

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585 - 1800



W 10b

DATE: October 24, 2007

TO: Commissioners and Interested Parties

FROM: Jack Ainsworth, Deputy Director, South Central Coast District
Gary Timm, District Manager
Barbara Carey, Supervisor, Planning and Regulation
Amber Tysor, Coastal Program Analyst

SUBJECT: City of Carpinteria Local Coastal Program Amendment No. CPN-MAJ-1-07 (Medical Marijuana Dispensaries and Reasonable Accommodation Procedures) for Public Hearing and Commission Action at the California Coastal Commission hearing of November 14, 2007 in San Diego.

DESCRIPTION OF THE SUBMITTAL

On May 25, 2007, the City of Carpinteria submitted an amendment to its certified Local Coastal Program to amend the Implementation Program/Zoning Ordinance to include a prohibition on medical marijuana dispensaries within City boundaries and to adopt procedures for processing requests for reasonable accommodation to zoning and building laws, rules, policies, and/or procedures of the City in order to allow for physical building changes that are necessary to provide disabled persons with equal access.

On June 14, 2007 the Executive Director determined that the City's Amendment was in proper order and legally adequate to comply with the submittal requirements of Coastal Act Section 30510 (b). The Commission granted a one-year extension for Commission action on July 9, 2007 pursuant to Section 30517 of the Coastal Act.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the Implementation Program/Zoning Ordinance Amendment as submitted. As discussed in the findings set forth in this report, the Implementation Program/Zoning Ordinance, as amended, continues to conform with, and be adequate to carry out, the relevant provisions of the City's certified Land Use Plan. **The motion and resolution for Commission action is on page 3.**

For additional information please contact Amber Tysor at the South Central Coast District Office: 89 South California St., Ste. 200, Ventura, CA 93001 or 805-585-1800.

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

Section 30513 of the Coastal Act provides, in part:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter.

...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken.

The Commission may suggest modifications in the rejected zoning ordinances, zoning district maps, or other implementing actions, which, if adopted by the local government and transmitted to the Commission shall be deemed approved upon confirmation by the executive director.

The local government may elect to meet the Commission's rejection in a manner other than as suggested by the Commission and may then resubmit its revised zoning ordinances, zoning district maps, and other implementing actions to the Commission.

The standard of review used by the Commission for the proposed amendment to the Implementation Plan in reviewing the adequacy of zoning and other implementing measures is whether or not the proposed amendment would render the Implementation Plan not in conformance with, and inadequate to carry out the provisions of, the Land Use Plan.

The City of Carpinteria's Coastal Zoning Ordinance implements the City's Coastal Land Use Plan and policies. It serves to integrate the City of Carpinteria Coastal Land Use Plan with the adopted City of Carpinteria General Plan and Zoning Ordinance as applied to the Coastal Zone. The Coastal Zoning Regulations and Maps set forth regulations, standards, and procedural requirements for development within the Coastal Zone and establish required consistency with the policies of the LCP Land Use Plan.

B. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551(b) of Title 14 of the California Code of Regulations, a local government's resolution for submittal of a proposed LUP amendment must indicate whether the local coastal program amendment will require formal local government adoption after Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513 and 30519. In this case, the City has submitted the amendment as one that will take effect automatically upon approval by the Commission.

C. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires that maximum opportunities for public input be provided in preparation, approval, certification and amendment of any LCP. The City held public hearings on the proposed zoning ordinance changes on April 2, 2007, April 23, 2007, and May 14, 2007. The hearings were noticed to the public consistent with Section 13515 of Title 14 of the California Code of Regulations and the City provided evidence of the measures taken to provide notice of their hearings, consistent with Section 13552 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE IMPLEMENTATION PROGRAM AMENDMENT

Following public hearing, staff recommends that the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and the staff recommendation is provided prior to each resolution.

APPROVAL OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED

MOTION: I move that the Commission reject the Implementation Program Amendment (CPN-MAJ-1-07) for the City of Carpinteria as submitted.

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment (CPN-MAJ-1-07) for the City of Carpinteria as submitted and adopts the findings set forth below on grounds that the Implementation Program, as amended, conforms with and is adequate to carry out the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

III. FINDINGS AND DECLARATIONS FOR THE IMPLEMENTATION PROGRAM AMENDMENT APPROVAL AS SUBMITTED

The following findings support the Commission's approval of the LCP Amendment as submitted. The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION

The City proposes to amend the Implementation Program/Zoning Ordinance (IP) portion of its certified Local Coastal Program (LCP) to: (1) prohibit the establishment of medical marijuana dispensaries within the boundaries of the City of Carpinteria and (2) to include a procedure for allowing a disabled person, or his or her representative, to request accommodations to zoning and building laws, rules, policies, practices, and/or procedures to provide equal access for the disabled person making the request. No amendment to the LUP is proposed or needed.

