

ORDINANCE NO. 5814

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING SANTA BARBARA MUNICIPAL CODE SECTION 30.185.250 AND SUBSEQUENTLY REPEALING SANTA BARBARA MUNICIPAL CODE CHAPTER 28.80, SECTION 30.185.250 AND ORDINANCE NOS. 5526 AND 5551

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

SECTION 1. Ordinance No. 5526 authorizes up to three medical cannabis storefront collective dispensaries to operate within the City at any one time, and establishes regulations for operation of these dispensaries under a “collective” or “cooperative” model. This collective style of operation was required under the laws relating to the Compassionate Use Act and Medical Marijuana Program Act when the ordinance was enacted, because at that time it was illegal to sell cannabis. Currently, with the passage and adoption of MCRSA and AUMA (subsequently consolidated by MAUCRSA) the prohibition against the sale of cannabis and other commercial cannabis related activities has been lifted. The City’s current requirement that dispensaries operate under a collective model is outdated and conflicts in part with the new laws established under MAUCRSA. The proposed amendment would remove the collective model of operation, and would additionally allow cultivation of cannabis to occur outside the Tri-Counties area so that the dispensaries can more easily comply with the new state laws requiring that cannabis be purchased by a state licensed manufacturer and cultivator.

Additionally, even as amended Ordinance No. 5526 will does not contain the robust and detailed regulations implemented by the State of California under the Medicinal and Adult-Use Cannabis Regulation and Safety Act and, if adopted, the City of Santa Barbara’s Commercial Cannabis Business Ordinance. For that reason, subsequent to the amendments, Ordinance No. 5526 will be hereby repealed and the dispensaries that currently hold an issued medical marijuana storefront dispensary permit may continue to operate as a legal non-conforming use. The non-conforming dispensaries would be subject to the operational provisions as amended herein, and the new State licensing requirements and regulations.

SECTION 2. Ordinance No. 5526, is hereby amended as follows:

Section 30.185.250 Medical Cannabis Dispensaries.

A. **Purpose and Intent.** It is the purpose and intent of this Chapter to regulate the 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, the State Medical Marijuana Program Act (“the SB 420 statutes”), and the Medicinal and Adult-Use of Cannabis Regulation and Safety Act (“MAUCRSA”) (S.B. 94, as amended by A.B. 133), are not

intended and do not interfere with a patient's right to use medical marijuana as authorized under the Compassionate Use Act or the SB 420 statutes, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under Therefore, medical marijuana dispensaries within the City which choose to operate storefront dispensary locations must comply with all provisions of the Santa Barbara Municipal Code ("SBMC") for obtaining a permit for the storefront dispensary as well as complying with MAUCRSA, 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.

B. Definitions. For the purpose of this Chapter, the following words and phrases shall have the following meanings:

1. **Applicant.** A person who is required to file an application for a Medical Marijuana Storefront Dispensary permit under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other dispensary operator, Management Member, employee, or agent of a Medical Marijuana Storefront Dispensary.

2. **Management Member.** A Medical Marijuana Dispensary member with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of the dispensary 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 Dispensary.

3. **Medical Marijuana Storefront Dispensary.** An incorporated or unincorporated non-profit retail business that engages in the sale of medical marijuana (also referred to as medical cannabis) at a permitted location exclusively to qualified patients or primary caregivers pursuant to the requirements and regulations set forth in this Chapter.

A Storefront 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:

a. a clinic licensed pursuant to Chapter 1 of Division 2 of the state Health and Safety Code,

b. a health care facility licensed pursuant to Chapter Two of Division 2 of the state Health and Safety Code,

c. 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,

d. residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the state Health and Safety Code,

e. 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, and MAUCRSA.

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

5. **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.

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

7. **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.

8. **Property.** The permitted location or locations within the City at which medical marijuana (or medical cannabis) is sold or provided for compensation to qualified patients or primary caregivers.

C. **Storefront Dispensary - Permit Required to Operate.** It shall be unlawful for any person to engage in, to conduct or carry on (or to permit to be engaged in, conducted or carried on) in or upon his or her Property located within the City, the operation of a Storefront Dispensary unless an Applicant has first obtained and continues to maintain in full force and effect a valid Storefront Dispensary Permit issued by the City for that Property pursuant to Section.

