

(Presented at hearing
by Lindy Williams)

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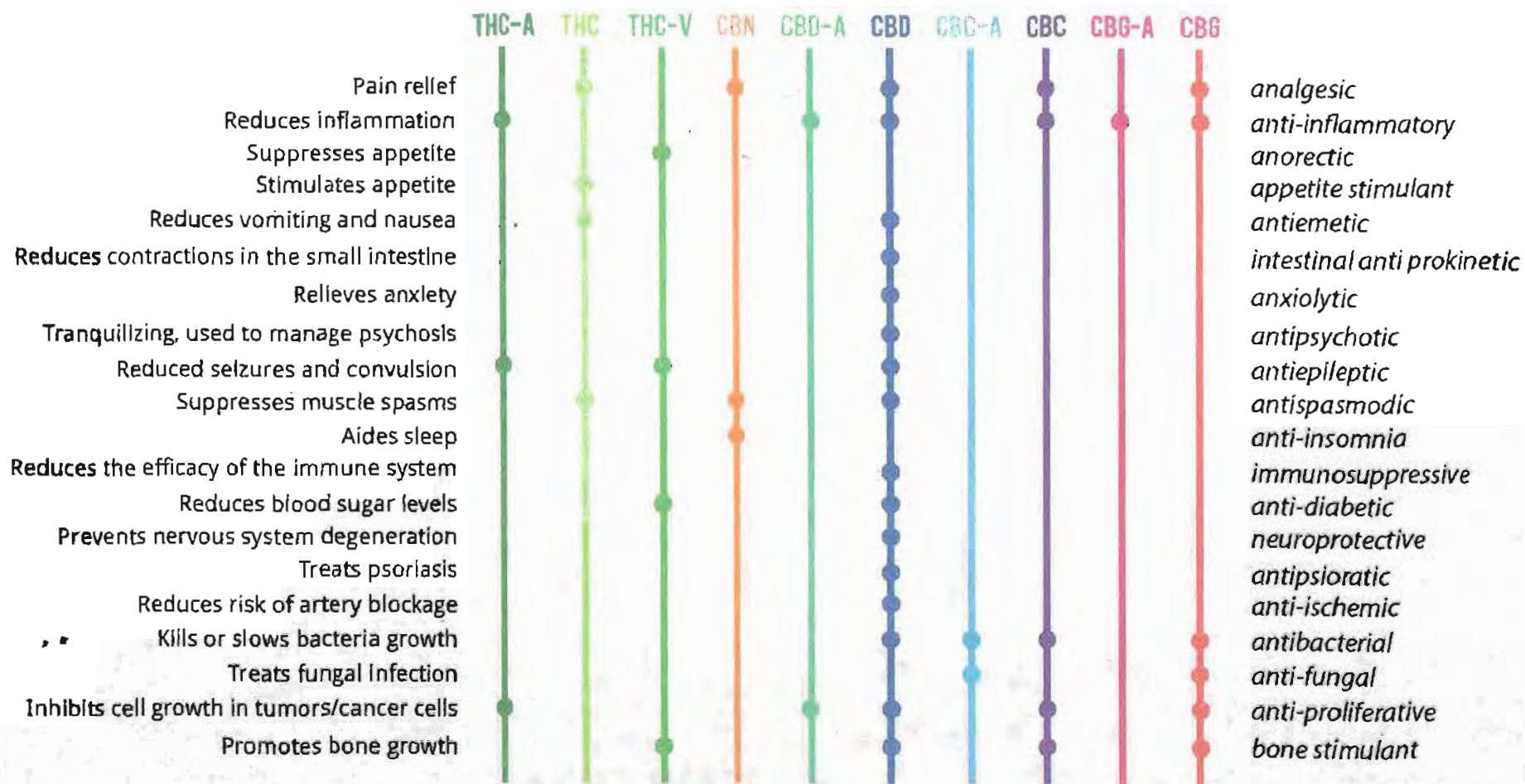
Ensured Sanitation of Edibles and Medication TESTED for Quality Is ONLY Available at



Medical Cannabis
Cooperatives
or Dispensaries



AILMENTS, CONDITIONS, AND CANNABINOIDS



These statements have not been evaluated by the Food and Drug Administration. Always consult with your physician before taking any medication.

Effects of these individual cannabinoids are from peer-related scientific literature. Trends In Pharmacological Sciences. Volume 30, Issue 10. October 2009. P515-527.

Public Comment

13-1174 E(3) 2 of 202

CCDEH POSITION ON ASSURING SANITATION OF PREMISES DISPENSING MEDICAL MARIJUANA IN FOOD PRODUCTS

Final Draft 10-20-10

- California law (Compassionate Use Act passed by Proposition 215 in 1996) Health and Safety Code 11362.5 *et seq.* allows the dispensing of medical or "compassionate" marijuana through membership or cannabis clubs.
- Federal law regulates marijuana as a restricted substance/drug.
- For medical and convenience reasons, medical marijuana is being dispensed to both legal and illegal users by incorporating it into conventional food products, most commonly cookies and brownies.
- There is a public health risk of food borne illnesses from edible products - especially potentially hazardous food - served from dispensaries operating in unsanitary conditions or without infrastructure necessary for proper processing or holding.
- These public health risks are likely to increase as cannabis dispensaries continue to expand and if recreational marijuana use is approved in the future.
- Marijuana is a federally controlled substance and local health and environmental health departments do not have authority to regulate dosage, quality, efficacy or other medicinal or pharmaceutical provisions that are the purview of the federal or State government.
- The California Department of Public Health (CDPH) has advised local agencies that edible products containing marijuana may not legally be sold as food pursuant to the Sherman Food, Drug and Cosmetic Law "Sherman Law" (Health and Safety Code Division 104 Part 5) or the California Retail Food Code "CalCode" (Health and Safety Code Part 7). Edibles that contain marijuana meet the statutory definition of "drugs" under the Sherman law because their intended use is to effect the structure or function of the body and because they are being used in the cure, mitigation, and treatment of disease. The brownie or cookie merely becomes the drug delivery system.
- Manufacturing of drugs is strictly controlled and must be conducted in a licensed facility, subject to the inspection of CDPH. CDPH cannot license marijuana edible manufacturers under current law, as the products do not have an approved new drug application on file with the US Food and Drug Administration, setting forth the safety and efficacy of the products. Additionally, the schedule classification of marijuana would have to be changed from schedule one to schedule two, before FDA could even consider a new drug application.
- There are no current statewide standards or guidelines providing specific sanitation requirements for the dispensing of medical marijuana edibles

Local health and environmental health officials in California recognize the potential public health risks associated with the unregulated dispensing of medical marijuana in California resulting from:

- Contaminated or adulterated marijuana,
- Contaminated or adulterated delivery systems - food, drinks, pipes, etc.,
- Inconsistent and/or inaccurate measurement of dosage and potency,
- Access to minors, and
- Public nuisance issues associated with growing, processing and handling marijuana

Despite complex and conflicting federal and state laws, most local governments assert their authority to regulate these dispensaries for public health, safety and business purposes. To ensure public health protection, some local environmental health agencies are implementing permitting and

inspection programs and/or performing plan reviews, while others are being asked to provide input on the necessary sanitation requirements of these facilities. Many local agencies have instituted bans or moratoriums on new dispensaries pending the adoption of state and local standards for the safe dispensing of this substance.

CCDEH supports the drafting of a statutory amendment to create a new product classification and appropriate sanitary standards for the production of those products or a model local ordinance that comprehensively addresses public health, public safety as well as zoning and business licensing issues.

In order to provide for consistent public protection, CCDEH favors the establishment of statewide standards in statute by which the state or local government would regulate marijuana edibles - and possible future recreational - marijuana. Such standards will need to:

- Treat medical marijuana dispensaries as medical dispensing facilities, not food facilities. Food facilities regulated under Cal Code and marijuana dispensaries or associated dispensary activities should be contained in totally separate facilities.
- Establish marijuana edible sanitation requirements in a new section of the Health and Safety Code, separate from the California Retail Food Code, to avoid conflict with existing federal and state laws, and
- Prescribe sanitation standards equivalent to CalCode for food preparation, storage and handling and sale of edible marijuana products. Marijuana edible products produced at dispensaries should be limited to non-potentially hazardous food such as tea, cookies, brownies or candy. Provide standards for labeling edible products containing marijuana to ensure products are presented as drugs and cannot be mistaken as food.
- Dispensaries preparing marijuana edible products should be constructed in accordance with applicable building standards and other state laws.
- Ensure that edible products sold at dispensaries are not produced, or stored in private homes.

Note:

The City and County of San Francisco has adopted a local ordinance (Article 33: The Medical Cannabis Act) which regulates medical cannabis dispensaries through a permit which is issued by SF Environmental Health with referral and review by other SF departments, including the Mayor's Office, Fire, Planning and Building.

Alameda County Medical Marijuana Dispensaries



Estabrook Senior Housing, San Leandro. Bay-Friendly Rated in 2010.

**AN ORDINANCE ADDING CHAPTER 6.108 TO TITLE 6
OF THE ORDINANCE CODE OF THE COUNTY OF ALAMEDA
RELATING TO MEDICAL MARIJUANA DISPENSARIES**

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ORDINANCE NO. O-2005-25

**AN ORDINANCE ADDING CHAPTER 6.108 TO TITLE 6
OF THE ORDINANCE CODE OF THE COUNTY OF ALAMEDA
RELATING TO MEDICAL MARIJUANA DISPENSARIES¹**

The Board of Supervisors of the County of Alameda ordains as follows:

**SECTION I
Findings**

The Board of Supervisors hereby amends the Ordinance Code for the County of Alameda based upon the following findings:

- A. The voters of the State of California approved Proposition 215 (codified as Sections 11362.5, *et. seq.*, of the California Health and Safety Code and entitled "The Compassionate Use Act of 1996").
- B. The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to obtain it without fear of criminal prosecution under specific, limited circumstances.
- C. The State enacted Senate Bill 420 in 2003 (codified as Sections 11362.7 *et seq.* of the Health and Safety Code) to clarify the scope of the Compassionate Use Act of 1996 and to allow local governments to adopt and enforce rules and regulations consistent with State law.
- D. It is the desire of the Board of Supervisors to implement Senate Bill 420 by amending the General Ordinance Code in order to protect the public health, safety and general welfare.
- E. It is the Board of Supervisors' intention that nothing in this ordinance shall be construed to allow the consumption, cultivation or distribution of marijuana for any purpose that is not allowed by State law.

**SECTION II
Amendment of Ordinance Code**

Chapter 6.108 is added to Title 6 of the Ordinance Code of the County of Alameda to read as follows:

6.108.010 Purpose and Intent

The purpose and intent of this Chapter is to implement State law by providing a means of establishing and regulating the operation of medical marijuana dispensaries in a manner that is consistent with State law and which promotes the health, safety and

general welfare of the residents and businesses within the unincorporated portions of the County.

6.108.020 Definitions

The following words and phrases shall have the following meanings when used in this Chapter:

- A. "Applicant" means a person who shall seek a permit under this Chapter by filing an application as provided for in this Chapter. "Application" means that form provided by the Sheriff in accordance with this Chapter for the purpose of seeking a permit.
- B. "County" means the County of Alameda. "State" means the State of California.
- C. "Eligible application" means an application that complies with the requirements of the initial review and is submitted for final selection, as provided for in Section 6.108.110.
- D. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- E. "Medical marijuana dispensary" or "dispensary" means any facility where medical marijuana is made available and/or distributed under the authority and regulations of this Chapter; provided, however, that the following facilities are exempt from the requirement of a permit.
1. A clinic that is licensed under Chapter 1 of Division 2 of the California Health and Safety Code.
 2. A health care facility that is licensed under Chapter 2 of Division 2 of the California Health and Safety Code.
 3. A residential care facility for persons with chronic life-threatening illness that is licensed under Chapter 3.01 of Division 2 of the California Health and Safety Code.
 4. A residential care facility for the elderly that is licensed under Chapter 3.2 of Division 2 of the California Health and Safety Code.
 5. A residential hospice or a home health agency that is licensed under Chapter 8 of Division 2 of the California Health and Safety Code.
- F. "Permit" means a permit issued by the County for operation of a medical marijuana dispensary under this Chapter. "Permittee" means a person who holds an effective and current permit under this Chapter.
- G. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the State.

H. "Person with an identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended. Until such time as the State implements a program for issuance of identification cards under Section 11362.7 of the California Health and Safety Code throughout California, any identification card issued under the authority of the State or a local agency in California shall be deemed to comply with this Section.

I. "Premises" means the building in which a medical marijuana dispensary is operated and, in addition, any accessory structures and appurtenant areas.

