ORDINANCE NO. 5449

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING THE MUNICIPAL CODE BY ADDING CHAPTER 28.80 ESTABLISHING REGULATIONS AND PROCEDURES FOR MEDICAL CANNABIS DISPENSARIES

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

SECTION ONE. The City Council adopts the ordinance codified in this chapter based upon the following findings and determinations:

A. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq.) entitled "The Compassionate Use Act of 1996" (Act).

B. The intent of Proposition 215 was to enable persons residing in the State of California who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances.

C. The State enacted SB 420 in 2004, being Sections 11362.7 et seq., of the Health and Safety Code, being identified as the Medical Cannabis Program (Program), to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with the Program.

D. To protect the public health, safety, and welfare, it is the desire of the City Council to modify the City Code consistent with the Program, regarding the location and operation of medical cannabis dispensaries.

E. It is the City Council's intention that nothing in this chapter shall be construed to do any of the following: 1. to allow persons to engage in conduct that endangers others or causes a public nuisance; 2. to allow the use of cannabis for non-medical purposes; or 3. to allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal and not permitted by state law.

F. Pursuant to California Health and Safety Code Section 11362.71 et seq., the State Department of Health, acting by and through the state's counties, is to be responsible for establishing and maintaining a voluntary medical cannabis identification card program for qualified patients and primary caregivers.

G. California Health and Safety Code Section 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking to join the identification program in the matters set forth in Section 11362.71 et seq.

H. This chapter is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b) (3) in that the Council finds and determines that there is nothing in this chapter or its implementation that could foreseeably have any significant effect on the environment.

I. This chapter is compatible with the general objectives of the general plan and any applicable specific plan, in that this use would be conditionally permitted in commercial and industrial districts, being similar to other permitted and conditionally permitted uses, such as pharmacies and medical clinics, and in that the use will be subject to strict review and conditions.

J. This chapter is compatible with the public convenience, general welfare and good land use practice, in that medical marijuana dispensaries address a medical need in the community, and in that the use will be subject to rigorous review and conditions.

K. This chapter will not adversely affect the orderly development of property, in that dispensaries would be subject to a careful review process, and strict operating requirements would be imposed.

SECTION TWO. Title 28 of the Santa Barbara Municipal Code is amended by adding a new chapter, Chapter 28.80 entitled "Medical Cannabis Dispensaries," which reads as follows:

28.80.010 Purpose and Intent.

It is the purpose and intent of this chapter to regulate the locations of medical cannabis dispensaries in order to promote the health, safety, and general welfare of residents and businesses within the City. It is neither the intent nor the effect of this chapter to condone or legitimize the use or possession of cannabis except as allowed by California law.

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 permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a dispensary.

B. Drug Paraphernalia. As defined in California Health and Safety Code Section 11362.5, and as may be amended from time to time.

C. Identification Card. As defined in California Health and Safety Code Section 11362.5 et seq., and as may be amended from time to time.

D. Medical Cannabis Dispensing Collective or 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 retail distribution of medical cannabis. "Dispensary" shall include any facility or location where the primary purpose is to dispense medical cannabis (i.e., marijuana) as a medication that has been recommended by a physician, and where medical cannabis 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. A 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. a 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.

E. Permittee. The person to whom either a dispensary permit is issued by the City and who is identified in California Health and Safety Code Section 11362.7, subdivision (c) or (d), or (e) or (f).

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 doctor, including a doctor of osteopathic medicine as defined in the California Business and Professions Code.

I. Primary Caregiver. As defined in California Health and Safety Code Section 11362.5 et seq., and as it may be amended.

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 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 dispensary, unless the person first obtains and continues to maintain in full force and effect a Dispensary Use 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 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. Dispensary sales shall be subject to sales tax in a manner required by state law.

28.80.050 Imposition of Dispensary Permit Fees.

Every application for a 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. 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 Dispensary.

A. Permissible Zoning for Dispensaries. A 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 dispensaries may also be located on parcels situated as follows:

1. any parcel fronting on State Street between Calle Laureles and the westerly boundary of the City at the intersection of 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;

B. Storefront Locations. A dispensary shall only be located in a visible store-front type location which provides good public views of the dispensary entrance, its windows, and the entrance to the dispensary premises from a public street.

