

IT'S A BLAZE NEW WORLD
Cannabis Laws in the City of Santa Barbara
Regulations, Licensing, Compliance, & Implementation

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I. INTRODUCTION

Since 1996, with voter approval of the Compassionate Use Act (Proposition 215), keeping up with and complying with cannabis laws and their application through reported court decisions has at times seemed like tracking a moving target. Attorneys for both governmental agencies and private individuals have had to stay on their collective legal toes as cannabis laws have evolved through the Medical Marijuana Program Act (SB 420 Statutes) in 2003, which was supplemented in 2008 by the Attorney General Guidelines, then followed by the Medical Marijuana Regulation and Safety Act in 2015, followed closely on its heels by the Adult Use of Marijuana Act (Proposition 64) in November 2016, and finally their subsequent consolidation by Senate Bill 94 in June 2017 - Medicinal and Adult-Use of Cannabis Regulation and Safety Act (“MAUCRSA”). As the State’s laws regulating use, possession, and sale of cannabis have evolved, the City of Santa Barbara has continued to amend its ordinances to keep pace. This paper outlines the City’s current laws and regulations implemented in response to MAUCRSA.

II. SUMMARY OF MAUCRSA

The Medical Marijuana Regulation and Safety Act¹ (“MMRSA”) became effective on January 1, 2016 and established a state licensing program for commercial medical cannabis related activities, including the dispensing and cultivation of cannabis. It also allowed local jurisdictions to adopt and enforce local regulations and permitting requirements relating to commercial medical cannabis activities, so long as they met the minimum state licensing standards and regulations. Similarly, on November 8, 2016 the citizens of California voted to approve Proposition 64, Adult Use of Marijuana Act (“AUMA.”) The AUMA allowed, at the discretion of local jurisdictions, the retail sale, cultivation, distribution, production, and testing of cannabis and cannabis products. It also made it lawful to possess a limited amount of cannabis for personal use, and allowed for the personal cultivation of up to six

¹ Later entitled the Medical Cannabis Regulation and Safety Act.

cannabis plants at a private residence for medical or non-medical use. Subsequently, on June 12, 2017, MAUCRSA was enacted to provide a single cohesive licensing scheme for all cannabis related activities. SB 94 repealed MMRSA, and included certain provisions of MMRSA in the licensing provisions of AUMA.

On January 2, 2018, the State began issuing temporary commercial cannabis business licenses to operators that had express local regulatory approval (i.e. city or county permits) to operate on a temporary basis. As of December 31, 2018, however, the State will no longer issue temporary permits and applicants will be required to apply for permanent licenses under a much more rigorous application process.

III. PERSONAL CULTIVATION

MAUCRSA mandates that local jurisdictions allow individuals to cultivate up to six (6) cannabis plants for personal medical or non-medical use inside a private dwelling unit or accessory building.² Local jurisdictions have the authority to enact reasonable regulations to regulate indoor personal cultivation, and entirely prohibit outdoor cultivation for personal use. If a local jurisdiction chooses to entirely prohibit outdoor cultivation of cannabis for personal use, however, it will not be eligible for limited state grant funding as authorized under Revenue and Taxation Code §34019(f)(3)(C). In response, the Santa Barbara City Council adopted Santa Barbara Municipal Code (“SBMC”) §30.185.110, which allows cultivation of up to six (6) cannabis plants for personal use, one of which may be located outdoors, at any given time, so long as it is 1) not located in the front yard, 2) within 10 feet of an interior property line, or 3) visible to the public. Outdoor cultivation is further limited to detached single-family residences, and prohibited in multi-unit dwellings due to the close proximity of the outdoor space to neighbors.³

Prior to presenting the proposed personal cultivation ordinance to the City Council, City staff performed general research pertaining to principal public policy concerns related to security and nuisance odor associated with outdoor cultivation. Due to state law requirements that cannabis cultivated for personal use be screened from public view, making it difficult to identify where the plant is being cultivated, staff felt that with adequate screening and secure outdoor enclosed spaces, the threat of theft could adequately be minimized.

With respect to nuisance odor associated with personal outdoor cultivation, staff considered proximity, frequency, duration, and intensity of cannabis blooms.

² Government Code sec. 11362.1(a)

³ The Santa Barbara Municipal Code may be found online at:
<https://www.santabarbaraca.gov/gov/cityhall/municode.asp>

Cannabis plants produce a strong odor during their bloom cycle, but otherwise have little detectible odor. A typical outdoor cannabis plant can be expected to bloom 3-4 times per year, for a period of approximately two weeks each bloom. Although not normally pungent, during this blooming period, cannabis plants produce a strong distinct odor. By limiting outdoor cultivation to just one plant at a time, staff felt that the City could reduce exposure to nuisance odor to no more than 8 weeks per year, occurring within two week intervals, and only at the intensity of a single plant. Further, by prohibiting the cannabis plant to be cultivated at least 10 feet from interior property lines, exposure to nuisance odor by an adjoining property could be minimized.

IV. COMMERCIAL CANNABIS BUSINESS LICENSE

A. SBMC Chapter 9.44

Santa Barbara Municipal Code Chapter 9.44 provides the regulatory framework for permitting storefront retail, retail by delivery-only, manufacture, distribution, testing, and indoor cultivation of cannabis businesses within the City. The City's ordinance does not distinguish between medical or non-medical use cannabis, and both types can be permitted. Due to potential nuisance related factors (e.g. security and odor) that could potentially occur with outdoor cannabis cultivation, outdoor commercial cannabis cultivation is prohibited within any zone in the City.

Chapter 9.44 authorizes the City Council to set by resolution the maximum number of cannabis related businesses within the City. Presently, the City allows for up to three storefront retail establishments, and an unlimited number of all other types of commercial cannabis businesses (with the exception of outdoor cultivation). Storefront retail establishments may not be within 1000 feet of one another in order to prevent a concentration of storefront operations within any one location. There is no such "buffer" restriction on other cannabis business types. Storefront retail establishments may not operate between 10:00 p.m. and 10:00 a.m., however all other types of businesses may operate twenty four hours a day.

