



**City of Santa Barbara**  
Community Development Department

**Planning Commission Staff Report**

**REPORT DATE:** May 6, 2010  
**AGENDA DATE:** May 13, 2009  
**TO:** Planning Commission  
**FROM:** Planning Division (805) 564-5470  
 Danny Kato, Senior Planner *DJK*  
**SUBJECT:** Medical Cannabis Dispensary Ordinance Revisions

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**INTRODUCTION**

The City Council initiated revisions to the Medical Cannabis Dispensary Ordinance on July 28, 2009. Between then and April 27, 2010, the issue of medical marijuana has been agendized 17 times by Ordinance Committee, Council and Planning Commission.

The Planning Commission made recommendations to the first version of the revision package on December 17, 2009. Those recommendations were heard by the Ordinance Committee in the early part of 2010. The Ordinance Committee's recommendations were presented to the Council on February 23, 2010, and the Council directed the Ordinance Committee to consider all of the following:

1. Possible revisions to the latest draft version of the Ordinance regulating Medical Marijuana Dispensaries in order to reduce the maximum number of dispensaries within the City to five (5),
2. Providing that major alcohol and drug rehabilitation facilities would be protected uses and adjusting the allowed areas for dispensaries appropriately,
3. Allowing dispensaries in the Cottage Hospital area, and
4. Further defining the operational parameters of storefront collective/cooperatives in order to ensure compliance with Proposition 215 and SB 420.

The Ordinance Committee met on March 16<sup>th</sup>, March 30<sup>th</sup>, April 13<sup>th</sup>, and April 27<sup>th</sup> 2010, and came to consensus on these and other issues and has made its recommendation to Council. State planning & zoning law requires that the Planning Commission make recommendations to Council on Zoning Ordinance amendments, and this is the purpose of the hearing.

## PROPOSED REVISIONS

### Ordinance Committee Recommendations

1. Rename the ordinance from the "Medical Cannabis Dispensary Ordinance," to the "Medical Marijuana Storefront Collective Dispensary Ordinance."
2. Medical marijuana is only made available to Qualified Patients and Caregivers at storefront locations if such locations are operated as "collectives" in the manner required by SB 420
3. Allow a total of five (5) storefront collectives. This number was a compromise between Committee members who wanted more and Committee members who wanted fewer.
4. Allow storefront collectives in seven area of town (Maps showing the areas are included as Exhibits G-L):
  - a. Outer State
  - b. Upper De la Vina
  - c. Mission Street
  - d. Downtown West
  - e. Downtown East
  - f. Milpas
  - g. West Pueblo Medical (formerly referred to as the Cottage Hospital area)
  - h. (Mesa Area was eliminated)

The Ordinance Committee discussed the elimination of the Downtown West and Downtown East areas, but did not reach consensus.
5. Prohibit storefront dispensaries within 500 feet of the 17 highest priority drug and alcohol recovery facilities.
6. Restrict storefront collective membership to Santa Barbara, San Luis Obispo and Ventura Counties. This was a compromise of the Ordinance Committee members, as one wanted membership to be from throughout the state, another wanted City residents only, and the third wanted Santa Barbara County residents only. This compromise was reached in conjunction with the 24 hour waiting period, below.
7. Require a 24 hour waiting period to join a storefront collective. The purpose of this requirement is to attempt to discourage medical marijuana tourism, wherein residents of the tri-county area would come to Santa Barbara just to obtain medical marijuana. A 24 hour waiting period would require two trips to Santa Barbara, thereby discouraging medical marijuana tourism.
8. Specific cultivation, membership, and financial records are required, with inspection by specified City Staff with limited notice

9. Member medical records are required, and may be inspected by City Staff, but only with a search warrant or inspection warrant.
10. Dispensary inspection with limited notice by City Staff.
11. Continue the current process of initial review by the Staff Hearing Officer, but appeals are heard by the Council, bypassing the Planning Commission. The current process requires a decision by the Staff Hearing Officer, with an appeal to the Planning Commission, and the Council had previously reached consensus on adding an appeal to Council. The City Attorney asked the Ordinance Committee to consider whether a discretionary process was necessary, since the proposed ordinance requirements controls storefront collectives so extensively, or whether the approval could be handled administratively.

The Ordinance Committee members felt that while an administrative approval might be appropriate, an appeal to Council was necessary. Since there is no current process for an administrative approval to be appealed to Council, and there are current processes wherein discretionary approval are appealed directly to Council (e.g. Architectural Board of Review), the Ordinance Committee recommended that the initial decision should remain with the Staff Hearing Officer, but the appeal would be heard by the Council.

12. All previous recommendations to Council, including
  - a. Prohibit storefront dispensaries within 1000 feet of Casa Esperanza.
  - b. Prohibition on storefront collectives in mixed-use buildings, where the residential units are condominiums, and the project is existing at the time the revisions are adopted.
  - c. Allowable areas are described by block face, rather than by prohibition radii.
  - d. Security provided by a separate "Private-party operator" security company, which is licensed by the State.
  - e. More discretion for the Staff Hearing Officer, and Council on appeal, in the form of changes to the criteria for issuance (see SBMC §28.80.0070.B.6. and B.10).
  - f. Annual review of the storefront collective by the Police and Community Development Departments.
  - g. Reduced amortization period of six months from the effective date of the ordinance for closure of dispensaries that existed prior to the adoption of the current ordinance. If these ordinance revisions are adopted as recommended by the Ordinance Committee, the effect on pending, approved, appealed, legally operating and nonconforming dispensaries would be as outlined in Exhibit M. Most pending applications would not be allowed to proceed because their locations are no longer allowable. One pending application would not be allowed to move forward because it's in an existing, mixed use building with residential condominiums. In those areas where multiple applications are pending, the application deemed complete first would be allowed to go to hearing first. If the first complete application were to be approved, the remaining applications would

not be allowed to move forward. If it were not approved, then the next complete application would be allowed to move forward.

- h. Minor and other miscellaneous changes to the ordinance language.

### **MMDO Suspension Ordinance Status**

The attached ordinance contains a section that repeals the MMDO suspension on the effective date of these revisions, which is 30 days after the adoption of the ordinance. Currently, pending applications are being processed through application completeness. Upon repeal of the suspension, staff will schedule complete applications for hearings, and terminate applications that are precluded because of the newly adopted revisions. Additionally, the six month amortization period will begin, during which permitted dispensaries must update their operational plans, and nonconforming dispensaries must either get approved or close down.

### **RECOMMENDATION**

Staff recommends that the Planning Commission:

1. Review the proposed ordinance language; and
2. Recommend that Council introduce and subsequently adopt the draft ordinance.

### **NEXT STEPS**

The amendment is on the Council's May 18, 2010 agenda for ordinance introduction. The Planning Commission's comments and recommendations will be presented to the Council during staff's oral presentation and the Commission may decide to send a representative to the hearing as well.

Exhibits:

- A. Draft Ordinance
- B. Council Agenda Report, and Minutes February 23, 2010
- C. Ordinance Committee Staff Report and Minutes, March 16, 2010
- D. Ordinance Committee Minutes, March 30, 2010
- E. Ordinance Committee Staff Report and Minutes, April 13, 2010
- F. Ordinance Committee Staff Report and Minutes, April 27, 2010
- G. Outer State Street Area Map
- H. Upper De la Vina Area Map
- I. Mission Area Map
- J. Downtown East and West Area Map
- K. Milpas Area Map
- L. West Pueblo Medical Area Map
- M. Table showing status of dispensaries

APRIL 27<sup>TH</sup> ORDINANCE COMMITTEE  
DISCUSSION DRAFT  
SPW

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 STOREFRONT  
COLLECTIVE 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  
collective cultivation and storefront distribution of medical  
marijuana in order to ensure the health, safety and welfare of  
the residents of the City of Santa Barbara. The regulations in  
this Chapter, in compliance with the State Compassionate Use Act  
of 1996 and the State Medical Marijuana Program Act ("the SB 420  
statutes"), are not intended and do not interfere with a  
patient's right to use medical marijuana as authorized under the  
SB 420 statutes, nor do they criminalize the possession or  
cultivation of medical marijuana by specifically defined  
classifications of persons, as authorized under the  
Compassionate Use Act. Under the Compassionate Use Act of 1996  
and the SB 420 statutes, only qualified patients, persons with  
identification cards, and primary caregivers may legally  
cultivate medical marijuana collectively and provide it to  
qualified patients or person with identifications cards. Medical  
marijuana collectives within the City which operate storefront  
dispensing locations shall comply with all provisions of the  
Santa Barbara Municipal Code ("SBMC"), the Compassionate Use  
Act, the SB 420 statutes, and all other applicable local and  
state laws. Nothing in this Chapter purports to permit

activities that are otherwise illegal under federal, state, or local laws.

**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 Storefront Collective Dispensary permit under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, Management Member, employee, or agent of a Medical Marijuana Storefront 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 Storefront Collective Dispensary or Storefront Collective Dispensary.** An incorporated or unincorporated association which is composed of four (4) or more Qualified Patients and their designated Primary Caregivers who associate at a particular location or Property within the City in order to collectively or cooperatively cultivate marijuana for medical purposes and who, acting through Management Members, distribute the collectively cultivated medical marijuana to the members of their Collective at a storefront dispensary located within a non-residential zone of Santa Barbara, all in accordance with the Compassionate Use Act of 1996 (California Health and Safety Code sections 11362.5) and Health and Safety Code section 11362.7 through 11362.9. For the purposes of this Chapter, the term Medical Marijuana "cooperative" shall have the same meaning as Medical Marijuana

"collective" and the term "cooperative" shall have the definition established by state law.