Prohibition of Medical Marijuana Dispensaries

The proposed Ordinance amends Chapter 14.08 of the Carpinteria Municipal Code to include definitions for terms related to medical marijuana dispensaries. The Ordinance also creates Chapter 14.59 in the Zoning Code. Chapter 14.59 will make it unlawful to establish, operate, or maintain a medical marijuana dispensary in any zoning district in the City of Carpinteria. This Chapter will also prohibit using a facility or location to cultivate marijuana unless it is carried out by an authorized person in strict compliance with state law. This Chapter will clarify that the regulations do not prohibit the use, possession, or cultivation of marijuana for personal medical purposes when such activity strictly complies with applicable law.

The City Council resolution for medical marijuana dispensaries is included as **Exhibit 1** and the City Council ordinance for medical marijuana dispensaries is included as **Exhibit 2**.

Reasonable Accommodation Procedures

The City proposes to amend the Implementation Program/Zoning Ordinance (IP) portion of its certified LCP to include a procedure for allowing a disabled person, or his or her representative, to apply for “reasonable accommodations” to zoning and building laws, rules, policies, practices, and/or procedures of the City in order to allow for physical building changes necessary to provide the disabled person equal access to publicly funded buildings, facilities or programs, or privately funded housing, including single and multiple-family dwelling units. A new chapter will be added to the existing Zoning Code, Chapter 14.61, “Reasonable Accommodation Procedures.” This new chapter defines new terms, states the City’s policy, and establishes an application and review process for consideration of requests. As explained in Chapter 14.61, reasonable accommodations may be granted when certain criteria are met and any conditions required to protect the public health, safety, and welfare will be included with an approval. Chapter 14.61 also specifies that a grant of reasonable accommodation may be issued to an individual, and does not necessarily run with the land. Finally, Chapter 14.61 includes procedures for public noticing and appeal of decisions made by the City of Carpinteria Community Development Director to the City of Carpinteria Planning Commission.

The City Council resolution for reasonable accommodation procedures is included as **Exhibit 3** and the City Council ordinance for reasonable accommodation procedures is included as **Exhibit 4**.

B. ISSUE ANALYSIS

Prohibition of Medical Marijuana Dispensaries

The proposed amendment will not conflict with the policies certified as part of the City of Carpinteria’s recent Land Use Plan (LUP) update in 2003. The City’s rationale for the prohibition of medical marijuana dispensaries is based, in part, on concerns that California law is incompatible with and preempted by the Federal Controlled Substances Act. Among other factors, the City has concerns that medical marijuana dispensaries may cause negative secondary effects, such as an increase in criminal activity, which would adversely impact the neighborhoods in which they are located. The City Council has found that using land for medical marijuana dispensaries would be inconsistent with the City’s small beach town character which emphasizes preservation of coastal resources and visitor serving commercial recreation. Although the City did not refer to specific LUP policies, Land Use Objective Three, LU-3, seeks to “[p]reserve the small beach town character of the built environment of Carpinteria, encouraging compatible revitalization and avoiding sprawl development at the city’s edge.” Additionally, the

purpose of Policy LU-3g is to “[p]rovide for a range of business activities that bring vitality, revenue, and employment to Carpinteria and are compatible with its small town character.”

The proposed prohibition of medical marijuana dispensaries does not conflict with the provision of priority land uses identified in the LUP, nor does it raise issue with regard to the public access or coastal resource policies of the LUP. Finally, its addition to the IP does not in any way reduce the IP’s adequacy in carrying out the provisions of the LUP, which include the Chapter 3 Policies of the Coastal Act. Therefore, the Commission finds that the proposed amendment, as submitted, does not raise any issues justifying its rejection pursuant to Coastal Act section 30513.

Reasonable Accommodation Procedures

The proposed amendment is consistent with the policies certified as part of the City of Carpinteria’s recent Land Use Plan (LUP) update in 2003. Land Use Objective One, LU-1, seeks to “[e]stablish the basis for orderly, well planned urban development while protecting coastal resources and providing greater access and recreational opportunities for the public.” Policy LU-1a. incorporates the policies of the Coastal Act (Public Resources Code 30210 through 30263) by reference as the guiding policies of the land use plan, which includes Article 2, Public Access.