C. Areas and Zones Where Dispensaries Not Permitted. Notwithstanding subparagraph (A) above, a dispensary 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

2. On a parcel located within 500 feet of a permitted dispensary; or

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.

D. Locational Measurements. The distance between a dispensary and the above-listed uses shall be made in a straight line from any parcel line of the real property on which the dispensary is located to the parcel line of 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.

28.80.070 Operating Requirements for Dispensaries.

Dispensary operations shall be permitted and maintained only in compliance with the following day-to-day operational standards:

A. Criminal History. A dispensary permit applicant, his or her agent or employees, volunteer workers, or any person exercising managerial authority over a dispensary on behalf of the 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 dispensary permittee, operator, or other person in charge of any 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 dispensary unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian. The entrance to a dispensary shall be clearly and legibly posted with a notice indicating that persons 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. Dispensary Size and Access. The following dispensary and access restrictions shall apply to all dispensaries permitted by the Chapter:

1. A dispensary shall not be enlarged in size (i.e., increased floor area) without a prior approval from the Staff Hearing Officer amending the existing dispensary permit pursuant to the requirements of this Chapter.

2. The entrance area of the 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. Dispensary personnel shall be responsible for monitoring the real property of the dispensary site activity (including the adjacent public sidewalk and rights-of-way) for the purposes of controlling loitering.

4. Only dispensary staff, primary caregivers, qualified patients and persons with bona fide purposes for visiting the site shall be permitted within a dispensary.

5. Potential patients or caregivers shall not visit a dispensary without first having obtained a valid written recommendation from their physician recommending use of medical cannabis.

6. Only a primary caregiver and qualified patient shall be permitted in the designated dispensing area along with dispensary personnel.

7. Restrooms shall remain locked and under the control of Dispensary management at all times.

D. Dispensing Operations. The following restrictions shall apply to all dispensing operations by a dispensary:

1. A dispensary shall only dispense to qualified patients or primary caregivers with a currently valid physician's approval or recommendation in compliance with the criteria in California Health and Safety Code Section 11362.5 et seq. 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 cannabis, the dispensary shall obtain a verification from the recommending physician's office personnel that the individual requesting medical cannabis is or remains a qualified patient pursuant to state Health & Safety Code Section 11362.5.

3. A dispensary shall not have a physician on-site to evaluate patients and provide a recommendation or prescription for the use of medical cannabis.

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

1. Cannabis shall not be consumed by patients on the premises of the 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 dispensary's entrance. Dispensary employees who are qualified patients may consume cannabis 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. Dispensary operations shall not result in illegal re-distribution of medical cannabis obtained from the dispensary, or use or distribution in any manner which violates state law.

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

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

2. No dispensary shall sell or display any drug paraphernalia or any implement that may be used to administer medical cannabis.

3. A dispensary shall meet all the operating criteria for the dispensing of medical cannabis 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 shall provide, as part of the permit application, a detailed Operations Plan and, upon issuance of the dispensary permit, shall operate the dispensary in accordance with the Operations Plan, as such plan is approved by the Staff Hearing Officer.

1. Floor Plan. A dispensary shall have a lobby waiting area at the entrance to the dispensary to receive clients, and a separate and secure designated area for dispensing medical cannabis 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 dispensary shall have suitable locked storage on premises, identified and approved as a part of the security plan, for after-hours storage of medical cannabis.

3. Security Plans. A 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 ensure the safety of persons and to protect the premises from theft.

4. 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. Alarm System. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition within the dispensary at all times.

6. Emergency Contact. A 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 dispensary.

H. Dispensary Signage and Notices.

1. A notice shall be clearly and legibly posted in the dispensary indicating that smoking, ingesting or consuming cannabis on the premises or in the vicinity of the dispensary is prohibited.

2. Signs on the premises shall not obstruct the entrance or windows.

3. Address identification shall comply with Fire Department illuminated address sign requirements.

4. Business identification signage 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 dispensary shall maintain a current register of the names of all volunteers and employees currently working at or employed by the dispensary, 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. Patient Records. A dispensary shall maintain confidential health care records of all 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 cannabis under state Health & Safety Code Section 11362.5.