J. "Sheriff" means the Sheriff of the County of Alameda and his or her authorized representatives.

K. "Primary caregiver" has the same definition as in Section 11362.5 of the California Health and Safety Code, as it may be amended.

L. "Qualified patient" has the same definition as in Section 11362.5 of the California Health and Safety Code, as it may be amended.

M. "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction and any child or day care facility.

6.108.030 Permit Required

A. It shall be unlawful for any person to conduct, engage in or allow to be conducted or engaged in the operation of a medical marijuana dispensary in the unincorporated portion of Alameda County, unless such medical marijuana dispensary is authorized by a legally effective permit issued under this Chapter.

B. The owner, managing partner, officer of a corporation or such other person who shall be primarily responsible for the operation of a proposed medical marijuana dispensary shall apply for a permit under this Chapter and, if granted, shall maintain the operation of the medical marijuana dispensary in conformity with the terms of this Chapter and of the permit.

C. The fact that an applicant possesses other types of State or County permits or licenses other than those identified in Section 6.108.020 shall not exempt the applicant from obtaining a permit under this Chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this Chapter.

D. At no time shall the County have in effect more than three (3) permits, consisting of a maximum of one (1) permit in each of the areas shown in Exhibit A of this Ordinance. No permit shall be issued in any portion of the unincorporated area that is not within one of the areas delineated in Exhibit A.

E. Notwithstanding Paragraph D of this Section, each medical marijuana dispensary shall also meet all of the following locational standards:

1. No dispensary may be closer than one thousand (1000) feet from any other dispensary.
2. No dispensary may be closer than one thousand (1000) feet from any school, public park or playground, drug recovery facility or recreation center.
3. Each dispensary shall be located in a commercial or industrial zone or their equivalent.
- F. The County has the ability to reduce the location requirement as it applies to schools by 15% upon a finding that the dispensary would not endanger the health and safety of students.

6.108.040 Term of Permits and Renewals

A. Each permit shall expire two (2) years after the date of its issuance. Any permit may be renewed by the Sheriff for successive two (2) year periods upon the submission of an application by the permittee. At the time of consideration of a renewal application, the County shall consider compliance with conditions in the prior term and, in addition, the HCSA may review and revise the mission statement of the dispensary in accordance with the requirements of Sections 6.108.090 and 6.108.100.

B. Notwithstanding paragraph A of this Section 6.108.040, any permit shall expire upon the effective date of an ordinance that provides for the operation of a medical marijuana dispensary by the County, whether as a County facility or under contract with the County.

C. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.

D. Any application for renewal shall be rejected, if:

1. The application is filed less than forty-five (45) days before its expiration.
2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten (10) days after the granting of a permittee's appeal of the suspension or revocation of a permit.
3. The dispensary authorized by the permit has not been in regular operation in the four (4) months prior to the renewal application.
4. The dispensary fails to conform to the criteria set forth in Section 6.108.100.

6.108.050 Application, Renewal and Revocation Procedures

A. The Sheriff shall initiate an application process upon receipt of an application for the establishment of a dispensary within an area where a dispensary could be established based upon the provisions of Paragraph D of Section 6.108.030.

B. Each application for the establishment of a dispensary or renewal of an existing permit shall be filed with the Sheriff and the Sheriff shall be responsible for administering the application process as set forth in this Chapter.

C. The Board of Supervisors shall, by resolution, adopt such forms and procedures as are necessary to implement this Chapter with respect to the initial selection, future selection, renewal, revocation and suspension of permits.

D. Wherever this Chapter requires the County to give notice to an applicant, appellant or permittee, such notice shall be given by the Sheriff, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice shall be posted at the address of the dispensary on the date of the mailing of notice.

E. No person or facility that purports to have distributed marijuana prior to the enactment of this Chapter shall be deemed to have been a legally established dispensary under the provisions of this Chapter, and such person or facility shall not be entitled to claim a legal nonconforming status. Other than specifically provided in Section 6.108.080, no preference shall be given to any applicant due to an existing or prior operation of such a facility.

6.108.060 Contents of an Application

A. Each application shall set forth or incorporate by reference the following information in a standard form adopted by the Board of Supervisors:

1. Address of the proposed dispensary and the name and address of the owner of the premises.
2. The full name, present address and telephone number of the applicant.
3. The address to which notice of action on the application is to be mailed.
4. All residential addresses of the applicant for the five (5) years immediately prior to the date of the application.
5. Written proof that the applicant is eighteen (18) years of age or older.
6. The height and weight and the color of eyes and hair of the applicant.
7. Photographs of the applicant for identification purposes to be taken by the Sheriff.

8. The names and addresses of all businesses operated by and the employment of the applicant for the five (5) years immediately prior to the date of the application.
 9. The address of any dispensaries that had previously been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.
 10. The names of the person or persons to be regularly engaged in the operation of the proposed dispensary, whether an employee, volunteer or contractor. The application shall also identify those persons having management and supervisory responsibilities for the proposed dispensary;
 11. A description of the proposed security arrangements for insuring the safety of persons and protection of the premises from theft.
 12. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus twelve (12) inches.
 13. A description of external appearance of the dispensary, including a precise depiction of any signage.
 14. A description of products to be sold or dispensed by the dispensary.
 15. The mission statement of the dispensary with respect to meeting the medical needs of patients in its area, as delineated by Paragraph D of Section 6.108.030.
 16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as loitering or noise, on surrounding property owners.
 17. Authorization for the County, its agents and employees to seek verification of the information contained in the application.
 18. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 6.108.120.
 19. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
 20. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the State of California and that it shall maintain compliance during the term of the permit.
- B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this Section and payment of the application fees required by Section 6.108.070.
- C. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act.

6.108.070 Fees

A. Every application or renewal of a permit shall be accompanied by a nonrefundable fee, as established by the Board of Supervisors, in order to reimburse the County for the cost of reviewing and acting upon the application.

B. In addition, each dispensary shall pay an annual fee, as established by the Board of Supervisors, for the administration of the permit, including monitoring and enforcing compliance with terms of the permit.

C. The Board of Supervisors may enact such other fees as may be necessary to recover the County's costs of inspection and corrective actions in relation to dispensaries.

D. The Board of Supervisors may enact fees to be paid to schools located in the three areas where dispensaries are permitted for reimbursement for drug and alcohol treatment and education for students.

6.108.080 Selection of Permittees

A. Each of the medical marijuana dispensaries that is identified in Exhibit B of this Ordinance shall be allowed to file an application not later than forty (40) days after the effective date of this Chapter. At the time of filing such application the applicant is to provide notice of such application to all neighboring business and/or residences within one thousand (1000) feet of the proposed dispensary. All such applications shall be acted upon in accordance with the procedures set forth in this Chapter. No other application may be considered until all of the medical marijuana dispensaries listed in Exhibit B have either been issued or denied a permit or have otherwise failed to qualify for a permit.

B. Each dispensary that is identified in Exhibit B shall be allowed to continue to operate until the earliest of any of the following dates:

1. Upon forty (40) days following the effective date of this Chapter, no application has been filed for the operation of the dispensary.
2. Upon denial of an application that was timely filed for operation of the dispensary and rejection of all appeals of the denial by the applicant.
3. Issuance of an order of suspension or revocation by the County under Section 6.108.160.
4. Upon the effective date of an ordinance that provides for the operation of a medical marijuana dispensary by the County, whether as a County facility or under contract with the County.

C. After conclusion of all actions on all applications filed under Paragraph A of this Section, the Sheriff shall accept applications and conduct a selection process in accordance with Section 6.108.030.

6.108.090 Initial Review of Application

A. The Sheriff shall commence review of any application immediately upon its filing and shall complete such review within thirty (30) days. In conducting this review, the following County agencies shall comment on specific portions of the application:

1. The Sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and its employees of the proposed dispensary.
2. The Sheriff shall comment upon the adequacy of security measures that are described in the application.
3. The Community Development Agency shall comment upon the proposed location's compliance with the requirements of Paragraphs D and E of Section 6.108.030 and conditions that are needed to mitigate adverse impacts on surrounding uses.
4. The Health Care Services Agency shall comment upon the services to be provided and the mission statement set forth in the application.

B. Within ten (10) business days after the filing of an application, the Sheriff shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten (10) days after such rejection.

C. At the conclusion of the initial review, the Sheriff shall notify the applicant of the results of the initial review of the application.

6.108.100 Action upon Completion of Initial Review

A. Upon completion of the initial review, the Sheriff shall reject any permit that meets any of the following criteria:

1. The proposed dispensary does not comply with requirements of this Chapter.
2. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
3. The operation of the proposed dispensary at the proposed location is prohibited by any State or local law or regulation.
4. Any person who is listed on the application pursuant to Paragraph A(10) of Section 6.108.060 has been convicted of a felony within the past ten (10) years.

A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

5. The applicant or the operator listed in the application is less than eighteen (18) years of age.
 6. The Health Care Services Agency has determined that the application has failed to state a health care purpose that fulfills the purposes of Sections 11362.5, *et seq.* of the California Health and Safety Code.
- B. Any application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final selection process.

6.108.110 Final Selection of Medical Marijuana Dispensaries

A. The final selection process shall be comprised of selection of which eligible applications shall be submitted for final selection and the establishment of operating conditions of any permits issued under this Chapter. The final selection process shall not exceed thirty (30) days in the absence of an appeal.

B. The final selection process shall commence with the separation of all eligible applications into the areas that are delineated in Paragraph D of Section 6.108.030. If an area has a number of eligible applications that is the same as or less than the allowable number of medical marijuana dispensaries for such area, then all applications for that area shall be submitted for establishment of operating conditions as set forth in Paragraph C of this Section. If any area has a number of eligible applications that exceeds the maximum number of dispensaries for such area, the eligible applications to be submitted for final selection shall be designated by drawing or other method that ensures that each eligible application has an equal chance of being selected for the area.

C. The Sheriff, the Community Development Agency and the Health Care Services Agency shall establish operating conditions, in addition to the standard conditions contained in Section 6.108.120, for each eligible application that has been submitted for final review. The operating conditions shall be limited to those that are necessary to carry out the purposes of this Chapter, to mitigate specific and foreseeable adverse impacts on properties in the vicinity and to achieve the mission statement in the application.

D. At the conclusion of the final selection, the Sheriff shall give notice to the applicant of the operating conditions that would attach to the permit. Within ten (10) days after notice, the applicant shall either:

1. Certify acceptance of the operating conditions and the standard conditions of the permit, and the permit shall thereupon issue immediately.
2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition, the application shall be denied. The applicant may appeal any condition within ten (10) days after notice of the conditions. Upon either the

failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.

6.108.120 Standard Conditions

A. Throughout the term of the permit each permittee shall comply with the following standard conditions:

1. A dispensary may only distribute, provide or allow to be provided marijuana to those persons who are primary caregivers or qualified patients who are in possession of an identification card which is in compliance with the regulations established by the California Department of Health or Health Care Services Agency. All distribution shall strictly comply with Section 11362.5 of the California Health and Safety Code and the terms of the permit and this Chapter. It shall be the responsibility of the permittee to ensure that a good faith effort be made to verify the validity of any identification card provided to the dispensary.
2. Each dispensary shall maintain records of persons who have received marijuana from the dispensary. These records shall set forth only the identification card number issued pursuant to California Health and Safety Code Section 11362.71 *et seq.*, as a protection of the confidentiality of the cardholders or a copy of such documentation that authorizes such distribution under this Chapter.
3. A dispensary may be open for business only between the hours of 09:00 a.m. and 09:00 p.m. on any day, except as follows: each dispensary within 1000 feet of any school shall be closed for a period of one and one-half hours (1 ½) after the cessation of classes to avoid conflict with the travel of students to and from the school. All activities that are undertaken in the operation of the dispensary shall be entirely conducted indoors on the premises.
4. Marijuana may not be grown or cultivated on the premises. The maximum amount of marijuana that may be on the premises at any time shall be the lesser of:
 - a. An amount of marijuana equal to eight (8) ounces per qualified patient, primary caregiver and person with an identification card who has received marijuana from the dispensary during the previous thirty (30) calendar days, or
 - b. A total of twenty (20) pounds of marijuana.
5. No marijuana shall be smoked, ingested or otherwise consumed on the premises of a dispensary, provided that ingestion by a vaporization device may be authorized in writing by the Health Care Services Agency.
6. A dispensary shall label its products by stating the name of the dispensary and the weight of cannabis. Any food products must be contained in a package that is labeled to indicate the ingredients, including the amount of cannabis contained

- in the package, and such other information as may be required by state or local law.
7. No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the operation of the dispensary. No person under the age of eighteen (18) shall be allowed on the premises.
 8. The entrance to a dispensary shall be posted with a notice that states the restrictions on the presence of persons under the age of eighteen (18) and that smoking, ingesting or consuming marijuana on the premises is prohibited. In addition, each dispensary shall conspicuously display the permit.
 9. No dispensary may hold a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, nor may it include a business that sells alcoholic beverages. No alcohol may be stored, sold, dispensed or used on the premises.
 10. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in the operation of the dispensary. The registry shall be provided to the Sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person.
 11. No person who has been convicted of a felony within the past ten (10) years may be actively engaged in the operation of any dispensary. A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 12. A dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.
 13. The permittee shall provide the Sheriff with the name, telephone number and facsimile number of a community relations contact to whom one can provide notice of problems associated with the dispensary. The permittee shall make a good faith effort to resolve problems without the need for intervention by the County.
 14. A dispensary shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within a hundred (100) feet of the premises.
 15. A dispensary shall comply with County building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations.
 16. A dispensary shall not be delinquent in the payment of fees required by this Chapter.

