

**ORDINANCE NO. 494**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, AMENDING THE ATASCADERO MUNICIPAL CODE BY ADDING CHAPTER 12 OF TITLE 5, AND AMENDING CHAPTER 3 OF TITLE 9**

The City Council hereby finds and declares as follows:

**TITLE 5 CHAPTER 12; TITLE 9 CHAPTER 3;  
MEDICAL MARIJUANA DISPENSARIES**

- A. **WHEREAS**, The voters of the State of California approved proposition 215 (codified as Health and Safety Code Section 11362.5 et seq. and entitled “The Compassionate Use Act of 1996”); and,
- B. **WHEREAS**, The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and,
- C. **WHEREAS**, The State enacted SB 420 in 2004 to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420; and,
- D. **WHEREAS**, To protect the public health, safety, and welfare, it is the desire of the City Council to modify the municipal code consistent with SB 420, regarding the location and operation of Medical Marijuana Dispensaries; and,
- E. **WHEREAS**, It is the City Council’s intention that nothing in this ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 841, not to otherwise permit any activity that is prohibited under that Act; and,
- F. **WHEREAS**, It is the City Council’s intention that nothing in this ordinance shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow the use of marijuana for non-medical purposes, or (3) allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal; and,
- G. **WHEREAS**, Pursuant to California Health and Safety Code Section 11362.71 et seq., the State Department of Health shall be responsible for establishing and maintaining a voluntary identification card program; and,

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

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO HEREBY ORDAINS AS FOLLOWS:**

SECTION 1. Chapter 12 of Title 5 of the Atascadero Municipal Code is added to read as follows:

**5-12.101: Purpose and Intent.**

It is the purpose and intent of this ordinance to regulate Medical Marijuana Dispensaries in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. It is neither the intent nor effect of this ordinance to condone or legitimize the use of marijuana.

**5-12.102: Definitions.**

For the purpose of this chapter, the words and phrases shall have the same meanings respectively ascribed to them by this section:

- A. “Applicant” means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a Medical Marijuana Dispensary.
- B. “Church” means a structure or leased portion of a structure which is used primarily for religious worship and related religious activities.
- C. “City” means the City of Atascadero.
- D. “City Manager” means the City Manager of the City of Atascadero or the authorized representative thereof.
- E. “Director of Community Development” means the Director of Community Development of the City of Atascadero or the authorized representative thereof.
- F. “Drug paraphernalia” shall have the same definition as California Health and Safety Code Section 11362.5, and as may be amended.
- G. “Fire Chief” means Fire Chief of the City of Atascadero or the authorized representative thereof.
- H. “Identification card” shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.
- I. “Medical Marijuana Dispensary” or “Dispensary” means any facility or location where medical marijuana is made available to and/or distributed by or to two or more of the following: a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A “medical marijuana dispensary” shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of

Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq.

J. “Permittee” means the person to whom a Medical Marijuana Dispensary permit is issued.

K. “Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.

L. “Person with an identification card” shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.

M. “Police Chief” means the Police Chief of the City of Atascadero or the authorized representatives thereof.

M. “Primary caregiver” shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.

O. “Qualified patient” shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.

P. “School” means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education.

#### 5-12.103: **Permit required.**

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City of Atascadero the operation of a Medical Marijuana Dispensary unless the person first obtains and continues to maintain in full force and effect conditional use permit for a Medical Marijuana Dispensary from the City of Atascadero as herein required. The Planning Commission shall consider all conditional use permits for Medical Marijuana Dispensaries. The Planning Commission shall consider and review all applications for a conditional use permit for a Medical Marijuana Dispensary and approve in accordance with this chapter or deny. All appeals shall be in accordance with Section 9-1.111 of the Atascadero Municipal Code.

#### 5-12.104 **General Tax Liability.**

An operator of a dispensary shall also be required to apply for and obtain a general City tax certificate or exemption as a prerequisite to obtaining a permit pursuant to the terms hereof, as required by the State Board of Equalization.

#### 5-12.105 **Imposition of Fees.**

Every application for a permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution of the City Council from time to time. This application or renewal fee shall not include 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. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time.

**5-12.106 Limitations on Number of Dispensaries.**

The City shall not grant or cause to be granted more than one (1) permit for a dispensary.