D. **Imposition of Medical Marijuana Storefront Dispensary Permit Fees.** Every application for a Storefront Dispensary permit shall be accompanied by an application fee (in an amount established by resolution of the City Council) at an amount calculated to recover the City's full cost of reviewing and issuing the Storefront Dispensary permit) and the filing of a complete required application pursuant to this Section. 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.

E. **Limitations on the Permitted Location of a Storefront Dispensary.**

1. **Permissible Zoning for Storefront Dispensaries.** Storefront 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 Dispensaries – Allowed Locations" dated as of June 22, 2010.

2. **Storefront Locations.** Except for those locations shown as allowed within the West Pueblo Medical Area on the exhibit attached to this Chapter Section which have been specifically approved by the Staff Hearing Officer as non-storefront locations pursuant to this Chapter, a Storefront 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 Dispensary premises from a public street.

3. **Commercial Areas and Zones Where Storefront Dispensaries Not Permitted.** Notwithstanding subparagraph (A) above, a Storefront Dispensary shall not be allowed or permitted on a parcel located within 1000 feet of another permitted or allowed Storefront Dispensary.

4. **Locational Measurements.** The distance between a Storefront Dispensary and above-listed restrictions shall be calculated as a straight line from any parcel line of the Property on which the Storefront 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 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 Dispensary application for any particular permissible location.

5. **One Dispensary for Each Area of the City.** No more than one Storefront Dispensary may open or operate in each of the areas of the City designated as allowed or permissible Dispensary location areas in the exhibit attached to this Chapter.

6. **Maximum Number of Medical Marijuana Storefront Dispensaries Allowed Permits.** Notwithstanding the above, the City may not issue a total of more than three (3) Dispensary permits at any one time.

F. Storefront Dispensary – Permit Application Requirements.

1. **Application Filing.** A complete Performance Standard Permit application submittal packet is required for a Storefront 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 Dispensary Permit for a specific Property. All applications for Storefront 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 all of the information required for approval of the permit. The application shall be signed by a Management Member under penalty of perjury.

2. **Eligibility for Filing.** If a Storefront Dispensary permit 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 and Management Member to apply for the Permit and acknowledging the Applicant's right to use and occupy the Property for the intended Medical Marijuana Storefront Dispensary use.

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

a. **Site Plan and Floor Plan.** A Storefront Dispensary application shall have a proposed site plan and floor plan which shows a lobby waiting area at the entrance to the Storefront 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. 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.

b. **Storage.** A Storefront 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.

c. **Security Plans.** A Storefront 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 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 tasers while working at a Dispensary.

d. **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 Dispensary at all times.

e. **Emergency Contact.** An 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 Dispensary.

f. **Public Nuisance.** The Operations Plan shall provide for the Management Members of the 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 Dispensary.

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

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

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

b. If the entity proposed to hold the permit is a corporation, limited liability company, partnership, or a cooperative, a copy of all formation documents, including but not limited to, a certified copy of the entity's Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information, and a copy of the entity's By laws and/or operating agreement;

c. If the entity is an unincorporated association, a copy of the articles of association;

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

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

G. Criteria for Review of Dispensary Applications by the City Staff Hearing Officer.

1. **Decision on Application.** Upon an application for a Storefront Dispensary permit being deemed complete, the Staff Hearing Officer shall either issue a Storefront Dispensary permit, issue a Storefront Dispensary permit with conditions in accordance with this Chapter, or deny a Storefront Dispensary permit.

2. **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 Dispensary permit:

a. That the Dispensary permit and the operation of the proposed Dispensary will be consistent with the intent of the Compassionate Use Act of 1996, the SB 420 Statutes, and MAUCRSA, for providing medical marijuana to qualified patients and primary caregivers and the provisions of this Section and with the Municipal Code, including the application submittal and operating requirements herein.

b. That the proposed location of the Storefront Dispensary is not identified by the City Chief of Police as an area of increased or high crime activity.

c. For those applicants who have operated other Storefront Dispensaries within the City, that there have not been significant numbers of calls for police service, crimes or arrests in the area of the applicants former location.

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

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

f. That the Storefront 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 and that the 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.

