



# COUNTY OF SANTA BARBARA CALIFORNIA

## MONTECITO PLANNING COMMISSION

COUNTY ENGINEERING BUILDING  
123 E. ANAPAMU STREET  
SANTA BARBARA, CALIFORNIA 93101-2058  
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TO THE HONORABLE BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA, CALIFORNIA

MONTECITO PLANNING COMMISSION  
HEARING OF AUGUST 24, 2011

**RE: *Marijuana Collective/Cooperative (MMC) Storefront Ordinances; 11ORD-00000-00020, 11ORD-00000-00021***

Hearing on the request of the Planning and Development Department that the Montecito Planning Commission consider the following:

- a) **11ORD-00000-00020** to adopt a resolution recommending that the Board of Supervisors adopt an ordinance (Case No. 11ORD-00000-00020) amending Division 35.2, Montecito Standards for Specific Land Uses, and Division 35.10, Glossary, of Section 35-2, of the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code;
- b) **11ORD-00000-00021** to recommend that the County Planning Commission recommend that the Board of Supervisors adopt an ordinance (Case No. 11ORD-00000-00021) amending Division 2, Definitions, Division 4, Zoning Districts, and Division 11, Permit Procedures, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code; and

to determine that the project is exempt pursuant to Section 15061(b)(3) of the State Guidelines for Implementation of the California Environmental Quality Act.

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Dear Honorable Members of the Board of Supervisors:

At the Montecito Planning Commission hearing of August 24, 2011, Commissioner Overall moved, seconded by Commissioner Gottsdanker and carried by a vote of 3 to 0 (Burrows, Phillips absent) to:

**Case No. 11ORD-00000-00020 (Montecito Inland).**

1. Recommend that the Board of Supervisors make the findings for approval of the proposed amendment (Attachment A of the staff report, dated August 15, 2011);

2. Recommend that the Board of Supervisors determine that this ordinance is categorically exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the Guidelines for Implementation of CEQA (Attachment B of the staff report, dated August 5, 2011); and,
3. Adopt a Resolution recommending that the Board of Supervisors adopt Case No. 11ORD-00000-00020, an ordinance amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C of the staff report, dated August 15, 2011) ) as revised at the hearing of August 24, 2011.

**Case No. 11ORD-00000-00021 (Coastal).**

1. Recommend that the County Planning Commission recommend that the Board of Supervisors make the findings for approval of the proposed amendments (Attachment A of the staff report, dated August 5, 2011);
2. Recommend that the County Planning Commission recommend that the Board of Supervisors determine that this ordinance is categorically exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the Guidelines for Implementation of CEQA (Attachment B of the staff report, dated August 5, 2011); and,
3. Recommend that the County Planning Commission adopt a Resolution recommending that the Board of Supervisors adopt Case No. 11ORD-00000-00021, an ordinance amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code (Attachment D of the staff report, dated August 15, 2011) as revised at the hearing of August 24, 2011.

*REVISIONS TO THE ORDINANCE AMENDMENTS:*

*Attachment C - 11ORD-00000-00020 the Montecito LUDC Proposed Ordinance Amendment has been revised as follows:*

SECTION 2:

10. 1. **Attending Physician.** A person, as defined in Health and Safety Code Section 11362.7(a) as that Section now appears and may be amended or renumbered, who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has recommended or approved Medical Marijuana for the treatment of his or her patient.
- . 2. **Marijuana.** Shall have the meaning as set forth in the California Health and Safety Code Section 11018 as that Section now appears and may be amended or renumbered.
- . 3. **Medical Marijuana.** Shall mean marijuana used by Qualified Patients and Persons with ID Cards for medical purposes, in compliance with Health and Safety Code Section 11362.5 et seq.
- . 4. **Medical Marijuana Cooperative.** Shall mean a statutory Cooperative which conducts its business for the mutual benefit of its members, must file articles of incorporation, is a non-profit entity, and is subject to all legal requirements of a statutory Cooperative, as outlined in the California Corporations Code or Food and Agriculture Code.

- e. DR (Design Residential)
- f. PRD (Planned Residential Development)
- g. SR-M (Medium Density Student Residential)
- h. SR-H (High Density Student Residential)

- 4. The linear distance from the exterior wall of the building or unit containing the MMC Storefront is at least 100 feet from the exterior wall of any conforming dwelling unit.
- 5. No more than one MMC Storefront shall be allowed on any lot.

c. **Permit and Submittal Requirements.** In addition to an application as required by Section 35.172.6, an applicant for an MMC Storefront must comply with the following requirements:

- 1. The application must be signed by the owner of the property, if the applicant is not the owner.
- 2. An application for a Conditional Use Permit submitted to the Planning and Development Department pursuant to Section 35-172 (Conditional Use Permits). The application shall contain a description by address and assessor's parcel number of the property on which the MMC Storefront is to be located, and such plans, elevations, descriptions, or other information as the Director may require.
- 3. A completed MMC Storefront Supplemental Information Sheet.
- 4. All other permits required by the County for an MMC Storefront, except those permits required by the Building and Safety Division of the Planning and Development Department, shall be obtained prior to or as a condition of approval for a Conditional Use Permit.

d. **MMC Storefront Supplemental Information Sheet Contents.** The Supplemental Information Sheet for an MMC Storefront required pursuant to Subsection c, above, shall include the following items:

- 1. The full name, address, and Qualified Patient Identification Card number (if applicable) of the applicant.
- 2. The name of the Medical Marijuana Cooperative or Collective associated with the proposed MMC Storefront.
- 3. A vicinity map, at a scale acceptable to the County showing the roads (labeled), parcel boundaries, and location(s) of any of the uses or structures listed in Subsection b above that are 1500 feet or less from the lot containing the proposed MMC Storefront, as well as the distance between said uses and the applicant's proposed MMC Storefront, measured pursuant to this Section.
- 4. Evidence that the proposed MMC Storefront will operate as a Medical Marijuana Collective or Medical Marijuana Cooperative, pursuant to the requirements outlined in California Corporations Code 12310 et seq. (e.g., articles of incorporation).
- 5. A business plan for the proposed operation.
- 6. A security plan, including but not limited to, alarms, locations of entrances and exits, security cameras, security guard provisions, safes, and locked storage areas.