Chapter 9.44 also provides for an application and selection process conducted by the City Administrator for each cannabis related business category. As part of the selection process applicants are required to submit written applications within a specified time period. The applications are then reviewed by a team of City staff chosen by the City Administrator, and those applications that receive a score of 80% or better are allowed to proceed to the next evaluation phase. The next phase is comprised of a public interview and site visit. The applicants are then re-graded based on the same criteria set forth in the initial phase along with the information gathered from the public interview and site visit. With the exception of storefront retail establishments, commercial cannabis businesses receiving a score of 90% or better are approved for issuance of a permit subject to satisfaction of certain conditions, including issuance of a certificate of occupancy for their designated business operations. Since only three storefront retail permits can be issued by

the City, the top three applicants scoring above 90% are awarded a City permit, unless one of the top scoring applicant's proposed location is within 1000 feet of another top scoring applicant. If two applicants are within 1000 feet of one another, the highest scoring applicant will then be awarded a permit and the lower scoring applicant is removed from consideration.

An outline of Santa Barbara Municipal Code Chapter 9.44 is attached as Attachment 1 and a copy of the City's application procedures are attached as Attachment 2.

B. Zoning Restrictions

The locations in which commercial cannabis activities are allowed can be found in Santa Barbara Municipal Code Title 30. Title 30 limits all commercial cannabis business activities, including storefront retail, retail delivery-only, manufacture, distribution, testing, and indoor commercial cultivation to the City's Manufacturing Industrial (M-I) zones, with the exception of storefront retail which is also allowed within the Commercial Restricted (C-R) and Commercial General (C-G) zones. It is important to note that Retail delivery-only businesses are distinct from storefront retail establishments. Delivery-only businesses do not allow customers to purchase cannabis from the "brick and mortar" warehouse locations where the cannabis is stored, but instead require that customers "call-in" orders that are then delivered by vehicle. Because the delivery-only businesses operate more like commercial warehousing distribution centers, unlike "storefront" cannabis retailers, they are limited to operation within the M-I zone.

Attached is a map illustrating the location of the M-I, C-R, and C-G zones where commercial cannabis business activities may occur (see Attachment 3). The portions of the identified zones on the map that are located within the Coastal Zone do not allow commercial cannabis businesses. In order to allow commercial cannabis businesses in the Coastal Zone, which includes the "Funk Zone," the City would be required to apply for a Local Coastal Plan amendment with the Coastal Commission.

V. 2018 APPROVED COMMERCIAL CANNABIS BUSINESSES

On July 11, 2018 the City Administrator conditionally approved three storefront retail applicants for issuance of a City Retailer-Storefront Cannabis Permit. The approved applicants are Coastal Dispensary, LLC at 1019 Chapala Street, Farmacy, Inc. at 128 West Mission Street, and GSG SBCA, Inc. dba Golden State Greens at 3516 State Street. None of the approved storefront retailers have satisfied all their permit conditions and, as of December 2018, are not yet operating.

2019 Bench & Bar Conference

On August 11, 2018 the City Administrator approved two applicants for issuance of permits for operation of an integrated commercial cannabis business comprising of manufacture, distribution, and delivery of cannabis. The permits were issued for locations at 819 Reddick Street and 400 East Gutierrez Street. Neither operation has satisfied its permit conditions and, as of December 2018, are they are not yet operating.

VI. 2019 NEW COMMERCIAL CANNABIS APPLICATIONS

On November 19, 2018 the City began soliciting permit applications for commercial cannabis businesses other than retail storefront, i.e. testing, manufacturing, distribution, indoor cultivation, and retail-delivery only. The City is accepting applications until January 31, 2019. The application process is the same process that the City previously utilized. Information on the application process and the City's permit requirements in general can be found on the City's website at www.santabarbaraca.gov/cannabis.

VII. HOW THE CITY COMPARES TO OTHER JURISDICTIONS

Other local jurisdictions have also adopted ordinances either prohibiting or restricting commercial cannabis businesses. Like the City of Santa Barbara, the County of Santa Barbara, City of Goleta, and the City of Lompoc issues permits for storefront retail, testing, cultivation, manufacturing, and distribution. The cities of Santa Maria, Buellton, and Carpinteria all prohibit commercial cannabis businesses. The City of Solvang only allows medical cannabis dispensaries.

VIII. CONCLUSION

It has been a complex and ever changing journey as the City has amended its ordinances to keep pace with the State's cannabis laws and regulations. It is not unthinkable that the City will need to again amend its ordinances once commercial cannabis businesses become more established and their operational impacts become more understood. It is critical to keep in mind that cannabis is still illegal at the federal level and, a change in administration could also mean federal enforcement at the State and local level, which could force cannabis business licensees out of business and/or subject to criminal prosecution and asset forfeiture. Any attorney advising a client intending to operate a commercial cannabis business should remind their client that cannabis is still considered illegal at the federal level and there is risk associated with operating a cannabis business.

Chap. 9.44

Outline Summary

Code	Title	Summary	Page No.
9.44.010	Purpose and Intent		3
9.44.020	Legal Authority		4
9.44.030	Commercial Cannabis Cultivation & Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter		4
9.44.040	Compliance with Laws		4
9.44.050	Definitions		5
9.44.060	Commercial Cannabis Business Permit Required to Engage in Commercial Cannabis Business		16
9.44.070	Maximum Number & Type of Authorized Commercial Cannabis Businesses Permitted.	<p>Establish number of CCBs permitted by Resolution:</p> <ul style="list-style-type: none"> A. Maximum # in each category but not required to issue all of that number. B. Each year following initial award of permits Council may reassess, reduce, expand, or stay the same. 	16
9.44.080	Initial Application Procedure	<ul style="list-style-type: none"> A. Adopt resolution for procedures to govern application process, including objective review criteria. B. Written application with fee established by resolution. C. Obtain land use approvals, and certification from CD that business is proposed in a permitted zone. D. Evidence of legal right to open and operate at the premises. Signed notarized statement from property owner. E. Background check. 	17