Section 30210 of the Coastal Act states that “...maximum access...and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.” The proposed amendment will carry out the public access goals of the LUP and the Coastal Act. The changes to the Zoning Code will facilitate maximum public access by providing procedures to allow a disabled person, or his or her representative, to request an accommodation from any of the city’s land use, zoning, or building laws, rules, policies, practices, and/or procedures when accommodation is reasonable and necessary to afford such persons equal access to publicly funded buildings, facilities, and programs. The amendment also applies to privately funded housing, including single and multiple-family dwelling units.

These procedures outlined in this Ordinance do not supercede other necessary approvals, such as the need for a Coastal Development Permit, Conditional Use Permit, or Development Plan, as outlined in Chapter 14.61.070, page 3 of **Exhibit 4**. Further, the requested accommodation must be found consistent with all other policies and provisions of the City’s LCP, as outlined in Chapter 14.61.080, page 4 of **Exhibit 4**. Additionally, specific criteria must be met for granting reasonable accommodations, including, among other factors, a requirement to evaluate feasible alternatives, a requirement that the requested accommodation will not require a fundamental alteration of the city’s land use, zoning, or building laws, rules, policies, and/or procedures, and a requirement to evaluate the potential impact on surrounding uses, as outlined in Chapter 14.61.080, page 4 of **Exhibit 4**.

As proposed, the addition of the reasonable accommodation procedures will not conflict with the policies of the LUP or render the IP inadequate to carry out the LUP. Therefore, the Commission finds that the proposed amendment, as submitted, does not present any issues that would require its rejection pursuant to Coastal Act section 30513.

IV. THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with their activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required, in approving an LCP submittal, to find that the LCP does conform with the relevant provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended IP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b).

The proposed amendment is to the City of Carpinteria's certified Local Coastal Program Implementation Ordinance. The Commission originally certified the City of Carpinteria's Local Coastal Program Land Use Plan and Implementation Ordinance in 1980. For the reasons discussed in this report, the LCP amendment as submitted is consistent with the intent of the applicable policies of the certified Land Use Plan and no feasible alternatives are available which would lessen any significant adverse effect which the approval would have on the environment. Therefore, the Commission finds that the LCP amendment is consistent with CEQA and the Land Use Plan.

RESOLUTION NO. 5059

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, APPROVING, FOR THE PURPOSES OF SUBMITTAL TO THE CALIFORNIA COASTAL COMMISSION, ORDINANCE NO. 623, A LOCAL COASTAL PROGRAM AMENDMENT TO PROHIBIT THE OPERATION OF ANY AND ALL MEDICAL MARIJUANA DISPENSARIES AND REPEALING ORDINANCE NO. 612

THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA RESOLVES AS FOLLOWS:

SECTION 1. The City Council of the City of Carpinteria finds, determines and declares:

a. A full and complete copy of the amendment amending Chapter 14.08 and adding Chapter 14.59 to prohibit the operation of any and all medical marijuana dispensaries and to repeal interim urgency ordinance No. 612 ("Amendment") is on file with the City's Community Development Department, located at 5775 Carpinteria Avenue, Carpinteria, California.

b. Pursuant to the California Environmental Quality Act (Public Resources Code §21000 et seq., "CEQA"), the California Code of Regulations, Title 14, §15000 et seq. ("CEQA Guidelines") and the City of Carpinteria's Environmental Review Guidelines as applicable, the City has determined that the project is categorically exempt from CEQA pursuant to §15321(b), §15060(c)(2), and §15060(c)(3) of the CEQA Guidelines.

c. At a duly noticed public hearing on April 2, 2007, the Planning Commission considered Ordinance No. 623 and forwarded its recommendation to support the Local Coastal Program Amendment to the City Council.

d. On April 23, 2007 and May 14, 2007, after considering the Planning Commission's recommendation, receiving public comment, due consideration, and discussion among the Council and staff, a majority of the City Council approved the Amendment for submittal to the California Coastal Commission pursuant to Public Resources Code Section 30510 and the California Code of Regulations Section 13551(b)(1).

e. The Amendment approved for submittal to the California Coastal Commission by the City Council as set forth below reflects the recommendations of the Planning Commission and the City Council and will become effective after final certification by the California Coastal Commission.

f. On April 23, 2007 and May 14, 2007, a majority of the City Council considered and approved this Resolution to submit for California Coastal Commission review the proposed Amendment, which is intended to carry out the policies of the City's

EXHIBIT 1
CPN-MAJ-1-07
Medical Marijuana Dispensaries Resolution

Local Coastal Program consistent with the California Coastal Act and directing that the Amendment be transmitted to the California Coastal Commission for filing in accordance with §13551(b)(1) of Title 14 of the California Code of Regulations for final certification.