7. An exterior lighting and lighting maintenance plan.
8. Any proposed exterior signage accompanied by the applicable sign permit application.
9. Any other plans, elevations, descriptions, or information the Director may require.

e. **Appeals.**

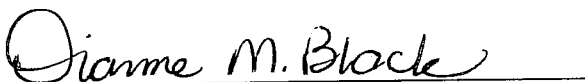
The action of the decision-maker to approve, conditionally approve, or deny a Conditional Use Permit for a Medical Marijuana Collective/Cooperative Storefront shall be final subject to appeal pursuant to Section 35.182 (Appeals).

f. **Development and Operational Standards.** An MMC Storefront shall comply with all of the following standards:

1. All MMC Storefront activities, including exchanges or distribution of Medical Marijuana, or incidental marijuana drug paraphernalia, shall be conducted within a completely enclosed building.
2. A MMC Storefront shall not be located in any temporary or portable structure.
3. Parking shall be provided, pursuant to the requirements of Section 35.110.8 – (Required Number of Spaces: Commercial, medical office).
4. A MMC Storefront shall not be open to patients or members between the hours of 8:00 p.m. and 7:00 a.m. of any day.
5. A MMC Storefront shall not conduct or sponsor any temporary uses or special events, promotions, festivals, concerts or similar activities onsite (indoors or outdoors).
6. Any waste receptacles and facilities required or used by a MMC Storefront shall be locked to prevent access thereto by the public.
7. A MMC Storefront shall not do any of the following:
  - a) Operate for profit.
  - b) Sell marijuana to or purchase marijuana from illicit markets or individuals who are not bona fide members of the Medical Marijuana Cooperative or Collective operating said MMC Storefront.
  - c) Produce or sell edible products.
  - d) Violate the provisions of applicable state law, including the State of California Compassionate Use Act and the Medical Marijuana Program.

*The attached resolution and ordinance amendments reflect the Montecito Planning Commission's actions of August 24, 2011.*

Sincerely,



Dianne M. Black  
Secretary Montecito Planning Commission

cc: Case File: 11ORD-00000-00020, 11ORD-00000-00021  
Planning Commission File  
Dianne M. Black, Director Development Review  
Rachel Van Mullem, Senior Deputy County Counsel  
Jeff Hunt, A.I.C.P., Director, Long Range Planning  
June Pujo, Supervising Planner, Long Range Planning  
✓ Holly Bradbury, Planner

**Attachments:**      **Attachment A – Findings (Montecito LUDC and Article II)**  
                                 **Attachment C – 11ORD-00000-00020 (Montecito LUDC) Resolution and**  
                                 **Proposed Ordinance**  
                                 **Attachment D – 11ORD-00000-00021 (Article II Proposed Ordinance)**



## ATTACHMENT A: FINDINGS

### 1.0. CEQA FINDINGS

#### 1.1 CEQA Guidelines Exemption Findings

*1.1.1* The Montecito Planning Commission finds, and recommends that the Board of Supervisors find that the proposed project, 11ORD-00000-00020 and recommends that the Planning Commission recommend that the Board of Supervisors approval of 11ORD-00000-00021, is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3). Please see Attachment B, Notice of Exemption.

### 2.0 ADMINISTRATIVE FINDINGS.

#### 2.1 Montecito Land Use and Development Code Findings (11ORD-00000-00020)

In compliance with Section 35.494.060 (Findings Required for Approval of Amendment) of the Santa Barbara County Montecito Land Use and Development Code (Montecito LUDC), the following findings shall be made by the Montecito Planning Commission in order to recommend approval of a text amendment to the Montecito LUDC, and the Board of Supervisors shall make the following findings in order to approve a text amendment to the Montecito LUDC:

##### *2.1.1 The request is in the interests of the general community welfare.*

Since the Passage for the Compassionate Use Act in 1996 a proliferation of storefronts has occurred in California and in Santa Barbara County creating the need for regulating these new uses in zoning. This combination of factors has, according to the Sheriff's Office, resulted in negative and harmful secondary effects, including criminal activity. County-wide, several unregulated medical marijuana storefronts have with been shut down or are under investigation for sale of illegal drugs, money laundering, and illegal firearms.<sup>1</sup> In the unincorporated area at least two<sup>2</sup> of these locations have been within the buffers recommended as part of the proposed ordinance from schools, parks, residences, and other sensitive uses. Currently there is a moratorium which expires in December 2011. If no amendments are made, since MMC Storefronts are not an enumerated use in the zoning ordinances, applicants will be able to apply for similar use determinations in any zone throughout the County.

Standards are required to assure that the operations of medical marijuana cooperatives are in compliance with California Health and Safety Code. Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") or any state regulations and/or guidelines adopted in furtherance thereof, and to reduce the adverse secondary effects from operations of MMC Storefronts. The proposed ordinance would be is enacted as a health and safety measure pursuant to the County's police power. California Health and Safety Code Section 11362.768 requires a minimum 600-foot buffer from schools, and allows jurisdictions to adopt policies further restricting the location or establishment of MMC Storefront. California State Health and Safety Code 11362.79 prohibits smoking of medical marijuana within 1000 feet of a school or

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<sup>1</sup> County Sheriff testimony at the Board of Supervisors December 8, 2009

<sup>2</sup> The Green Room and Miramar Collective are less than 1000 feet from a County Park and less than 300 feet from residential zone districts.

youth center.<sup>3</sup> The proposed 1000-foot buffer from schools, and facilities such as parks and daycare centers would provide for consistency with state law and prevent easy access in places where minors congregate. Requiring a 300-foot buffer for residential and mixed-use zone district buffer would allow for a distribution of MMC Storefronts site throughout the county while separating incompatible uses consistent with the intent of the zone districts.