17. All activities of the dispensary must take place within the interior of the building and not be visible from the street. A dispensary may not cover or alter the windows or building doors to comply with this requirement.
 18. A dispensary must have appropriate restroom facilities that will accommodate both male and female customers.
- B. In order to minimize any adverse impacts on surrounding properties or residents, the standard operating conditions that are set forth in this section may be modified upon the issuance of the permit or upon ten (10) days notice during the term of the permit.
- C. During the term of each permit, the County shall require the permittee to comply with the standard operating conditions that are set forth in this Section or as they may be modified in accordance with Paragraph B of this Section and, in addition, any such operating conditions that may be established pursuant to Paragraphs C and D of Section 6.108.110.
- D. At any time during the operation of a dispensary and without notice, the Sheriff, acting in conjunction with other appropriate County officials, may enter the premises for the purpose of observing compliance of the dispensary with the conditions of its permit.

6.108.130 Appeal from Administrative Determinations

- A. An appeal may be filed by an applicant, permittee or the owner or occupant of property within one thousand (1000) feet of any existing or proposed dispensary.
- B. Any appellant may appeal an administrative determination that is made in relation to any of the following actions:
1. Finding that an application is incomplete or
 2. Determination that an application does not comply with the requirements of Section 6.108.100.
 3. Establishment or modification of operating conditions.
 4. **Denial of Permit**
 5. Suspension or revocation of a permit.
- C. Any appeal shall be filed with the Sheriff within ten (10) days after the date of the notice of any such administrative determination.
- D. Within ten (10) days after the filing of an appeal, notice shall be given in accordance with Section 6.108.050. Such notice shall set forth the grounds for the appeal, the method of submitting comments to the County regarding the appeal and the date and location of the hearing of the appeal.
- E. Any appeal that is not timely filed will be deemed ineffective and the administrative determination that is being appealed will become final.

6.108.140 Administrative Review of Appeal

A. Within thirty (30) days after the filing of an appeal of an administrative determination, the Sheriff shall convene a panel consisting of a representative of the County Administrator, Community Development Agency, Health Care Services Agency and the Sheriff at which the appeal shall be heard in public session. The appellant and any interested parties will be allowed to address the panel regarding the appeal.

B. Within ten (10) days after conclusion of the hearing of the appeal by the administrative panel, the Sheriff shall give notice of the decision of the panel.

C. Any appellant may file an appeal of the determination of the administrative panel within ten (10) days after the date of the notice of the decision of the administrative panel.

6.108.150 Hearing by the Board of Supervisors

A. Within thirty (30) days after the filing of an appeal of the administrative panel's decision, the Board of Supervisors shall conduct a hearing of the appeal.

B. At least ten (10) days prior to the hearing of the appeal by the Board of Supervisors, notice shall be given in accordance with Section 6.108.050. Such notice shall set forth the grounds for the appeal, the method of submitting comments to the County regarding the appeal and the date and location of the hearing of the appeal by the Board of Supervisors. The Board of Supervisors may give such additional notice of hearing as it deems appropriate in a particular case.

C. The Board of Supervisors may take any appropriate action upon the original administrative action that was appealed pursuant to Section 6.108.130, including granting or denying the appeal or imposing, deleting or modifying operating conditions of the permit. The decision of the Board of Supervisors shall be final.

6.108.160 Suspension and Revocation

A. The Sheriff may initiate the revocation or suspension of a permit when it shall appear that the permittee has committed any of the following actions:

1. Violates the operating or standard conditions of the permit or the requirements of State or local laws.
2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the premises.

B. No permit shall be revoked or suspended by virtue of this Section until a hearing has been held in the same manner as described in Sections 6.108.140 and 6.108.150. Notice of the hearing shall contain a brief statement of the grounds for revoking or suspending the permit and the time and date for the hearing.

C. The decision of the administrative panel may include suspension, revocation or the modification of the permit by adding conditions that are designed to reduce or remove the problems that caused the proposed revocation or suspension of the permit.

D. Within ten (10) days after conclusion of the hearing of the appeal by the administrative panel, the Sheriff shall give notice of the decision of the panel.

E. Any appellant may appeal the determination of the administrative panel to the Board of Supervisors within ten (10) days after the date of the notice of the decision of the administrative panel. The Board of Supervisors shall act upon the appeal in accordance with Section 6.108.150.

6.108.170 Transfer of the Permit

A. No permittee may transfer a permit without authorization by the County, granted in accordance with this Section.

B. A permittee shall apply for transfer by submitting an application that complies with Section 6.108.060. The Sheriff shall verify information in the application and shall approve the transfer unless it fails to comply with the standards set forth in Section 6.108.100.

C. Before a transfer of a permit may become effective, the transferee shall certify acceptance of the operating conditions and the standard conditions of the permit.

6.108.180 Prohibited Operations

The permittee and or his or her agents shall at all times comply with Section 11326.5, *et. seq.* Health and Safety Code and this Chapter in the operation of the dispensary. This includes, but is not limited to, the prohibition of sales, transportation and delivery of medicinal marijuana off the site of the dispensary premises.

6.108.190 Misdemeanor Violation

Any person violating any of the provisions or failing to comply with section 6.108.120 A, 2, 3, 4, 5, 6, 7, or 9 of this Chapter shall be guilty of a misdemeanor. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter or the permit is committed, continued or allowed in conjunction with the operation of a dispensary and shall be punishable accordingly.

6.108.200 Civil Injunction

In addition to the penalties provided in this Chapter, any condition caused or allowed to exist in violation of any of the provisions of this Chapter shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for injunctive relief.

6.108.210 Severability

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

6.108.220 Judicial Review

Judicial review of a final decision made under this Chapter may be had by filing a petition for a writ of mandate with the Superior Court in accordance with the provisions of the Section 1094.5 of the California Code of Civil Procedure. Any such petition or any other action seeking judicial review shall be filed within ninety (90) days after the day the decision becomes final.

6.108.220(1) Six (6) Month Review

The Board of Supervisors will conduct a formal review of this ordinance within six (6) months after its effective date.

SECTION III
Effective Date

A. This ordinance shall take effect and be in force thirty (30) days from and after the date of passage.

B. Before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on _____, 2005 by the following called vote:

AYES:
NOES:
EXCUSED: _____

KEITH CARSON
President of the Board of Supervisors
County of Alameda, State of California

ATTEST: CRYSTAL K. HISHIDA
Clerk of the Board of Supervisors, County of Alameda

By _____

Exhibit A

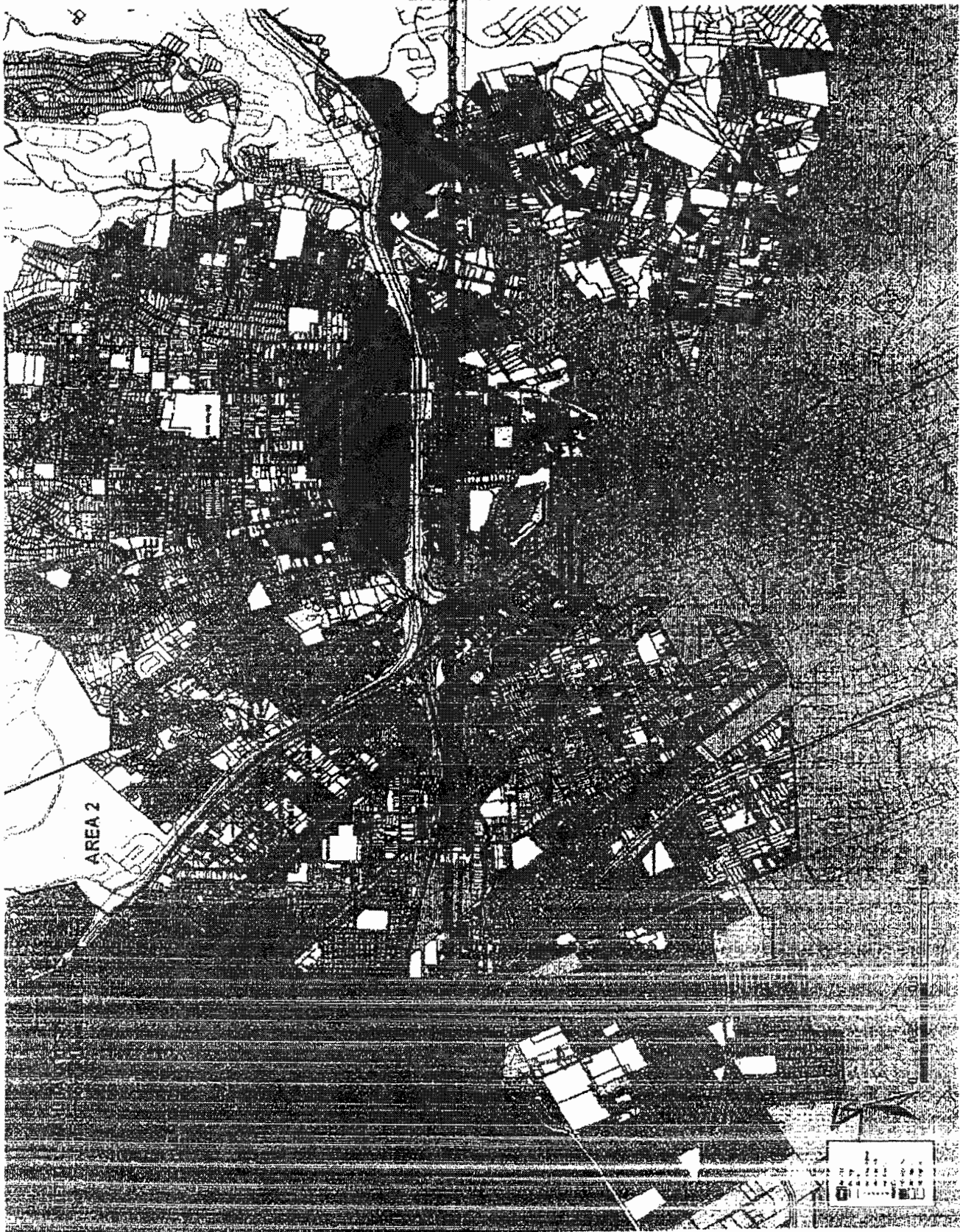


Exhibit B**Existing Medical Marijuana Dispensaries**

1. The Health Center (THC), 15998 E. 14th Street, San Leandro, California
2. Alameda County Resource Center (ACRC), 16250 E. 14th Street, Suite B, San Leandro, California
3. We Are Hemp, 913 E. Lewelling Boulevard, Hayward, California
4. Compassionate Caregivers, 16045 E. 14th Street, San Leandro, California
5. A Natural Source, 16360 Foothill Blvd., San Leandro, California
6. Compassionate Collective of Alameda County (CCAC), 21222 Mission Boulevard, Hayward, California
7. Garden of Eden, 21227 Foothill Boulevard, Hayward, California

Calaveras County Cannabis Dispensaries



Chapter 17.91 MEDICAL CANNABIS DISPENSARIES

17.91.010 Purpose and intent.

17.91.020 Definitions.

17.91.030 Enforcement of chapter.

17.91.040 Medical cannabis dispensary use permit.

17.91.050 Operating restrictions.

17.91.060 Minimum requirements for issuing medical cannabis dispensary use permits.

17.91.070 Fees.

17.91.080 Violations.

17.91.010 Purpose and intent.

It is the purpose and intent of this chapter to regulate availability and/or the distribution, by whatever means, of medical cannabis within the unincorporated area of Calaveras County. (Ord. 2830 §1(part), 2005).