		F. After application and background City Administrator may make a final determination in accordance with this chapter.	
9.44.090	Permittee Selection Process	<p>A. Applicants that satisfy review criteria will be reviewed by the City Administrator for a final determination to be made at a public hearing.</p> <p>B. Phase 1 Applications filed no later than Feb. 28, 2018. Applications after 2018 may be considered but not given priority. Application:</p> <ol style="list-style-type: none"> 1. Identity of corporate entity. 2. Management information. 3. Applicants phone number. <p>C. Prior to decision there will be a public meeting so public can comment and notices sent to all property owners within 300 feet of business.</p> <p>D. City Admin determine if application is complete. 10 day extension to correct incomplete application. If complete then notified of phase II eligibility.</p> <p>E. Notify qualified applicants to be submitted for final determination.</p> <p>F. City Admin selects the candidates and issues permits.</p> <p>G. Reserves the right to reject applications if:</p> <ol style="list-style-type: none"> 1. Application received after designated time and date. 2. Failed to submit a completed application. 3. Failed to pay application fee. 4. False or misleading statement in application or omission of fact. 5. Application contains excess or extraneous material. 6. Manager has been sanction or fined in last three years for operating a cannabis business in the state without permits and approvals. 7. Manager has been convicted of an offense in 9.44.110.D in last 10 years. 8. Applicant is under 21. <p>H. No right to a commercial permit and only for the duration of the term.</p> <p>I. If application denied may not file application for one year from date of</p>	19

		denial. J. Before operating pay permit fee.	
9.44.100	Expiration of Commercial Cannabis Business Permits	12 months from the date of issuance and subject to renewal under 9.44.120.	23
9.44.110	Revocation of Permits	<p>A. Failure to comply with 9.44 or state law are grounds for revocation.</p> <p>B. Revocation of state license is grounds for revocation of City permit.</p> <p>C. Permit revoked if manager has found guilty of operating a commercial cannabis business without a state or local permit.</p> <p>D. Conviction within the last 10 years of:</p> <ol style="list-style-type: none"> 1. Violent felony PC 667.5. 2. Serious felony PC 1192.7. 3. Felony involving fraud, embezzlement. 4. Felony for using a minor to sell or transport a controlled substance 5. Felony for drug trafficking. 6. Felony or misdemeanor involving a possession, sale, manufacture, after 1/1/16. <p>E. City Administrator shall send notice of grounds for revocation.</p> <p>F. Notice personally served or first class mail. Reason for the action, effective date of the action, and right to appeal. If no appeal within 10 days the decision is final.</p>	23
9.44.120	Renewal Applications	<p>A. Application for renewal filed at least 60 days prior to expiration.</p> <p>B. Application submitted less than 60 but more than 30 pays a late fee. Less than 30 may be rejected.</p> <p>C. Application contains all information needed for a new application.</p> <p>D. Fee set by council to cover processing costs.</p> <p>E. May be denied if any of the following exist:</p> <ol style="list-style-type: none"> 1. Grounds for revocation under 9.44.110. 2. Permit is suspended or revoked at the time of the application. 3. Business has not been in regular and continuous operation in the four 	25

		<p>months prior to renewal.</p> <p>4. Unable to renew State License.</p> <p>5. False or misleading statement in the renewal application.</p> <p>F. The City Administrator is authorized to make all decisions and additional conditions concerning the issuance of a renewal permit. Appeals handled pursuant to 9.44.140.</p> <p>G. If renewal denied may not reapply sooner than 1 year from rejection.</p>	
9.44.130	Effect of State License Suspension, Revocation, or Termination	<p>A. Suspension of state license suspends permit until reinstatement.</p> <p>B. Termination or revocation of state license revokes permit.</p> <p>C. Permittee must notify City Administrator within 5 days of suspension or revocation.</p>	26
9.44.140	Appeals	<p>A. Notice, Time to Appeal, Effect of Appeal.</p> <p>1. Appeal decision of City Administrator within 10 days of notice of decision</p> <p>2. Notice in writing shall contain:</p> <p>a. Name & telephone of appellant.</p> <p>b. Specify decision being appealed</p> <p>c. Contain copy of the Notice of decision by City Administrator.</p> <p>d. Reasons and grounds for appeal and statement of facts sufficient to determine controversy.</p> <p>e. All other documents appellant would like the council to consider.</p> <p>3. Failure to timely appeal waives right.</p> <p>4. If filed timely the decision shall not become final until decision issued by City Council.</p> <p>B. Review by City Council & Proceedings:</p> <p>1. Review by the City Council no later than 60 calendar days from timely appeal and no less than 21 calendar days.</p> <p>2. All requests for a continuance must be submitted no later than 3 business days before the hearing. City council may continue a hearing for good cause or on its own motion.</p> <p>3. City council preside over the hearing.</p> <p>4. Council shall hear testimony.</p> <p>5. The following rules shall apply:</p>	27

		<ul style="list-style-type: none"> a. Informal and the formal rules of evidence do not apply. b. City bears the burden of proof by preponderance of the evidence. c. Issuance of the City Administrator's notice is prima facia evidence of grounds for denial, suspension, etc. d. Each party has the right to present evidence, examine and cross-examine witnesses. City council may also call witnesses. e. Council may consider evidence not submitted with the notice of appeal upon showing of good cause. f. Appellant may bring an interpreter at own expense. g. City may record the hearing or have a court reporter. <p>6. If appellant fails to appear the Council may cancel the hearing and the City Administrator's decision shall be final.</p> <p>C. Decision of City Council or Appointed hearing officer.</p> <ul style="list-style-type: none"> 1. City council shall determine if grounds exist; if they do exist a written final decision shall be issued by the City Clerk within 10 days which shall contain at minimum: <ul style="list-style-type: none"> a. A finding and description for each reason for decision. b. Any other finding that is relevant or related to the appeal. 2. The decision of Council and judicial review is subject to Chap.1.30. 3. Copy of the final decision shall be served on permittee and property owned. 	
9.44.150	Commercial Cannabis Business Permit – Nonassignable and Nontransferable	<ul style="list-style-type: none"> A. Permit valid only to permittee and at approved location. Permit is nontransferable. B. No permit may be assigned, sold, or transferred. Any such attempt shall render the permit null and void. 	31

9.44.160	Change in Location of Commercial Cannabis Business	<p>No change in location will occur unless approved by City administrator. Within 90 days City Administrator will adopt process for relocation that includes:</p> <ul style="list-style-type: none"> A. Submit location at least 60 days prior to the proposed change. B. Proposed location shall meet all requirements of this chapter. C. Proposed location shall be reviewed using criteria in section 9.44.090. D. Relocation subject to review at a public meeting. E. No later than 10 days prior to public meeting notice shall be sent to property owners and occupants within 300 feet. 	32
9.44.170	Changes in Ownership of Commercial Cannabis Business	<ul style="list-style-type: none"> A. No change in ownership unless the proposed new owner submits all application material. B. A change in 51% or more of original ownership must be approved upon submittal of complete application. C. Request for change in ownership may not occur if a notice of suspension or revocation has been sent. D. Failure to comply with this section is grounds for revocation. E. Transfer either directly or indirectly in violation of this section deemed ground for revocation. 	33
9.44.180	Change in Ownership when the Permittee is a Partnership or Corporation	<ul style="list-style-type: none"> A. Must submit complete application before transfer of interest to proposed partner may occur. If a partner dies the interest may be transferred to the surviving partners upon notice to City Administrator. B. If 51% or more of stock is sold to a person not listed on the application as a stock holder, the permit shall be deemed terminated and void unless transferee submits a complete application. C. All changes in ownership with exception of death of partner or stockholder must be submitted to City 30 calendar days before the change. If approved all organizational documents must be to the City Administrator 30 days after execution. 	33