A Storefront Collective Dispensary shall not include the dispensing of medical marijuana by primary caregivers to qualified patients in the following locations so long as the location and operation of the clinic, health care facility, hospice, or residential care facility is otherwise permitted by the Municipal Code and operated in the manner required 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 also fully complies with applicable laws including, but not limited to, the Compassionate Use Act of 1996 and the SB 420 statutes.

**E. Permittee.** The Management Member or Members identified to the City by an Applicant as such and to whom a City Storefront Collective Dispensary permit has been issued by the City and someone who qualifies as a primary caregiver.

**F. Person with an Identification Card.** A person as described in California Health and Safety Code Section 11362.71 through 11362.76, and as amended from time to time.

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

**H. Primary Caregiver.** A person as defined and described in either subdivision (d) or (e) of California Health and Safety Code Section 11362.7 as it may be amended from time to time.

**I. Property.** The location or locations within the City at which Medical Marijuana Collective members and Management members associate to collectively or cooperatively cultivate or to distribute Medical Marijuana exclusively to their Collective members.

**J. Qualified Patient.** A person as defined and described in California Health and Safety Code Section 11362.5 et seq., and as it may be amended from time to time. For the purposes of this Chapter, a Qualified Patient shall also include a Person with an Identification Card.

**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.

**L. Reasonable Compensation.** Compensation commensurate with reasonable wages and benefits paid to employees of federal Internal Revenue Code qualified non-profit organizations which employees have similar job descriptions and duties, as well as a required level of experience and education, prior earnings history, and number of hours worked. The payment of a bonus shall not be considered reasonable compensation.

**Section 28.80.030      Storefront 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 his or her Property the operation of a Storefront Collective Dispensary within the City unless an Applicant has first obtained and continues to maintain in full force and effect a valid Storefront Collective Dispensary Permit issued by the City for that Property pursuant to this Chapter.

**Section 28.80.040      Imposition of Medical Marijuana Storefront  
Collective Dispensary Permit Fees.**

Every application for a Storefront Collective Dispensary permit 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 Storefront Collective Dispensary permit) and the filing of a complete required application pursuant to this Chapter. The application 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.

**Section 28.80.050 Limitations on the Permitted Location of a Storefront Collective Dispensary.**

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

Storefront Collectives Dispensaries may only be permitted and located on parcels within the City which are zoned for commercial uses and on those street block faces listed in the exhibit to this Chapter designated as "Medical Marijuana Storefront Collectives Dispensaries - Allowed Locations" dated as of April 27, 2010.

**B. Storefront Locations.** Except for those locations shown as allowed within the West Pueblo Medical Area on the exhibit attached to this Chapter and dated as of April 27, 2010 which have been specifically approved by the Staff Hearing Officer as non-storefront locations pursuant to this Chapter, a Storefront Collective Dispensary shall only be located in a visible storefront type ground-floor location which provides good public views of the Dispensary entrance, its windows, and the entrance to the Storefront Collective Dispensary premises from a public street.

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

1. On a parcel located within 1000 feet of another permitted or allowed Storefront Collective Dispensary; or
2. On a parcel on State Street between Cabrillo Boulevard and Arrellaga Street;

**D. Locational Measurements.** The distance between a Storefront Collective Dispensary and above-listed restrictions shall be

made in a straight line from any parcel line of the Property on which the Storefront 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 Storefront 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 Storefront Collective Dispensary application for any particular permissible location.

**E. One Collective Dispensary for Each Area of the City.** No more than one Storefront Collective Dispensary may open or operate in each of the areas of the City designated as allowed or permissible Collective Dispensary location areas in the exhibit attached to this Chapter and dated as of April 27, 2010 except for those areas which, at the time of the adoption of the ordinance amending this Chapter, already have more than one Storefront Collective Dispensary on a legal non-conforming basis and which are allowed to continue to operate on a legal non-conforming basis under Section Two of the Ordinance amending this Chapter - in which case a legal non-conforming Dispensary may be allowed to continue to operate in such an area.

**F. Maximum Number of Medical Marijuana Storefront 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 or allowed Collective Dispensaries may legally operate within the City including specifically those dispensaries which are open and operating in a legal nonconforming manner at the time of the adoption of the ordinance amending this Chapter.

**Section 28.80.060 Storefront Collective Dispensary - Permit Application Requirements.**

**A. Application Filing.** A complete Performance Standard Permit application submittal packet is required for a Storefront Collective Dispensary permit and it shall be submitted (along with all required fees) and all other information and materials required by this Chapter in order to file a complete application for a Storefront Collective Dispensary Permit for a specific Property. All applications for Storefront Collective Dispensary permits shall be filed with the Community Development

Department, using forms provided by the City. It is the responsibility of the Applicant to provide information required for approval of the permit. The application shall signed and made under penalty of perjury.

**B. Eligibility for Filing.** Applications may only be filed by the owner of the subject Property, or by a lessee with a lease signed by the owner or a duly authorized agent of the owner. If an application is filed by a non-owner of the Property, it shall also be accompanied by a written affirmation from the Property owner expressly allowing the Applicant to apply for the Permit and acknowledging the Applicant's right to use and occupy the Property for the intended Medical Marijuana Storefront 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 and the application has been deemed complete.

**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 thirty (30) days. If the application remains incomplete in excess of thirty (30) days the application shall be deemed withdrawn and new application submittal shall be required in order to proceed with the subject request.

**E. Filing Requirements - Proposed Operational Plan.** In connection with a permit application, the Applicant for a Storefront Collective Dispensary permit shall provide a detailed "Operations Plan" for the proposed Dispensary and, upon issuance of the Storefront Collective Dispensary permit by the City, shall operate the Storefront Collective Dispensary in accordance with the Operations Plan, as approved, at all times. A required Operations Plan shall consist of at least the following:

- 1. Site Plan and Floor Plan.** A Storefront Collective Dispensary application shall have a proposed site plan and floor plan which shows a lobby waiting area at the entrance to the Storefront Collective Dispensary used to receive qualified patients or primary caregivers, and a separate and secure designated area for dispensing medical marijuana to qualified patients or designated primary caregivers members of the Collective. 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 Storefront Collective Dispensary shall have suitable locked storage on the premises, identified and approved as a part of the operational security plan for the after-hours storage of medical marijuana.

**3. Security Plans.** A Storefront Collective Dispensary shall provide a plan to provide adequate security on the premises of the Dispensary, which shall be maintained in accordance with the Dispensary security plan approved by the Chief of Police and as reviewed by the Staff Hearing Officer. This plan shall include 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 Storefront 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.

**4. Security Cameras.** The Security Plan shall show how the Property will be 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.

**5. Alarm Systems.** The Operations Plan shall provide that professionally monitored burglary and fire alarm systems shall be installed and such systems shall be maintained in good working condition within the Storefront Collective Dispensary at all times.

**6. Emergency Contact.** A Operations Plan shall provide the Chief of Police with the name, cell phone number, and facsimile number of a Management Member to act as an on-site community relations staff person to whom the City may provide notice of any operating problems associated with the Storefront Collective Dispensary.

**7. Public Nuisance.** The Operations Plan shall provide for the Management Members of the Collective Dispensary to take

all reasonable steps to discourage and correct objectionable conditions that constitute a public or private 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 Storefront Collective Dispensary.

**8. Loitering Adjacent to a Dispensary.** The Operations Plan shall provide that the Management Members will take all reasonable steps to reduce loitering by Collective members in public areas, sidewalks, alleys and areas surrounding the Property and adjacent premises during the business hours of the Storefront Collective Dispensary.

**9. Trash, Litter, Graffiti.** The Operations Plan shall provide that the Management Members will keep area which includes the sidewalks adjoining the Dispensary plus ten (10) feet beyond property lines (as well as any parking lots under the control of the Dispensary) clear of litter, debris, and trash.

**10. Removal of Graffiti.** The Operations Plan shall provide a method for the Management Members to promptly remove all graffiti from the Property and parking lots under the control of the Collective within 72 hours of its appearance.

**F. Filing Requirements - Information Regarding Storefront Collective Dispensary Management.** A Storefront Collective Dispensary Applicant shall also provide the following Management Member and Collective information as part of a Storefront Collective Dispensary application:

1. The name, address, telephone number, title and function(s) of each Management Member;
2. For each Management Member, a fully legible copy of one (1) valid government issued form of photo identification, such as a state driver's license or identification card. Acceptable forms of government issued identification include, but are not limited to, driver's license or photo identity cards issued by the state Department of Motor Vehicles (or equivalent) that meet REAL ID benchmarks, a passport issued by the United States or by a foreign government, U.S. Military ID cards (active duty or retired military and their dependents) or a Permanent Resident card.

3. Written confirmation as to whether the Collective or a Management Member of the Collective previously operated in this or any other county, city or state under a similar license or permit, and whether the Collective or Management Member Applicant ever had such a license or permit revoked or suspended by and the reason(s) therefore.

4. If the Collective is a corporation, a certified copy of the Collective's Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information and a copy of the Collective's By laws;

5. If the Collective is an unincorporated association, a copy of the articles of association;

6. The name and address of the Applicant's or Collective's current designated Agent for Service of Process;

7. A statement dated and signed by each Management Member, of the Collective, under penalty of perjury, that the Management Member has personal knowledge of the information contained in the Application, that the information contained therein is true and correct, and that the application has been completed under the supervision of the Management Member(s);

8. Whether Edible Medical Marijuana products will be prepared and distributed at the proposed Dispensary Property;

9. The Property location or locations where any and all Medical Marijuana will be collectively cultivated by the Collective members and Management Members;

**G. Effect of Other Permits or Licenses.** The fact that an Applicant possesses other types of state or City permits or licenses or tax certificate does not exempt the Applicant from the requirement of obtaining a Storefront Collective Dispensary permit pursuant to this Chapter.