17.91.020 Definitions.

The following words and phrases, when used in this chapter, shall be construed as defined in this section, unless it is apparent from the context that they have a different meaning:

“Medical cannabis dispensary” or “dispensary” means any facility or location where medical cannabis is made available to and/or distributed by or to two or more of the following: a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with Health and Safety Code Section 11362.5 et seq., including but not limited to Health and Safety Code Section 11362(d)(2) and (3). The terms “primary caregiver,” “qualified patient” and “person with an identification card” shall be as defined in Health and Safety Code Section 11362.5 et seq. A “medical cannabis dispensary” shall not include the following uses, as long as the location of such uses are otherwise regulated by this code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq. (Ord. 2830 §1(part), 2005).

17.91.030 Enforcement of chapter.

The planning director shall have the responsibility and duty of enforcement of this chapter. (Ord. 2830 §1(part), 2005).

17.91.040 Medical cannabis dispensary use permit.

A. Prior to initiating operations, and as a continuing prerequisite to conducting legally valid operations, any person or entity wishing to operate a medical cannabis dispensary shall apply to the planning department and receive from the county a medical cannabis dispensary administrative use permit on the terms and conditions set forth in this chapter.

B. The applicant for a medical cannabis dispensary permit shall submit to the planning department an application for a medical cannabis dispensary administrative use permit. The application shall be received and processed as any other application for an administrative use permit as set forth in Section 17.04.110 of this code. The county may impose reasonable terms and conditions on the proposed operations, consistent with Health and Safety Code Section 11362.5 et seq. and with public health, safety, and welfare. Such terms and conditions may include, but not be limited to, requirements as to parking, adequate lighting, hours of operation, and adequate security.

C. A medical cannabis dispensary administrative use permit shall be valid for one year. An operator of a medical cannabis dispensary may re-apply for a permit for subsequent year(s).

D. The planning director, in consultation with the sheriff of Calaveras County, shall conduct a background check of any applicant for a dispensary permit administrative use permit or employee thereof and, based on that and other relevant information, determine whether to issue a medical cannabis dispensary administrative use permit.

E. A medical cannabis dispensary shall be located only in the CP professional office zoning district. (Ord. 2830 §1(part), 2005).

17.91.050 Operating restrictions.

A medical cannabis dispensary, once permitted by the county, shall meet the following operating standards for the duration of the use:

A. A medical cannabis dispensary may possess no more than eight ounces of dried cannabis per qualified patient or caregiver, and maintain no more than six mature and twelve immature cannabis plants per qualified patient. However, if a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the dispensary may possess an amount of cannabis consistent with the patient's needs.

B. No cannabis shall be smoked, ingested or otherwise consumed on the premises of the dispensary. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings.

- C. Persons under the age of eighteen shall not be allowed on the dispensary's premises unless they are a qualified patient or a primary caregiver.
- D. No dispensary shall hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.
- E. No dispensary shall conduct or engage in the commercial sale of any product, good or service. The term "commercial sale" does not include the provision of medical cannabis on terms and conditions consistent with this code and applicable law.
- F. Subject to HIPAA regulations, each dispensary shall allow the county to have access to the dispensary's books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data will be produced no later than twenty-four hours after receipt of the county's written request(s).
- G. The dispensary shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft, as approved by the sheriff.
- H. The dispensary shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the county to ensure that the operations of the dispensary are consistent with protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.
- I. The building in which the dispensary is located shall comply with all applicable local, state and federal rules, regulations, and laws including, but not limited to, building codes and the Americans with Disabilities Act, as certified by the county building official.
- J. A dispensary shall not cultivate or distribute medical cannabis for profit. A dispensary may receive compensation for its actual expenses, including reasonable compensation for services provided, or for payment of out-of-pocket expenses incurred in providing those services. However, any such dispensary must pay applicable sales tax on such sales or services and maintain the applicable seller's permit or similar permit from the State Franchise Tax Board or other applicable agency.
- K. Option. No more than six mature and twelve immature cannabis plants per qualified patient may be cultivated on the premises. If such plants are maintained on the site they shall be located in an indoor secured site, acceptable to the county sheriff that is neither visible to nor accessible by the public.
- L. A dispensary that provides cannabis in the form of food or other comestibles that requires a permit from the county environmental health department shall obtain and maintain the appropriate permits from the county environmental health department for the provision of food or other comestibles.
- M. A dispensary shall provide to the planning director, upon request, written evidence to the planning director's reasonable satisfaction, that the dispensary is not engaged in interstate commerce, as it relates to medical cannabis.
- N. Signage for the dispensary is allowed consistent with the requirements of the CP professional office zoning district, with the exception that there shall be no direct reference to cannabis in any form, including illustration, on the sign. (Ord. 2830 §1(part), 2005).

17.91.060 Minimum requirements for issuing medical cannabis dispensary use permits.

A. Purpose. The purpose of this section is to establish requirements and standards for the location and operation of medical cannabis dispensaries.

B. Mandatory Locational Standard. A medical cannabis dispensary may be located only in CP professional offices zoning district, after approval of an administrative use permit and:

1. Within one thousand feet of another medical cannabis dispensary, an elementary school, middle school, high school, public library, or public park; or
2. Within one thousand feet of a youth-oriented establishment characterized by either or both of the following: (a) the establishment advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or (b) the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

The uses and zones set forth in this subsection shall be collectively known as “sensitive uses.” The distance between a medical cannabis dispensary and a “sensitive use” shall be measured in a straight line, without regard to the intervening structures or objects, from the closest property line of the parcel in which the medical cannabis dispensary is located to the boundary of the property on which the building or structure, or portion of the building or structure, in which the “sensitive use” occurs or is located.

C. Accessory Use. A medical cannabis dispensary is not and may not be approved as an accessory use to any other use permitted by this code. (Ord. 2830 §1(part), 2005).

17.91.070 Fees.

The county may impose such reasonable fees on both the application for, and the issuance of a permit for, a dispensary to recoup the county’s cost in administering and implementing the provisions relating thereto, including but not limited to the costs for background checks or charges by either the sheriff or the planning department. (Ord. 2830 §1(part), 2005).

17.91.080 Violations.

Violations of the terms and conditions of the dispensary’s permit, of this code, or of applicable local, state, and federal rules, regulations, and laws shall be unlawful, and shall also be grounds for revocation of the permit or for nonrenewal. The penalty for any violation of this chapter shall be a misdemeanor, punishable by a fine of five hundred dollars and/or six months imprisonment. (Ord. 2830 §1(part), 2005).

Modoc County

Medical Marijuana Collective Facilities



AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MODOC AMENDING TITLE 18 ZONING ORDINANCE BY ADDING CHAPTER 18.170 'MEDICAL MARIJUANA COLLECTIVE USES', AS RECOMMENDED IN MODOC COUNTY PLANNING COMMISSION.

WHEREAS, as a result of Proposition 215, an initiative approved by the voters of California referred to as the "Compassionate Use Act of 1996" ("Act") which allows the use of medical marijuana for medical reasons when recommended by a physician; and

WHEREAS, the intent of the Act was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances; and

WHEREAS, individuals have established medical marijuana collectives in various cities and counties for lawful access and distribution; and

WHEREAS, on January 1, 2004, Senate Bill 420 became effective to clarify the scope of the Act and to allow cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the Act; and

WHEREAS, a medical marijuana collective currently is not an expressly permitted use or a use permitted subject to a conditional use permit in any zoning district in the County; and

WHEREAS, the Board of Supervisors have reviewed the recommended Chapter 18.170 as recommended for approval by the Planning Commission by Resolution No. 2010-08 hereto attached as "Exhibit A;" and

WHEREAS, the Modoc County Planning Commission held public hearings on July 21, 2010 and on September 22, 2010 in accordance with California Government Code Section 65854 to determine the relationship of the proposed amendment and its effect on the General Plan, Zoning Regulations, and the health, safety, peace, morals, comfort and general welfare of persons within the County; and

WHEREAS, Planning Commission Resolution No. 2010-08 serves to meet the requirements of Government Code Section 65855 to provide a written recommendation to the Board of Supervisors of the decision rendered; and

WHEREAS, the Board of Supervisors makes the following findings:

1. There currently exists a lack of appropriate regulations governing the establishment and operation of medical marijuana collectives.
2. Interim Urgency Ordinance #340-A shall expire on November 23, 2010.
3. That in California marijuana can be used legally for personal medical use in accordance with Proposition 215, an initiative called the "Compassionate Use Act of 1996."
4. The requirements set forth in the recommended Title 18 Zoning Ordinance amendment, Chapter 18.170, shall establish an effective regulatory mechanism to allow for the operation of medical marijuana collectives in the County.
5. Specific use permit fees should apply to medical marijuana collective uses.
6. Limited-term use permits for medical marijuana collectives shall expire annually.

WHEREAS, the Board of Supervisors makes the following finding for the California Environmental Quality Act (CEQA):

1. This ordinance is exempt from CEQA, Public Resources Code 21000 et seq., including without limitation Public Resources Code 21065, CEQA Guidelines 153788(b)(4) and 15061(b)(3), as it can be seen that there is no possibility that the activity authorized herein may have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, the Board of Supervisors of the County of Modoc ordains as follows:

The Modoc County Zoning Ordinance is amended to add the following sections:

**Chapter 18.170
Medical Marijuana Collective Uses**

Sections:

18.170.010	Purpose
18.170.020	Regulations Applicable
18.170.030	Definitions
18.170.040	Operating Plan
18.170.050	Required Conditions
18.170.060	Limited Term
18.170.070	Signed Affidavit
18.170.080	Exercise of Permit
18.170.090	Annual Renewal
18.170.100	Location Requirements
18.170.110	General Development Standards and Operation Criteria
18.170.120	Fees
18.170.130	Indemnification
18.170.140	Severability

18.170.010 Purpose.

It is the purpose and intent of this Chapter to regulate the availability and the distribution, by whatever means, of medical marijuana within the unincorporated area of Modoc County in accordance with California Health and Safety Code Section 11362.5 through Section 11362.83, inclusive, commonly referred to as the Compassionate Use Act of 1996 and the Medical Marijuana Program.

18.170.020 Regulations Applicable.

Medical marijuana collective uses shall be a permitted use in the Commercial (C) Zoning District with a use permit in compliance with Sections 18.44, 18.110 and 18.128. The operation of medical marijuana collective must be in compliance with all applicable state and federal laws, rules and regulations and must comply with all other applicable building codes, development standards and requirements, including accessibility requirements.

18.170.030 Definitions.

When used in this Chapter, the words or phrases shall be defined as the following:

- A. "Medical Marijuana Collective" or "Collective" shall be as defined by California statute or determined by case law and may include any facility or location where the primary purpose is to dispense medical marijuana that has been recommended by a physician, and where medical marijuana is made available to or distributed by or to a primary caregiver or a

qualified patient in strict accordance with California Health and Safety Code Section 11362.5 *et seq.* A collective shall not include dispensing by primary caregivers to qualified patients in the following locations unless otherwise permitted by applicable local code sections and state law:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code.
 2. A health care facility licensed pursuant to Chapter Two of Division 2 of the California Health and Safety Code.
 3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code.
 4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code.
 5. A residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code provided that any such clinic, health care facility, hospice or residential care facility complies with applicable laws, including but not limited to, Health and Safety Code Section 11362.5.
- B. "Premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings.
- C. Other words and phrases contained in this Chapter specifically relating to the operation of medical marijuana collectives shall be defined as set forth in California Health and Safety Code Section 11362.5 *et seq.* and as may be amended from time to time.

18.170.040 Operating Plan.

A medical marijuana collective use application shall include an operating plan, which outlines the proposed collective business operations in detail.

- A. The operating plan shall specifically outline how the collective will provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and protect the premises from theft, as approved by the Sheriff.
- B. The operating plan shall specify the specific size of the location of collective.
- C. The operating plan shall specify the maximum number of employees that shall be employed by the collective at one time on the premises.
- D. The operating plan shall provide specific details on the policies and procedures for record keeping for the members of the collective.
- E. Times and days the collective will be open to members and other activity that may occur at the location required for operation.
- F. Any other relevant information regarding the operation of the proposed medical marijuana collective use.

18.170.050 Required Conditions.

Each and every use permit approved for medical marijuana collective uses as contained in the Chapter will contain the following conditions:

- A. A medical marijuana collective approved under this Chapter shall be operated in conformance with the approved operating plan and shall meet any specific, additional operating procedures and measures that may be imposed as conditions of approval to insure that the operation is consistent with protection of the health, safety and welfare of the community, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.
- B. The collective shall require a current and valid physician's written recommendation in compliance with state law and shall implement the approved procedures and policies for verifying the identification for any person entering the site.
- C. A collective shall not cultivate or distribute medical marijuana for profit. A collective may receive compensation for its actual expenses, including reasonable compensation for services provided, or for payment of out-of-pocket expenses incurred in providing those services.
- D. Notwithstanding, a use permit approved may be revoked or modified at any time following public hearing in accordance with Chapter 18.140 of this title.
- E. The following language shall be included on the recorded document: "This use permit does not in any way permit illegal activity or provide immunity from prosecution. By granting this use permit, the County is regulating land use and does not warrant that the operation (or manner of operation) of this collective is not in violation of state or federal law."