The C-1 (Limited Commercial), C-2 (Retail Commercial), and C-3 (General Commercial) zone districts were selected as appropriate locations based on a recommended separation of residential uses and places where children are present based on evidence presented at public hearings during the moratorium<sup>4</sup> and the *White Paper on Marijuana Dispensaries* by the California Police Chiefs Association's Taskforce on Marijuana Dispensaries.

The proposed ordinance amendments are in the interest of the general community welfare since the Montecito LUDC amendment would require a discretionary permit and regulate the location of Medical Marijuana Collective/Cooperative (MMC) Storefronts without compromising community values, environmental quality, or public health and safety.

The proposed ordinance amendments would revise existing permit processes to require a Conditional Use Permit (CUP) under the jurisdiction of the Planning Commission, specify allowable zone districts, require buffers from sensitive uses and facilities, provide location criteria, and add new development standards and restrictions pertaining to MMC Storefronts, which would minimize potential adverse impacts to the surrounding area. The proposed ordinance would allow for MMC Storefronts in appropriate areas while providing for safe access to medical marijuana as allowed under the Compassionate Use Act.

***2.1.2 The request is consistent with the Comprehensive Plan, the requirements of State planning and zoning laws, and the Montecito Land Use and Development Code. If the Amendment involves an Amendment to the Local Coastal Program, then the request shall also be found to be consistent with the Coastal Land Use Plan.***

The proposed ordinance amendments would require discretionary processing through a Conditional Use Permit (CUP) under the jurisdiction of the Planning Commission for all MMC Storefronts. Discretionary projects are subject to review under the California Environmental Quality Act and associated findings. In order to approve an MMC Storefront, the review authority would have to find that the proposed development is consistent with the policies and development standards of the Comprehensive Plan including the Montecito Community Plan and the Coastal Land Use Plan, the requirements of state planning and zoning law.

Adoption of the proposed ordinance would provide more effective implementation of the State health and safety, planning, and zoning laws by providing a discretionary MMC Storefront permit process. If no amendments are adopted and the existing moratorium expires in December, applicants would be able to apply for similar use determinations in any zone throughout the County. The proposed ordinance would not result in any inconsistencies with the adopted

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<sup>3</sup> Also prohibits smoking in no smoking zones (except in private residences), on school buses, in a motor vehicle that is being operated, or while operating a boat.

<sup>4</sup> Board of Supervisors hearings on January 19, 2010; February 16, 2010; and December 7, 2010.

policies and development standards of the Comprehensive Plan, including the Montecito Community Plan, and would allow the County to protect public health and safety.

The proposed ordinance amendments are also consistent with the remaining portions of the Montecito LUDC that would not be revised by this ordinance. Therefore, this ordinance may be found consistent with the Comprehensive Plan including the Montecito Community Plan, the requirements of state law, and the Montecito LUDC.

The proposed Montecito LUDC amendments would not affect the Coastal Land Use Plan or Article II.

### ***2.1.3 The request is consistent with good zoning and planning practices.***

The proposed ordinance is consistent with sound zoning and planning practices by instituting regulations for land uses for the overall protection of the environment and community values. It would guide MMC Storefront development and uses, provide for a discretionary permit processes, and add new development standards and restrictions, which serve to minimize potential adverse impacts to the surrounding area. As discussed in Finding 2.1.2, above, the amendments are consistent with the Comprehensive Plan, including the Montecito Community Plan, and the Montecito LUDC.

## **2.2 Article II Coastal Zoning Ordinance Findings (11ORD-00000-00021)**

In compliance with Section 35-180.6 of the Santa Barbara County Article II Coastal Zoning Ordinance, the following findings shall be made by the Montecito Planning Commission in order to recommend approval of a text amendment to Article II to the County Planning Commission, and the County Planning Commission and the Board of Supervisors shall make the following findings in order to approve a text amendment to Article II:

### ***2.2.1 The request is in the interests of the general community welfare.***

Since the Passage for the Compassionate Use Act in 1996 a proliferation of storefronts has occurred in California and in Santa Barbara County creating the need for regulating these new uses in zoning. This combination of factors has, according to the Sheriff's Office, resulted in negative and harmful secondary effects, including criminal activity. County-wide, several unregulated medical marijuana storefronts have with been shut down or are under investigation for sale of illegal drugs, money laundering, and illegal firearms.<sup>5</sup> In the unincorporated area at least two<sup>6</sup> of these locations have been within the buffers recommended as part of the proposed ordinance from schools, parks, residences, and other sensitive uses. Currently there is a moratorium which expires in December 2011. If no amendments are made, since MMC Storefronts are not an enumerated use in the zoning ordinances, applicants will be able to apply for similar use determinations in any zone throughout the County.

Standards are required to assure that the operations of medical marijuana cooperatives are in compliance with California Health and Safety Code. Section 11362.5 (adopted as Proposition

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<sup>5</sup> County Sheriff testimony at the Board of Supervisors December 8, 2009

<sup>6</sup> The Green Room and Miramar Collective are less than 1000 feet from a County Park and less than 300 feet from residential zone districts.