H. On-Going Management Requirements for Medical Marijuana Storefront Dispensaries. Storefront Dispensary operations shall be maintained and managed on a day-to-day basis only in compliance with the following operational standards and requirements:

1. **Criminal History.** A Storefront 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 Dispensary is being operated.

2. **Minors.** It shall be unlawful for any Storefront Dispensary permittee, a Management Member of the permittee, or any other person effectively in charge of any Storefront Dispensary to employ any person who is not at least 21 years of age. Persons under the age of eighteen (18) years shall not be allowed on the premises of a Medical Marijuana Dispensary unless they are a qualified patient member of the and are accompanied by a parent or guardian at all times. The entrance to a Storefront 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 and they are in the presence of their parent or guardian.

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

a. A Storefront Dispensary shall not be enlarged in size (i.e., increased floor area) without prior review and approval of the change from the Staff Hearing Officer and an approved amendment to the existing Storefront Dispensary permit pursuant to the requirements of this Section.

b. An expressly designated Management Member or Members shall be responsible for monitoring the Property of the Storefront Dispensary for any nuisance activity (including the adjacent public sidewalk and rights-of-way) which may occur on the block within which the Storefront Dispensary is operating.

c. A qualified patient or a primary caregiver shall not visit a Storefront 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 as required by the Compassionate Use Act.

d. A qualified patient or primary caregiver may not obtain medical marijuana upon their first in-person visit to a Storefront Dispensary, and may obtain medical marijuana only after an initial waiting period of 24 hours after their initial in person visit to the dispensary, and after the Management Member has verified the physician's recommendation or Medical Marijuana I.D. card.

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

f. Restrooms within the Storefront Dispensary shall remain locked and under the control of Dispensary Management Members at all times.

4. **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 City permitted Storefront Dispensary:

a. A Storefront Dispensary shall only dispense to qualified patients or primary caregivers with a currently valid physician's approval or recommendation in compliance with the criteria of the Compassionate Use Act of 1996 and the SB 420 Statutes during storefront dispensary operating hours of between eight o'clock in the morning (8:00 a.m.) through six o'clock in the evening (6:00 p.m.) Monday through Saturday only. The days and hours of the dispensary's operation shall be posted on a sign located on the street frontage of the dispensary premises in a manner consistent with the City's Sign Ordinance. Storefront Dispensaries shall require such persons receiving medical marijuana to provide valid official identification, such as a Department of Motor Vehicles driver's license or State Identification Card each time they seek to obtain medical marijuana.

b. Prior to dispensing medical marijuana, a Management Member of the Storefront 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.

c. A Storefront Dispensary shall not have a physician on-site to evaluate patients and provide a Compassionate Use Act recommendation for the use of medical marijuana.

d. Every Storefront Dispensary shall display, at all times during its regular business hours, the permit issued pursuant to the provisions of this Chapter for such Dispensary in a conspicuous place so that the same may be readily seen by all persons entering the Storefront Dispensary.

e. No Storefront 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 of the Dispensary that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

f. Storefront Dispensaries shall be considered commercial use relative to the parking requirements imposed by Santa Barbara Municipal Code Chapter 30.175.

g. A notice shall be clearly and legibly posted in the Storefront 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 sign requirements.

h. Business identification signage for Storefront 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.

5. Dispensary Medical Marijuana On-Site Consumption and Re-Distribution Restrictions. The following medical marijuana consumption restrictions shall apply to all permitted Storefront Dispensaries:

a. Medical marijuana shall not be consumed by qualified patients on the Property or the premises of the Storefront Dispensary.

The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the Dispensary's entrance.

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

6. **Retail Sales of Other Items by a Storefront Dispensary.** The retail sales of related marijuana use items at a Storefront Dispensary may be allowed only under the following circumstances:

a. With the approval of the Staff Hearing Officer, a 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.

b. No Dispensary shall sell or display for sale any drug paraphernalia or any implement that may be used to administer medical marijuana.

7. **Storefront Dispensary – Compliance with the Compassionate Use Act of 1996 and SB 420 Statutes.**

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

(i) The diversion of marijuana for non-medical purposes is a criminal violation of state law.