18.170.060 Limited Term.

All use permits issued for medical marijuana collective uses shall be limited-term, and shall be issued for a period of one year and shall contain the following provision: "This permit is a limited-term permit and shall expire one year after the date of issuance. In addition, this permit shall be subject to revocation or modification following a public hearing if the approving body finds that there has been a violation or noncompliance with the operating plan or any of the use permit conditions, or if the use for which this permit is hereby granted constitutes a nuisance."

18.170.070 Signed Affidavit.

The property owner and applicant, if other than the property owner, shall sign the application for the use permit, and shall include affidavit(s) agreeing to abide by and conform to the conditions of the use permit and all provisions of the Modoc County Code pertaining to the establishment and operation of the medical marijuana collective use, including, but not limited to, the provisions of this Chapter. The affidavit(s) shall acknowledge that the approval of the medical marijuana collective use permit shall in no way permit any activity contrary to this code or in violation of applicable state laws.

18.170.080 Exercise of Permit.

Use permits issued for medical marijuana collective uses shall be exercised only by the applicant, who must be a qualified patient or primary caregiver, and shall expire upon termination of the business for which it was issued, or upon sale or transfer of ownership of the medical marijuana collective.

- A. All use permits issued for medical marijuana collective uses shall include the following provision: "This use permit shall expire upon change of tenancy or sale or transfer of the business or property." Any use permit that is abandoned for a period of ninety (90) days shall automatically expire, and shall become null and void with no further action required on the part of the County.

18.170.090 Annual Renewal.

Use permits issued for medical marijuana collective uses are limited-term and therefore must be renewed annually prior to the date of expiration.

- A. The Planning Director may approve the annual renewal of the use permit, not to exceed a total of five (5) years, from original date of issuance if the application requesting renewal was received sixty (60) days prior to the expiration date and all of the following findings are made:
1. The use has been conducted in accordance with this Chapter, with the approved operating plan, and with all applicable use permit conditions of approval and state laws.
 2. The business for which the use permit was approved has not been transferred to another owner or operator.
 3. An annual audit of the collective has been conducted by the Planning Department to verify compliance permit conditions, with emphasis on proper implementation of record keeping procedures.
 4. There are no outstanding code enforcement violations.
 5. All required fees have been paid.

18.170.100 Location Requirements.

Medical marijuana collectives shall have to meet the following location specifications:

- A. A medical marijuana collective shall not be established on any parcel containing a dwelling unit used as a residence, nor within one hundred feet (100') of a residential zoning district.
- B. A medical marijuana collective shall not be established within one thousand feet (1,000') of any other medical marijuana collective.
- C. A medical marijuana collective shall not be established within one thousand feet (1,000') from any public school, park or an establishment, public or private, that caters to or provides services primarily to persons under eighteen (18) years of age.
- D. Notwithstanding, the subsections (18.170.100)(A) – (C) may be waived by the Planning Commission when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur.

18.170.110 General Development Standards and Operation Criteria.

The following are the minimum development standards and operational criteria applicable to any medical marijuana collective use:

- A. The building in which the collective is located shall comply with all applicable local and state rules, regulations, and laws including, but not limited to, building codes and accessibility requirements.

- B. The collective shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. The operational plan shall include a detailed description of proposed security measures.
- C. The membership of a collective shall not exceed 300 members at any one time, unless otherwise approved by the Planning Commission and specifically stated in the use permit.
- D. Medical marijuana shall not be grown at collective sites.
- E. Option: Cuttings of the marijuana plant may be kept or maintained on-site for distribution to qualified patients and primary caregivers in a manner contained within the operating plan and use permit:
 - 1. For the purposes of this Section, the term "cuttings" shall mean rootless pieces cut from marijuana plants, which are no more than six (6) inches in length, and which can be used to grow other plants in a different location.
- F. No exterior signage or symbols shall be displayed which advertises the availability of marijuana, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior.
- G. A collective shall not have operators or employees who are not qualified patients or primary caregivers meeting all terms and conditions of applicable law.
- H. Members of the collective must be residents of Modoc County.
- I. A collective may possess medical marijuana at its facility only in the cumulative amount that each qualified patient or primary caregiver served is allowed to possess under Health and Safety Code Section 11362.77, as may be amended from time to time.
- J. No person shall be allowed onto the premises unless they are a primary caregiver and/or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq.
- K. No person under the age of eighteen (18) shall be allowed on the premises.
- L. All persons entering the collective site will be required to provide identification and shall establish proof of a valid and current doctor's recommendation. The operating plan shall specify how this provision will be complied with and enforced.
- M. No collective shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.
- N. No collective shall conduct or engage in the commercial sale of any drug paraphernalia, products, goods or services unless otherwise approved by the use permit.
- O. No marijuana shall be smoked, ingested or otherwise consumed on the premises.

- P. No recommendations for use of medical marijuana shall be issued on-site, and the collective shall not have a physician on-site to evaluate patients unless specifically approved by the use permit.
- Q. Collective sales shall be subject to sales tax in a manner required by state law. An operator of a collective shall be required to apply for and obtain a Seller's Permit as required by the State Board of Equalization.
- R. Medical marijuana distributed by a collective shall be acquired, possessed and distributed only from the constituent members. Distribution to non-members is prohibited.
- S. The use permit shall specifically define the size of the collective operation. No collective may increase in size without amending the use permit.
- T. Collective operating days and hours shall be limited to Monday through Saturday from 8:00 a.m. to 5:00 p.m., or as otherwise approved by the use permit. Operating hours may be further restricted through the use permit process where needed to provide land use compatibility.
- U. A collective use permit applicant, his or her agent, employees, and/or volunteer workers, shall not have been convicted of, or be on probation or parole for, the sale or distribution of a controlled substance.
1. Background investigations shall be completed at the cost of the applicant/operator and approved by the Modoc County Sheriff, verifying whether the applicant, his or her agent, employees, and/or volunteer workers, have been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefore.
 2. The following information shall be provided in order to perform the background investigation specified herein:
 - a. The individual's name, address, phone number, and fingerprints.
 - b. A list of each criminal conviction of the individual, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. If there are past convictions, the list shall, for each conviction, set for the date of arrest, the offense charged, and the offense of which the applicant was convicted.
 - c. Such other information as may be required that is consistent with this Chapter, Modoc County Code, and applicable law.

18.170.120 Fees.

Application and renewal fees shall apply to use permits for medical marijuana collective uses that shall be adopted in accordance with Chapter 18.162.010 of this Title.

18.170.130 Indemnification.

The owner(s), permittee(s) and members of each collective shall indemnify and hold harmless the County and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at

the collective, and for any claims brought by any of their clients for problems, injuries, damages or liabilities of any kind that may arise out of the distribution and/or offsite use of medical marijuana as provided in a form as outlined by the applicable use permit.

18.170.140 Severability.

If any section, subsection, sentence, clause, phrase or word of this Chapter is for any reason held unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this Chapter.

Introduced at a regular meeting of the Board of Supervisors held on the twenty-sixth day of October, 2010, and passed and adopted by the Board of Supervisors of the County of Modoc, State of California on the ninth day of November, 2010, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

BOARD OF SUPERVISORS OF THE COUNTY OF MODOC

By: _____
Dan Macsay, Chairman, Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

San Diego County

Medical Marijuana Collective Facilities



ORDINANCE NO. 10061 (N.S.)

AN ORDINANCE AMENDING THE ZONING ORDINANCE REGARDING
MEDICAL MARIJUANA COLLECTIVE FACILITIES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The purpose and intent of this ordinance are stated at paragraph a of new Zoning Ordinance Section 6835 below.

Section 2. Section 6935 is hereby added to the Zoning Ordinance, to read as follows:

6935 MEDICAL MARIJUANA COLLECTIVE FACILITIES

- a. Purpose and Intent. It is the purpose of this section to implement the Compassionate Use Act of 1996 (Health & Safety Code Section 11362.5) and the Medical Marijuana Program (Health & Safety Code Sections 11362.7 et seq.) by establishing reasonable and uniform zoning regulations of medical marijuana collective facilities which, in combination with licensing requirements contained in the San Diego County Code, will allow qualified patients and primary caregivers to collectively or cooperatively cultivate marijuana for medical purposes, and at the same time protect the public health, safety and welfare of communities, within the unincorporated area of San Diego County. It is the intent of this section that the regulations be utilized to preserve the character of neighborhoods and property values and to deter the spread of crime and prevent problems of blight, deterioration, and public safety which often accompany and are brought about by the operation of medical marijuana collective facilities.
- b. Definition. The terms "Qualified Patient", "Primary Care Giver", "Medical Marijuana Collective Facility" and "Collective Facility" shall have the meanings given in San Diego County Code Section 21.2502. However, this Zoning Ordinance shall not apply to the following: (1) a Collective Facility operated by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the quantity allowed by Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur; and, (2) a Collective Facility operated by a Primary Care Giver where the amount of marijuana at no time exceeds the amount allowed for two Qualified Patients by Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.
- c. Use Regulations Where Collective Facilities Are Allowed. A Collective Facility may only be located upon property to which the M50, M52, M54, M56 or M58 Use Regulations apply, and within those areas, the separation restrictions of paragraph d below shall apply.
- d. Separation Requirements For Collective Facilities. A Collective Facility shall not be allowed or permitted upon any parcel, any portion of which would be, at the time of establishment of the Collective Facility, within any of the following:
 1. 1000 feet from a parcel to which a residential Use Regulation applies;

2. 1000 feet from a parcel containing a school, playground, park, church, recreation center, or youth center; or
3. 1000 feet from a parcel on which another Collective Facility has been established.

The distance between a Collective Facility and the parcels containing the uses listed in paragraph d above shall be measured in a straight line, without regard for intervening structures, from any parcel line of the real property on which the Collective Facility is located, to the nearest point on a parcel line of the real property on which any portion of the facility, building, or structure in which the above listed use occurs or is located.

- e. **Openness of Premises.** A Collective Facility shall be designed and constructed such that no area or portion where marijuana is cultivated or stored is visible from the exterior; however, the entrance shall be fully visible from the public street or building frontage.
- f. **Operating License Required.** Pursuant to San Diego County Code Section 21.2503, a Medical Marijuana Collective Facility Operating Compliance Certificate is required for the operation of a Collective Facility.
- g. **Premises Requirements.**
 1. **Signage.** Exterior signage shall conform to the requirements of Section 6250 et al.
 2. **Parking.** A Collective Facility shall conform to the requirements of Section 6762 and shall be considered an "Office" occupancy type for purposes of that Section.
 3. **Physical Appearance.** The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment or property values within the immediate area.
- h. **Nonconforming Uses.** Notwithstanding Section 6852, a Collective Facility which was lawfully established before August 1, 2010 shall cease operations no later than August 1, 2013. The Collective Facility may apply for one six-month extension of this period. The Director may grant that extension if upon determining that the operator would be subjected to unreasonable financial hardship if forced to cease operations, considering (1) the availability of alternative complying locations; (2) the term of any applicable lease for the premises and whether it may be modified or terminated; (3) the non-recoverable costs of any improvements that would only be of use to the Collective Facility; (4) the profits which have been received during the period from August 1, 2010 to August 1, 2013, and (5) the potential for other conforming uses to locate on the site.

Any nonconforming medical marijuana collective facility shall not be expanded, enlarged, extended or altered except that the use may be changed to a conforming use.

Section 3. This ordinance shall take effect and be in force thirty days after the date of its passage, and before the expiration of fifteen days after its passage it or a summary thereof shall be published once with the names of the members voting for and against the same in _____

San Diego Commerce, a newspaper of general circulation
published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY



SENIOR DEPUTY

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 30th day of June, 2010.

Pam Slater-Price

PAM SLATER-PRICE

Chairwoman, Board of Supervisors

County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Slater-Price, Horn

NOES: Roberts

ATTEST my hand and the seal of the Board of Supervisors this 30th day of June, 2010.