215, the "Compassionate Use Act of 1996") or any state regulations and/or guidelines adopted in furtherance thereof, and to reduce the adverse secondary effects from operations of MMC Storefronts. The proposed ordinance would be enacted as a health and safety measure pursuant to the County's police power. California Health and Safety Code Section 11362.768 requires a minimum 600-foot buffer from schools, and allows jurisdictions to adopt policies further restricting the location or establishment of an MMC Storefront. California State Health and Safety Code 11362.79 prohibits smoking of medical marijuana within 1000 feet of a school or youth center.<sup>7</sup> The proposed 1000-foot buffer from schools, and facilities such as parks and daycare centers would provide for consistency with state law and prevent easy access in places where minors congregate. Requiring a 300-foot buffer for residential and mixed-use zone district buffer would allow for a distribution of MMC Storefronts site throughout the county while separating incompatible uses consistent with the intent of the zone districts.

The C-1 (Limited Commercial), C-2 (Retail Commercial), and C-3 (General Commercial) zone districts were selected as appropriate locations based on a recommended separation of residential uses and places where children are present based on evidence presented at public hearings during the moratorium<sup>8</sup> and the *White Paper on Marijuana Dispensaries* by the California Police Chiefs Association's Taskforce on Marijuana Dispensaries.

The proposed ordinance amendments are in the interest of the general community welfare since the Montecito LUDC amendment would require a discretionary permit and regulate the location of Medical Marijuana Collective/Cooperative (MMC) Storefronts without compromising community values, environmental quality, or public health and safety.

The proposed ordinance amendments would revise existing permit processes to require a Conditional Use Permit (CUP) under the jurisdiction of the Planning Commission, specify allowable zone districts, require buffers from sensitive uses and facilities, provide location criteria, and add new development standards and restrictions pertaining to MMC Storefronts, which would minimize potential adverse impacts to the surrounding area. The proposed ordinance would allow for MMC Storefronts in appropriate areas while providing for safe access to medical marijuana as allowed under the Compassionate Use Act.

### ***2.2.2 The request is consistent with the Comprehensive Plan, the Coastal Land Use Plan, the requirements of State planning and zoning laws and this Article.***

The proposed ordinance amendments would require discretionary processing through a CUP under the jurisdiction of the Planning Commission for all MMC Storefronts. Discretionary projects are subject to review under the California Environmental Quality Act and associated findings. In order to approve an MMC Storefront, the review authority would have to find that the proposed development is consistent with the policies and development standards of the Comprehensive Plan, including the Montecito Community Plan and the Coastal Land Use Plan, the requirements of state law, and the Article II Coastal Zoning Ordinance.

Adoption of the proposed ordinance would provide more effective implementation of the state health and safety, planning, and zoning laws by providing a discretionary MMC Storefront

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<sup>7</sup> Also prohibits smoking in no smoking zones (except in private residences) on school buses, in a motor vehicle that is being operated, or while operating a boat.

<sup>8</sup> Board of Supervisors hearings on January 19, 2010; February 16, 2010; and December 7, 2010

permit process. If no amendments are adopted and the existing moratorium expires in December, applicants would be able to apply for similar use determinations in any zone throughout the County. The proposed ordinance would not result in any inconsistencies with the adopted policies and development standards of the Comprehensive Plan, including the Montecito Community Plan and Coastal Land Use Plan, and would allow the County to protect public health and safety.

The proposed ordinance amendments are also consistent with the remaining portions of the Article II Coastal Zoning Ordinance that would not be revised by this ordinance. Therefore, this ordinance may be found consistent with the Comprehensive Plan, including the Montecito Community Plan and Coastal Land Use Plan, the requirements of state laws, and the Article II Coastal Zoning Ordinance.

***2.2.3 The request is consistent with good zoning and planning practices.***

The proposed project is consistent with sound zoning and planning practices to regulate land uses for the overall protection of the environment and community values since it would provide for a clear MMC Storefront discretionary permit processes and add new development standards and restrictions pertaining to MMC Storefronts, which would serve to minimize potential adverse impacts to the surrounding area. As discussed in Finding 2.2.2, above, the amendments are consistent with the Comprehensive Plan including the Montecito Community Plan and Coastal Land Use Plan, and the Article II Coastal Zoning Ordinance.



**ATTACHMENT C: RESOLUTION AND PROPOSED MLUDC ORDINANCE**

RESOLUTION OF THE SANTA BARBARA COUNTY MONTECITO PLANNING  
COMMISSION  
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING TO THE )  
BOARD OF SUPERVISORS THE ADOPTION OF )  
AN AMENDMENT TO SECTION 35-2 OF ) RESOLUTION NO.: 11 - 14  
CHAPTER 35 OF THE COUNTY CODE, THE )  
SANTA BARBARA COUNTY MONTECITO ) CASE NO.: 11ORD-00000-00020  
LAND USE AND DEVELOPMENT CODE, )  
REGARDING THE PERMITTING OF MEDICAL )  
MARIJUANA COLLECTIVE/COOPERATIVE )  
STOREFRONTS )

WITH REFERENCE TO THE FOLLOWING:

- A. California state law, including the Compassionate Use Act of 1996 (CUA) and the Medical Marijuana Program Act of 2003 (MMP), grants seriously ill Californians access to marijuana for medical purposes and provides an affirmative legal defense against prosecution for cultivating, possessing, consuming, transporting, processing, or selling marijuana.
- B. The 2008 Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use attempted to provide some guidance for local jurisdictions and law enforcement officials regarding implementation and regulation of the resultant Medical Marijuana, but currently state law contains no regulations defining MMC Storefronts.
- C. The County of Santa Barbara Code of Ordinances regulates, among other things, the uses, location, and operation of commercial activities but currently does not include permanent regulations for Medical Marijuana Collective/Cooperative (MMC) Storefronts.
- D. The Board of Supervisors is concerned with the potential proliferation of MMC Storefronts within the County. This concern is based on expert and citizen testimony at public hearings (Board of Supervisors hearings on January 19, 2010; February 16, 2010; and December 7, 2010), the experience of cities within the County, and studies from other jurisdictions.
- E. The Board of Supervisors enacted an Interim Urgency Ordinance (Ordinance Nos. 4739, 4743, 4770) establishing a moratorium on the establishment and operation of MMC Storefronts, in order to provide staff with adequate time to study and recommend options for addressing MMC Storefronts in the County unincorporated area.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.