**Section 28.80.070 Criteria for Review of Collective Dispensary Applications by the City Staff Hearing Officer.**

**A. Decision on Application.** Upon an application for a Storefront Collective Dispensary permit being deemed complete, the Staff Hearing Officer shall either issue a Storefront Collective Dispensary permit, issue a Storefront Collective Dispensary

permit with conditions in accordance with this Chapter, or deny a Storefront Collective Dispensary permit.

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

1. That the Collective Dispensary permit is consistent with the intent of the Compassionate Use Act of 1996 and the SB 420 Statutes for providing medical marijuana to qualified patients and primary caregivers and the provisions of this Chapter and with the Municipal Code, including the application submittal and operating requirements herein.
2. That the proposed location of the Storefront Collective Dispensary is not identified by the City Chief of Police as an area of increased or high crime activity.
3. For those applicants who have operated other Storefront 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 issuance of a Collective Dispensary permit for the Collective Dispensary size requested is appropriate to meet needs of community for access to medical marijuana.
5. That issuance of the Collective Dispensary permit would serve needs of City residents within a proximity to this location.
6. 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 and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished.
7. That the Operations Plan, a site plan, a floor plan, the proposed hours of operation, and a 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.

8. 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.

9. That the Storefront Collective Dispensary is likely to have no potentially adverse 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.

10. 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.

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

12. 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.

**Section 28.80.080 On-Going Management Requirements for Medical Marijuana Storefront Collective Dispensaries.**

Storefront Collective Dispensary operations are permitted and shall be maintained and managed on a day-to-day basis only in

compliance with the following operational standards and requirements:

**A. Criminal History.** A Storefront Collective Dispensary permittee, including all Management Members of that permittee, shall not have been convicted of a felony or be on probation or parole for the sale or distribution of a controlled substance and shall remain free of such a conviction or probation during the period of time in which the Storefront Collective Dispensary is being operated.

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

**C. Storefront Collective Dispensary Size and Access.** The following access restrictions shall apply to all Storefront Collective Dispensaries permitted by this Chapter:

1. A Storefront Collective Dispensary shall not be enlarged in size (i.e., increased floor area) without a prior approval from the Staff Hearing Officer and an approved amendment to the existing Storefront Collective Dispensary permit pursuant to the requirements of this Chapter.
2. An expressly designated Management Member or Members shall be responsible for monitoring the Property of the Storefront Collective Dispensary for any nuisance activity (including the adjacent public sidewalk and rights-of-way) which may occur on the block within which the Storefront Collective Dispensary is operating.
3. Only Collective members as primary caregivers or qualified patients shall be permitted within a Storefront Collective Dispensary building for the purposes of

cultivating, processing, distributing, or obtaining medical marijuana.

4. A qualified patient or a primary caregiver shall not visit a Storefront Collective Dispensary without first having obtained a valid written recommendation from his or her licensed physician recommending the use of medical marijuana or, in the case of a primary caregiver, without first having been expressly designated a primary caregiver to a qualified patient. A qualified patient or primary caregiver may not obtain medical marijuana upon their first in-person visit to a Storefront Collective Dispensary and, instead, may only become a member of the Collective at the first actual visit. After the first visit and after becoming an officially registered member of a Collective operating a Storefront Dispensary within the City, a qualified patient or primary caregiver may obtain medical marijuana only after the expiration of one day after their initial in-person visit to the Dispensary and after joining the Collective.

5. Only a primary caregiver and qualified patient members of the Collective Dispensary shall be allowed within the designated marijuana dispensing area of a Storefront Collective Dispensary (as shown on the site plan required by the Application) along with only a necessary Management Members.

6. Restrooms with the Storefront Collective Dispensary shall remain locked and under the control of Collective Dispensary Management Members at all times.

**D. Medical Marijuana Dispensing Operations.** The following medical marijuana distribution restrictions and conditions shall apply to all of the day-to-day medical marijuana dispensing operations which occur within a permitted Storefront Collective Dispensary:

1. A Storefront Collective Dispensary shall only dispense to qualified patients or primary caregivers with a currently valid physicians approval or recommendation in compliance with the criteria of the Compassionate Use Act of 1996 and the SB 420 Statutes to those persons who are registered as active members of that Collective. Storefront 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 each time they obtain medical marijuana.

2. Prior to dispensing medical marijuana, a Management Member of the Storefront Collective Dispensary shall obtain a re-verification from the recommending physician's office personnel that the individual requesting medical marijuana is or remains a qualified patient or a primary caregiver.

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

4. Every Storefront Collective Dispensary shall display at all times during its regular 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 Storefront Collective Dispensary.

5. No Storefront 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.

6. Storefront Collective Dispensaries shall be considered commercial use relative to the parking requirements imposed by Santa Barbara Municipal Code Section 28.90.100(I).

7. A notice shall be clearly and legibly posted in the Storefront Collective Dispensary indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the 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.

8. Business identification signage for Storefront 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.

**E. Dispensary Medical Marijuana On-Site Consumption and Re-Distribution Restrictions.** The following medical marijuana

consumption restrictions shall apply to all permitted Storefront Collective Dispensaries:

1. Medical marijuana shall not be consumed by patients on the Property or the premises of the Storefront 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. Storefront Collective Dispensary operations shall not result in illegal re-distribution or sale of medical marijuana obtained from the Collective Dispensary, or the use or distribution in any manner which violates state law.

**F. Retail Sales of Other Items by a Storefront Collective Dispensary.** The retail sales of related marijuana use items at a Storefront Collective Dispensary 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 (except drug paraphernalia) 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.

**G. Storefront Collective Dispensary - Compliance with the Compassionate Use Act of 1996 and SB 420 Statutes.**

1. **State Law Compliance Warning.** Each Collective Dispensary shall have a sign posted in a conspicuous location inside the Storefront Collective Dispensary advising 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 Storefront Collective Dispensary.** No Medical Marijuana Storefront Collective Dispensary shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation for services provided by Management Members and Collective members toward the Collective's actual expenses for the growth, cultivation, processing, and provision of Medical Marijuana to qualified patients of the Collective shall be allowed provided that such reimbursements are in strict compliance with the applicable provisions of the SB 420 Statutes. All such cash and in-kind reimbursement amounts and items shall be fully documented in the financial and accounting records of the Collective Dispensary in accordance with and as required by this Chapter.

**3. Cultivation of Medical Marijuana by the Collective.** The Collective cultivation of medical marijuana shall be limited to the Collective members and Management Members. Cultivation of medical marijuana by the 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 approved Storefront Collective Dispensary Permit application.

No cultivation of medical marijuana at the Property shall be visible with the un-aided eye from any public or other private property, nor shall cultivated medical marijuana or dried medical marijuana be visible from the building exterior on the Property. No cultivation shall occur at the 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 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 Storefront Collective Dispensary Permit application.

**5. Membership Limited to One Collective.** Membership in a Collective which operates a Storefront Collective Dispensary within the City shall be limited to one Collective per individual. Each Collective shall also consist only of individuals residing with Santa Barbara, Ventura, or San Luis Obispo counties as the term "principal residence" is defined in the federal Internal Revenue Code.

**J. Maintenance of Appropriate Collective Records Regarding Cultivation and Compliance with the SB 420 Statutes.**

**1. Cultivation Records.** Every Storefront Collective Dispensary shall maintain, on-site at the Property which is permitted to operate as a Storefront Collective Dispensary, cultivation records, signed under penalty of perjury by each Management Member responsible for cultivation, identifying the location within the counties 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 Storefront Collective Dispensary shall also maintain an inventory record documenting the dates and amounts of medical marijuana cultivated at the Property, as well as the daily amounts of Medical Marijuana stored on the Property for which the permit is issued.

**2. Membership Records.** Every Storefront Collective Dispensary shall maintain full and complete records of the full name, date of birth, residential address, and telephone number(s) of each Collective member and Management Member; the date each Collective member and Management Member joined the Collective; the exact nature of each Collective 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.

**3. Financial Records.** The Collective Dispensary shall also maintain a written accounting records of all cash and in-kind contributions, reimbursements, and reasonable compensation provided by the Management Members of the Collective, and all expenditures and costs incurred by the Storefront Collective Dispensary in accordance with generally accepted accounting practices and standards typically applicable to such records.

**4. Dispensary Record Retention Period.** The records required above by subparagraphs (1), (2), and (3) 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 28.80.090 City Access to and Inspection of Required Storefront Collective Dispensary Records.**

A duly designated City Police Department or Community Development Department representative may enter and be allowed to inspect the premises of every Storefront Collective Dispensary as well as the financial and membership records of the Collective required by this Chapter 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 the private medical records of a Collective member shall be made available to the Police Department only pursuant to a properly executed search warrant, inspection warrant subpoena issued by a court of competent jurisdiction, or court order for the inspection of 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 Storefront Collective Dispensary to refuse to allow, impede, obstruct or interfere with an inspection of the Storefront Collective Dispensary or the required records thereof.

**Section 28.80.100 Sale, Distribution, or Exchange of Medical Marijuana with a non-Medical Marijuana Collective Member.**

**A. Transfers to or from a Non-Collective Member.** A Storefront Collective Dispensary, a Management Member, or a 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 Storefront Collective Dispensary shall possess medical marijuana that was not collectively cultivated by its Management Members or members either at the Property or at its predecessor location allowed in accordance with this Chapter.