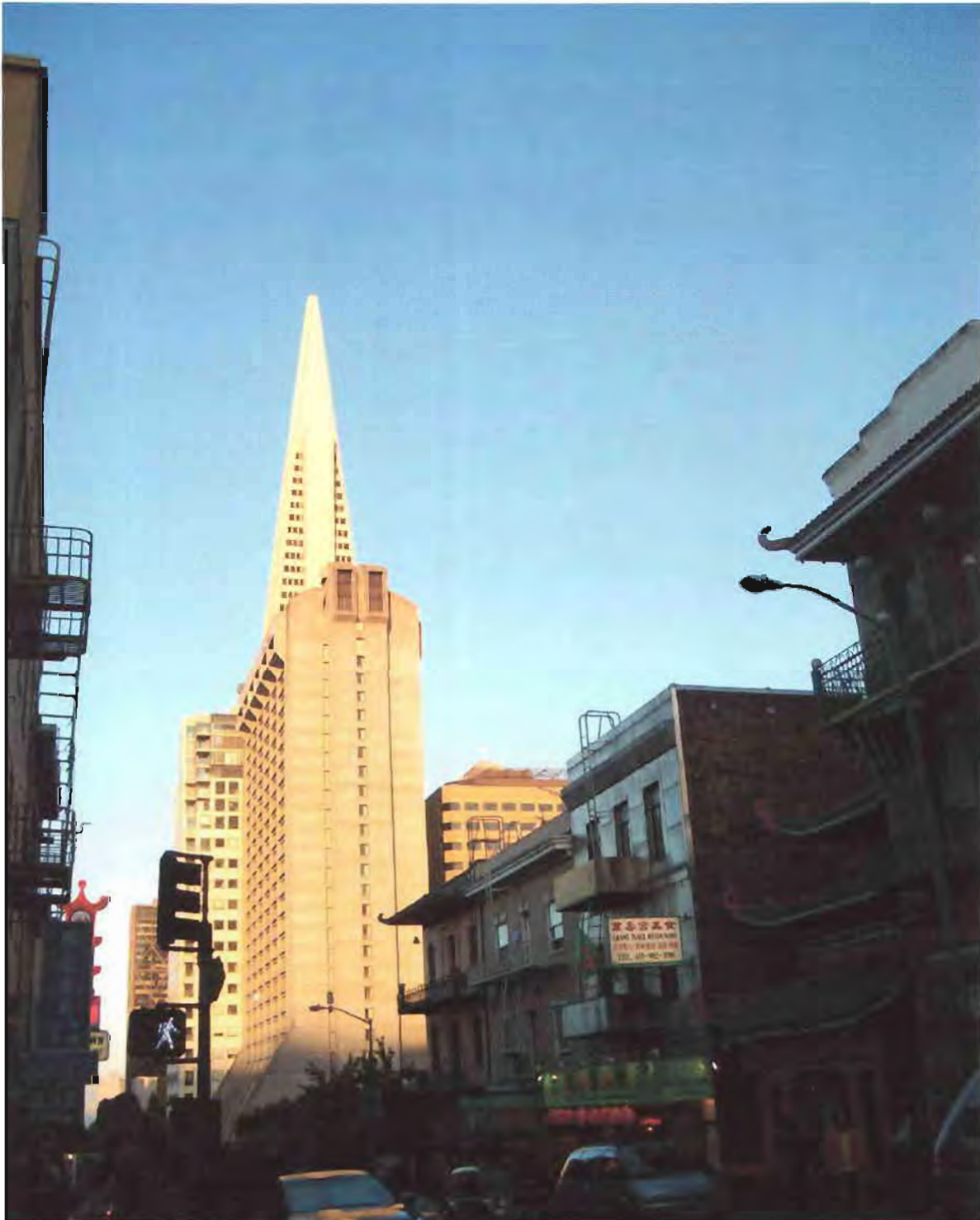
THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

By *Catherine Santos*
Catherine Santos, Deputy



Ordinance No. 10061 (N.S.)
Meeting Date: 6/30/10 (5)

San Francisco County & City Medical Cannabis Dispensary for zoning and permitting



FILE NO. 051250

ORDINANCE NO.

275-05

1 [Medical cannabis guidelines and medical cannabis dispensary zoning and permitting.]

2
3 **Ordinance amending the San Francisco Planning Code by amending Sections 209.3,**
4 **217, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726,**
5 **727, 728, 729, 730, 810, 811, 812, 813, 814, 815, 816, 817, and 818, and by adding**
6 **Sections 790.141, and ~~890.434~~890.133, to: define medical cannabis dispensaries;**
7 **prohibit dispensaries in residential-house, and residential-mixed zoning districts,**
8 **industrial districts, and certain mixed use districts; prohibit new medical cannabis dispensaries**
9 **in neighborhood commercial cluster (NC-1) districts; permit dispensaries elsewhere subject**
10 **to restrictions based on a dispensary's proximity to schools, community centers, and**
11 **facilities providing substance abuse services that are licensed or certified by the State**
12 **of California or funded by the Department of Public Health; require adequate ventilation**
13 **in dispensaries; prohibit the sale or distribution of alcohol at dispensaries; require**
14 **Planning Department notice to interested individuals and properties within 300 feet of**
15 **proposed dispensaries; require the Planning Commission to hold a discretionary review**
16 **hearing on each medical cannabis dispensary application; require dispensaries operating**
17 **as of April 1, 2005 to obtain a permit within 18 months of the effective date of this**
18 **legislation or ~~must~~ cease operations; require dispensaries beginning operation after**
19 **April 1, 2005 but before the effective date of this legislation to cease operations; require**
20 **dispensaries seeking to begin operations after the effective date of this legislation to obtain a**
21 **permit; require a notice that permits for dispensaries are not intended to and do not**
22 **authorize the violation of State or Federal law; and make environmental findings and**
23 **findings of consistency with the priority policies of Planning Code Section 101.1 and**
24 **the General Plan;**

25
Supervisor Mirkarimi
BOARD OF SUPERVISORS

1 Amending the San Francisco Health Code by adding Sections 3200 through ~~3220~~3221,
2 to: set medical cannabis possession guidelines; require a permit, business license,
3 and business registration certificate for a medical cannabis dispensary; set out the
4 application process for a medical cannabis permit; set out operating requirements for
5 medical cannabis dispensaries including signage and advertising requirements; and set
6 out the administrative process for imposing penalties and/or permit suspension or
7 revocation for violations;

8 Amending the San Francisco Traffic Code by amending Sections 53 and 132, to create
9 an infraction for double parking in front of a medical cannabis dispensary and set the
10 fine at \$100; and,

11 Amending the San Francisco Business and Tax Regulations Code by amending
12 Section 1, ~~and by to adding Sections 1.177 and 249.17,~~ to authorize the Department of
13 Health to issue medical cannabis dispensary permits ~~and to set out the license fees for~~
14 ~~medical cannabis dispensaries.~~

15 Note: Additions are single-underline italics Times New Roman;
16 deletions are ~~strikethrough italics Times New Roman~~.
17 Board amendment additions are double underlined.
18 Board amendment deletions are ~~strikethrough normal~~.

18 Be it ordained by the People of the City and County of San Francisco:

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20 Section 1. **Findings.** The Board of Supervisors of the City and County of San
21 Francisco hereby finds and determines that:

22 (a) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
23 ordinance will serve the public necessity, convenience and welfare.
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(b) Pursuant to Planning Code Section 101.1, the Board of Supervisors finds that this ordinance is consistent with the Priority Policies of Section 101.1(b) of the Planning Code and with the General Plan and hereby incorporates a report containing those findings as if fully set forth herein. A copy of said report is on file with the Clerk of the Board of Supervisors in File No. 051250.

(c) This ordinance constitutes permanent controls to address the proliferation of medical cannabis dispensaries and its passage terminates the efficacy of Urgency Ordinance ~~0098-05~~, the Interim Moratorium Ordinance on Medical Cannabis Dispensaries. A copy of said ordinance is on file with the Clerk of the Board of Supervisors in File No. 051769.

Section 2. The San Francisco Planning Code is hereby amended by amending Sections 209.3, 217, 710 through 730, and 810 through 818, and by adding Sections 790.141, and ~~890.131~~890.133, to read as follows:

SEC. 209.3 Institutions

RH-1 (D)	RH-1	RH-1 (S)	RH-2	RH-3	RM-1	RM-2	RM-3	RM-4	RC-1	RC-2	RC-3	RC-4	
C	C	C	C	C	C	C	C	C	C	C	C	C	(a) Hospital, medical center or other medical institution which includes facilities for inpatient care and may also include medical offices, clinics, laboratories, and employee or student dormitories and

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													other housing, operated by and affiliated with the institution, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans.
P	P	P	P	P	P	P	P	P	P	P	P	P	(b) Residential care facility providing lodging, board and care for a period of 24 hours or more to six or fewer persons in need of specialized aid by personnel licensed by the State of California. Such facility shall display nothing on or near the facility which gives an outward indication of the nature of the occupancy except for a sign as permitted by

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													Article 6 of this Code, shall not provide outpatient services and shall be located in a structure which remains residential in character. Such facilities shall include but not necessarily be limited to a board and care home, family care home, long-term nursery, orphanage, rest home or home for the treatment of addictive, contagious or other diseases or psychological disorders.
C	C	C	C	C	C	C	C	C	C	C	C	C	(c) Residential care facility meeting all applicable requirements of Subsection 209.3(b) above but providing lodging, board and care as specified therein to seven

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													or more persons.
									C	C	C	C	(d) Social service or philanthropic facility providing assistance of a charitable or public service nature and not of a profitmaking or commercial nature. (With respect to RC Districts, see also Section 209.9(d).)
P	P	P	P	P	P	P	P	P	P	P	P	P	(e) Child-care facility providing less than 24-hour care for 12 or fewer children by licensed personnel and meeting the open-space and other requirements of the State of California and other authorities.
C	C	C	C	C	C	C	C	C	C	C	C	C	(f) Child-care facility providing less than 24-hour care for 13 or more children by

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													licensed personnel and meeting the open-space and other requirements of the State of California and other authorities. (With respect to RC Districts, see also Section 209.9(d).)
C	C	C	C	C	C	C	C	C	C	C	C	C	(g) Elementary school, either public or private. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution. (With respect to RC Districts, see also Section 209.9(d).)
C	C	C	C	C	C	C	C	C	C	C	C	C	(h) Secondary school, either public or private, other than a school having industrial arts

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													as its primary course of study. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution. (With respect to RC Districts, see also Section 209.9(d).)
C	C	C	C	C	C	C	C	C	C	C	C	C	(i) Post secondary educational institution for the purposes of academic, professional, business or fine arts education, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans. Such institution may include employee or student dormitories and other housing operated by

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													and affiliated with the institution. Such institution shall not have industrial arts as its primary course of study.
C	C	C	C	C	C	C	C	C	C	C	C	C	(j) Church or other religious institution which has a tax-exempt status as a religious institution granted by the United States Government, and which institution is used primarily for collective worship or ritual or observance of common religious beliefs. Such institution may include, on the same lot, the housing of persons who engage in supportive activity for the institution. (With respect to RC Districts, see also Section 209.9(d).)

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									<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<i>(k) Medical cannabis dispensary as defined by Section 3201(f) of the San Francisco Health Code provided that: (a) the medical cannabis dispensary has applied for a permit from the Department of Public Health pursuant to Section 3204 of the San Francisco Health Code; (b) if medical cannabis is smoked on the premises, the parcel containing the medical cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or recreation buildings as defined in Section 209.4(a) of this Code, unless not</i>
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											<u>required by State law, and, regardless of whether medical cannabis is smoked on the premises, if the dispensary was not in operation as of April 1, 2005, as defined in subsection (i), it is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or recreation buildings as defined in Section 209.4(a) of this Code; (c) if medical cannabis is smoked on the premises the dispensary shall provide adequate ventilation within the structure such that doors and/or windows are not left open for such purposes resulting in odor</u>
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Supervisor Mirkarimi
BOARD OF SUPERVISORS

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												<p><i>emission from the premises; (d) if medical cannabis is not smoked on the premises, the parcel containing the medical cannabis dispensary is located not less than 500 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or recreation buildings as defined in Section 209.4(a) of this Code; (e) regardless of whether medical cannabis is smoked on the premises the parcel containing the medical cannabis dispensary is not located not less than 500 feet from the parcel containing located on the same parcel as a facility</i></p>
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												<p><u>providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health; (fe) no alcohol is sold or distributed on the premises for on or off-site consumption; (ef) upon acceptance of a complete application for a building permit for a medical cannabis dispensary the Planning Department shall cause a notice to be posted on the proposed site and shall cause written notice to be sent via U.S. Mail to all properties within 300 feet of the subject lot in the same Assessor's Block and on the block face across from the subject lot as well as to all individuals or</u></p>
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											<p><u>groups which have made a written request for notification of regarding specific properties, areas or medical cannabis dispensaries; (hg) all building permit applications shall be held for a period of 30 calendar days from the date of the mailed notice to allow review by residents, occupants, owners of neighborhood properties and neighborhood groups; and (ih) after this 30 day period, all requests for the Planning Commission shall schedule a hearing to consider whether to exercise its discretionary review powers over of a the building permit application for a medical cannabis</u></p>
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												<p><u>dispensary. The scheduling and the mailed notice for this hearing shall be processed in accordance with Section 312(e) of this Code; (j) Medical cannabis dispensaries that can demonstrate to the Planning Department, based on any criteria it may develop, they were in operation as of April 1, 2005 and have remained in continuous operation since then, have 18 months from the effective date of this legislation to obtain a permit or must cease operations at the end of that 18 month period, or upon denial of a permit application if it occurs before the end of that 18 month period. Medical cannabis dispensaries that</u></p>
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											<p><u>were in operation as of April 1, 2005, and were not in continuous operation since then, but can show demonstrate to the Planning Department, based on any criteria it may develop, that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, also have 18 months from the effective date of this legislation to obtain a permit or must cease operations at the end of that 18 month period, or upon denial of a permit application if it occurs before the end of that 18 month period. Notwithstanding the foregoing, in no case shall a dispensary that had or has</u></p>
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												<p>a suspended or revoked permit be considered to be in continuous operation. Any dispensary operating in a Residential-House or Residential-Mixed district of the City or which began operation after April 1, 2005, must immediately cease operations; (k) any permit issued for a medical cannabis dispensary shall contain the following statement in bold-face type "Issuance of this permit by the City and County of San Francisco is not intended to and does not authorize the violation of State or Federal law."</p>
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SEC. 217. INSTITUTIONS.