(ii) The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

(iii) The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of state law.

b. **Not For Profit Operation of the Storefront Dispensary.** No Medical Marijuana Storefront Dispensary shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation for services provided by Management Members and employees. All such cash and in-kind reimbursement amounts and items shall be fully and properly documented in the financial and accounting records of the Dispensary in accordance with and as required by the recordkeeping requirements of this Section.

c. **Cultivation of Medical Marijuana.** The permittee shall not engage in commercial cultivation of marijuana. Marijuana purchased by the permittee or its management members shall be in compliance with the MAUCRSA. No marijuana may be cultivated, manufactured, or tested on the Property.

8. **Maintenance of Appropriate Records.**

a. **Inventory Records.** Every permitted Storefront Dispensary shall maintain on-site (i.e., at the Property designated for the operation of the Storefront Dispensary) records pertaining to the purchase and sale of marijuana, including location of cultivation, name of cultivator, distributor, testing laboratory. The Storefront Dispensary shall also maintain an inventory record documenting the dates and amounts of medical marijuana cultivated or stored at the Dispensary Property, if any, as well as the daily amounts of Medical Marijuana distributed from the permitted Dispensary.

b. **Membership Records.** Every Storefront Dispensary shall maintain full and complete records of the following information: a. the full name, date of birth, residential address, and telephone number(s) of each customer, b. the date each customer purchased marijuana and the quantity purchased and amount paid.

c. **Financial Records.** The Dispensary shall also maintain a written accounting record or ledger of all cash, receipts, credit card transactions, reimbursements (including any in-kind contributions), and any and all reasonable compensation for services provided by the Management Members or employees, as well as records of all operational expenditures and costs incurred by the Storefront Dispensary in accordance with generally accepted accounting practices and standards typically applicable to business records. The Storefront Dispensary shall utilize an electronic point of sale software system approved by the City's Finance Director.

d. **Dispensary Record Retention Period.** The records required above by subparagraphs (1),(2), and (3) of this subsection shall be maintained by the Medical Marijuana Dispensary for a period of five (5) years and shall be made available to the City upon a written request, subject to the authority set forth in Section 30.185.250.I.

I. **City Access to and Inspection of Required Storefront Dispensary Records.**

1. A duly designated City Police Department or Community Development Department representative may enter and shall be allowed to inspect the premises of every Storefront Dispensary as well as the financial and membership records of the Dispensary required by this Section between the hours of eight o'clock (8:00) A.M. and six o'clock (6:00) 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 customer shall be made available to the Police Department only pursuant to a properly executed search warrant or inspection warrant by a court of competent jurisdiction, or a court order for the inspection of such records.

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

J. **Appeal from Staff Hearing Officer Determination.**

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 Dispensary permit may appeal the Staff Hearing Officer's decision pursuant to Section 30.205.140.

K. **Suspension and Revocation by Staff Hearing Officer.**

1. **Authority to Suspend or Revoke a Storefront Dispensary Permit.** Consistent with Section 30.205.140, any Storefront Dispensary permit issued under the terms of this Section 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 Section or the Dispensary is being operated in a manner which violates the operational requirements or operational plan required by this Section, or operated in a manner which conflicts with state law.

2. **Biannual Review of Dispensary Operations.** The staff of the Community Development Department and the Police Department are hereby authorized to conduct a biannual review of the operation of each permitted Storefront Dispensary within the City for full compliance with the operational and recordkeeping requirements of this Section including, specifically, annual verification that all persons employed or volunteering at the Storefront 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 the biannual review process. The staff may initiate a permit suspension or revocation process for any Storefront Dispensary which, upon completion of a biannual review, is found not to be in compliance with the requirements of this Section, or is operating in a manner which constitutes a public nuisance.

3. **Suspension or Revocation – Written Notice.** Except as otherwise provided in this Section, no permit shall be revoked or suspended by the Staff Hearing Officer under the authority of this Section 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. Such revocation or suspension notice shall state the specific reasons for the proposed suspension or revocation and must have been provided to the permittee in writing prior to the hearing. 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 Dispensary permit.