**B. Assistance for Edible Marijuana Products.** Sales of edible medical marijuana products may be permitted at a Storefront Collective Dispensary and an individual or business within the City which assists a Dispensary in preparing and processing such a product will be deemed by the City as an "individual who provides assistance to a qualified patient or person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to a qualified patient ..." as that phrase is used in state Health and Safety Code section 11362.765(b)(3).

**Section 28.80.110 Appeal from Staff Hearing Officer Determination.**

**A. Appeal to the City Council.** An applicant or any interested party who disagrees with the Staff Hearing Officer's decision to issue, issue with conditions, or to deny or to revoke a Storefront Collective Dispensary permit may appeal such a decision to the City Council by filing an appeal pursuant to the requirements of section 1.30.050 of the Municipal Code.

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

**Section 28.80.120 Suspension and Revocation by Staff Hearing Officer.**

**A. Authority to Suspend or Revoke a Storefront Collective Dispensary Permit.** Consistent with Section 28.87.360, any Storefront Collective Dispensary permit issued under the terms of this Chapter may be suspended or revoked by the Staff Hearing Officer if it shall appear to that Officer that the Dispensary permittee has violated any of the requirements of this Chapter or the Storefront 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 Storefront 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 Storefront 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 Storefront 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. Suspension or Revocation - Written Notice.** Except as otherwise provided in this Chapter, no permit shall be revoked or suspended by the Staff Hearing Officer by virtue of this Chapter until written notice of the intent to consider revocation or suspension of the permit has been served upon a Management Member or 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 Storefront Collective Dispensary permit.

#### **Section 28.80.130 Transfer of Collective Dispensary Permits.**

**A. Permit - Site Specific.** A permittee shall not operate a Storefront Collective Dispensary under the authority of a Storefront 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 to a different location.

**B. Transfer of a Permitted Collective Dispensary.** A permittee shall not transfer ownership or control of a Storefront 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 Storefront 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 Storefront Collective Dispensary permit either directly or indirectly in violation of this section is declared void, and the permit shall be deemed revoked.

**Section 28.80.140 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 28.80.150 Business License Tax Liability.**

An operator of a Storefront 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 Storefront Collective Dispensary permit pursuant to the terms of this Chapter. When and as required by the State Board of Equalization, Storefront Collective Dispensary transactions shall be subject to sales tax in a manner required by state law.

**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.

**EXHIBIT A TO ORDINANCE NO. \_\_\_\_\_**  
**MEDICAL MARIJUANA DISPENSARIES**  
**SANTA BARBARA MUNICIPAL CODE CHAPTER 28.80**  
**ALLOWED LOCATION EXHIBIT**  
**REVISED 3/3/10**

**1. Outer State Street Area:**

- a. 3400 - 3900 blocks of State Street
- b. All parcels on south La Cumbre Road
- c. All parcels on south La Cumbre Lane
- d. All parcels on La Cumbre Plaza Lane
- e. 00-100 blocks of south Hope Avenue

**2. Upper De la Vina Area:**

- a. 2600 – 2900 blocks of De la Vina Street

**3. Mission Street Area:**

- a. 1900-2000 blocks of De la Vina Street
- b. 100 block of west Mission Street
- c. 1800 block of State Street
- d. 1400 block of Chapala Street

**4. Downtown West Area:**

- a. 600-700 blocks of Chapala
- b. 300-400 blocks of west Carrillo
- c. 100 blocks of west De la Guerra
- d. 00-100 blocks of west Ortega

**5. Downtown East Area:**

- a. 900 block of Laguna Street
- b. 400 block of east Cota
- c. 300 block of east Carrillo

**6. Milpas Street:**

- a. 00–400 blocks of north Milpas Street

**7. West Pueblo Medical Facility Area:**

- a. 200 block of Nogales
- b. 200-400 blocks of west Pueblo
- c. 2400-2500 blocks of Bath

- d. 2300 block of Castillo
- e. 300 block of West Junipero



Agenda Item No. \_\_\_\_\_

File Code No. 520.04

# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** February 23, 2010

**TO:** Mayor and Councilmembers

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Medical Cannabis Dispensary Ordinance Phase I Revisions

### RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, 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 Dispensaries.

### DISCUSSION:

The current Medical Marijuana Dispensary Ordinance (MMDO) was adopted in March 2008. In July 2009, in response to public concern about the number of dispensaries that were being processed, the City Council initiated a process to revise the MMDO. The Ordinance Committee held hearings during the fall of 2009, wherein proposed revisions were discussed, and a draft ordinance was produced. In December 2009, the Planning Commission made recommendations regarding the draft ordinance, and the Council adopted an ordinance that suspended the MMDO for 45 days.

On January 26, 2010, the Council's Ordinance Committee made final recommendations to Council. These recommended revisions have been incorporated into the attached ordinance. On February 2, 2010, the Council adopted an ordinance that extended the suspension ordinance pending decisions of final revisions to the MMDO.

A summary of the history and previous recommendations by the Ordinance Committee and the Planning Commission regarding the Medical Cannabis Dispensary Ordinance is included in the January 26, 2010 Ordinance Committee report (Attachment 1), and a reading file with previous Council, Ordinance Committee and Planning Commission staff reports is available at the Mayor and Council office.

Council's initial direction was to discuss MMDO ordinance revision options including: a cap on the number of dispensaries, security requirements, locational requirements, and

a reduced amortization period for existing, nonconforming dispensaries. The Ordinance Committee's final recommended revisions are as follows:

1. A citywide cap of seven (7) dispensaries, one in each of eight (8) geographical areas:
  - a. Outer State
  - b. De la Vina
  - c. Mission
  - d. Downtown, east of Santa Barbara Street
  - e. Downtown, west of Santa Barbara Street
  - f. Milpas
  - g. Mesa
  - h. Cottage Hospital

The Planning Commission recommended restricting the locations of dispensaries by increasing the types of protected uses (adding religious institutions, day care centers, pre-schools, institutions where youth congregate, recovery facilities, etc.) and increasing the prohibition radii from 500 feet to 1000 feet (See Attachment 1, Ordinance Committee Report). The Ordinance Committee did not forward these recommendations to Council. The Ordinance Committee recommended that the allowable areas remain substantially the same as the current ordinance.

The eight allowable areas have been described in the draft ordinance as an exhibit to the ordinance. The areas are described by using block faces, and have been mapped (Attachments 2-9). This change in methodology was made because of the dynamic nature of the current ordinance's methodology, which changes the allowable area every time a school or park is established, and, as a result, does not provide certainty to any interested party (dispensary operators, neighbors, private school operators, etc.). The block face methodology provides a clear and identified area where dispensaries are allowed.

As drafted, the draft ordinance only allows dispensaries on blocks where the full block faces on both sides of the street are available. Blocks with parcels that are not allowed due to prohibition radii, on either side of the street, were excluded. Therefore, the areas available for dispensaries would be somewhat smaller than in the current ordinance. In addition, the specific "sensitive use" radius requirements do not need to be contained within the actual ordinance.

The Ordinance Committee's recommendation to Council was not unanimous. Councilmember White did not support the Phase I revisions endorsed by the Committee because he agreed with the Planning Commission's recommendation that the maximum number of dispensaries be in the range of 2-4.

2. A reduced amortization period of six months from the adoption date of this ordinance is being suggested by the Ordinance Committee for the following reasons:

Existing, nonconforming dispensaries (those which have existed prior to the adoption of the March 2008 ordinance and continued to operate legally since opening) must either receive approval for their existing locations or close. The existing March 2008 ordinance allows nonconforming dispensaries to remain in their current location through April 2011.

The Ordinance Committee also recommended that existing permitted dispensaries be allowed to remain in their current locations as long as they comply with the revised operational requirements, and if multiple dispensaries exist within a single geographic area, the number of dispensaries would only be reduced by attrition.

If these ordinance revisions are adopted as recommended by the Ordinance Committee, the effect on pending, approved, appealed, legally operating and nonconforming dispensaries would be as outlined in Attachment 9. Several pending applications would not be allowed to proceed because they would result in multiple dispensaries in the same area. Another pending application would not be allowed to move forward because it's in an existing, mixed use building with residential condominiums. In those areas where multiple applications are pending, the application deemed complete first would be allowed to go to hearing first. If the first complete application were to be approved, the remaining applications would not be allowed to move forward. If it were not approved, then the next complete application would be allowed to move forward.

3. A prohibition on dispensaries in mixed use buildings, where the residential units are condominiums, and the mixed use project is existing at the time the amendment is approved.
4. More discretion for the Staff Hearing Officer or Planning Commission, in the form of changes to criteria for issuance #7 and #10, which are revised to read as follows:
  - a. "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."
  - b. "10. That the dispensary is likely to have no potentially ~~would not~~ adversely effect 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 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."

See §28.80.090., Criteria for Issuance, in the attached ordinance, for all criteria.

5. A prohibition on dispensaries within 1000 feet of the Casa Esperanza shelter. [This prohibition has been incorporated into the Exhibit which list the allowed dispensary locations.]
6. A requirement that security for the dispensary be provided by a separate "private-party operator" security company, which is licensed by the State.
7. A requirement for annual review of the operation of permitted dispensaries by the Police Department.
8. Appeal of Planning Commission decision on Medical Marijuana Dispensary Permits to the City Council.
9. Minor and other miscellaneous changes to the draft ordinance language.