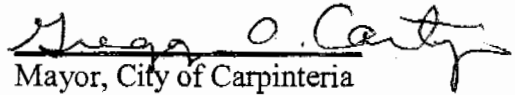
g. Documents constituting the record of proceedings on the Amendment are located and under the custody of the City of Carpinteria, Community Development Director, 5775 Carpinteria Avenue, Carpinteria, California.

SECTION 2. NOW, THEREFORE, BE IT RESOLVED that pursuant to Public Resources Code §30510 and California Code of Regulations §13551(b)(1), the City Council held a public hearing on the Amendment to the LCP and is transmitting this Amendment to the California Coastal Commission for submittal and filing pursuant to California Code of Regulations, Title 14 §13551(b)(1).

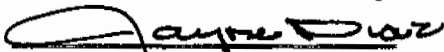
SECTION 3. NOW, THEREFORE, BE IT ALSO RESOLVED that Ordinance No. 612 is repealed.

PASSED, APPROVED AND ADOPTED this 14th day of May 2007, by the following vote:

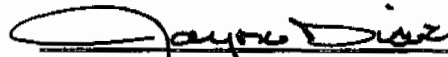
AYES:	Councilmembers:	Carty, Clark, Armendariz
NOES:	Councilmember:	None
ABSENT:	Councilmember:	Stein, Ledbetter


Mayor, City of Carpinteria

ATTEST:


City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 14th day of May 2007.


City Clerk, City of Carpinteria

APPROVED AS TO FORM:


Peter N. Brown, City Attorney

ORDINANCE NO. 623

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA,
CALIFORNIA AMENDING CHAPTER 14.08 AND ADDING CHAPTER 14.59
PROHIBITING THE OPERATION OF ANY AND ALL MEDICAL MARIJUANA
DISPENSARIES**

WHEREAS, in 1970, Congress enacted the Controlled Substances Act, codified at 21 U.S.C. section 841, which, makes it illegal to import, manufacture, distribute, possess or use marijuana in the United States; and

WHEREAS, the State of California makes it illegal, pursuant to Health and Safety Code section 11357 *et seq.*, to possess, cultivate, sell or use marijuana in California; and

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, the "Compassionate Use Act," codified as Health and Safety Code section 11362.5 *et seq.*, which created a limited exception from state criminal liability under Health and Safety Code sections 11357 and 11358 for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances; and

WHEREAS, in 2003, the State of California adopted Senate Bill 420, codified at Health and Safety Code section 11362.7 *et seq.*, to clarify the scope of the Compassionate Use Act and to allow cities to adopt and enforce rules and regulations consistent therewith (Health and Safety Code 11362.83); and

WHEREAS, the United States Supreme Court in United States v. Oakland Cannabis Buyers' Cooperative, 532 U.S. 483 (2001) and Gonzales v. Raich, 125 S. Ct. 2195 (2005) confirmed that the Controlled Substances Act does not contain a "compassionate use" exemption and therefore it is a violation of Federal law to use, possess, or distribute marijuana, even if such use is for medical purposes and in compliance with California law; and

WHEREAS, the location and operation of medical marijuana dispensaries is known to increase incidents of crime-related secondary impacts including marijuana use by and sales to those without medical need, crimes against people and property to obtain marijuana, and nuisances including loitering, littering, smoking, noxious odors and heavy traffic around dispensaries, all of which is inconsistent with surrounding uses and contrary to policies maintaining the individual's and public's peace, health, safety, and welfare; and

WHEREAS, the City Council is concerned that the location and operation of medical marijuana dispensaries within the City has the potential to cause adverse impacts to surrounding development, to risk the public's peace, health, safety and welfare, and to put public officials and employees at risk of violating federal laws by issuing business permits for illegal activities; and

WHEREAS, at its meetings of February 27 and April 10, 2006 and January 22, 2007 the City Council took the following actions regarding this Ordinance:

EXHIBIT 2
CPN-MAJ-1-07
Medical Marijuana Dispensaries Ordinance

a. Considered the facts and analysis, including evidence from across the state of adverse secondary effects of medical marijuana dispensaries, including but not limited to increased crime, as presented in the staff reports prepared for this matter;

b. Conducted a public hearing to obtain public testimony on the moratorium ordinances;

c. Took legislative notice of the fact that patients and primary caregivers are allowed to grow marijuana for medical use by qualified patients and medical marijuana dispensaries have been established in other jurisdictions in Santa Barbara County within reasonable proximity to the City of Carpinteria; and

d. Directed staff to prepare an ordinance defining and prohibiting the operation of medical marijuana dispensaries;

NOW, THEREFORE, THE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. INCORPORATION OF RECITALS

The above recitals are incorporated herein and are each relied upon independently by the City Council for its adoption of this Ordinance.