9.44.190	Changes in Information on Application or Alterations to Approved Facility	<ul style="list-style-type: none"> A. Permittee must notify City Administrator within 15 days of changes of business name and pay fee established by resolution. B. No permittee may operate under a name other than specified in the permit. C. Physical changes to property must be approved by the City and comply with all laws. D. Any other changes must be submitted to the City Administrator within 15 days with the required fee. 	35
9.44.200	City Business Tax Certificate	Must obtain a City Business Tax Certificate prior to operating.	36
9.44.210	Permits and Inspection Prior to Commencing Operation	Prior to commencing operation, the business will be subject to a mandatory inspection.	36
9.44.220	Limitation on the City's Liability	<p>As a condition to approval of a Cannabis Business Permit, the applicant must:</p> <ul style="list-style-type: none"> A. Execute an agreement indemnifying the City. B. Maintain insurance coverage limits determined necessary by Risk Manager. C. Reimburse City for all litigation costs arising from legal challenge related to approval of permit. 	36
9.44.230	Records and Recordkeeping	<ul style="list-style-type: none"> A. Each operator shall maintain complete set of books available in electronic or printed format to allow city to determine correct amount of taxes, and sworn statement detailing number of sale for previous 12 months. Permittee shall submit a financial audit conducted by an independent CPA. Permittee shall be subject to compliance review. B. Maintain a current register of anyone holding an interest in the business. C. Records shall be maintained for a minimum of 7 years and made available to the City upon request. D. Maintain an inventory control system documenting cannabis products. E. City shall have access to books and accounts within 24 hours after receipt of request. 	37

9.44.240	Security Measures	<p>A. Implement security measures to deter theft. Unless otherwise determined by Chief of Police, these measure shall include but not be limited to:</p> <ol style="list-style-type: none"> 1. Prevent loitering. 2. Limited access to personnel only. 3. Cannabis products must be stored in a vault. 4. 24 hours security cameras that is remotely accessible by Chief and compatible with City's software (including real time). Recordings maintained for 60 days. 5. Sensors to detect entry from secure areas. 6. Panic buttons. 7. Professionally monitored alarm system. 8. Bars and windows installed only on the inside. 9. Security guards on-site 24 hours a day. 10. Capability to remain secure during power outage. <p>B. Designated security liaison who is available to meet with Chief re security measures.</p> <p>C. Storage and transportation plan.</p> <p>D. Cooperate with City to audit effectiveness of the security plan.</p> <p>E. Notify the Chief within 24 hours following:</p> <ol style="list-style-type: none"> 1. Significant discrepancies identified during inventory (level of significance determined by security regulations promulgated by chief). 2. Any criminal activity involving dispensary or its employees. 3. Loss or alteration of records required under ordinance. 4. Any other breach of security. 	39
9.44.250	Restriction on Alcohol & Tobacco Sales	No tobacco or alcohol sold on the premises.	42
9.44.260	Fees and Charges	<p>A. All fees and charges associated with operation will be set by resolution and paid prior to operation.</p> <p>B. Pay all fees, taxes and license and cooperate with audits.</p>	43

<p>9.44.270</p>	<p>Operating Requirements Applicable to all Commercial Cannabis Businesses</p>	<ul style="list-style-type: none"> A. No cannabis business shall be located within 600-ft radius of a school, day care center or youth center. B. May only operate during hours established by resolution. C. Cannabis shall not be consumed by anyone on the premises. D. No cannabis products visible from exterior of the property or on any vehicles operated by the business. No outdoor storage of cannabis at any time. E. Must have an electronic point of sale software system that provides inventory tracking that is compatible with the City's record keeping system and approved by the City Administrator. F. Cannabis products sold, tested, manufactured by licensed facility in conformance with State and local regulation. G. No Physician permitted in a cannabis business for purposes of issuing medical cannabis recommendations. H. Must have a manager on premises during hours of operation. I. Provide City Administrator with the name of each manager. J. Signage and Notices. <ul style="list-style-type: none"> 1. Signs conform to City ordinance 2. Posted that consuming cannabis on the premises is prohibited K. Persons under the age of 21 not allowed in business or allowed to operate as a driver accept as allowed under 9.44.180 for medical purposes. L. Odor control devises incorporated into business so not detectible off-site. Maintain the following equipment: <ul style="list-style-type: none"> 1. Exhaust air filtration system 2. Air system that creates negative air pressure between indoor and outdoor M. Copy of the permit posted inside the business that is readily visible to the public. N. Prohibit loitering outside the premises. O. Prior to operation obtain all zoning and building permits. P. Nothing in this chapter exempts a business from complying with state and federal disability requirements. 	<p>43</p>
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		Q. No business may exclude patrons in violation state and federal laws.	
9.44.280	Operating Requirements for Storefront Retail Facilities	<p>A. No commercial cannabis retailer located within 1000 feet of another storefront retailer.</p> <p>B. Prior to dispensing medical cannabis must obtain verification from recommending physician.</p> <p>C. Storefront retailers providing deliver shall comply with 9.44.290.</p> <p>D. Retailers providing medical cannabis must verify age to ensure not under 18 and has a doctor's recommendation and not under 21 years of age. Utilize a buzz in system to the lobby.</p> <p>E. May only have that quantity of cannabis anticipated for daily need on-site in the retail sales area.</p> <p>F. All restrooms remain locked.</p> <p>G. May not sell or give away paraphernalia.</p> <p>H. Notify customers verbally and by posting of notice:</p> <ol style="list-style-type: none"> 1. Sale or diversion of cannabis is illegal without a permit 2. Secondary sale of marijuana from business can lead to arrest 3. No loitering and may not consume products where not legal. 4. Cannabis may impair a person's ability to drive a motor vehicle. 5. California Prop 65 waring (cancer). 	47
9.44.290	Operating Requirements for Delivery Only Retailers	<p>A. May only deliver within Cities and Counties that do not expressly prohibit delivery.</p> <p>B. Security plans must incorporate provisions to protect employees during loading and unloading and transit.</p> <p>C. Use of point of sale software to record following information:</p> <ol style="list-style-type: none"> 1. Identity of individual dispensing on behalf of permittee. 2. Identity of customer receiving. 3. Type and quantity dispensed. 4. Gross receipts for amount charged 5. Location were the sale took place <p>D. Provide a list of the vehicles and CDL of individuals authorized to dispense to Chief.</p>	49