**5-12.107 Limitation on Location of Dispensary.**

(A) Except as specified in (B) below, no Medical Marijuana Dispensary shall be established or located in any zone in the City.

(B) A Medical Marijuana Dispensary is restricted to the CS (Commercial Services) zone, provided the subject site is one thousand (1,000) feet from the property line of a school, church, park and two-hundred and fifty (250) feet from the property line of a residential zone.

(C) A dispensary shall be in a highly visible location that provides good views of the dispensary entrance, windows and premises from the public street.

(D) The distance between a dispensary and above listed uses shall be made in a straight line from the boundary line of the property on which the dispensary is located to the boundary of the property on which the building or structure, or portion of the building or structure, in which the above listed use occurs or is located.

(E) A waiver of the provisions in Subsection B above may be granted if the applicant demonstrates on plans and materials presented for review and the Planning Commission determines that a physical barrier or similar condition exists which achieves the same purpose and intent as the distance separation requirements established herein.

**5.12.108 Operating Requirements.**

Dispensary operations shall be established and managed only in compliance with the following standards:

(A) Criminal History. Any applicant, his or her agent or employees, or any person exercising managerial authority of a dispensary on behalf of the applicant shall not have been convicted of a felony, or of a misdemeanor involving moral turpitude, or engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(B) Minors.

(1) It shall be unlawful for any permittee, operator, or other person in charge of any dispensary to employ any person who is not at least eighteen (18) years of age.

(2) Persons under the age of eighteen (18) shall not be allowed on the premises of a dispensary unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.

(3) The entrance to a dispensary shall be clearly and legibly posted with a notice indicating that person under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.

(C) Operating Hours. A dispensary shall only be operated during the following days and hours:

- Monday through Sunday – 8 a.m. to 5 p.m.

(D) Dispensary Size and Access.

(1) The dispensary size shall be restricted to serve a maximum of 250 patients per month. Dispensary size shall be limited, as deemed appropriate and necessary, to best serve patient needs within the intent of this chapter and reduce potential adverse impacts that might otherwise occur on surrounding neighborhoods, businesses and demands on City services.

(2) A dispensary shall not be increased in size (i.e., floor area or number of patients) without a prior approval amending the existing dispensary permit.

(3) The entrance into the dispensary building shall be locked at all times with entry strictly controlled; e.g., a “buzz-in” electronic/mechanical entry system is highly encouraged. A viewer shall be installed in the door that allows maximum angle of view of the exterior entrance.

(4) Qualified security personnel shall be employed during all hours of operation to monitor site activity, control loitering and site access.

(5) Only dispensary staff, primary caregivers, qualified patients and persons with bona-fide purposes for visiting the site shall be permitted at a dispensary.

(6) Potential patients or caregivers shall not visit a dispensary without first having obtained a valid written recommendation from their physician recommending use of Medical Cannabis.

(7) Only a primary caregiver and qualified patient shall be permitted in the designated dispensing area with dispensary personnel. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.

(8) Restrooms shall remain locked and under the control of management.

(E) Dispensary Supply. A dispensary may possess no more than eight (8) ounces of dried cannabis per qualified patient or primary caregiver, and maintain no more than six (6) mature or twelve (12) immature cannabis plants per qualified patient or primary caregiver. However, if a qualified patient or primary caregiver has a physician’s recommendation that this quantity does not meet the qualified patient’s medical needs, the dispensary may possess an amount of cannabis consistent with the patient’s needs.

(F) Dispensing Operations.

(1) A dispensary shall dispense medical cannabis to meet monthly medication needs of qualified patients, similar to typical pharmacy operations. The dispensary shall strongly discourage and avoid daily or weekly visits by patients as a routine practice.

(2) A dispensary shall only dispense to qualified patients or caregivers with a currently valid physicians approval or recommendation in compliance with the criteria in California Health and Safety Code sections 11362.5. et seq.

(3) Prior to dispensing Medical Cannabis, the dispensary shall obtain verbal and signed verification from the recommending Physician that the individual requesting Medical Cannabis is a qualified patient.

(4) A dispensary shall not have a physician on-site to evaluate patients and provide a recommendation for medical cannabis.

(5) Patient records shall be maintained on-site and verified as needed, and at least every 6 months with the qualifying patients physician or Doctor of Osteopathy.