SECTION 2. REPEAL OF URGENCY ORDINANCE 612

Urgency Ordinance No. 612 is hereby repealed.

SECTION 3 AMENDMENT OF CHAPTER 14.08

Chapter 14.08 of the Carpinteria Municipal Code shall hereby be amended and shall read as follows:

14.08.437 Marijuana.

“Marijuana” shall have the same meaning as provided in Health and Safety Code Section 11018, as that section now appears or may hereafter be amended or renumbered.

14.08.443 Medical Marijuana Dispensary.

“Medical marijuana dispensary” shall mean any for profit or not-for-profit facility or location, whether permanent or temporary, stationary or mobile, where the owner(s) or operator(s) intends to, allows others to, or does possess, cultivate, make available, sell, distribute, exchange, transmit, give or otherwise provide medical marijuana for the use of more than one (1) qualified patient, person with an identification card, health care provider, primary caregiver, or physician, pursuant to Health and Safety Code Section 11362.5 *et seq.* (the “Compassionate Use Act of 1996”) or any State regulations adopted in furtherance thereof. Notwithstanding the foregoing, a medical marijuana dispensary shall not include the following uses, as long as the location of such uses is 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 healthcare facility licensed

pursuant to Chapter 2 of Divisions 2 of the Health and Safety Code; A 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 such use complies strictly with applicable law, including but not limited to, Health and Safety Code Section 11362.5 *et seq.*

14.08.507 Person with an Identification Card.

“Person with an identification card” shall have the meaning set forth in California Health and Safety Code Section 11362.7, as that section now appears or may hereafter be amended or renumbered.

14.08.523 Primary Caregiver.

“Primary caregiver” shall have the meaning set forth in California Health and Safety Code Section 11362.7, as that section now appears or may hereafter be amended or renumbered.

14.08.533 Qualified Patient.

“Qualified patient” shall have the meaning set forth in California Health and Safety Code Section 11362.7, as that section now appears or may hereafter be amended or renumbered.

SECTION 4. CREATION OF CHAPTER 14.59

Chapter 14.59 of the Carpinteria Municipal Code shall hereby be created and shall read as follows:

14.59.010 Title.

The title of this chapter shall be “Medical Marijuana Dispensary Regulations.”

14.59.020 Purpose and intent.

The purpose and intent of this chapter is to prohibit medical marijuana dispensaries within the city. It is recognized that it is a Federal violation under the Controlled Substances Act to import, manufacture, distribute, possess or use marijuana even if for medical purposes. Additionally, there is evidence of an increased incidence of crime-related secondary impacts in locations associated with medical marijuana dispensaries, which is contrary to the city policies that are intended to promote and maintain the public’s health, safety, and welfare.

14.59.030 Prohibited acts and exceptions.

1. It shall be unlawful to establish, operate or maintain, or to participate in the establishment, operation or maintenance of a medical marijuana dispensary, as defined in Chapter 14.08, in any zoning district in the City.

2. It shall be unlawful to establish, operate or maintain, or to participate in the establishment, operation or maintenance of any facility or location, stationary or mobile, used for the purpose of cultivating marijuana unless such cultivating of marijuana is by a primary caregiver or a qualified patient and strictly complies with applicable law including, but not limited to, Health and Safety Code Section 11362.5 *et seq.*

3. Nothing in this section shall preclude a person with an identification card, qualified patient, or a patient's primary caregiver, as defined in Chapter 14.08, from using, possessing or cultivating marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician, so long as such use, possession or cultivation strictly complies with applicable law, including, but not limited to, Health and Safety Code Section 11362.5 *et seq.*

14.59.040 Criminal Penalties.

Violation of any provision of this chapter is declared to be a public nuisance and contrary to the public interest and may be enforced under Chapter 1.06 and 1.08.

SECTION 5: EFFECTIVE DATE

This Ordinance shall be in full force and effect thirty (30) days following certification as an amendment to the City's Local Coastal Program by the California Coastal Commission; and before the expiration of fifteen (15) days following passage, this Ordinance shall be published once with the names of the members of the City Council voting for and against the same in *The Coastal View*, a newspaper of general circulation, published in the City of Carpinteria.