#### **MMDO Suspension Ordinance Status**

The attached ordinance contains a section that repeals the MMDO suspension on the effective date of these revisions, which is 30 days after the adoption of the ordinance. Currently, pending applications are being processed through application completeness. Upon repeal of the suspension, staff will continue to process applications, schedule complete applications for hearings, and terminate applications that are precluded because of previously permitted dispensaries in their areas. Additionally, the six month amortization period will begin, during which permitted dispensaries must update their operational plans, and nonconforming dispensaries must either get approved or close down.

#### **BUDGET/FINANCIAL INFORMATION:**

The City will charge an hourly rate for the processing of Medical Marijuana Dispensary Permits, so that the full cost of processing the permits and for each annual review will be covered.

If the Council implements the proposed MMDO revisions, the Council may want to discuss scheduling a Council consideration of a City ballot measure that would increase the business license fee on medical marijuana dispensaries, and, if appropriate, request the City Attorney's office to evaluate the legal permissibility of such a business license fee vis-à-vis recent state court decisions concerning the sale of medical marijuana at dispensaries.

**ATTACHMENTS:**

1. Ordinance Committee Report, January 26, 2010, without attachments.
2. Outer State Street Area Map
3. De la Vina Area Map
4. Mission Area Map
5. Downtown – East of Santa Barbara Area and West of Santa Barbara Area Map
6. Milpas Map
7. Mesa Map
8. Cottage Hospital Area Map
9. Table showing status of dispensaries

Previous Council Agenda Reports, Ordinance Committee and Planning Commission staff reports are available in a reading file at the Mayor and Council office.

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

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

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

City Council Minutes  
February 23, 2010

10. Subject: Medical Cannabis Dispensary Ordinance Phase I Revisions (520.04)

Recommendation: That Council introduce and subsequently adopt, by reading of title only, 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 Dispensaries.

Documents:

- February 23, 2010, report from the Assistant City Administrator/Community Development Director.
- Proposed Ordinance.
- Affidavit of Publication.
- PowerPoint presentation prepared and made by Staff.
- February 17, 2010, letter from L. Paul Golie.
- February 18, 2010, letters from Santa Barbara Against Dispensaries; Gerald and Marian Groff.
- February 18, 2010, e-mail communications from Shirley Nelson; Carl Gans; Rick Lee; Karl Willig, Santa Barbara Rescue Mission Board of Directors.
- February 19, 2010, e-mail communication from Pat Johnson.
- February 21, 2010, e-mail communication from Richard Johnson.
- February 22, 2010, letter from Tony Vassallo.
- February 23, 2010, letter from S. Timothy Buynak, Attorney representing The Farmacy Santa Barbara.
- Undated letter from Janet Rowse.

The title of the ordinance was read.

Speakers:

- Staff: Senior Planner Danny Kato, Police Captain Armando Martel.
- Members of the Public: Hathor Hammett; Jeff Spangler; Jack Brandon; Tom Thomas, Fighting Back; John Donohue; Lilly Lawrence; Patrick Fourmy; William Leahy; Bud Andrews, Santa Barbara School Districts; Mark Russell; Sharon Palmer (letter read by Patrick Fourmy); Jen Lemberger, Fighting Back; Marge Schwartz; Denice Fellows; Tim Cooney; Cathy Oliverio, Goleta Valley Junior High PTA; Tamara Erickson; Ben Romo, Santa Barbara County Board of Education; Janet Rowse; Randy Rowse, Downtown Organization.

Recess: 3:44 p.m. - 3:57 p.m.

Speakers (Cont'd):

- Staff: City Attorney Stephen Wiley, Assistant City Administrator/Community Development Director Paul Casey.
- Members of the Public: Christina Pizarro, Juanita Merced, and Sharon Byrne, West Downtown Neighborhood Group; Marcus; Maryann Cassidy; Preston Maloney; Geoff Roland; Jerry Johnson and Derek Westen, Santa Barbara Patients Group; Hugh Marsh; Tony Vassallo; Bryce Maloney; Chris Guadagnini; Sergio Bautista; Bonnie Raisin; Jim Westby; Rolf Geyling, Santa Barbara Rescue Mission; Bonnie Donovan; Wendy Kaysing; Angela Franke; Becky Betancourt; Heather Poet; Hans Edwards; Robert Burke.

**Motion:**

Councilmembers Francisco/Hotchkiss to refer the proposed ordinance to Staff and the Ordinance Committee to 1) clarify the definition of a medical marijuana dispensary, 2) add a prohibition buffer around major substance abuse treatment facilities, but allow an exception for the siting of one dispensary in the Cottage Hospital area, 3) reduce the maximum number of dispensaries to five, and 4) delay ordinance implementation and the start of the amortization period until these revisions are finalized.

**Substitute Motion:**

Councilmembers Williams/House to revise the proposed ordinance to 1) reduce the maximum number of dispensaries to five, 2) remove the Mesa area and lower Chapala Street from consideration for the siting of dispensaries, and 3) revise the term "private-party" to "private patrol" (page 9 of ordinance).

Following a straw vote on the substitute motion, the substitute motion was withdrawn.

**Amendment Motion:**

Councilmembers Francisco/Hotchkiss to direct Staff and the Ordinance Committee to return to Council within 60 days with a revised ordinance which 1) clarifies the definition of a medical marijuana dispensary, 2) includes a prohibition buffer around major substance abuse treatment facilities, 3) excludes the Mesa area and lower Chapala Street from consideration for the siting of dispensaries, and 4) reduces the maximum number of dispensaries to five.

**Vote on Original Motion as Amended:**

Unanimous voice vote.



# CITY OF SANTA BARBARA

## ORDINANCE COMMITTEE REPORT

**AGENDA DATE:** March 16, 2010  
**TO:** Ordinance Committee  
**FROM:** Planning Division, Community Development Department  
**SUBJECT:** Medical Marijuana Dispensary Ordinance Revisions

**RECOMMENDATION:** That the Ordinance Committee:

- A. Review allowable areas for dispensaries with protection for the highest priority substance abuse recovery facilities; and
- B. Discuss the concept of Medical Marijuana collectives and cooperatives, and consider possible Municipal Code regulations to ensure compliance with the State Health and Safety Code regarding the distribution of Medical Marijuana to "qualified patients" by "primary care givers."

### DISCUSSION:

At the February 23, 2010, City Council meeting, the City Council directed the Ordinance Committee to consider all of the following:

1. possible revisions to the latest draft version of the Ordinance regulating Medical Marijuana Dispensaries in order to reduce the maximum number of dispensaries within the City to five (5),
2. providing that major alcohol and drug rehabilitation facilities would be protected uses and adjusting the allowed areas for dispensaries appropriately,
3. allowing dispensaries in the Cottage Hospital area, and
4. further defining the operational parameters of storefront collective/cooperatives in order to ensure compliance with Proposition 215 and SB 420.

The Council asked that the proposed ordinance be returned to Council within 60 days. There also seemed to be consensus on the Council 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.

### Allowable Areas for Dispensaries with Protection for Recovery Facilities

Staff requested input from the Council on Alcoholism and Drug Abuse (CADA) for locations of recovery facilities. CADA provided a list of 41 known recovery facilities, including treatment centers, detoxification centers, support centers, sober living houses, and related uses, and indicated the 17 of highest priority for protection:

- ❖ Alano Club
- ❖ Bethel House
- ❖ Casa Esperanza
- ❖ Casa Serena
- ❖ Cottage Residential Center
- ❖ Daniel Bryant Youth & Family Treatment Center
- ❖ Graduate House (Casa Serena)
- ❖ Hotel de Riviera
- ❖ Oliver House (Casa Serena)
- ❖ Phoenix House
- ❖ Project Recovery Detox Center
- ❖ Project Recovery Outpatient Services
- ❖ Rescue Mission
- ❖ Salvation Army Hospitality House
- ❖ Sanctuary Psychiatric Center/House
- ❖ Sobering Center
- ❖ Zona Seca

The main criteria for determining the highest priorities were: 1. the use as a treatment facility; 2. the volume of people who live in a facility; 3. the volume of people to go to a facility daily, and 4. the sensitivity of people at a particular facility.

The locations of these 17 uses are not shown on the maps, to maintain anonymity. However, these locations were used to modify the allowable areas for medical marijuana dispensaries. A buffer of 500 feet was drawn around parcels containing the highest priority recovery facilities, and the allowable areas were reduced using the same criteria as was used for parks and schools. Only full blocks where dispensaries would be allowed on both sides of the street were included.

Following the Council's request that the ordinance should attempt to find a balance between protecting those in recovery, and providing a reasonable area for dispensaries to locate, staff determined that a 500-foot buffer around the highest priority recovery facilities provides an appropriate balance. A buffer of 1000 feet, as was used around Casa Esperanza, would almost fully eliminate the Mission, Downtown East and Downtown West areas. A buffer of 750 feet would allow a few more block faces in these areas, but would also have a very limited area in which dispensaries could be located.

The 500' buffer around the highest priority recovery facilities affected the following areas:

1. Mission. Removed the following blocks from consideration for dispensaries:
  - o 1700 block of State Street

2. Downtown East. Removed the following two blocks:
  - o 300 block of East Cota
  - o 500-600 block of Laguna
3. Downtown West. Removed the following 21 blocks:
  - o 0-200 block of Carrillo
  - o 800-1000 blocks of Chapala
  - o 800-1000 blocks of De la Vina
  - o 900 block of St. Vincent
  - o 00-100 blocks of W. Canon Perdido
  - o 00 block of W. Figueroa
  - o 00 block of W. Haley
  - o 00-200 blocks of W. Gutierrez
  - o 300-400 blocks of Chapala
  - o 300-400 blocks of De la Vina
  - o 00 block of East Gutierrez
  - o 00 block of Parker Way

Additionally, the entire Mesa area was removed from the allowable locations, as discussed at the Council meeting on February 23, 2010. See Attachments 1-7 for detailed information on areas where dispensaries would be allowed.