(6) Information on prior years of operations shall be provided annually, as required in this chapter. The operator shall adjust the operations as necessary to address issues.

(G) Consumption Restrictions.

(1) Cannabis shall not be consumed on the premises of the dispensary. The term “premises” includes the actual building, as well as any accessory structures, parking areas, or other surroundings within 500 feet of the dispensary’s entrance.

(2) Dispensary operations shall not result in illegal redistribution of medical cannabis obtained from the dispensary, or use in any manner that violates local, state or City Codes.

(3) Patients shall not medicate in public places.

(H) Retail Sales and Cultivation Prohibited.

(1) No cannabis shall be cultivated on the premises of the dispensary.

(2) No dispensary shall conduct or engage in the commercial sale of any product, good or service. The term “commercial sale” does not include the provision of medical cannabis on terms and conditions consistent with this chapter and applicable law.

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

(4) A dispensary shall not cultivate, distribute or sell medical cannabis for a profit.

(5) A dispensary shall not pay any supplier(s) of medical cannabis more than the costs incurred for cultivation and preparation.

(6) A dispensary shall meet all the operating criteria for the dispensing of medical cannabis as is required pursuant to California Health and Safety Code sections 11362.5. et seq.

(I) Operating Plans.

(1) Floor plan. A dispensary shall have a lobby “waiting area” at the entrance to receive clients, and a separate and secure designated area for Dispensing Medical Cannabis to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

(2) Storage. A dispensary shall have a suitable locked safe on premises, identified as a part of the security plan, for after-hours storage of Medical Cannabis.

(3) Minimum staffing levels. The premises shall be staffed with at least one person during hours of operation who shall not be responsible for dispensing medical cannabis.

(4) Odors control. A dispensary shall have an air treatment system that ensures off-site odors shall not result.

(5) Security plans. A dispensary shall provide adequate security on the premises, as approved by the Police Chief, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.

(6) Security cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage loitering, crime, illegal or nuisance activities.

(7) Security video retention. Security video shall be maintained for 72 hours.

(8) Alarm system. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. An alarm permit shall be obtained prior to installing an alarm system.

(9) Emergency contact. A dispensary shall provide the Police Chief with the name, phone number and facsimile number of an on-site community relations staff person to

whom one can provide notice if there are operating problems associated with the dispensary. The dispensary shall make every good faith effort to encourage neighborhood residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the City.

(J) Signage and Notices.

(1) The building entrance to a dispensary shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming cannabis on the premises or in the vicinity of the dispensary is prohibited.

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

(3) Address identification shall comply with City Code standards.

(4) Business identification signage shall be limited to that needed for identification only, consisting of a single window sign or wall sign consistent with the Sign Ordinance. Signs shall comply with all ordinances and not contain any logos or information that identifies, advertises or lists the services offered.

(K) Employee Records. Each owner or operator of a dispensary shall maintain a current register of the names of all employees currently employed by the dispensary, and shall disclose such registration for inspection by any City officer or official for purposes of determining compliance with the requirements of this section.

(L) Patient Records. A dispensary shall maintain records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., as a protection of the confidentiality of the cardholders, or a copy of the written recommendation from a physician or Doctor of Osteopathy stating the need for medical cannabis.

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

(N) Site Management.

(1) The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject dispensary.

(a) “Reasonable steps” shall include calling the police in a timely manner; and requesting those engaging in objectionable activities to cease those activities, unless personal safety would be threatened in making the request.

(b) “Nuisance” includes but is not limited to disturbances of peace, open public consumption of cannabis or alcohol, excessive pedestrian or vehicular traffic, illegal drug activity, 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 and arrests.

(2) The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.

(3) The operator shall ensure that the hours of operation shall not be a detriment to the surrounding area.

(4) The operator shall provide patients with a list of the rules and regulations governing medical cannabis use and consumption within the City and recommendations on sensible cannabis etiquette.

(O) Trash, Litter, Graffiti.

(1) The operator shall clear the sidewalks adjoining the premises plus 10 feet beyond property lines along the street as well as any parking lots under the control of the operator as needed to control litter, debris and trash.

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

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

(Q) Confidentiality. The information provided for purposes of this section shall be maintained by the City Manager as confidential information, and shall not be disclosed as public records unless pursuant to subpoena issued by a court of competent jurisdiction.