SECTION 6: SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 7: CEQA EXEMPTION

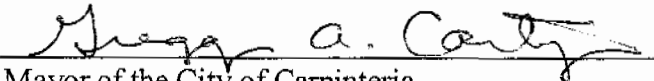
The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15321(b) (Title 14, of the California Code of Regulations), which exempts law enforcement activities by peace officers acting under any law that provides a criminal sanction, and 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378), because it has no potential for resulting in physical change to the environment, directly or indirectly; it prevents changes in the environment.

PASSED, APPROVED, AND ADOPTED this 14th day of May 2007, by the following called vote:

AYES: COUNCILMEMBERS: Carty, Clark, Armendariz

NOES: COUNCILMEMBER: None

ABSENT: COUNCILMEMBER: Stein, Ledbetter



Mayor of the City of Carpinteria

ATTEST:




City Clerk, City of Carpinteria

I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 14th day of May 2007.



City Clerk, City of Carpinteria

APPROVED AS TO FORM:



Peter N. Brown, City Attorney
City of Carpinteria

RESOLUTION NO. 5060

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, APPROVING, FOR THE PURPOSES OF SUBMITTAL TO THE CALIFORNIA COASTAL COMMISSION, ORDINANCE NO. 624, A LOCAL COASTAL PROGRAM AMENDMENT TO PROVIDE REASONABLE ACCOMMODATION PROCEDURES IN TITLE 14, ZONING, OF THE CITY'S MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA RESOLVES AS FOLLOWS:

Section 1. The City Council of the City of Carpinteria finds, determines and declares:

a. A full and complete copy of the amendment adding Chapter 14.61 to establish procedures for the consideration of reasonable accommodation requests ("Amendment") is on file with the City's Community Development Department, located at 5775 Carpinteria Avenue, Carpinteria, California.

b. Pursuant to the California Environmental Quality Act (Public Resources Code §21000 et seq., "CEQA"), the California Code of Regulations, Title 14, §15000 et seq. ("CEQA Guidelines") and the City of Carpinteria's Environmental Review Guidelines as applicable, the City has determined that the project is categorically exempt from CEQA pursuant to §15061 of the CEQA Guidelines.

c. At a duly noticed public hearing on April 2, 2007, the Planning Commission considered Ordinance No. 624 and forwarded its recommendation to support the Local Coastal Program Amendment to the City Council.

d. On April 23, 2007 and May 14, 2007, after considering the Planning Commission's recommendation, receiving public comment, due consideration, and discussion among the Council and staff, a majority of the City Council approved the Amendment for submittal to the California Coastal Commission pursuant to Public Resources Code §30510 and the California Code of Regulations §13551(b)(1).

e. The Amendment approved for submittal to the California Coastal Commission by the City Council as set forth below reflects the recommendations of the Planning Commission and the City Council and will become effective after final certification by the California Coastal Commission.

f. On April 23, 2007 and May 14, 2007, a majority of the City Council considered and approved this Resolution to submit for California Coastal Commission review the proposed Amendment, which is intended to carry out the policies of the City's Local Coastal Program consistent with the California Coastal Act and directing that the Amendment be transmitted to the California Coastal Commission for filing in accordance with §13551(b)(1) of Title 14 of the California Code of Regulations for final certification.

EXHIBIT 3

CPN-MAJ-1-07

**Reasonable
Resolution**

Accommodation

g. Documents constituting the record of proceedings on the Amendment are located and under the custody of the City of Carpinteria, Community Development Director, 5775 Carpinteria Avenue, Carpinteria, California.

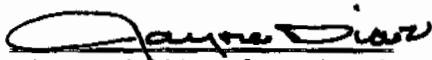
Section 2. NOW, THEREFORE, BE IT RESOLVED that pursuant to Public Resources Code §30510 and California Code of Regulations §13551(b)(1), the City Council held a public hearing on the Amendment to the LCP and is transmitting this Amendment to the California Coastal Commission for submittal and filing pursuant to California Code of Regulations, Title 14 §13551(b)(1).

PASSED, APPROVED AND ADOPTED this 14th day of May 2007, by the following vote:

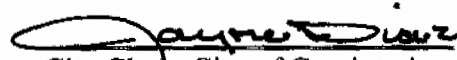
AYES: Councilmembers: Carty, Clark, Armendariz
NOES: Councilmember: None
ABSENT: Councilmember: Stein, Ledbetter


Mayor, City of Carpinteria

ATTEST:


City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 14th day of May 2007.