L. Transfer of Dispensary Permits.

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

2. **Transfer of a Permitted Dispensary.** A permittee shall not transfer ownership or control of a Storefront Dispensary or attempt to transfer a Dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the Staff Hearing Officer pursuant to the permitting requirements of this Section stating that the transferee is now the permittee. A transfer of ownership or control shall include, but not be limited to, the addition or removal of a management member, or change in over fifty-one percent of ownership interest by a single stock holder. Such an amendment may be obtained only if the transferee files an application with the Community Development Department in accordance with all provisions of this Section accompanied by the required transfer review application fee.

3. **Request for Transfer with a Revocation or Suspension Pending.** No Storefront 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 for non-compliance with this Section and a notice of such suspension or revocation has been provided.

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

M. Medical Marijuana Vending Machines.

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

N. Business License Tax Liability.

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

SECTION 3. Chapter 28.80, Section 30.185.250, and Ordinance Nos. 5526 and 5551 are repealed as of the effective date of this Ordinance. Any Storefront Dispensary Permit issued on or before the effective date of this ordinance shall be deemed an existing non-conforming use. Permitted existing non-conforming dispensaries may commence operation subject to satisfaction of the conditions of approval set forth in the issuing resolution and shall comply with the regulations established under Ordinance No. 5526, and as amended herein by Section 2, above, and may continue to operate until such time as the permit is voluntarily abandoned or revoked, an unpermitted change to the structure occurs, or the dispensary ceases to operate for 90 consecutive days.

SECTION 4. Severability and Interpretation.

A. Severability. If any provision of this Ordinance or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable.

B. Interpretation. This Ordinance shall be construed to confer upon the City the maximum power and authority allowed by state and federal law. In the event state or federal law is found to conflict with and preempt any provision of this Ordinance, or in the event state or federal law changes to conflict with and preempt any provision of this Ordinance, the remaining and non-conflicting provisions of this Ordinance shall be interpreted and construed to give maximum effect to the remaining and non-conflicting provisions so as to effectuate, to the greatest extent possible, the purposes and restrictions expressed herein.

SECTION 5: Interim Ordinance Nos. 5763 and 5774.

On September 6, 2016, the Council of the City of Santa Barbara adopted Ordinance No. 5763, an interim emergency ordinance prohibiting non-medical marijuana businesses within the City for 45 days pursuant to Government Code section 65858 and City Charter section 511. On October 18, 2016, after a duly notice public hearing, Council determined that in order to protect the public health, safety and welfare it was necessary to extend Ordinance No. 5763. To that effect, Council adopted Ordinance No. 5774 extending the prohibition against non-medical marijuana businesses for 22 months and 15 days or until September 5, 2018. To the extent any challenges pertaining to the enforceability or validity of all or a portion of this ordinance are raised upon its adoption and enactment, Ordinance No. 5774 shall remain in effect as to the challenged provisions.

SECTION 6: Effective Date

Pursuant to Section 514 of the City Charter, this Ordinance shall take effect thirty (30) days after its adoption. Pursuant to Section 512 of the City Charter, the City Clerk shall cause the ordinance to be published at least once in the official newspaper within fifteen (15) days after adoption, by title only, and the publication shall state that the full text of the ordinance shall be available to the public at the City Clerk's Office.

ORDINANCE NO. 5814

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

I HEREBY CERTIFY that the foregoing ordinance was introduced on November 21, 2017, and was adopted by the Council of the City of Santa Barbara at a meeting held on December 5, 2017, by the following roll call vote:

AYES: Councilmembers Gregg Hart, Frank Hotchkiss, Cathy Murillo, Bendy White; Mayor Helene Schneider

NOES: Councilmembers Jason Dominguez, Randy Rowse

ABSENT: None

ABSTENTIONS: None

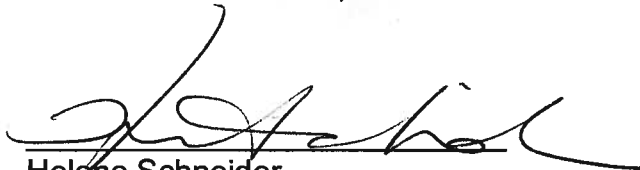
IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on December 6, 2017.



Sarah P. Gorman, CMC
City Clerk Services Manager



I HEREBY APPROVE the foregoing ordinance on December 6, 2017.



Helene Schneider
Mayor