		<ul style="list-style-type: none"> E. Drivers must be at least 21 and have valid CDL. F. Driver maintain hard copy of delivery request and make it available to City on demand. G. Permit shall be in vehicle at all times. H. Cannabis only in vehicles insured at or above legal limit; capable of securing cannabis during transport; temperature controlled if perishable; does not display advertising from exterior of vehicle. I. Software or GPS system that records the following: <ul style="list-style-type: none"> 1. Time vehicle departed the retail premises. 2. Time completed dispensing to the customer. 3. Time vehicle returned to retail premises. 4. Route traveled while dispensing. 5. Identity of individual and vehicle conducting the dispensing 6. Each vehicle used for each transaction. 7. The identity of each customer. 8. The type and quantity of cannabis for each delivery transaction 9. Gross receipts charged for each transaction. J. Each driver shall verify identity of customer; valid physicians recommendation. 	
<p>9.44.300</p>	<p>Operating Requirements for Cultivation Facilities</p>	<ul style="list-style-type: none"> A. Outdoor cultivation prohibited. B. No exterior evidence of cultivation. C. Only employees of permittees allowed on premises. D. Only cultivate the square footage of canopy size as licensed by the state. E. Comply with state and local laws regarding electricity and water usage. F. Comply with state and federal law regarding disposal of pesticides. G. Pesticides and fertilizers must be labeled. H. Conducted in a way to protect public health and safety, and non-diversion. I. All cannabis packaged in sealed in tamper proof packaging and labeled prior to transportation. 	<p>53</p>

		<p>J. All applicants for cultivation permit must also submit the following:</p> <ol style="list-style-type: none"> 1. Cultivation and operation plans for use of water, drainage, and harvesting. 2. A description of legal water source and irrigation plan. 3. Identification of source of electrical power. 4. Plan for addressing odor and public nuisance. 	
9.44.310	Operating Requirements for Cannabis Manufacturing Businesses	<ol style="list-style-type: none"> A. No exterior evidence of cannabis manufacturing except signage approved by City. B. Only employees permitted on premises. C. Manufacturing must comply with standards set by state law. D. Compressed gas not stored on premises in containers that exceed amount approved by Fire Chief. E. May use solvents in a closed loop system approved by Fire Marshal. F. If closed loop system is used it must be certified by the manufacture and affixed with a serial number. G. Certification from a licensed engineer provide to the Fire Marshal for closed loop system, providing it was commercially manufactured for proposed use and meets, ASME, ANSI, UL; or ASTM standards. H. Certification document contains the signature and stamp of the professional engineer and serial number. I. Must be approved by Fire Marshal to meet all building and fire codes. J. May use heat, screens, and other methods without using solvents or gases. K. May use food grade glycerin, ethanol. L. Must develop SOPs, good manufacturing practices, and training plan prior to manufacturing. M. Any person using solvents in a closed loop system must be fully trained. N. Parts per million for one gram of extract cannot exceed state standards for any residual solvent when tested. 	55

9.44.320	Operating Requirements for Cannabis Distribution	<ul style="list-style-type: none"> A. No exterior evidence of cannabis distribution. B. Operational requirements: <ul style="list-style-type: none"> 1. Public is not permitted on the premises 2. Will only procure, sell, and transport cannabis that is properly packaged, sealed, and batch coded 3. Maintain a database and list of vehicles authorized to transport on behalf of permittee 4. Drivers will have valid CDL 5. Drivers will maintain physical copy of transportation request and/or invoice and make it available on request 6. Will maintain a copy of the permittees license in the vehicle at all times 7. Cannabis only in vehicles insured at or above legal limit; capable of securing cannabis during transport; temperature controlled if perishable 	58
9.44.330	Operating Requirements for Cannabis Testing	<ul style="list-style-type: none"> A. Testing shall be performed in accordance with state law. B. Permittee will adopt SOP using methods consistent with requirements established by the International Organization for Standardization. C. Permittee shall be accredited by a body that is a signature to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement. D. Establish SOPs that provide for adequate chain of custody of samples transferred to the testing laboratory. E. Destroy the remains of samples. F. Testing that requires use of solvents must comply with 9.44.310. 	59
9.44.340	Promulgation of Regulations, Standards and Other Duties	<ul style="list-style-type: none"> A. In addition to any regulation adopted by the City Council, the City Administrator is authorized to establish additional rules and regulations as determined necessary to carry out the purposes of this chapter. B. Regulations shall be published on the City website. C. Regulations promulgated by the City Administrator shall become effective upon publication. 	60

9.44.350	Community Relations	<p>A. Each commercial business shall provide name and contact info for a community relations contact, and provide that info to businesses and residences location within 100 feet.</p> <p>B. During first year of operation the community relations contact shall, if requested, meet with the City Administrator on a quarterly basis to discuss operational issues. After the first year, only meet when requested by the City Administrator.</p>	61
9.44.360	Fees Deemed Debt to City of Santa Barbara	Any fee or charge imposed shall be deemed a debt recoverable as authorized by code or state law.	61
9.44.370	Responsibility for Violations	Permittees are responsible for all violations of state and local law even if committed by employees or agents, whether the violation occurred in the permittees presence or not.	61
9.44.380	Inspections	<p>A. Any City official or employee responsible for enforcing provisions of the code may enter the premises during regular business hours to inspect premises and records.</p> <p>B. It is unlawful for a person having responsibility over operation of the business to impede or interfere with inspection.</p>	62
9.44.390	Violations and Penalties	<p>A. Any person that violates the provisions of this chapter shall be subject to penalties set forth in Chap. 1.28.</p> <p>B. It is unlawful for any person to maintain a business without a permit.</p> <p>C. Apart from criminal action the city may also commence administrative or civil action to abate or enjoin unlawful conduct.</p> <p>D. Each person shall be guilty of a separate offense for every day the violation is allowed to exist.</p> <p>E. Any act that is made unlawful shall also include the aiding and abetting or concealment of the act.</p> <p>F. The penalties are cumulative and in addition to other remedies allowed by the city's code or state law.</p>	62

9.44.400	Reserved		64
9.44.410	Effect on Other Ordinances	With the exception of permits issued pursuant to Section 30.185.250, this Chapter shall control for regulation of commercial cannabis businesses.	64



APPLICATION PROCEDURE TO OPERATE A COMMERCIAL CANNABIS BUSINESS IN SANTA BARBARA

The application process to operate a Commercial Cannabis Business (“CCB”) in the City of Santa Barbara will open on or after **Monday, November 19, 2018**. Applications will be accepted until **January 31, 2019**. Applications received after January 31, 2019 may not be considered. Applications are available at PlanetBids_

<https://www.planetbids.com/portal/portal.cfm?CompanyID=29959>.