**Possible Ordinance Regulations to Ensure Collective or Cooperative Distribution of Medical Marijuana:**

At the request of the City Council, the City Attorney's office will brief the Committee on the requirements of the state Health & Safety Code (the "SB 420 statutes") which allow the distribution of medical marijuana under certain limited circumstances. In particular, the City Attorney's office will review the August 2008 Guidelines for the use of Medical Marijuana written by the state Attorney General's office which explain in detail how medical marijuana may be cultivated by "primary caregivers" (a term specifically defined in the SB 420 statutes) and provided to "qualified patients" under certain expressly narrow circumstances which allow the "primary caregivers" to recoup their cultivation expenses only. For the most part, as the Attorney General's guidelines point out that, where medical marijuana is cultivated and distributed on a group basis (i.e., other than on a person to person basis), the SB 420 statutes only allow such cultivation and distribution to occur through the legal form of a group collective or a cooperative.

The City Attorney's office will also discuss how some other cities (such as Los Angeles and Long Beach) have attempted to enact medical marijuana ordinances which impose detailed recordkeeping and inspection requirements on storefront "dispensaries" in

order to verify that the medical marijuana being provided is only cultivated and distributed in a manner fully consistent with the SB 420 statutes and only being given to documented members of a clearly established collective or cooperative and, most importantly, that this is occurring only on a cost reimbursement basis.

- ATTACHMENTS:**
1. Outer State Street Area Map
  2. Upper De la Vina Area Map
  3. Mission Area Map
  4. Downtown East and West Area Map
  5. Milpas Area Map
  6. Cottage Hospital Area Map
  7. Revised List of Allowable Areas for Dispensaries

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

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

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

**CITY OF SANTA BARBARA**  
**ORDINANCE COMMITTEE**

FINISHED AGENDA

DATE: March 16, 2010  
TIME: 12:00 p.m.  
PLACE: Council Chambers

x Bendy White, Chair  
x Grant House  
x Frank Hotchkiss

Office of the City  
Administrator

Office of the City  
Attorney

Nina Johnson  
Assistant to the City Administrator

x Stephen P. Wiley  
City Attorney

x Lori Pedersen  
Administrative Analyst

x Danny Kato, Sr. Planner II

**ITEMS FOR CONSIDERATION**

**Subject: Medical Marijuana Dispensary Ordinance Revisions**

Recommendation: That the Ordinance Committee:

- A. Review allowable areas for dispensaries with protection for the highest priority substance abuse recovery facilities; and
- B. Discuss the concept of Medical Marijuana collectives and cooperatives, and consider possible Municipal Code regulations to ensure compliance with the State Health and Safety Code regarding the distribution of Medical Marijuana to "qualified patients" by "primary care givers."

**The Ordinance Committee heard a staff presentation and received public comment regarding Medical Marijuana Dispensary Ordinance Revisions.**

**The item was continued to the March 30, 2010 meeting.**

**CITY OF SANTA BARBARA**  
**ORDINANCE COMMITTEE**

FINISHED AGENDA

DATE: March 30, 2010  
TIME: 11:00 a.m.  
PLACE: Council Chambers

x Bendy White, Chair  
x Grant House  
x Frank Hotchkiss

Office of the City  
Administrator

Office of the City  
Attorney

Nina Johnson  
Assistant to the City Administrator

x Stephen P. Wiley  
City Attorney

x Bettie Weiss, City Planner  
x Jaime Limon, Senior Planner  
x Heather Baker, Project Planner  
x Danny Kato, Sr. Planner II

x Scott Vincent  
Assistant City Attorney

**ITEMS FOR CONSIDERATION**

**11:00 a.m. Subject: Neighborhood Preservation Ordinance Two-Year Review**  
Recommendation: That the Ordinance Committee review and comment on the proposed changes in Titles 22 and 28 of the Santa Barbara Municipal Code (SBMC) and forward proposed amendments to Council for adoption.

**The Ordinance Committee heard a staff presentation and received public comment. The Committee forwarded the proposed ordinance amendments to Council for introduction and adoption.**

**12:00 p.m. Break**

**12:30 p.m. Subject: Medical Marijuana Dispensary Ordinance Revisions**  
Recommendation: That the Ordinance Committee:

- A. Review allowable areas for dispensaries with protection for the highest priority substance abuse recovery facilities; and
- B. Discuss the concept of Medical Marijuana collectives and cooperatives, and consider possible Municipal Code regulations to ensure compliance with the State Health and Safety Code regarding the distribution of Medical Marijuana to "qualified patients" by "primary caregivers."  
(Continued from March 16, 2010)

**The Ordinance Committee heard a staff presentation. The Committee continued the hearing to April 13, 2010 with direction to staff to draft further revisions to the draft ordinance amendments, including: placing further restrictions on collectives/cooperatives regarding cultivation within the tri-county area; limiting access to local patients, providing documentation regarding collective/cooperative membership available to specified City staff; on-site inspections by specified City Staff with limited notice; and clarifying the types of collectives and cooperatives that would be allowed. Further direction was given to staff to revise the allowed block faces so that parcels immediately adjacent to the YMCA would not be allowed sites. Staff will also provide a discussion of the majority and minority opinions on topics where there was no consensus in the staff report.**

**(Continued to April 13, 2010)**



# 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

**CITY OF SANTA BARBARA**  
**ORDINANCE COMMITTEE**

FINISHED AGENDA

DATE: April 13, 2010  
TIME: 12:00 p.m.  
PLACE: Council Chambers

x Bendy White, Chair  
x Grant House  
x Frank Hotchkiss

Office of the City  
Administrator

Office of the City  
Attorney

Nina Johnson  
Assistant to the City Administrator

x Stephen P. Wiley  
City Attorney

x Lori Pedersen, Administrative Analyst  
x Danny Kato, Sr. Planner II  
x Capt. Martel, Police Department

**ITEMS FOR CONSIDERATION**

**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.

**The Ordinance Committee heard a staff presentation and received public comment regarding Medical Marijuana Dispensary Ordinance Revisions. The Committee recommended making final revisions as described below, minor clerical corrections and to have the final draft return to the Committee for final review and approval.**

- **Section 28.80.010 add an affirmative statement that this ordinance is consistent with the State law.**
- **Change the description for the area surrounding Cottage Hospital to Professional Medical**
- **Section 28.80.060 Section C add item 4 – Prohibited on parcels located within 500 feet of the 17 highest priority recovery facilities**
- **Revise section 28.80.070**
  - **Section C4 to permit access for individuals with bona fide purposes.**
  - **Section E2 – make language consistent with Section 28.80.090.**
  - **Section I2 all transactions should be documented not just cash transactions.**
- **Section 28.80.080 – modify language to permit designated city staff to review confidential collective membership records and on-site inspections by specified city staff without prior notice due to possible infractions.**



## CITY OF SANTA BARBARA

### ORDINANCE COMMITTEE AGENDA REPORT

**AGENDA DATE:** April 27, 2010  
**TO:** Ordinance Committee  
**FROM:** Planning Division, Community Development Department  
**SUBJECT:** Medical Marijuana Storefront Collective Ordinance Revisions

#### **RECOMMENDATION:**

That the Ordinance Committee review a draft Medical Marijuana Storefront Collective Dispensary Ordinance, and refer a possible draft ordinance back to City Planning Commission and City Council for subsequent actions as appropriate.

#### **DISCUSSION:**

At the April 13, Ordinance Committee meeting, the Ordinance Committee came to a general consensus on the draft Medical Marijuana Storefront Collective Ordinance, and directed Staff to return to the Ordinance Committee with a draft that included all Committee consensus items. The Ordinance Committee also requested the City Attorney to consider a possible provision in the ordinance that might appropriately allow the dispensary at 3128 State Street (SB Patient's Group) to remain in its current location indefinitely as a pre-existing legal non-conforming use. The Ordinance Committee decided to postpone discussion of the question of whether to continue to require a discretionary approval by the Staff Hearing Officer, Planning Commission or Council on appeal, or to allow the ordinance to be administered at the staff level (Finance, Police or Planning), to its next meeting.

All consensus points have been incorporated into the draft ordinance, and the major points are listed below:

1. All amendments recommended by the Ordinance Committee to Council on February 23, 2010
2. Medical Marijuana should only be made available to Qualified Patients and Caregivers at storefront locations if such locations are operated as "collectives" in the manner required by SB 420.
3. Storefront Collective members must reside in Santa Barbara, San Luis Obispo or Ventura counties.
4. Specific cultivation, membership, and financial records are required, with inspection by specified City Staff with limited notice.
5. Member medical records are required and may be inspected by City Staff, but only with a search warrant or inspection warrant.
6. Dispensary inspection with limited notice by City Staff.

7. A maximum of five storefront collectives within the City.
8. Prohibit Storefront Collective dispensaries within 500 feet of 17 high priority recovery facilities.
9. Allow storefront collectives to be located in the Upper Westside Medical Facility area (formerly known as the "Cottage Hospital area").
10. Prohibit storefront collectives in the Mesa area (currently allowed)
11. Medical Marijuana in edible forms would be allowable.

**SB Patient's Group – 3125 State Street:**

The draft ordinance has not been revised to include a provision allowing the existing dispensary at 3125 State Street (the "SB Patient's Group") to remain at this location as a pre-existing legal non-conforming use. The City Attorney's office has determined that it is probably not workable to do this in a way that is legally appropriate and defensible without also "grandfathering – in" similarly situated existing dispensaries which would not conform to the new locational restrictions.