K. Staff Training. 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 properly trained or professionally-hired security personnel.

L. Site Management.

1. The operator of the establishment 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 dispensary.

2. The operator 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 cannabis use and consumption within the City and recommendations on sensible cannabis etiquette.

M. Trash, Litter, Graffiti.

1. The operator 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.

2. The operator shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.

N. Compliance with Other Requirements. The 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.

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

P. Alcoholic Beverages. No 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.

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

28.80.080 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 allowing them the right to occupy the property for the intended 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 dispensary permit.

28.80.090 Criteria for Review of Dispensary Applications by Staff Hearing Officer.

A. Decision on Application. Upon an application for a 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 Dispensary permit, issue a Dispensary permit with conditions in accordance with this chapter, or deny a 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 dispensary permit:

1. That the 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 Dispensary is not identified by the City Chief of Police as an area of high crime activity (e.g., based upon crime reporting district/statistics as maintained by the Police Department).

3. For those applicants operating other 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 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 dispensary permit for the dispensary size requested is justified to meet needs of community.

6. That issuance of the 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 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, cannabis use in public, or creation of a public or private nuisance, or interference with the operation of another business.

10. That the dispensary would not adversely affect 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 dispensary will generally not result in repeated nuisance activities, including disturbances of the peace, illegal drug activity, cannabis 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.

28.80.100 Appeal from Staff Hearing Officer 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 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. Planning Commission Appeal. 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 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 Dispensary Permit. Consistent with Section 28.87.360, any 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 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. 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 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 permit issued pursuant to this Chapter shall be final and may not be appealed to the City Council.

28.80.120 Transfer of Dispensary Permits.

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

B. Transfer of a Permitted Dispensary. A permittee shall not transfer ownership or control of a dispensary or attempt to transfer a 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 all provisions of this chapter accompanied by the required application fee.

C. Request for Transfer with a Revocation or Suspension Pending. No dispensary permit may be transferred (and no permission for a transfer may be issued) when the Community Development Department has notified the permittee in writing 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 dispensary.

SECTION THREE. Those Dispensaries which were authorized pursuant to the Santa Barbara Municipal Code Chapter 28.80 prior to the date of the adoption of the ordinance enacting this Chapter shall be deemed pre-existing legal uses of real property upon which they are situated for a period of three (3) years from the date of the adoption of this Ordinance, provided the following operational conditions are complied with:

1. the dispensary shall not be relocated nor shall it be discontinued for a period of time in excess of thirty (30) days without obtaining a dispensary permit pursuant to this Chapter;

2. the dispensary shall comply with all portions of Chapter 28.80 (as enacted by this Ordinance) except for the locational provisions of Section 28.80.060; and

3. the dispensary shall be subject to the requirements for nonconforming uses of SBMC Section 28.87.030 until such time that they have been permitted under this Ordinance.

Prior to the expiration of the three (3) year nonconforming period, all medical marijuana dispensaries operating as allowed dispensaries which pre-date the adoption

of this Ordinance shall either obtain a dispensary permit (as required by and in full accord with this Ordinance) or shall discontinue such use not later than the end of the three (3) year amortization period. No such pre-existing legal dispensary shall be assigned or otherwise transferred to a new owner or owners, whether voluntarily or by operation of law, without having obtained a permit pursuant to this ordinance.

SECTION FOUR. The requirements of this Chapter shall apply to all dispensaries which are not permitted or authorized by the Municipal Code prior to the date of the adoption of the ordinance enacting this chapter.

ORDINANCE NO. 5449

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.
)
CITY OF SANTA BARBARA)

I HEREBY CERTIFY that the foregoing ordinance was introduced on March 18, 2008, and was adopted by the Council of the City of Santa Barbara at a meeting held on March 25, 2008, by the following roll call vote:

AYES: Councilmembers Iya G. Falcone, Dale Francisco, Roger L. Horton, Grant House, Helene Schneider

NOES: Mayor Marty Blum

ABSENT: Councilmember Das Williams

ABSTENTIONS: None

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on March 26, 2008.

Cynthia M. Rodriguez, CMC
City Clerk Services Manager

I HEREBY APPROVE the foregoing ordinance on March 26, 2008.

Marty Blum
Mayor