2. In compliance with the provisions of Section 65855 of the Government Code, this Montecito Planning Commission recommends that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, adopt 11ORD-00000-00020, based on the findings included as Attachment A of the Montecito Planning Commission staff report dated August 15, 2011.
3. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
4. The Chair of this Montecito Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above-mentioned action by Montecito Planning Commission.

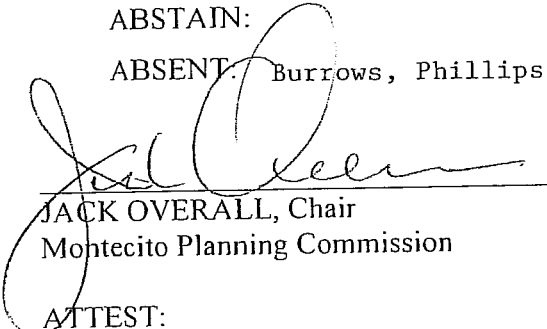
PASSED, APPROVED AND ADOPTED this August 24, 2011 by the following vote:

AYES: Overall, Eidelson, Gottsdanker

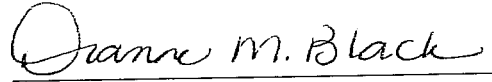
NOES:

ABSTAIN:

ABSENT: Burrows, Phillips

  
\_\_\_\_\_  
JACK OVERALL, Chair  
Montecito Planning Commission

ATTEST:

  
\_\_\_\_\_  
DIANNE MEESTER BLACK  
Secretary to the Commission

APPROVED AS TO FORM:

DENNIS A. MARSHALL  
COUNTY COUNSEL


By   
\_\_\_\_\_  
Deputy County Counsel

EXHIBIT:

1. 11ORD-00000-00020, Montecito Land Use Development Code

**EXHIBIT 1**

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

AN ORDINANCE AMENDING SECTION 35-2, THE MONTECITO LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY AMENDING DIVISION 35.2, MONTECITO ZONES AND ALLOWABLE USES, AND DIVISION 35.10, GLOSSARY, TO IMPLEMENT NEW REGULATIONS FOR MEDICAL MARIJUANA COLLECTIVE/COOPERATIVE STOREFRONTS.

Case No. 11ORD-00000-00020

The Board of Supervisors of the County of Santa Barbara ordains as follows:

**SECTION 1:**

DIVISION 35.2, MONTECITO ZONES AND ALLOWABLE LAND USES, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend the “Services- Business, Financial, Professional” Section of Table 2-12, of Section 35.424.030 (Commercial Zones Allowable Land Uses), of Chapter 35.424 (Commercial Zones), to read as follows:

<b>Table 2-12 - Continued</b>  <b>Allowed Land Uses and Permit Requirements for Commercial Zones</b>	E	Allowed use, no permit required (Exempt)			
	P	Permitted use, Land Use or Coastal Permit required (2)			
	CUP	Conditional Use Permit required			
	S	Permit determined by Specific Use Regulations			
	—	Use Not Allowed			
<b>LAND USE (1)</b>	<b>PERMIT REQUIRED BY ZONE</b>				<b>Specific Use Regulations</b>
	CN	CN CZ	CV	CV CZ	

**SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL**

Bank, financial services	P	P	—	—	
Business support service	P	P	—	—	
Drive-through facility	CUP	CUP	—	—	35.442.100
Medical services - Clinic, urgent care	P	P	—	—	
Medical services - Doctor office	P	P	—	—	
Medical services - Extended care	CUP	CUP	CUP	CUP	
Medical services - Hospital	CUP	CUP	CUP	CUP	
<u>Medical Services-Medical Marijuana Collective/Cooperative Storefront</u>	=	=	=	=	
Office - Business/service	P	P	—	—	
Office - Professional/administrative	P	P	—	—	
Public safety facility	P	P	—	—	

SECTION 2:

DIVISION 35.10, GLOSSARY, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Sections 35.500.020 (Definition of Specialized Terms and Phrases) of Chapter 35.500 (Definitions) to add new Medical Marijuana definitions to read as follows:

**Medical Marijuana.** The following terms are defined for the purposes this Development Code.

1. **Attending Physician.** A person, as defined in Health and Safety Code Section 11362.7(a) as that Section now appears and may be amended or renumbered, who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has recommended or approved Medical Marijuana for the treatment of his or her patient.
2. **Marijuana.** Shall have the meaning as set forth in the California Health and Safety Code Section 11018 as that Section now appears and may be amended or renumbered.
3. **Medical Marijuana.** Shall mean marijuana used by Qualified Patients and Persons with ID Cards for medical purposes, in compliance with Health and Safety Code Section 11362.5 et seq.
4. **Medical Marijuana Cooperative.** Shall mean a statutory Cooperative which conducts its business for the mutual benefit of its members, must file articles of incorporation, is a non-profit entity, and is subject to all legal requirements of a statutory Cooperative, as outlined in the California Corporations Code or Food and Agriculture Code.
5. **Medical Marijuana Collective.** Shall mean a non-profit organization, with five or more members, which exists merely to facilitate the collaborative efforts of Qualified Patient, Persons with ID Card, and Primary Caregiver members and to coordinate transactions between members involving Medical Marijuana.
6. **Marijuana Paraphernalia.** Items incidental to the use of marijuana including rolling papers and related tools, pipes, water pipes, and vaporizers.
7. **Medical Marijuana Collective/Cooperative (MMC) Storefront.** A storefront facility or location that is organized and operated by a Medical Marijuana Collective or Medical Marijuana Cooperative, that provides, exchanges, or gives away Medical Marijuana, to its members who are Qualified Patients, Persons with an Identification Card, or Primary Caregivers.