**Permit Approval Procedure:**

Currently, the SBMC Chapter 28.80 requires that a dispensary application be reviewed and approved by the Staff Hearing Officer, with an appeal to the Planning Commission. The amendments recommended by the Ordinance Committee in February 2010 also included a provision that allowed a further appeal to the City Council.

At its April 13<sup>th</sup> meeting, the City Attorney asked whether the Committee wished to consider a potential new approval process. Ordinance Committee members felt that this topic should be discussed after the Committee had reached consensus on all other aspects of the draft ordinance. Although the Committee reached consensus on April 13<sup>th</sup> on most items, there wasn't enough time to discuss this topic. The topic can be summarized as follows: Since the revised regulations controls storefront collectives so extensively as to their possible number and locations within the City and with respect to how they must operate on a day-to-day basis, is there a need for a discretionary approval process? Alternatively, can the approval process for dispensaries now be handled administratively, where staff ensures that the proposed storefront collective meets all ordinance requirements, and issues a storefront collective permit? This process could still include a right of appeal to the City Council, if that is the Committee's desire.

**ATTACHMENT:** Ordinance Draft

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

**SUBMITTED BY:** Paul Casey, Assistant City Administrator/Community Development Director

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

**CITY OF SANTA BARBARA**  
**ORDINANCE COMMITTEE**

FINISHED AGENDA

DATE: April 27, 2010  
TIME: 12:00 p.m.  
PLACE: Council Chambers

x Bendy White, Chair  
x Grant House  
x Frank Hotchkiss

Office of the City  
Administrator

Office of the City  
Attorney

Nina Johnson  
Assistant to the City Administrator

x Stephen P. Wiley  
City Attorney

x Lori Pedersen, Administrative Analyst  
x Barbara Barker, Human Resources Manager  
x Danny Kato, Senior Planner  
x Armando Martel, Captain, Police Department

ITEMS FOR CONSIDERATION

**1. Subject: Municipal Code Update Regarding Registered Domestic Partners**  
Recommendation: That the Ordinance Committee review a draft amendment to Municipal Code Section 3.16.073 (Employee Selection) regarding registered domestic partners.

**The Ordinance Committee heard a staff presentation on the proposed amendments and unanimously forwarded the item to Council for introduction and adoption.**

**2. Subject: Medical Marijuana Storefront Collective Ordinance Revisions**  
Recommendation: That the Ordinance Committee review a draft Medical Marijuana Storefront Collective Dispensary Ordinance, and refer a possible draft ordinance back to City Planning Commission and City Council for subsequent actions as appropriate.

**The Ordinance Committee heard a staff presentation and received public comment on the draft Medical Marijuana Storefront Collective Dispensary Ordinance. The Committee unanimously agreed to forward the item to Planning Commission for review and then to Council for introduction and adoption with the following revisions to be incorporated:**

- A 24-hour waiting period will apply for new members visiting a collective for the first time
- Applications will be reviewed by the Staff Hearing Officer
- The decision of the Staff Hearing Officer will be appeal able to City Council

# Medical Cannabis Dispensaries Outer State Street

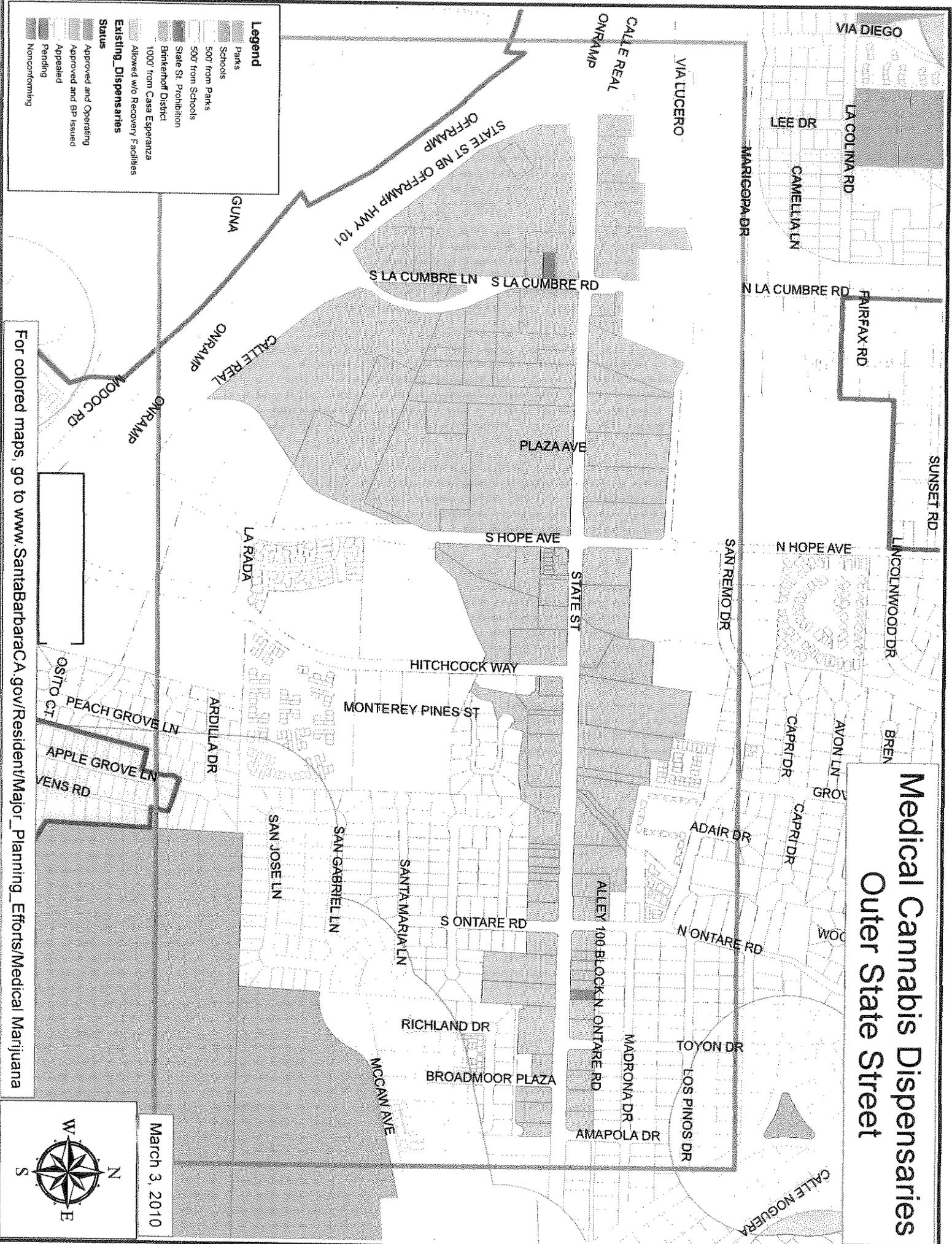


EXHIBIT G

# Medical Cannabis Dispensaries Upper De la Vina

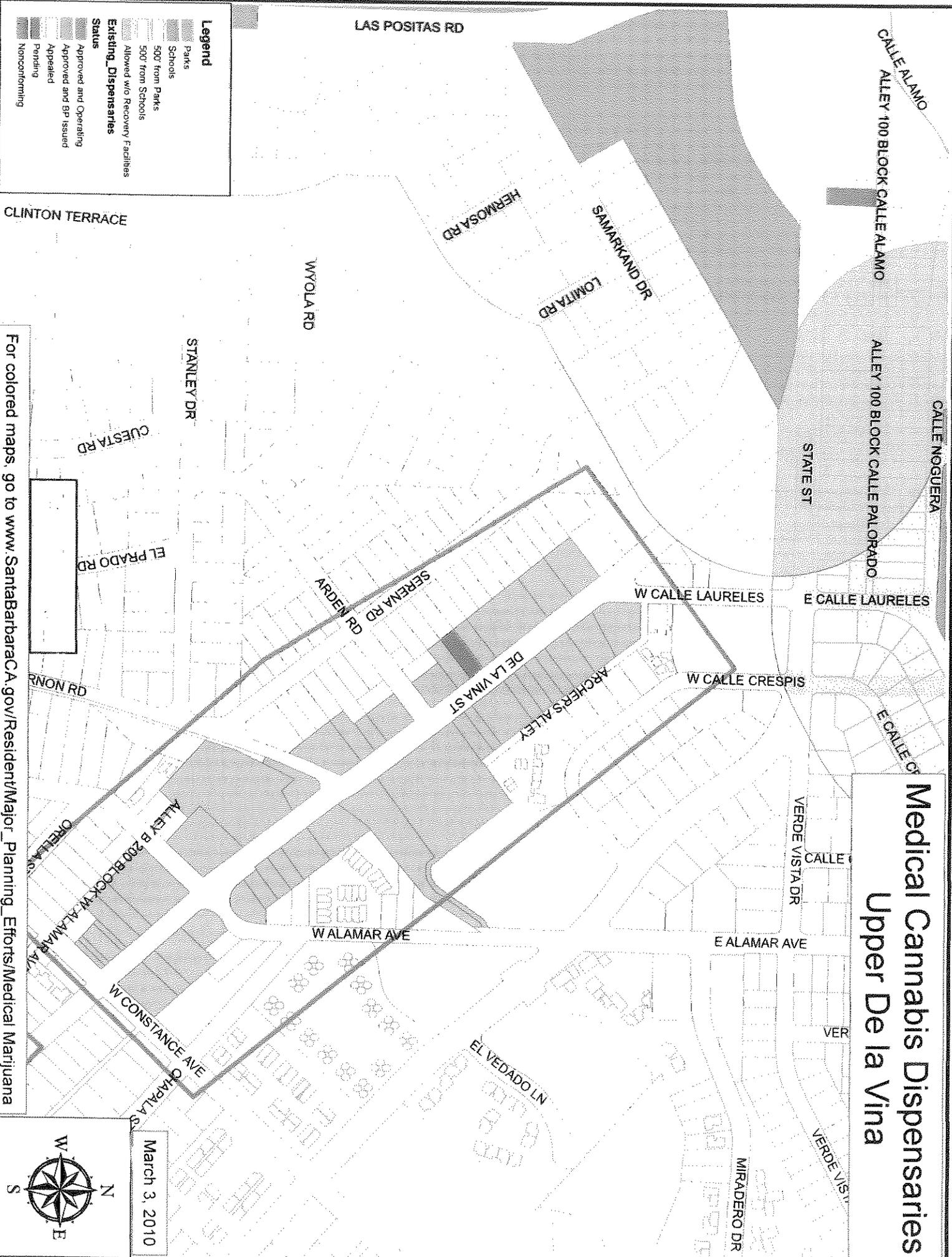
For colored maps, go to [www.SantaBarbaraCA.gov/Resident/Major\\_Planning\\_Efforts/Medical Marijuana](http://www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical_Marijuana)