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

(S) Reporting and Payment of Fees. Each permittee shall file a sworn statement with the City Manager indicating the number of patients served by the dispensary within the previous calendar year, and pay all annual permit fees.

**5-12.109 Application Preparation and Filing.**

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

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

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

(D) Effect of Incomplete Filing. Upon notification that an application submittal is incomplete, the applicant shall be granted an extension of time to submit all materials required to complete the application within ninety (90) days. If the application remains incomplete in excess of ninety (90) days the application shall be deemed withdrawn and new application submittal shall be required in order to proceed with the subject request. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

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

(F) Submittal Requirements. Any application for a permit shall include the following information:

- (1) Applicant(s) name. The full name (including any current or prior aliases, or other legal names the applicant is or has been known by, including maiden names), present address, and telephone number of the applicant;
- (2) Applicant(s) mailing address. The address to which notice of action on the application is to be mailed;
- (3) Previous addresses. Previous addresses for the past five years immediately prior to the present address of the applicant;
- (4) Verification of age. Written proof that the applicant is over the age of eighteen (18) years of age;
- (5) Physical description. Applicant's height, weight, color of eyes and hair;
- (6) Photographs. Passport quality photographs for identification purposes;
- (7) Employment history. All business, occupation, or employment of the applicant for the five years immediately preceding the date of the application;
- (8) Tax history. The dispensary business tax history of the applicant, including whether such person, in previously operating in this or another city, county or state under license has had a business license revoked or suspended, the reason therefore, and the business or activity or occupation subsequent to such action of suspension or revocation;
- (9) Management information. The name or names and addresses of the person or persons having the management or supervision of applicant's business;
- (10) Criminal background. A background investigation verifying whether the person or person having the management or supervision of applicant's business has been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefore;
- (11) Employee information. Number of employees, volunteers, and other persons who will work at the dispensary;
- (12) Statement of dispensary need. A statement and/or information to establish the need for the dispensary to serve qualified patients in the area;
- (13) Plan of Operations. A plan of operations describing how the dispensary will operate consistent with the intent of state law and the provisions of this ordinance, including but not limited to:
  - (a) Ensuring cannabis is not purchased or sold by the dispensary in a manner that would generate a profit.
  - (b) Controls that will assure medical cannabis will be dispensed to qualifying patients or caregivers only.
  - (c) Controls that will ensure limitations on numbers of patients is adhered to.
  - (d) Controls that will ensure access to dispensary premises is adequately monitored and restricted to pre-approved qualified patients and caregivers.
  - (e) Method for ensuring that a qualified patient's physician is not recommending cannabis for less than medically appropriate reasons.
- (14) Written Project Description. A written description summarizing the proposed dispensary use size, number of patients, characteristics and intent.
- (15) Written response to dispensary standards. The applicant shall provide a comprehensive written response identifying how the dispensary plan complies with the each of the standards for review in this chapter, specifically the Limitation on Number and Size, Limitation on Location, and Operating Requirements sections.

(16) Security plan. A detailed security plan outlining the proposed security arrangements for insuring the safety of persons and to protect the premises from theft. The plan shall include installation of security cameras, a robbery alarm system monitored by a licensed operator, and a security assessment of the site conducted by a qualified professional;

(17) Floor plan. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches;

(18) Site plan. A sketch or diagram showing exterior configuration of the premises, and contiguous properties including the outline of all structures, parking and landscape areas, and property boundaries. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions to an accuracy of plus or minus six (6) inches;

(19) Lighting plan. A lighting plan showing existing and proposed exterior premise and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use and comply with all City standards regarding lighting design and installation;

(20) City authorization. Written authorization for the City, its agents and employees to seek verification of the information contained within the application;

(21) Statement of owners consent. A statement in writing by the applicant that he or she certifies under penalty of perjury that the applicant has the consent of the Property Owner and Landlord to operate a dispensary at the location.

(22) Applicants certification. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

(23) Other information. Such other identification and information as deemed necessary by the Director of Community Development and/or Police Chief to demonstrate compliance with this chapter and City Codes, including operating requirements established herein.