City Clerk, City of Carpinteria

APPROVED AS TO FORM:


Peter N. Brown, City Attorney

ORDINANCE NO. 624

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA,
CALIFORNIA, CREATING CHAPTER 14.61 OF THE CARPINTERIA MUNICIPAL
CODE, AS AMENDED**

WHEREAS, the City of Carpinteria ("City") pursuant to its police powers has the authority to enact laws which promote the public health, safety and general welfare of its residents;

WHEREAS, housing that is accessible to people with disabilities has been identified as a special housing need in the Housing Element of the City's current General Plan;

WHEREAS, California and federal laws guarantee individuals with disabilities the civil right to access publicly funded buildings, facilities and programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations on an equal basis with their fellow citizens who are not disabled;

WHEREAS, both the Federal Fair Housing Act (42 U.S.C. §§ 3601 *et seq.*) and the California Fair Employment and Housing Act (California Government Code §12955 *et seq.*) impose an affirmative duty on local governments to make reasonable accommodation, such as modifications or exceptions, in their land use regulations and practices when such accommodation may be necessary to afford disabled persons an equal opportunity to housing;

WHEREAS, the City has historically had an internal policy to allow such accommodations, if reasonable and necessary, when persons with special needs required exceptions from stated requirements of local regulations and practices; and

WHEREAS, codification of a formal procedure for persons with disabilities to request reasonable accommodation in the application of the City's land use, zoning and building regulations will facilitate compliance with fair housing laws and promote prompt, fair and efficient handling of such requests for residents of Carpinteria.

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

SECTION 1. INCORPORATION OF RECITALS

The City Council finds and determines that the above recitals are incorporated herein and are each relied upon independently by the City Council for its adoption of this Ordinance.

SECTION 2. AMENDMENT OF CHAPTER 14.08

Chapter 14.08 of the Carpinteria Municipal Code shall hereby be amended and shall read as follows:

EXHIBIT 4	
CPN-MAJ-1-07	
Reasonable Ordinance	Accommodation

14.08.017 Accommodation. "Accommodation" means any reasonable, necessary and/or feasible modification from the city's land use, zoning and building laws, rules, policies, practices and/or procedures to provide a disabled person an equal opportunity to access publicly funded buildings, facilities and programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations as those citizens who are not disabled.

14.08.173 Disabled Person. "Disabled person" means any person who has a medical, physical, or mental condition, disorder or disability as defined in California Government Code §12926, that substantially limits one or more major life activities.

SECTION 3. CREATION OF CHAPTER 14.61

Chapter 14.61 of the Carpinteria Municipal Code shall hereby be created and shall read as follows:

14.61.010 Title.

The title of this chapter shall be "Reasonable Accommodation Procedures."

14.61.020 Purpose and intent.

California and federal laws, including the Federal Fair Housing Act of 1988, the Americans with Disabilities Act of 1990, and the California Fair Employment and Housing Act, guarantee individuals with disabilities the civil right to access publicly funded buildings, facilities and programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations on an equal basis with their fellow citizens who are not disabled. The City has historically had an internal policy to allow such accommodations, if reasonable and necessary, when persons with special needs required exceptions from stated requirements of local regulations and practices. The purpose of this chapter is to codify this practice and provide a clear and defined process for individuals with disabilities to make requests for reasonable accommodation in regard to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the city.

14.61.030 Definitions.

As used in this chapter, the following words shall have the meanings set forth in this section:

1. "Applicant" means an individual making a request for a reasonable accommodation pursuant to this chapter.
2. "Department(s)" means the Community Development Department which is responsible for administering requests for reasonable accommodation pursuant to this chapter.

14.61.040 Reasonable accommodation policy.

Any disabled person, or his or her representative, may request an accommodation from any of the city's land use, zoning or building laws, rules, policies, practices and/or procedures when accommodation is reasonable and necessary to afford such persons equal opportunity to

access publicly funded buildings, facilities or programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations on an equal opportunity basis with citizens who are not disabled.

14.61.50 Public notice of policy.

The City shall take the following actions:

1. At all public counters in the Department where decisions are made regulating the siting, funding, development and use of housing, a notice shall be prominently displayed advising potential applicants that they may request an accommodation regarding any existing land use, zoning or building law, rule, policy, practice and/or procedure.
2. Forms for requesting an accommodation pursuant to this chapter shall be readily available in all such departments.

14.61.060 Application for accommodation.

1. A disabled person, or his or her representative, who desires to request an accommodation may do so by filing an application with the proper department having subject-matter jurisdiction over the decision. The application shall be accompanied by any applicable fees.
2. If an individual needs assistance in making the request for accommodation, each department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative.
3. A request for reasonable accommodation may be filed at any time that the accommodation may be necessary to ensure equal access to publicly funded buildings, facilities or programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations.