8. Person with an ID Card. Shall mean an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Health and Safety Code Section 11362.5 et seq..
9. Primary Caregiver. Shall mean the person, designated by a Qualified Patient, who has consistently assumed responsibility for the housing, health, or safety of that Patient, and consistent with the definition provided in Health and Safety Code 11362.7(d) and (e). Primary Caregiver shall not include an MMC Storefront.
10. Qualified Patient. A person who is entitled to the protections of Health and Safety Code 11362.5.

SECTION 4:

All existing indices, section references, and figure and table numbers contained in Divisions 35.2 and 35.10 of the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, are hereby revised as appropriate to reflect the revisions enumerated above.

SECTION 5:

Except as amended by this Ordinance, Divisions 35.2 and 35.10, of Article 35-2, the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 6:

This ordinance shall take effect and be in force 30 days from the date of its passage and before the expiration of 15 days after its passage a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:  
NOES:  
ABSTAINED:  
ABSENT:

Montecito LUDC

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JONI GRAY  
Chair, Board of Supervisors  
County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL  
County Counsel

By \_\_\_\_\_  
Deputy County Counsel

## EXHIBIT 2

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

AN ORDINANCE AMENDING ARTICLE II, COASTAL ZONING ORDINANCE, OF CHAPTER 35 OF THE COUNTY CODE BY AMENDING DIVISION 2, DEFINITIONS, DIVISION 4, ZONING DISTRICTS AND DIVISION 11, PERMIT PROCEDURES, TO IMPLEMENT NEW REGULATIONS FOR MEDICAL MARIJUANA COLLECTIVE/COOPERATIVE STOREFRONT.

Case No. 11ORD-00000-00021

The Board of Supervisors of the County of Santa Barbara ordains as follows:

### SECTION 1:

DIVISION 2, DEFINITIONS, of the Article II Coastal Zoning Ordinance of Chapter 35 Zoning, of the Santa Barbara County Code, is amended to add new Medical Marijuana definitions as part of Section 35.58, to read as follows:

**Medical Marijuana.** The following terms are defined for the purposes of this Article.

1. **Attending Physician.** A person, as defined in Health and Safety Code Section 11362.7(a) as that Section now appears and may be amended or renumbered, who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has recommended or approved Medical Marijuana for the treatment of his or her patient.
2. **Marijuana.** Shall have the meaning as set forth in the California Health and Safety Code Section 11018 as that Section now appears and may be amended or renumbered.
3. **Medical Marijuana.** Shall mean marijuana used by Qualified Patients and Persons with ID Cards for medical purposes, in compliance with Health and Safety Code Section 11362.5 et seq.
4. **Medical Marijuana Cooperative.** Shall mean a statutory Cooperative which conducts its business for the mutual benefit of its members, must file articles of incorporation, is a non-profit entity, and is subject to all legal requirements of a statutory Cooperative, as outlined in the California Corporations Code or Food and Agriculture Code.
5. **Medical Marijuana Collective.** Shall mean a non-profit organization, with five or more members, which exists merely to facilitate the collaborative efforts of Qualified Patient,

Persons with ID Card, and Primary Caregiver members and to coordinate transactions between members involving Medical Marijuana.

6. **Marijuana Paraphernalia.** Items incidental to the use of marijuana, including rolling papers and related tools, pipes, water pipes, and vaporizers.
7. **MMC Storefront.** A storefront facility or location that is organized and operated by a Medical Marijuana Collective or Medical Marijuana Cooperative, that provides, exchanges, or gives away Medical Marijuana, to its members who are Qualified Patients, Persons with an Identification Card, or Primary Caregivers.
8. **Person with an ID Card.** Shall mean an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Health and Safety Code Section 11362.5 et seq.
9. **Primary Caregiver.** Shall mean the person, designated by a Qualified Patient, who has consistently assumed responsibility for the housing, health, or safety of that Patient, and consistent with the definition provided in Health and Safety Code 11362.7(d) and (e). Primary Caregiver shall not include an MMC.
10. **Qualified Patient.** A person who is entitled to the protections of Health and Safety Code 11362.5.

SECTION 2:

DIVISION 4, ZONING DISTRICTS, of the Article II Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35-77A.4 (Uses Permitted with a Major Conditional Use Permit, of Section 35-77A C-1 Limited Commercial) to read as follows:

***Sec. 35-77A.4 Uses Permitted with a Major Conditional Use Permit.***

1. Small animal hospitals, provided all animals are kept within a completely enclosed, soundproofed building designed to eliminate outdoor odor and reduce the level of noise from such animals to the extent that adjacent residential properties will not be adversely affected in any way by noise or odors.
2. Hotels and motels.
3. Medical Marijuana Collective/Cooperative (MMC) Storefronts, subject to the provisions of Sec. 35-172.

SECTION 3:

DIVISION 4, ZONING DISTRICTS, of the Article II Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35-78.4 (Uses Permitted with a Major Conditional Use Permit, of Section 35-78.4 C-2 Retail Commercial) to read as follows:

***Sec. 35-78.4 Uses Permitted With a Major Conditional Use Permit.***

1. Amusement enterprises conducted partially or wholly outdoors.
2. Bus terminal.
3. Outdoor theater.
4. Swap meet.
5. Medical Marijuana Collective/Cooperative (MMC) Storefront, subject to the provisions of Sec. 35-172.