#### **5-12.110 Investigation and Action on Application.**

After the making and filing of a complete application for a dispensary permit and payment of the fees, the Police Chief shall conduct a background check of the applicant and all employees and conduct an investigation of the application, and take action as follows:

- (A) The application shall be referred to any other City departments as necessary to complete the investigation into the application. At a minimum this should include the City Manager, Fire Chief, and the Director of Community Development.
- (B) Within 45 days after completion of his or her investigation, the Police Chief shall either deny the application in accordance with the provisions of this chapter, deem the application incomplete, or refer the application for a permit to the Planning Commission.
- (C) An applicant aggrieved by the Police Chief's decision to deny a permit may appeal such decision to the Planning Commission by filing a written notice

stating the grounds on which the appeal is based and paying applicable appeal fee with the City Clerk within ten (10) working days of the Police Chief's written notice of decision. If an appeal is not taken within such time, the Police Chief's decision shall be final.

**5-12.111 Findings for Approval of Conditional Use Permit.**

The Planning Commission shall make all of the following findings in determining whether to grant a dispensary permit; failure to make all of the required findings shall result in the denial of the permit:

(A) That the dispensary permit is consistent with the intent of Proposition 215 and related state law, the provisions of this chapter and the City Code, including the Application submittal and Operating requirements herein.

(B) That the dispensary location is not identified as having significant crime issues (e.g., based upon crime reporting district/statistics as maintained by the police department).

(C) That there have not been significant numbers of calls for police service, crimes or arrests in the area.

(D) That an applicant or employee is not under eighteen (18) years of age.

(E) That all required application materials have been provided in a manner that shows it would comply with the Operating Requirements and standards specified in this chapter.

(F) That an appropriate limit on size of the dispensary has been established and the requested permit would not exceed limitations on number of patients and/or permits allowed by this chapter.

(G) That issuance of a dispensary permit for the size requested is justified to meet needs of residents.

(H) That issuance of the dispensary permit would serve needs of residents at this location.

(I) That the location is not prohibited by the provisions of this chapter or any local or state law, statute, rule or regulation and no significant nuisance issues or problems are anticipated or resulted.

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

(K) That no dispensary use, owner, permittee, agent, or employee has violated any provision of this chapter including grounds for suspension, modification or revocation of a permit.

(L) That all reasonable measures have been incorporated into the plan and/or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, ingesting cannabis in public, or creation of a public or private nuisance, or interference of the operation of another business.

(M) That the dispensary would not adversely affect the health, peace or safety of persons living or working in the surrounding area, overly burden a specific neighborhood with special

needs or high impact uses, or contribute to a public nuisance; or that the dispensary has resulted in repeated nuisance activities including disturbances of the peace, illegal drug activity, ingesting cannabis 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.

(N) That any provision of the City Code or condition imposed by a City issued permit, or any provision of any other local, State or Federal law, regulation, or order, or any condition imposed by permits issues in compliance with those laws has not been violated.

(O) That the applicant has not violated any local or state law, statute, rule or regulation respecting the distribution, possession, or consumption of cannabis.

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

(Q) That the applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has not been convicted of a felony, or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(R) That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

(S) The applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony, or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(T) The Medical Marijuana Dispensary does comply with the location standards pursuant to 5-12.108.

**5-12.112: Registration of new employees.**

A. As a further condition of approval of every Medical Marijuana Dispensary permit issued pursuant to this chapter, every owner or operator shall register every employee with the police department within five (5) business days of the commencement of the employee's period of employment at the Medical Marijuana Dispensary.

B. Each employee shall be required to provide a recent color passport-quality photograph and, at the discretion of the Police Chief, shall allow himself or herself to be fingerprinted by the police department for purposes of identification. In addition, each new employee shall provide the following information on a form provided by the police department:

1. Name, current resident address, and telephone number.
2. Date of birth.
3. Height, weight, color of eyes, and hair.

C. Information provided for purposes of this section shall be maintained by the police department as confidential information, and shall not be disclosed as public records unless pursuant to subpoena issued by a court of competent jurisdiction.

D. Each owner or operator of a Medical Marijuana Dispensary shall maintain a current register of the names of all employees currently employed by the Medical Marijuana Dispensary,

and shall disclose such registration for inspection by any police officer for purposes of determining compliance with the requirements of this section.

E. Failure to register each new employee within five (5) days of the commencement of employment, or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

**5-12.113: Suspension and revocation—Notice.**

A. Any permit issued under the terms of this chapter may be suspended or revoked by the City when it shall appear that the permittee has committed any one or more of the acts or omissions constituting the grounds for suspension or revocation under this chapter.