Use Category code 45300 when registering. This procedure outlines the application process, required materials, and other information necessary to operate a CCB in the City of Santa Barbara. This application process is adopted pursuant to Santa Barbara Municipal Code Section 9.44.

BEFORE YOU APPLY:

1. Review the information to learn about the application process and which documents you will need.
2. Review the application in its entirety to ensure that it is complete and accurate.
3. Register free with PlanetBids at <https://www.planetbids.com/portal/portal.cfm?CompanyID=29959> to obtain and submit an application. Use Category code 45300 when registering.
4. Obtain a commercial cannabis business permit application from PlanetBids.
5. It is recommended that you review Santa Barbara Municipal Code (SBMC) Chapter 9.44 and Title 30 [Inland Zoning] of the Santa Barbara Municipal Code, the statewide laws and regulations pertaining to commercial cannabis businesses.

Ex Parte Communication Prohibited. Applicants are prohibited from talking to council members, the commercial cannabis application review team, Permit Application Evaluator, and City Administrator after the Informational Meeting for Prospective Commercial Cannabis Business Applicants to be held on December 5, 2018.

1. Application Process

Phase 1: Application Submittal (including)

- i. Zoning Verification Letter
- ii. Completed Commercial Cannabis Licensing Livescan/Background Check Form
- iii. Copy of receipt or payment from agency processing the Request for Live Scan Service Form

Phase 2: Initial Ranking

Phase 3: Public Meeting

Phase 4: Final Ranking

For more information, see Evaluation and Selection Process below.

2. Application Submittal

a. Registration (PlanetBids)

The City is conducting the application process electronically. Although the application process is for retail sales (including delivery only), manufacturing, distribution, and testing, **use Category code 45300** – Miscellaneous Store Retail when registering for any CCB permit type. Applicants must register with PlanetBids using the following link: <https://www.planetbids.com/portal/portal.cfm?CompanyID=29959> and follow the instructions.

All questions and answers about the application or the application process must be submitted through PlanetBids. Do not rely upon oral explanations.

b. Criminal History Check

As part of Phase 1 of the Application Process, every person applying to be a principal (and Landlord, if applicable) to operate a CCB (“Principal”) must complete a criminal background check and be subject to a Live Scan review for both state and federal clearance. Due to delays which may occur in processing the Live Scan, each principal may be subject to a provisional background check at which time they will be required to sign a background authorization allowing the City to conduct a third party criminal investigation check. Fingerprinting services are available at most police departments, sheriff’s offices or any public applicant Live Scan site. The application for the Live Scan will be available on PlanetBids or at the Santa Barbara Police Department located at 215 East Figueroa. Please provide proof of completion of the background authorization form and Live Scan form by providing copies with your application. This process will be required to meet the minimum threshold qualifications pursuant SBMC Chapter 9.44. Principals/Landlords who do not meet criminal history eligibility requirements will be disqualified.

c. Zoning Verification Letter

Prior to submitting the CCB application, applicants will be required to obtain a “Zoning Verification Letter” from the City of Santa Barbara Community Development Department to ensure that the proposed location meets locational requirements. The review process typically takes approximately ten (10) working days. The “Zoning Verification Letter” will need to be included with the application package. Please note the issuance of a “Zoning Verification Letter” does not mean written evidence of permission given by the City of Santa Barbara or any of its officials to operate a CCB, nor does it mean “permit” within the meaning of the Permit Streamlining Act, nor does it constitute an entitlement under the Zoning or Building Code. A regulatory permit for operating a CCB does not constitute a permit that runs with the land on which the CCB is established. Request for Zoning Verification Letters must be in writing and submitted to the Community Development Department at the Planning counter and will not be completed over the counter.

d. Property Owner Consent

Notarized statement of property owner of proposed CCB location on form provided by City that applicant has property owner’s consent to occupy the property for the intended use.

e. Indemnification Agreement

Applicants must execute an agreement indemnifying the City against any and all claims, actions, or proceedings brought against the City as a result of applicants CCB applications or applicants actions associated with its CCB application.

f. Payment of Application Fees

Payment of an application fee in the amount of \$5,600 is required prior to submittal of the application to PlanetBids. Application fee receipt must be included with application submittal. Payment must be made by a certified check, cashier’s check or money order made payable to the City of Santa Barbara. Please note the City will not accept cash and application fees are non-refundable.

g. Submittal

Applicants must submit complete applications and all attachments to PlanetBids at <https://www.planetbids.com/portal/portal.cfm?CompanyID=29959>. A complete application will consist of the following information:

- i. Completed Application Form;
- ii. Background Authorization Form and/or Proof of Live Scan payment for each of the Principals;
- iii. Zoning Verification Letter;

- iv. Copy of City of Santa Barbara receipt showing payment of the application fee;
- v. Proof of Property Ownership or Consent of Landlord; and
- vi. Indemnification Agreement,

Any cost incurred by the applicant in preparation application or submittal of the application shall be borne solely by the applicant.

h. Amendments to the Application

Applicants will not be allowed to make amendments to their application or to supplement their application, except as otherwise specifically permitted in these procedures or authorized in writing by the City. During Phase 1, applicants will be notified if any of the Principals/Landlord(s) are ineligible. Additionally, applicants will be notified if their application is incomplete and will not be moved forward in the application process unless a complete application is submitted within 10 days from the date of written notice of incompleteness. However, in some cases the City may move forward to other phases in the application process should it anticipate that the Live Scan or background check may be delayed, in order to expedite the application process. In this case, Applicants wishing to move forward in the process will acknowledge by signing the application that they agree to these terms and that should they be disqualified because of a background or a Live Scan disqualification they will not be eligible for a refund of any fees.

INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.

3. Evaluation and Selection Process

The evaluation and selection process shall consist of the following four phases:

Phase 1: Application Submittal

- i. Register
- ii. Submit complete application within required time frame.