SECTION 4:

DIVISION 11, PERMIT PROCEDURES, of the Article II Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35-172.13 (Additional Requirements) of Section 35-172 (Conditional Use Permits), to add a new subsection 6 (Medical Marijuana Collective/Cooperative (MMC) Storefront, to read as follows:

**6. Medical Marijuana Collective/Cooperative (MMC) Storefront.**

- a. **Purpose and intent.** This Section provides standards for the operation of Medical Marijuana Collective/Cooperative (MMC) Storefronts where allowed pursuant to Division 4 (Zoning Districts). The intent is to protect the rights of both medical-marijuana patients and County residents, in compliance with California Health and Safety Code Sections 11362.5 et. seq.
- b. **Locations where allowed.** Medical Marijuana Collective/Cooperative Storefronts may only be allowed in C-1 and C-2 zones, as designated on the County Zoning Map , in compliance with all of the following:
  1. The distance from the exterior wall of a building or unit or lot containing an MMC Storefront shall be a minimum of 1500 linear feet from the exterior wall of the building or unit or lot containing an existing MMC Storefront, whichever is greater.
  2. On lots where the linear distance between the lot lines of the lot containing the MMC Storefront to the nearest lot line of any of the following is at least 1000 feet:
    - a. A public or private school, as defined in California Health and Safety Code Section 11362.768.

- b. A licensed Child Care Facility.
- c. A park or recreation center serving youths up to 18 years old, owned or operated on land or facilities owned or operated by a government entity.
3. On lots where the linear distance between the closest exterior wall of the unit or building containing the MMC Storefront and any of the following zone districts is at least 300 feet.
  - a. RR (Rural Residential)
  - b. R-1/E-1 (Single-Family Residential)
  - c. R-2 (Two-Family Residential)
  - d. EX-1 (One-Family Exclusive Residential)
  - e. DR (Design Residential)
  - f. PRD (Planned Residential Development)
  - g. SR-M (Medium Density Student Residential)
  - h. SR-H (High Density Student Residential)
4. The linear distance from the exterior wall of the building or unit containing the MMC Storefront is at least 100 feet from the exterior wall of any conforming dwelling unit.
5. No more than one MMC Storefront shall be allowed on any lot.
- c. **Permit and Submittal Requirements.** In addition to an application as required by Section 35.172.6, an applicant for an MMC Storefront must comply with the following requirements:
  1. The application must be signed by the owner of the property, if the applicant is not the owner.
  2. An application for a Conditional Use Permit submitted to the Planning and Development Department pursuant to Section 35-172 (Conditional Use Permits). The application shall contain a description by address and assessor's parcel number of the property on which the MMC Storefront is to be located, and such plans, elevations, descriptions, or other information as the Director may require.
  3. A completed MMC Storefront Supplemental Information Sheet.
  4. All other permits required by the County for an MMC Storefront, except those permits required by the Building and Safety Division of the Planning and Development Department, shall be obtained prior to or as a condition of approval for a Conditional Use Permit.

d. MMC Storefront Supplemental Information Sheet Contents. The Supplemental Information Sheet for an MMC Storefront required pursuant to Subsection c, above, shall include the following items:

1. The full name, address, and Qualified Patient Identification Card number (if applicable) of the applicant.
2. The name of the Medical Marijuana Cooperative or Collective associated with the proposed MMC Storefront.
3. A vicinity map, at a scale acceptable to the County showing the roads (labeled), parcel boundaries, and location(s) of any of the uses or structures listed in Subsection b above that are 1500 feet or less from the lot containing the proposed MMC Storefront, as well as the distance between said uses and the applicant's proposed MMC Storefront, measured pursuant to this Section.
4. Evidence that the proposed MMC Storefront will operate as a Medical Marijuana Collective or Medical Marijuana Cooperative, pursuant to the requirements outlined in California Corporations Code 12310 et seq. (e.g., articles of incorporation).
5. A business plan for the proposed operation.
6. A security plan, including but not limited to, alarms, locations of entrances and exits, security cameras, security guard provisions, safes, and locked storage areas.
7. An exterior lighting and lighting maintenance plan.
8. Any proposed exterior signage accompanied by the applicable sign permit application.
9. Any other plans, elevations, descriptions, or information the Director may require.

e. Appeals.

The action of the decision-maker to approve, conditionally approve, or deny a Conditional Use Permit for a Medical Marijuana Collective/Cooperative Storefront shall be final subject to appeal pursuant to Section 35.182 (Appeals).

f. Development and Operational Standards. An MMC Storefront shall comply with all of the following standards:

1. All MMC Storefront activities, including exchanges or distribution of Medical Marijuana, or incidental marijuana drug paraphernalia, shall be conducted within a completely enclosed building.
2. A MMC Storefront shall not be located in any temporary or portable structure.

3. Parking shall be provided, pursuant to the requirements of Section 35.110.8 – (Required Number of Spaces: Commercial, medical office).
4. A MMC Storefront shall not be open to patients or members between the hours of 8:00 p.m. and 7:00 a.m. of any day.
5. A MMC Storefront shall not conduct or sponsor any temporary uses or special events, promotions, festivals, concerts or similar activities onsite (indoors or outdoors).
6. Any waste receptacles and facilities required or used by a MMC Storefront shall be locked to prevent access thereto by the public.
7. A MMC Storefront shall not do any of the following:
  - a) Operate for profit.
  - b) Sell marijuana to or purchase marijuana from illicit markets or individuals who are not bona fide members of the Medical Marijuana Cooperative or Collective operating said MMC Storefront.
  - c) Produce or sell edible products.
  - d) Violate the provisions of applicable state law, including the State of California Compassionate Use Act and the Medical Marijuana Program.
8. No MMC Storefront shall allow or employ an Attending Physician onsite.
9. No MMC Storefront shall provide off-site medical marijuana deliveries to any person.