**Legend**

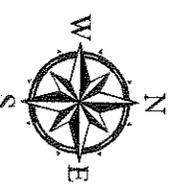
- Parks
- Schools
- 500' from Parks
- 500' from Schools
- Allowed w/o Recovery Facilities

**Existing\_Dispensaries**

- Approved and Operating
- Approved and BP Issued
- Appealed
- Pending
- Nonconforming



March 3, 2010





# Medical Cannabis Dispensaries Downtown East and West

**Legend**

- Parks
- Schools
- 500' from Parks
- 500' from Schools
- State St. Prohibition
- Allowed w/ Recovery Facilities

**Existing\_Dispensaries**

- Approved and Operating
- Approved and BP Issued
- Appealed
- Pending
- Nonconforming

For colored maps, go to [www.SantaBarbaraCA.gov/Resident/Major\\_Planning\\_Efforts/Medical Marijuana](http://www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical_Marijuana)

May 4, 2010

EXHIBIT J





# Medical Cannabis Dispensaries West Pueblo Medical

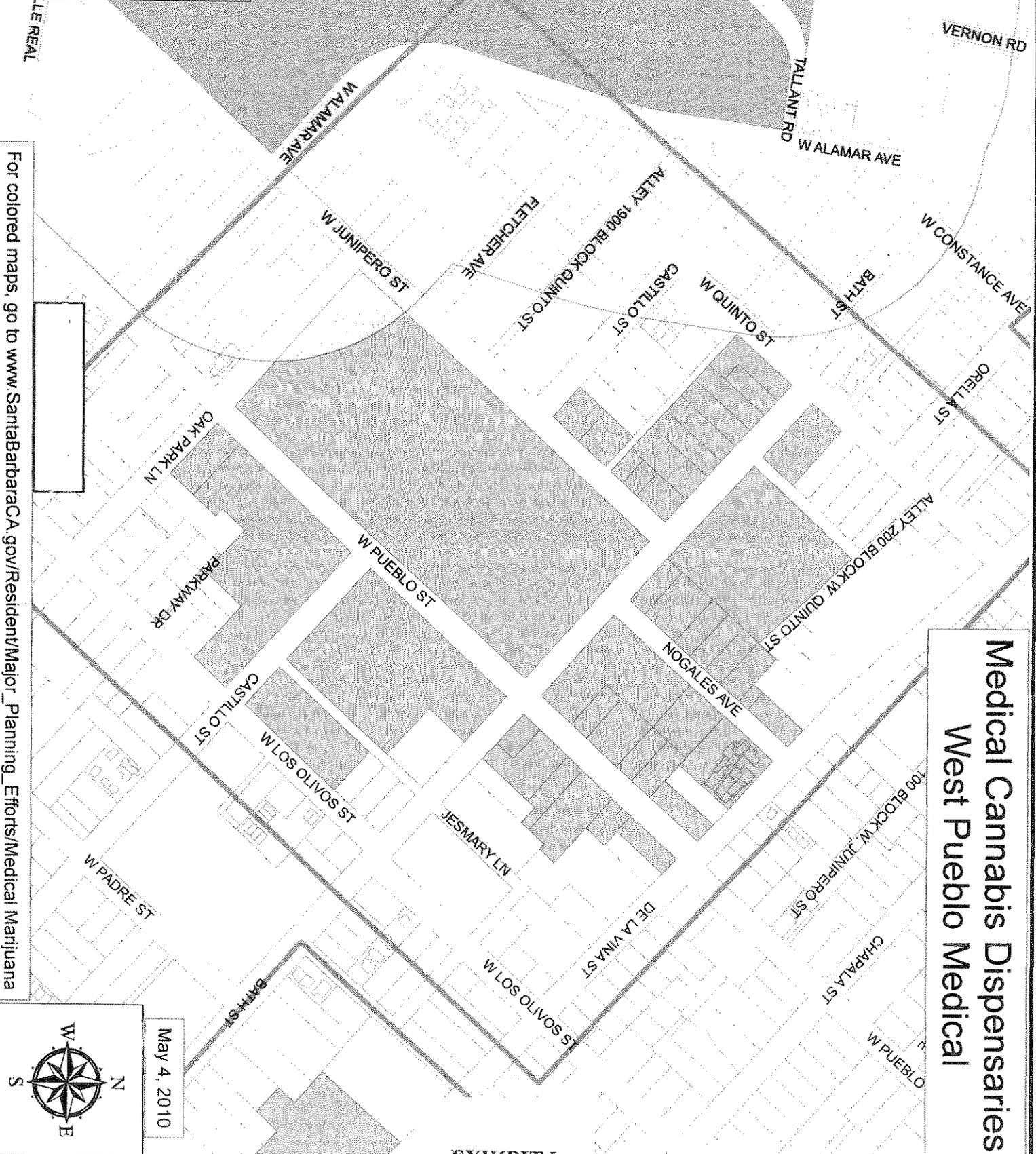
**Legend**

- Parks
- Schools
- 500' from Parks
- 500' from Schools
- Allowed w/o Recovery Facilities

**Existing\_Dispensaries**

**Status**

- Approved and Operating
- Approved and BP Issued
- Appealed
- Pending
- Nonconforming



For colored maps, go to [www.SantaBarbaraCA.gov/Resident/Major\\_Planning\\_Efforts/Medical Marijuana](http://www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical_Marijuana)



May 4, 2010

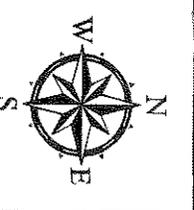


EXHIBIT L

**Pending, Approved, Appealed, Permitted, and Nonconforming Dispensaries  
Necessary Actions Upon Ordinance Adoption  
May 4, 2010**

Address	Status	Location Meets Current Ordinance?	Location Meets Revised Ordinance?	Action Required upon Adoption of Revised Ordinance	Notes
<b>MILPAS</b>					
331 N. Milpas	Permitted	Yes	Yes	Amend operational plan	
500 N. Milpas	Permitted	Yes	No, but OK to remain	Amend operational plan	
<b>DOWNTOWN EAST</b>					
631 Olive	Permitted	Yes	No, but OK to remain	Amend operational plan	
302 E Haley	Approved by SHO Appealed to PC	Yes, but within 500 feet of 234 E. Haley	No	Withdraw application	
234 E. Haley	Application is Pending	Yes, but within 500 feet of 302 E. Haley	No	Withdraw application	
<b>OUTER STATE</b>					
16 S. La Cumbre	Application is Pending	No	Yes	Continue processing application	Applicant owns 3128 State, which must close
3128 State	Nonconforming	No, too close to Mackenzie Park	No	6 months to close	
3516 State	Nonconforming status in dispute	Yes	Yes	6 months to get permit or close	Staff believes that this dispensary lost its nonconforming status. Cease and desist order issued.

**Pending, Approved, Appealed, Permitted, and Nonconforming Dispensaries**  
**Necessary Actions Upon Ordinance Adoption**  
 May 4, 2010

Address	Status	Location Meets Current Ordinance?	Location Meets Revised Ordinance?	Action Required upon Adoption of Revised Ordinance	Notes
<b>DE LA VINA</b>					
2915 De la Vina	Application is Pending. Legal status is in Dispute	Yes	Yes	Continue processing application.	Staff believes that this dispensary never had nonconforming status. Cease-and-Desist order issued. If current application is approved, this dispensary could remain.
<b>DOWNTOWN WEST</b>					
403 Chapala	Application is Pending	Yes	No	Withdraw Application	These three applications are pending in Downtown West area, but none meet the new locational requirements.
826 De la Vina	Application is Pending	Yes	No	Withdraw Application	
211 W. Carrillo	Application is Pending	Yes	No	Withdraw Application	
741 Chapala	Approved by SHO Appealed to PC	Yes	No, in Existing Mixed Use Bldg.	Withdraw Application	
100 E. Haley	Closed	No, too close to Veracruz Park	No	None. Already Closed	This dispensary closed as result of enforcement efforts
26 Parker Way	Nonconforming	Yes	No	6 months to close	This dispensary's status as nonconforming was in dispute, but has since provided evidence to substantiate operational status