C-1	C-2	C-3 -O	C-3 -R	C-3 -G	C-3 -S	C-M	M-1	M-2	
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C	C	C	C	C	C	C	C		(a) Hospital, medical center or other medical institution which includes facilities for inpatient care and may also include medical offices, clinics, laboratories, and employee or student dormitories and other housing, operated by and affiliated with the institution, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans.
P	P	P	P	P	C	P	P		(b) Residential care facility providing lodging, board and care for a period of 24 hours or more to persons in need of specialized aid by personnel licensed by the State of California. Such facilities shall include but not necessarily be limited to a board and care home, family care home, long-term nursery, orphanage, rest home or home for the treatment of addictive, contagious or other diseases or psychological disorders.
P	P	P	P	P	P	P	P	P	(c) Clinic primarily providing outpatient care in medical, psychiatric or other healing arts and not a part of a medical institution as specified in Subsection 217(a) above.
P	P	P	P	P	P	P	P	P	(d) Social service or philanthropic facility providing assistance of a charitable or public service nature.
P	P	P	P	P	C	P	P		(e) Child-care facility providing less than 24-hour care for children by licensed personnel and meeting the open-space and other

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									requirements of the State of California and other authorities.
P	P	P	P	P	P	P	P		(f) Elementary school, either public or private. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution.
P	P	P	P	P	P	P	P		(g) Secondary school, either public or private, other than a school having industrial arts as its primary course of study. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution.
P	P	P	P	P	P	P	P		(h) Postsecondary educational institution for the purposes of academic, professional, business or fine-arts education, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution. Such institution shall not have industrial arts as its primary course of study.
					P	P	P	P	(i) Secondary or postsecondary educational institution, other than as specified in Subsection 217(g) and (h) above.
P	P	P	P	P	P	P	P	P	(j) Church or other religious institution. Such institution may include, on the same lot, the housing of persons who engage in

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									institution.
<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<p><i>(k) Medical cannabis dispensary as defined by Section 3201(f) of the San Francisco Health Code provided that: (a) the medical cannabis dispensary has applied for a permit from the Department of Public Health pursuant to Section 3204 of the San Francisco Health Code; (b) if medical cannabis is smoked on the premises, the parcel containing the medical cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community clubhouse or neighborhood center as defined in Section 221(e) of this Code, unless not required by State law, and, regardless of whether medical cannabis is smoked on the premises, if the dispensary was not in operation as of April 1, 2005, as defined in subsection (i), it is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or recreation buildings as defined in Section 221(e) of this Code; (c) if medical cannabis is smoked on the premises the dispensary shall provide adequate ventilation within the structure such that doors and/or windows are not left open for such purposes resulting in odor emission from the premises; (d) if medical cannabis is not smoked on the premises, the parcel containing the medical cannabis dispensary is located not</i></p>

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								<p>less than 500 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community clubhouse, or neighborhood center as defined in Section 221(e) of this Code; (e) <u>regardless of whether medical cannabis is smoked on the premises the parcel containing the medical cannabis dispensary is not located not less than 500 feet from the parcel containing located on the same parcel as a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health; (f) no alcohol is sold or distributed on the premises for on or off-site consumption; (g) upon acceptance of a complete application for a building permit for a medical cannabis dispensary the Planning Department shall cause a notice to be posted on the proposed site and shall cause written notice to be sent via U.S. Mail to all properties within 300 feet of the subject lot in the same Assessor's Block and on the block face across from the subject lot as well as to all individuals or groups which have made a written request for notification of regarding specific properties, areas or medical cannabis dispensaries; (h) all building permit applications shall be held for a period of 30 calendar days from the date of the mailed notice to allow review by residents, occupants, owners of neighborhood properties and neighborhood groups; and (i)</u></p>
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								<p><i>after this 30 day period, all requests for the Planning Commission shall schedule a hearing to consider whether to exercise its discretionary review powers over of a the building permit application for a medical cannabis dispensary. The scheduling and the mailed notice for this hearing shall be processed in accordance with Section 312(e) of this Code: (j) Medical cannabis dispensaries that can demonstrate to the Planning Department, based on any criteria it may develop, they were in operation as of April 1, 2005 and have remained in continuous operation since then, have 18 months from the effective date of this legislation to obtain a permit or must cease operations at the end of that 18 month period, or upon denial of a permit application if it occurs before the end of that 18 month period. Medical cannabis dispensaries that were in operation as of April 1, 2005, and were not in continuous operation since then, but can show demonstrate to the Planning Department, based on any criteria it may develop, that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, also have 18 months from the effective date of this legislation to obtain a permit or must cease operations at the end of that 18 month period, or upon denial of a permit application if it occurs before the end of that 18 month period. Notwithstanding the foregoing, in</i></p>
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									<p>no case shall a dispensary that had or has a suspended or revoked permit be considered to be in continuous operation. <i>Any dispensary operating in a Residential-House or Residential-Mixed district of the City or which began operation after April 1, 2005, must immediately cease operations; (k) any permit issued for a medical cannabis dispensary shall contain the following statement in bold-face type "Issuance of this permit by the City and County of San Francisco is not intended to and does not authorize the violation of State or Federal law."</i></p>
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SEC. 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1 ZONING CONTROL TABLE.

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>710.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P#</u>		

SPECIFIC PROVISIONS FOR NC-1 DISTRICTS

Article 7 Code Section	Other Code Section	§ Zoning Controls
<u>§710.84</u> <u>§790.141</u>		<u>Only those medical cannabis dispensaries that can demonstrate to the Planning Department they were in operation as of April 1, 2005 and have remained in</u>

		continuous operation or that were not in continuous operation since April 1, 2005, but can demonstrate to the Planning Department that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, may apply for a medical cannabis dispensary permit in an NC-1 District.
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SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2 ZONING

CONTROL TABLE.

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>711.84</u>	<u>Medical Cannabis Dispensary</u>	<u>§ 790.141</u>	<u>P#</u>		

SPECIFIC PROVISIONS FOR NC-2 DISTRICTS

Article 7 Code Section	Other Code Section	§ Zoning Controls
<u>§711.84</u> <u>§790.141</u>	<u>Health Code §3208</u>	<u>Medical cannabis dispensaries in NC-2 District may only operate between the hours of 8 am and 10 pm.</u>

SEC. 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3

ZONING CONTROL TABLE.

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					

1	<u>712.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>P#</u>		
2		<u>Dispensary</u>				

3 **SPECIFIC PROVISIONS FOR NC-3 DISTRICTS**

4	Article 7 Code	Other Code Section	§ Zoning Controls
5	Section		
6	<u>§712.84</u>	<u>Health Code §3208</u>	<u>Medical cannabis dispensaries in NC-3</u>
7	<u>§790.141</u>		<u>District may only operate between the hours</u>
8			<u>of 8 am and 10 pm.</u>

9 **SEC. 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S**

10 **ZONING CONTROL TABLE.**

11				Controls by Story		
12	No.	Zoning Category	§ References	1st	2nd	3rd+
13	Institutions and Non-Retail Sales and Services					
14	<u>713.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>P#</u>		
15		<u>Dispensary</u>				

16 **SPECIFIC PROVISIONS FOR NC-S DISTRICTS**

17	Article 7 Code	Other Code Section	§ Zoning Controls
18	Section		
19	<u>§713.84</u>	<u>Health Code §3208</u>	<u>Medical cannabis dispensaries in NC-S</u>
20	<u>§790.141</u>		<u>District may only operate between the hours</u>
21			<u>of 8 am and 10 pm.</u>

22 **SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL**

23 **TABLE.**

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>714.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 715. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE.

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>715.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 716. INNER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE.

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>716.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 717. OUTER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE.

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>717.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 718. UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE.

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>718.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE.

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>719.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 720. HAYES-GOUGH NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE.

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>720.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

**SEC. 721. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE.**

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>721.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

**SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT ZONING
CONTROL TABLE.**

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>722.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

**SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING
CONTROL TABLE.**

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>723.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 724. SACRAMENTO STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING

CONTROL TABLE.

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>724.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 725. UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING

CONTROL TABLE.

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>725.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 726. VALENCIA STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING

CONTROL TABLE.

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>726.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 727. 24TH STREET - MISSION NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE.

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>727.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 728. 24TH STREET - NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE.

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>728.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 729. WEST PORTAL AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE.

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>729.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>PC</u>		

SEC. 730. INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE.

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>730.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P</u>		

SEC. 810. CHINATOWN COMMUNITY BUSINESS DISTRICT ZONING CONTROL TABLE.

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
<u>.83</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 890.131890.133</u>	<u>P</u>		

SEC. 811. CHINATOWN VISITOR RETAIL DISTRICT ZONING CONTROL TABLE.

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+

1	<u>.82</u>	<i>Medical Cannabis</i>	<u>§ 890.131890.133</u>	<i>P</i>		
2		<i>Dispensary</i>				

3
4 **SEC. 812. CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT**
5 **ZONING CONTROL TABLE.**

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
6					
7	<u>.83</u>	<i>Medical Cannabis</i>	<u>§ 890.131890.133</u>	<i>P</i>	
8		<i>Dispensary</i>			

9
10
11 **SEC. 813. RED -- RESIDENTIAL ENCLAVE DISTRICT ZONING CONTROL TABLE.**

Institutions			
No.	Zoning Category	§ References	Controls
12			
13	<u>813.23</u>	<i>Medical Cannabis Dispensary</i>	<u>890.131890.1</u>
14			<u>PP#</u>
15		<u>33</u>	

16 **SPECIFIC PROVISIONS FOR RED DISTRICTS**

<u>Article 8 Code</u>	<u>Other Code Section</u>	<u>§ Zoning Controls</u>
17		
18	<u>Section</u>	
19	<u>§813.23</u>	
20	<u>§890.133</u>	
21		<u>Only those medical cannabis dispensaries that can demonstrate to the Planning Department they were in operation as of April 1, 2005 and have remained in continuous operation or that were not in continuous operation since April 1, 2005, but can demonstrate to the Planning Department that the reason for their lack of continuous operation was not closure due to</u>
22		
23		
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		an actual violation of federal, state or local law, may apply for a medical cannabis dispensary permit in an RED District.
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SEC. 814. SPD -- SOUTH PARK DISTRICT ZONING CONTROL TABLE.

Institutions			
No.	Zoning Category	§ References	Controls
813.23814.	<i>Medical Cannabis Dispensary</i>	890.131890.1	PP#
23		33	

SPECIFIC PROVISIONS FOR SPD DISTRICTS

Article 8 Code Section	Other Code Section	§ Zoning Controls
§814.23 §890.133		Only those medical cannabis dispensaries that can demonstrate to the Planning Department they were in operation as of April 1, 2005 and have remained in continuous operation or that were not in continuous operation since April 1, 2005, but can demonstrate to the Planning Department that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, may apply for a medical cannabis dispensary permit in a South Park District.

SEC. 815. RSD -- RESIDENTIAL/SERVICE MIXED USE DISTRICT ZONING CONTROL TABLE.