Phase 2: Initial Ranking (1,000 Points)

Phase 2 applications will be evaluated by a commercial cannabis application review team designated by the City Administrator. Applications will be evaluated based on the following criteria:

- i. Business Plan (400 Points)
 - a. Operations, Best Practices & Financial Pro Forma (200 Points)
 - b. Qualifications of Principals (100 Points)
 - c. Community Benefits (50 Points)
 - d. Environmental Benefits (25 Points)
 - e. Local Enterprise (25 Points)

- ii. Safety and Security Plan (300 Points)
- iii. Neighborhood Integration Plan (200 Points)
- iv. Labor & Employment Plan (25 Points)
- v. Air Quality Plan (75 Points)

Those applicants who scored a minimum of 80% or 800 Points in Phase 2 will move on to Phase 3.

Phase 3: Public Meeting for Interviews

Those applicants who scored a minimum of 80% or 800 Points in Phase 2 will receive an invitation to make a presentation to, and be subject to a public interview, by City Administrator's designated Permit Application Evaluator. Applicants will be given the opportunity to present on their application and proposed CCB operation and should be prepared to answer questions from the Permit Application Evaluator. The interviews will be subject to public comment.

Those applicants that participated in the public interview process will be notified of a date for a site inspection after the interview. Applicants may be permitted to amend and resubmit their application for final review and ranking in Phase 4 only if directed by the Permit Application Evaluator at the public interview.

Phase 4: Final Ranking (1,000 Points)

Phase 4 applicants will be evaluated and scored by the Permit Application Evaluator based on the following criteria obtained from the submitted complete application, public interview, and site visit:

- i. Business Plan (400 Points)
 - a. Operations, Best Practices & Financial Pro Forma (200 Points)
 - b. Qualifications of Principals (100 Points)
 - c. Community Benefits (50 Points)
 - d. Environmental Benefits (25 Points)
 - e. Local Enterprise (25 Points)
- ii. Labor & Employment (25 Points)
- iii. Neighborhood Integration Plan (200 Points)
- iv. Safety and Security Plan (300 Points)
- v. Air Quality (75 Points)

All applicants will be ranked based on their final points score.

Only those applicants who scored a minimum of 90% or 900 Points in this Phase 4 will be issued a permit. Storefront – Retailer applicants scoring 90% or 900 Points or better will be subsequently ranked based on points. Storefront-Retailer Permits will be issued to the Storefront-Retailer Applicants with the highest score, and based on permit availability. In the case of a tie, the Storefront-Retailer applicant scoring highest on the Neighborhood Integration Plan will receive the higher ranking.

4. Issuance of Permit

After ranking is complete, the City Administrator will notify the qualifying applicants of selection for permit issuance subject to clearance of a background check. Final selection will occur on or after May 30, 2019.

The City Administrator reserves the right to award a lesser number of permits, or to award no permits at all in the event that no applicants receive a ranking of 90% or better in Phase

Please note that being awarded a CCB does not constitute a land use entitlement and does not waive or remove the requirements of applying for and receiving permits for all construction, including electrical, plumbing, fire, planning permits or reviews, and any other permits, licenses, or reviews as may be necessary by the relevant departments or governmental entities in charge of said permits; nor does it guarantee that the plans submitted via the application process meet the standards or requirements in SBMC Title 30 or any other permit requirement from other City departments or agencies. All permit awardees must comply with all applicable land use permit requirements and conditions of approval, and any building permit requirements.

DESCRIPTION OF EVALUATION CRITERIA:

1. Business Plan

- a. With as much detail as possible, the Business Plan should describe:
 - i. Description of day-to-day operations which meet industry best practices for the specific type of permit in which they will be applying for in the City.
 - ii. How the CCB will conform to local and state law.
 - iii. How medical and adult-use cannabis will be tracked and monitored to prevent diversion.
 - iv. Proposed point of sale system and software and how it integrates with the state's Track and Trace requirements.
 - v. How the CCB's record management will comply with SBMC Chap. 9.44 including, but not necessarily limited to, customer records, point of sale, track and trace, and employee records.
 - vi. A schedule for beginning operation, including a narrative outlining any proposed construction and improvements, and a timeline for completion.
 - vii. Community Benefits. The benefits that the CCB would provide to the local community, such as employment for residents of the City, community contributions, or economic incentives to the City.
 - viii. Local Enterprise. The application should state the extent, if any, to which the CCB will be a locally managed enterprise whose Principals reside within County of Santa Barbara.

- b. The Business Plan should include:
- i. A budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation costs. The budget must demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the sources and uses of funds.
 - ii. Proof of capitalization, in the form of documentation of cash or other liquid assets on hand, Letters of Credit or other equivalent assets.
 - iii. A pro forma for at least three years of operation.
 - iv. Environmental Benefits. The application should describe any proposed “green” business practices relating to energy and climate, water conservation, and materials and waste management.
 - v. Qualifications of Principals. The application should include each principals’ curriculum vitae, which may include information concerning any special business or professional qualifications or licenses of principals that would add to the number or quality of services that the CCB would provide, especially in areas related to medical cannabis, such as scientific or health care fields.

2. Neighborhood Integration Plan

For the proposed location, your application should address how the CCB, including its exterior areas and surrounding public areas, will be managed, to avoid becoming a nuisance or having an adverse impact on its neighbors and the surrounding community. If issued a permit explain how you would operate as a “good neighbor” and engage in community relations. Furthermore, a site plan (accurate, dimensioned and to-scale [minimum scale of 1/4”]) should be included for each potential location.

3. Safety and Security Plan

For each proposed location, your application should include:

- i. A detailed safety plan. This plan should describe the fire prevention, suppression, HVAC and alarm systems the facility will have in place. It should include an assessment of the facility’s fire safety by a qualified licensed fire prevention and suppression consultant. An appropriate plan will have considered all possible fire, hazardous material, and inhalation issues/threats and will have both written and physical mechanisms in place to deal with each specific situation. Explain in detail how your safety plan will comply with the Santa Barbara Municipal Code and state law.
- ii. A detailed security plan. This plan should include a description and detailed schematic of the overall facility security. It should have details on operational security, including but not limited to general security policies for the facility, employee specific policies, training, sample written policies, transactional security, visitor security, 3rd party contractor security, and delivery security. In particular, applications should address ingress and egress access, perimeter security, product security (at all hours), internal

Security measures for access (area specific), types of security systems (alarms and cameras), and security personnel to be employed. The security plan shall also include an assessment of site security by a qualified licensed security consultant. Security plans will not be made public. If you are an applicant that intends to engage in delivery of cannabis to a non-commercial customer, please include your security plan for delivery. Security plans must include a floor plan.

