this chapter stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Community Development Department in accordance with this all provisions of this chapter accompanied by the required application fee.

**C. Request for Transfer with a Revocation or Suspension Pending.** No Collective Dispensary permit may be transferred (and no permission for a transfer may be issued) when the Community Development Department has notified in writing the permittee that the permit has been or may be suspended or revoked and a notice of such suspension or revocation has been provided.

**D. Transfer without Permission.** Any attempt to transfer a permit either directly or indirectly in violation of this section is declared void, and the permit shall be deemed revoked.

#### **28.80.130 Medical Marijuana Vending Machines.**

No person shall maintain, use, or operate a vending machine which dispenses marijuana to a qualified patient or primary caregiver unless such machine is located within the interior of a duly permitted Collective Dispensary.

## SECTION TWO.

**A. Dispensaries Permitted under the March 2008 Ordinance.** Those Dispensaries which were authorized and permitted pursuant to the Santa Barbara Municipal Code Chapter 28.80 (as adopted on March 25, 2008 as City Ordinance No. 5449) shall be deemed pre-existing legal non-conforming uses of the real property locations upon which they are situated provided that, upon the effective date of this Ordinance, such dispensaries operate in accordance with all Collective Dispensary operational provisions added to Santa Barbara Municipal Code Chapter 28.80 by this Ordinance.

**B. Dispensaries Which Have Operated Legally Prior to and Since the Effective Date of Ordinance No. 5449.** Those dispensaries which opened and operated in a legal manner prior to the effective date of City Ordinance No. 5449 and which have remained in a legal nonconforming manner of operation since that time, may, despite its non-conforming location, remain as a legal non-conforming use for a period of one hundred eighty (180) days from the effective date of this Ordinance, provided that such a dispensary or Collective Dispensary implements and observes the following operational conditions of this Ordinance prior to the effective date of this Ordinance:

1. the operation of the dispensary or Collective Dispensary is not discontinued for a period of time in excess of thirty (30) consecutive days;
2. the operation of the dispensary or Collective Dispensary complies with all portions of Chapter 28.80, as revised and enacted by this Ordinance, and;
3. the dispensary or Collective Dispensary shall be subject to the requirements for non-conforming uses of SBMC section 28.87.030 until such time that it has been discontinued or permitted at a new allowed location pursuant to this Ordinance.

**SECTION THREE.** City Ordinance No. 5510 entitled "An Ordinance Of The Council Of The City Of Santa Barbara Extending A Temporary Suspension Of The Right To Apply For Or To Obtain A Permit For The Opening Or Operation Of Medical Marijuana Dispensaries Otherwise Permitted By Santa Barbara Municipal Code Chapter 28.80 On An Interim Basis" adopted on February 2, 2010 is hereby repealed as of the effective date of this Ordinance.

swiley\ord\Medical.Marijuan.Disp.Intro-Ordinance Commtt.Draft  
April 7, 2010;

**Tschech, Susan**

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**From:** Alcazar, Brenda  
**Sent:** Monday, April 05, 2010 8:20 AM  
**To:** Mayor & City Council; Wiley, Stephen; Pedersen, Lori; Kato, Danny; Armstrong, Jim  
**Cc:** Tschech, Susan  
**Subject:** FW: Medical Marijuana

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**From:** Norris Goss [mailto:norrisgoss@cox.net]  
**Sent:** Sunday, April 04, 2010 3:32 PM  
**To:** Alcazar, Brenda  
**Subject:** Medical Marijuana

To Members of the Santa Barbara City Council:

Recently the News-Press titled it's article on the City Council's committee meeting regarding medical marijuana dispensaries "Seeking common ground on medical marijuana ." I am writing to suggest that the Council would serve our city better to "seek common SENSE on medical marijuana."

It takes only common sense to know that many (most?) patrons of the dispensaries are seeking pleasure more than pain relief. The number of people whose pain needs require marijuana is a small number compared to those seeking it.

Common sense says we do not need dispensaries in downtown Santa Barbara to fill those limited needs. Grant House argues that we need to make it easily available. Why? Common sense says we need to limit availability. Sick people can find their way to our one hospital; those in genuine need will find their way to a single dispensary.

Common sense says that in a town with 17 drug and alcohol rehabilitation centers that we don't need flyers on the street announcing "discounts" for the most common gateway to drug addiction.

When it becomes necessary to load an ordinance with complicated restrictions regarding hours, locations, production restrictions and patronage restrictions doesn't common sense say we just shouldn't have them? Our city and our citizens need only one dispensary at best (worst!).

Please let common sense be applied to your interpretation of the medical marijuana laws. Other communities have.

Thank you,  
Norris Goss  
3528 Campanil Drive  
Santa Barbara 93109

4/7/2010