B. No permit shall be revoked or suspended by virtue of this section until a hearing shall have been held by the City. Written notice of the time and place of such hearing shall be served upon the person to whom the permit was granted at least five (5) days prior to the date set for such 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 person to be notified, or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the person to be notified at his address as it appears in his application for a permit.

**5-12.114. Suspension and Revocation—Grounds.**

It shall be a ground for suspension or revocation of a permit if any permittee or person, his or her agent, or employee:

- A. Does any act which violates any of the grounds set forth in Section 5-12.114, which sets forth the grounds for denial of a permit for the Medical Marijuana Dispensary; or
- B. Violates any other provision of this chapter or any local or state law, statute, rule or regulation relating to his or her permitted activity; or
- C. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee; or
- D. Conducts the permitted business in a manner contrary to the peace, health, or safety of the public, or
- E. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business; or
- F. Violates or fails to comply with the terms and conditions of the permit.

**5-12.115: Suspension or revocation without hearing.**

If any person holding a permit or acting under the authority of such permit under this article is convicted of a public offense in any court for the violation of any law which relates to his or her permit, the City may revoke said permit forthwith without any further action thereof, other than giving notice of revocation to the permittee.

**5-12.116: Display of permit.**

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

**5-12.117: Transfer of permits.**

- A. A permittee shall not operate a Medical Marijuana Dispensary under the authority of a Medical Marijuana Dispensary permit at any place other than the address of the Medical Marijuana Dispensary stated in the application for the permit.
- B. A permittee shall not transfer ownership or control of a Medical Marijuana Dispensary or transfer a Medical Marijuana Dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the City stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City in accordance with Section 5-12.109 and accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the City determines in accordance with Section 5-12.109 and Title 9 Chapter 2 that the transferee would be entitled to the issuance of an original permit.
- C. No permit may be transferred when the City has notified the permittee that the permit has been or may be suspended or revoked.
- D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

**5-12.118: Separate offense for each day.**

Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

**5-12.119: Public nuisance.**

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be summarily abated by the City pursuant to Title 9 Chapter 8 of the Atascadero Municipal Code.

**5-12.120: Criminal penalties.**

Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.

**5-12.121: Civil Injunction.**

The violation of any provision of this chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.

**5-12.122: Administrative Remedies.**

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies as set forth by City ordinance.

**5-12.123: Severability.**

The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter.

**5-12.124: Time limit for filing applications for permit.**

All persons who possess an outstanding business license heretofore issued for the operation of a Medical Marijuana Dispensary, must apply for and obtain a Medical Marijuana Dispensary permit within ninety (90) days of the effective date of the ordinance codified in this chapter. Continued operation of a Medical Marijuana Dispensary without a permit more than ninety (90) days after the effective date of this ordinance shall constitute a violation of this chapter.

SECTION 3. Section 233 of Chapter 3 of Title 9 of the Atascadero Municipal Code is hereby amended to read as follows:

9-3.233: **Conditional Uses.** Amend Conditional Uses to include:

(s) Medical Marijuana Dispensary (See Chapter 12 of Title 5)

SECTION 4. A summary of this ordinance, approved by the City Attorney, together with the ayes and noes, shall be published twice: at least five days prior to its final passage in the Atascadero News, a newspaper published and circulated in the City of Atascadero, and; before the expiration of fifteen (15) days after its final passage in the Atascadero News, a newspaper published and circulated in the City of Atascadero. A copy of the full text of this ordinance shall be on file in the City Clerk's Office on and after the date following introduction and passage and shall be available to any interested member of the public.

INTRODUCED at a regular meeting of the City Council held on April 11, 2006 and PASSED and ADOPTED by the City Council of the City of Atascadero, State of California, on April 25, 2006, by the following roll call vote:

AYES: Council Members Clay, Luna, Pacas, Scalise and Mayor O'Malley

NOES: None

ABSTAIN: None

ABSENT: None

CITY OF ATASCADERO

By: \_\_\_\_\_  
Tom O'Malley, Mayor

ATTEST:

\_\_\_\_\_  
Marcia McClure Torgerson, C.M.C., City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Patrick L. Enright, City Attorney