- iii. Enhanced Product Safety. The application should state how the CCB will ensure enhanced consumer safety as required by State and/or local law.

4. Labor & Employment Plan.

The application should describe to what extent the CCB will adhere to heightened pay and benefits standards and practices, including recognition of the collective bargaining rights of employees. Specific practices that are subject to consideration include the following:

- i. Providing compensation to and opportunities for continuing education and training of employees/staff (applications should include proof of the CCB policy and regulations to employees);
- ii. Providing a “living wage” to facility staff and employees. Wage scale should be provided in writing for all levels of employment at the facility.
- iii. “Living Wage” shall be defined as set forth in SBMC Chap. 9.128.

5. Air Quality Plan.

Must demonstrate the air circulation does not impact the employees’ health and will not be detectable outside the business premises.

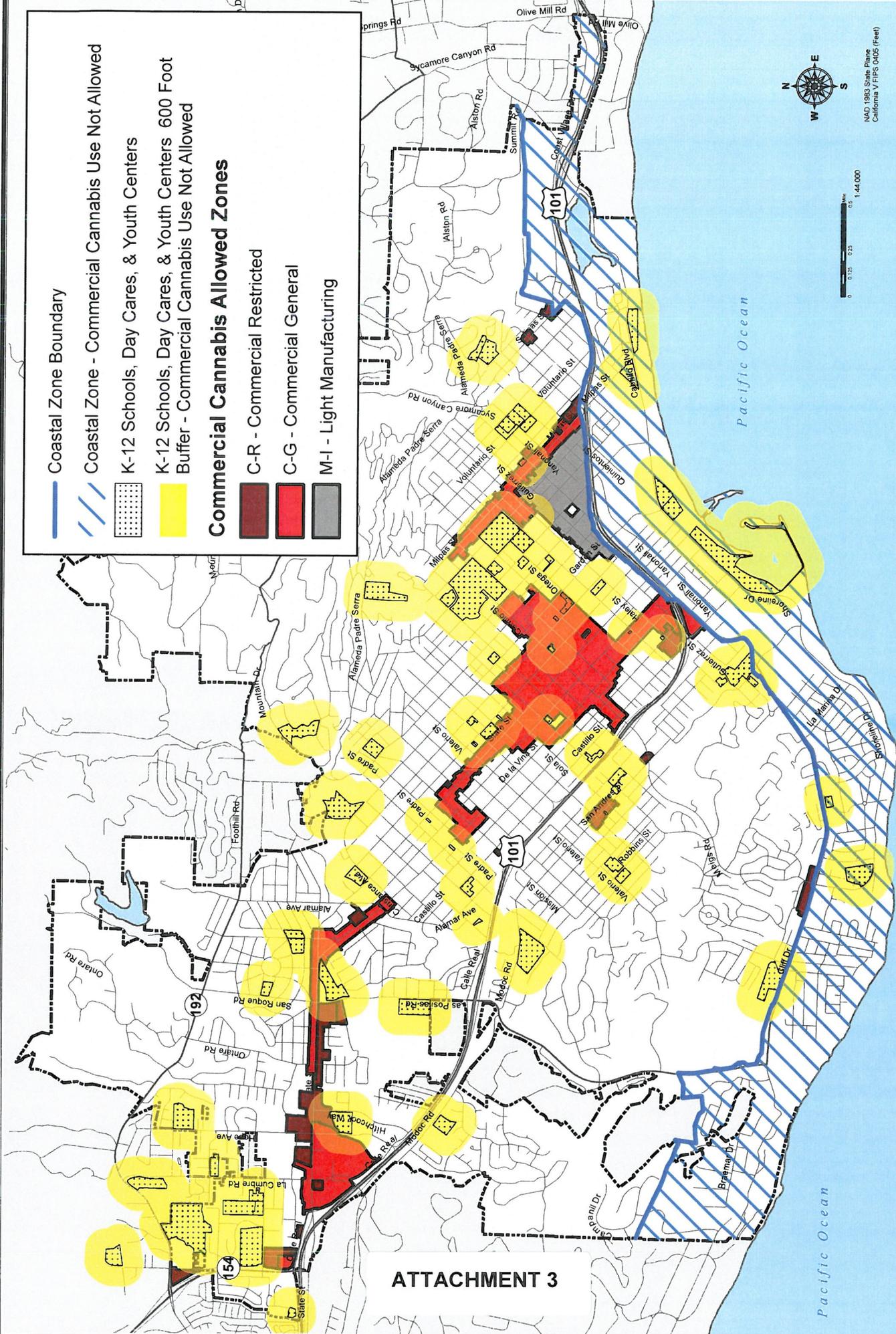
THE CITY’S RESERVATION OF RIGHT

The City reserves the right to reject all proposals, with or without any cause or reason. The City may also, modify, postpone, or cancel the request for permit applications without liability, obligation, or commitment to any party, firm, or organization. In addition, the City reserves the right to request and obtain additional information from any candidate submitting a proposal. A proposal **MAY BE REJECTED** for any of the following reasons:

- a. The application or documents submitted are incomplete, filed late, or not responsive to the requirements of this procedure.
- b. The issuance of the permit or operation of the commercial cannabis business at the proposed location is inconsistent with State law, Chapter 9.44, or other applicable Santa Barbara Municipal Codes.
- c. For any reason set forth in SBMC section 9.44.090.H.

ATTACHMENT 3

- Coastal Zone Boundary
- Coastal Zone - Commercial Cannabis Use Not Allowed
- K-12 Schools, Day Cares, & Youth Centers
- K-12 Schools, Day Cares, & Youth Centers 600 Foot Buffer - Commercial Cannabis Use Not Allowed
- Commercial Cannabis Allowed Zones**
- C-R - Commercial Restricted
- C-G - Commercial General
- M-I - Light Manufacturing



NAD 1983 State Plane
California V.FIPS 0405 (Feet)

**City of Santa Barbara - Commercial Cannabis Allowed Zones
(C-R, C-G, and M-I)
600 Foot Buffer of K-12 Schools, Day Cares, & Youth Centers**

DISCLAIMER:
Every reasonable effort has been made to ensure the accuracy of the map and data provided, nevertheless, some information may not be accurate. The City of Santa Barbara assumes no responsibility arising from use of this information.
THE MAP AND ASSOCIATED DATA ARE PROVIDED WITHOUT ANY WARRANTY OF ANY KIND. Do not make any business decisions based on the data before validating your decision with the appropriate City office.