**g. Lighting Standards.**

The premises or the portion of the premises, where the MMC Storefront is located, shall be lighted in such a manner that all areas are clearly visible during hours of operation and one hour after closing.

**SECTION 5:**

All existing indices, section references, and figure and table numbers contained in Division 2, Division 4, and Division 11 of Article II, Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

**SECTION 6:**

Except as amended by this Ordinance, Division 2, Division 4, and Division 11 of Article II, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 7:

This ordinance and any portion of it approved by the Coastal Commission shall take effect and be in force 30 days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code 30514, whichever occurs later; and before the expiration of 15 days after its passage, it, or a summary of it, shall be published once, together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:  
NOES:  
ABSTAINED:  
ABSENT:

\_\_\_\_\_  
JONI GRAY  
Chair, Board of Supervisors  
County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL  
County Counsel

By \_\_\_\_\_  
Deputy County Counsel



6. ~~Marijuana drug Paraphernalia.~~ Items incidental to the use of marijuana, including ~~but not limited~~ to rolling papers and related tools, pipes, water pipes, and vaporizers.
6. 7. MMC Storefront. A storefront facility or location that is organized and operated by a Medical Marijuana Collective or Medical Marijuana Cooperative, that provides, exchanges, or gives away Medical Marijuana, to its members who are Qualified Patients, Persons with an Identification Card, or Primary Caregivers.
7. 8. Person with an ID Card. Shall mean an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Health and Safety Code Section 11362.5 et seq.
8. 9. Primary Caregiver. Shall mean the person, designated by a Qualified Patient, who has consistently assumed responsibility for the housing, health, or safety of that Patient, and consistent with the definition provided in Health and Safety Code 11362.7(d) and (e). Primary Caregiver shall not include an MMC.
9. 10. Qualified Patient. A person who is entitled to the protections of Health and Safety Code 11362.5.

SECTION 4:

- a. Purpose and intent. This Section provides standards for the operation of Medical Marijuana Collective/Cooperative (MMC) Storefronts where allowed pursuant to Division 4 (Zoning Districts). The intent is to protect the rights of both medical-marijuana patients and County residents, in compliance with California Health and Safety Code Sections 11362.5 et. seq.
- b. Locations where allowed. Medical Marijuana Collective/Cooperative Storefronts may only be allowed in C-1 and C-2 zones, as designated on the County Zoning Map, in compliance with all of the following:
1. The distance from the exterior wall of a building or unit or lot containing an MMC Storefront shall be a minimum of 1500 linear feet from the exterior wall of the building or unit or lot containing an existing MMC Storefront, whichever is greater.
  2. On lots where the linear distance between the lot lines of the lot containing the MMC Storefront to the nearest lot line of any of the following is at least 1000 feet:
    - a. A public or private school, as defined in California Health and Safety Code Section 11362.768.
    - b. A licensed Child Care Facility.
    - c. A park or recreation center serving youths up to 18 years old, owned or operated on land or facilities owned or operated by a government entity.
  3. On lots where the linear distance between the closest exterior wall of the unit or building containing the MMC Storefront and any of the following zone districts is at least 300 feet.
    - a. RR (Rural Residential)
    - b. R-1/E-1 (Single-Family Residential)
    - c. R-2 (Two-Family Residential)
    - d. EX-1 (One-Family Exclusive Residential)

5. **Medical Marijuana Collective.** Shall mean a non-profit organization, with five or more members, which exists merely to facilitate the collaborative efforts of Qualified Patient, Persons with ID Card, and Primary Caregiver members and to coordinate transactions between members involving Medical Marijuana.
6. **Marijuana drug-Paraphernalia.** Items incidental to the use of marijuana, including but not limited to rolling papers and related tools, pipes, water pipes, and vaporizers.
6. 7. **MMC Storefront.** A storefront facility or location that is organized and operated by a Medical Marijuana Collective or Medical Marijuana Cooperative, that provides, exchanges, or gives away Medical Marijuana, to its members who are Qualified Patients, Persons with an Identification Card, or Primary Caregivers.
7. 8. **Person with an ID Card.** Shall mean an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Health and Safety Code Section 11362.5 et seq.
- 8.9. **Primary Caregiver.** Shall mean the person, designated by a Qualified Patient, who has consistently assumed responsibility for the housing, health, or safety of that Patient, and consistent with the definition provided in Health and Safety Code 11362.7(d) and (e). Primary Caregiver shall not include an MMC.
9. 10. **Qualified Patient.** A person who is entitled to the protections of Health and Safety Code 11362.5.

*Attachment D – 11ORD-00000-00021 the Article II Propose Ordinance Amendment has been revised as follows:*

SECTION 1:

10. 1. **Attending Physician.** A person, as defined in Health and Safety Code Section 11362.7(a) as that Section now appears and may be amended or renumbered, who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has recommended or approved Medical Marijuana for the treatment of his or her patient.
2. **Marijuana.** Shall have the meaning as set forth in the California Health and Safety Code Section 11018 as that Section now appears and may be amended or renumbered.
3. **Medical Marijuana.** Shall mean marijuana used by Qualified Patients and Persons with ID Cards for medical purposes, in compliance with Health and Safety Code Section 11362.5 et seq.
4. **Medical Marijuana Cooperative.** Shall mean a statutory Cooperative which conducts its business for the mutual benefit of its members, must file articles of incorporation, is a non-profit entity, and is subject to all legal requirements of a statutory Cooperative, as outlined in the California Corporations Code or Food and Agriculture Code.
5. **Medical Marijuana Collective.** Shall mean a non-profit organization, with five or more members, which exists merely to facilitate the collaborative efforts of Qualified Patient, Persons with ID Card, and Primary Caregiver members and to coordinate transactions between members involving Medical Marijuana.