14.61.070 Review of requests for reasonable accommodation.

1. The Department Director, or his or her designee, shall investigate the facts bearing on the application, and compile the information necessary for a decision on the application. If the project for which the application is being made also requires some other approval, such as a Coastal Development Permit, Conditional Use Permit, or a Development Plan, then the application shall be considered by the applicable review authority concurrently with review of the companion application.
2. The applicable review authority shall issue a written notice of decision within thirty (30) days of the date of the submittal of a complete application and may grant the accommodation request, deny the request, offer approval of an alternate accommodation, or approve the request with conditions. The written decision is to be based on the contents of the application and a consideration of the factors set forth in this chapter. The notice of decision shall:
 - a. Contain the factual findings, conclusions and reasons for the decision;
 - b. Give notice of the right to appeal pursuant to this chapter;
 - c. Be sent to the applicant by certified mail.

14.61.080 Criteria for granting accommodations.

1. Among other considerations, the following findings shall be analyzed, made, and adopted before any action is taken to approve or approve with conditions a request for accommodation, and shall be incorporated into the record of the proceeding relating to such decision:
 - a. The request for accommodation is reasonable and necessary to afford the applicant with an equal opportunity to access publicly funded buildings, facilities and programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations on an equal basis with others who are not disabled;
 - b. There are no preferable and/or feasible alternatives to the requested accommodation that may provide an equivalent level of benefit;
 - c. The physical attributes of, and any proposed changes to, property and structures are compatible with surrounding development;
 - d. The requested accommodation will not impose an undue financial or administrative burden on the city;
 - e. The requested accommodation will not require a fundamental alteration of the city's land use, zoning or building laws, rules, policies, practices and/or procedures, and is consistent with the City's Local Coastal Program;
 - f. The potential impact on surrounding uses has been considered; and
 - g. Any other factor(s) that may have a bearing on the request have also been considered.

14.61.090 Conditions of Approval.

1. The conditions of approval may, where deemed appropriate, provide for any or all of the following:
 - a. Inspection of the affected premises periodically, as specified in the conditions, to verify compliance with this section and with any applicable conditions of approval;
 - b. Prior to any transfer of interest in the premises, notice to the transferee of the existence of the modification, that the modification is granted to an individual and does not run with the land, and the requirement that the transferee apply for a new modification if necessary. Once such transfer takes effect, the modification shall have no further validity;
 - c. Removal of the improvements, where removal would not constitute an unreasonable and unfair financial burden, if the need for which the accommodation was granted no longer exists;
 - d. Time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists;
 - e. Other conditions deemed necessary to protect the public health, safety and welfare.
2. Any grant of accommodation for an individual with a disability may, at the discretion of the decision maker, be considered as a personal accommodation for the individual applicant and may, at the determination of the decision maker, not run with the land. Accordingly, any approval may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances.
3. The violation of a required condition shall constitute a violation of this Chapter and may constitute grounds for revocation of the grant of accommodation.

14.61.100 Appeal.

1. Any aggrieved person may appeal the decision provided under this chapter pursuant to the procedures set forth in Chapter 14.78.
2. Nothing in this Chapter shall preclude an aggrieved individual from seeking any other state or federal remedy.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall be in full force and effect thirty (30) days following certification as an amendment to the City's Local Coastal Program by the California Coastal Commission; and before the expiration of fifteen (15) days following passage, this Ordinance shall be published once with the names of the members of the City Council voting for and against the same in The Coastal View, a newspaper of general circulation, published in the City of Carpinteria.

SECTION 5: SEVERABILITY.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 6: CEQA EXEMPTION.

The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines §15061 (Title 14, of the California Code of Regulations) because there is no potential for causing a significant effect on the environment.

PASSED, APPROVED, AND ADOPTED this 14th day of May 2007, by the following called vote:

AYES: COUNCILMEMBERS: Carty, Clark, Armendariz

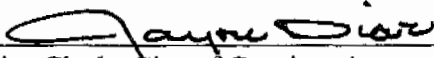
NOES: COUNCILMEMBER: None

ABSENT: COUNCILMEMBER: Stein, Ledbetter



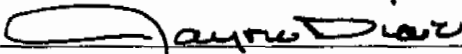
Mayor of the City of Carpinteria

ATTEST:




City Clerk, City of Carpinteria

I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 14th day of May 2007.



City Clerk, City of Carpinteria

APPROVED AS TO FORM:



Peter N. Brown, City Attorney
City of Carpinteria