Institutions			
No.	Zoning Category	§ References	Controls

1	843.23815.	<i>Medical Cannabis Dispensary</i>	890.134890.1	PP#
2	23		33	

3 **SPECIFIC PROVISIONS FOR RSD DISTRICTS**

4	Article 8 Code	Other Code Section	§ Zoning Controls
5	Section		
6	§815.23		Only those medical cannabis dispensaries that can demonstrate to the Planning Department they were in operation as of April 1, 2005 and have remained in continuous operation or that were not in continuous operation since April 1, 2005, but can demonstrate to the Planning Department that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, may apply for a medical cannabis dispensary permit in an RSD District.
7	§890.133		

14

15 **SEC. 816. SLR – SERVICE/LIGHT INDUSTRIAL/RESIDENTIAL MIXED USE DISTRICT**

16 **ZONING CONTROL TABLE.**

17	Institutions			
18	No.	Zoning Category	§ References	Controls
19	843.23816.	<i>Medical Cannabis Dispensary</i>	890.134890.1	PP#
20	23		33	

21 **SPECIFIC PROVISIONS FOR SLR DISTRICTS**

22	Article 8 Code	Other Code Section	§ Zoning Controls
23	Section		
24	§816.23		Only those medical cannabis dispensaries

§890.133		that can demonstrate to the Planning Department they were in operation as of April 1, 2005 and have remained in continuous operation or that were not in continuous operation since April 1, 2005, but can demonstrate to the Planning Department that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, may apply for a medical cannabis dispensary permit in an SLR District.
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SEC. 817. SLI -- SERVICE/LIGHT INDUSTRIAL DISTRICT ZONING CONTROL TABLE.

Institutions			
No.	Zoning Category	§ References	Controls
813.23817. 23	<i>Medical Cannabis Dispensary</i>	890.131890.1 33	PP#

SPECIFIC PROVISIONS FOR SLI DISTRICTS

<u>Article 8 Code Section</u>	<u>Other Code Section</u>	<u>§ Zoning Controls</u>
§817.23 §890.133		Only those medical cannabis dispensaries that can demonstrate to the Planning Department they were in operation as of April 1, 2005 and have remained in continuous operation or that were not in continuous operation since April 1, 2005, but can demonstrate to the Planning Department that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, may apply for a medical cannabis dispensary permit in an SLI District.

1 **SEC. 818. SSO – SERVICE/SECONDARY OFFICE DISTRICT ZONING CONTROL TABLE.**

2

Institutions			
No.	Zoning Category	§ References	Controls
813-23818. 23	<i>Medical Cannabis Dispensary</i>	890.131890.1 33	PP#

7 **SPECIFIC PROVISIONS FOR SSO DISTRICTS**

8

<u>Article 8 Code</u> <u>Section</u>	<u>Other Code Section</u>	<u>§ Zoning Controls</u>
§818.23 §890.133		Only those medical cannabis dispensaries that can demonstrate to the Planning Department they were in operation as of April 1, 2005 and have remained in continuous operation or that were not in continuous operation since April 1, 2005, but can demonstrate to the Planning Department that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, may apply for a medical cannabis dispensary permit in an SSO District.

18 **SEC. 790.141 MEDICAL CANNABIS DISPENSARY.**

19 *A medical cannabis dispensary shall be as defined by Section 3201(f) of the San Francisco*
 20 *Health Code provided that:*

21 *(a) the medical cannabis dispensary has applied for a permit from the Department of Public*
 22 *Health pursuant to Section 3204 of the San Francisco Health Code;*

23 *(b) if medical cannabis is smoked on the premises, the parcel containing the medical cannabis*
 24 *dispensary is located not less than 1,000 feet from the parcel containing the grounds of an elementary*
 25

1 or secondary school, public or private, or a community facility, or recreation building as defined in
2 Section 790.50(a) of this Code, unless not required by State law, and, regardless of whether
3 medical cannabis is smoked on the premises, if the dispensary was not in operation as of
4 April 1, 2005, as defined in subsection (i), it is located not less than 1,000 feet from the parcel
5 containing the grounds of an elementary or secondary school, public or private, or recreation
6 buildings as defined in Section 790.50(f) of this Code;

7 (c) if medical cannabis is smoked on the premises the dispensary shall provide adequate
8 ventilation within the structure such that doors and/or windows are not left open for such purposes
9 resulting in odor emission from the premises;

10 (d) if medical cannabis is not smoked on the premises, the parcel containing the
11 medical cannabis dispensary is located not less than 500 feet from the parcel containing the
12 grounds of an elementary or secondary school, public or private, or a community facility, or
13 recreation building as defined in Section 790.50(a) of this Code;

14 (ed) regardless of whether medical cannabis is smoked on the premises the parcel containing
15 the medical cannabis dispensary is not located not less than 500 feet from the parcel containing
16 located on the same parcel as a facility providing substance abuse services that is licensed or
17 certified by the State of California or funded by the Department of Public Health;

18 (fe) no alcohol is sold or distributed on the premises for on or off-site consumption;

19 (gf) upon acceptance of a complete application for a building permit for a medical cannabis
20 dispensary the Planning Department shall cause a notice to be posted on the proposed site and shall
21 cause written notice to be sent via U.S. Mail to all properties within 300 feet of the subject lot in the
22 same Assessor's Block and on the block face across from the subject lot as well as to all individuals or
23 groups which have made a written request for notification of regarding specific properties, areas or
24 medical cannabis dispensaries;

1 (hg) all building permit applications shall be held for a period of 30 calendar days from the
2 date of the mailed notice to allow review by residents, occupants, owners of neighborhood properties
3 and neighborhood groups; and

4 (ih) after this 30 day period, all requests for the Planning Commission shall schedule a
5 hearing to consider whether to exercise its discretionary review powers over of a the building
6 permit application for a medical cannabis dispensary. The scheduling and the mailed notice for
7 this hearing shall be processed in accordance with Section 312(e) of this Code;

8 (ji) Medical cannabis dispensaries that can demonstrate to the Planning Department, based
9 on any criteria it may develop, they were in operation as of April 1, 2005 and have remained in
10 continuous operation since then, have 18 months from the effective date of this legislation to obtain a
11 permit or must cease operations at the end of that 18 month period, or upon denial of a permit
12 application if it occurs before the end of that 18 month period. Medical cannabis dispensaries that
13 were in operation as of April 1, 2005, and were not in continuous operation since then, but can show
14 demonstrate to the Planning Department, based on any criteria it may develop, that the reason
15 for their lack of continuous operation was not closure due to an actual violation of federal, state or
16 local law, also have 18 months from the effective date of this legislation to obtain a permit or must
17 cease operations at the end of that 18 month period, or upon denial of a permit application if it occurs
18 before the end of that 18 month period. Notwithstanding the foregoing, in no case shall a
19 dispensary that had or has a suspended or revoked permit be considered to be in continuous
20 operation. Any dispensary operating in a Residential-House or Residential-Mixed district of the City
21 or which began operation after April 1, 2005, must immediately cease operations;

22 (kj) any permit issued for a medical cannabis dispensary shall contain the following statement
23 in bold-face type "Issuance of this permit by the City and County of San Francisco is not intended to
24 and does not authorize the violation of State or Federal law."
25

1
2 SEC. § 890.13-890.133. MEDICAL CANNABIS DISPENSARY.

3 A medical cannabis dispensary shall be as defined by Section 3201(f) of the San Francisco
4 Health Code provided that:

5 (a) the medical cannabis dispensary has applied for a permit from the Department of Public
6 Health pursuant to Section 3204 of the San Francisco Health Code;

7 (b) if medical cannabis is smoked on the premises, the parcel containing the medical cannabis
8 dispensary is located not less than 1,000 feet from the parcel containing the grounds of an elementary
9 or secondary school, public or private, or a community facility, or recreation building as defined in
10 Section 890.50(a) of this Code, unless not required by State law, and, regardless of whether
11 medical cannabis is smoked on the premises, if the dispensary was not in operation as of
12 April 1, 2005, as defined in subsection (i), it is located not less than 1,000 feet from the parcel
13 containing the grounds of an elementary or secondary school, public or private, or recreation
14 buildings as defined in Section 890.50(a) of this Code;

15 (c) if medical cannabis is smoked on the premises the dispensary shall provide adequate
16 ventilation within the structure such that doors and/or windows are not left open for such purposes
17 resulting in odor emission from the premises;

18 ~~(d) if medical cannabis is not smoked on the premises, the parcel containing the~~
19 ~~medical cannabis dispensary is located not less than 500 feet from the parcel containing the~~
20 ~~grounds of an elementary or secondary school, public or private, or a community facility, or~~
21 ~~recreation building as defined in Section 890.50(a) of this Code;~~

22 ~~(ed) regardless of whether medical cannabis is smoked on the premises the parcel containing~~
23 ~~the medical cannabis dispensary is not located not less than 500 feet from the parcel containing~~

1 located on the same parcel as a facility providing substance abuse services that is licensed or
2 certified by the State of California or funded by the Department of Public Health;

3 (fe) no alcohol is sold or distributed on the premises for on or off-site consumption;

4 (gf) upon acceptance of a complete application for a building permit for a medical cannabis
5 dispensary the Planning Department shall cause a notice to be posted on the proposed site and shall
6 cause written notice to be sent via U.S. Mail to all properties within 300 feet of the subject lot in the
7 same Assessor's Block and on the block face across from the subject lot as well as to all individuals or
8 groups which have made a written request for notification of regarding specific properties, areas or
9 medical cannabis dispensaries;

10 (hg) all building permit applications shall be held for a period of 30 calendar days from the
11 date of the mailed notice to allow review by residents, occupants, owners of neighborhood properties
12 and neighborhood groups; and

13 (ih) after this 30 day period, all requests for the Planning Commission shall schedule a
14 hearing to consider whether to exercise its discretionary review powers over of a the building
15 permit application for a medical cannabis dispensary. The scheduling and the mailed notice for
16 this hearing shall be processed in accordance with Section 312(e) of this Code;

17 (ji) Medical cannabis dispensaries that can demonstrate to the Planning Department, based
18 on any criteria it may develop, they were in operation as of April 1, 2005 and have remained in
19 continuous operation since then, have 18 months from the effective date of this legislation to obtain a
20 permit or must cease operations at the end of that 18 month period, or upon denial of a permit
21 application if it occurs before the end of that 18 month period. Medical cannabis dispensaries that
22 were in operation as of April 1, 2005, and were not in continuous operation since then, but can show
23 demonstrate to the Planning Department, based on any criteria it may develop, that the reason
24 for their lack of continuous operation was not closure due to an actual violation of federal, state or
25

1 local law, also have 18 months from the effective date of this legislation to obtain a permit or must
2 cease operations at the end of that 18 month period, or upon denial of a permit application if it occurs
3 before the end of that 18 month period. Notwithstanding the foregoing, in no case shall a
4 dispensary that had or has a suspended or revoked permit be considered to be in continuous
5 operation. Any dispensary operating in a Residential-House or Residential-Mixed district of the City
6 or which began operation after April 1, 2005, must immediately cease operations;

7 (k) any permit issued for a medical cannabis dispensary shall contain the following statement
8 in bold-face type "Issuance of this permit by the City and County of San Francisco is not intended to
9 and does not authorize the violation of State or Federal law."

10
11 Section 3. **Environmental Review.** The Planning Department concluded
12 environmental review of this ordinance pursuant to the California Environmental Quality Act.
13 Documentation of that review is on file with the Clerk of the Board of Supervisors in File No.
14 051250.

15
16 Section 4. The San Francisco Health Code is hereby amended by adding Article 32,
17 Sections 3200 through ~~3220~~3221, to read as follows:

18 **SEC. 3200. TITLE.**

19 This Article may be cited as the "Medical Cannabis Act."

20
21 **SEC. 3201. DEFINITIONS.**

22 For the purposes of this Article:

23 (a) "Cannabis" means marijuana and all parts of the plant Cannabis, whether growing or not;
24 the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture,

1 salt, derivative, mixture, or preparation of the plant, its seeds or resin. It includes marijuana infused in
2 foodstuff. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake
3 made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or
4 preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the
5 sterilized seeds of the plant are incapable of germination.

6 (b) "City" means the City and County of San Francisco.

7 (c) "Convicted" means having pled guilty or having received a verdict of guilty, including a
8 verdict following a plea of nolo contendere, to a crime.

9 (d) "Director" means the Director of Public Health or any individual designated by the
10 Director to act on his or her behalf, including but not limited to inspectors.

11 (e) "Excessive profits," means the receipt of consideration of a value substantially higher than
12 the reasonable costs of operating the facility. Such reasonable costs shall include expenses for rent or
13 mortgage, utilities, employee costs, furniture, maintenance, or reserves maintained in a segregated
14 account set aside exclusively for potential financial or legal liability.

15 (f) "Medical cannabis dispensary" means any association, cooperative, or collective of ten or
16 more qualified patients or primary caregivers that facilitates the lawful distribution of medical
17 cannabis.

18 (g) "Medical Cannabis Identification Card" or "Identification Card" means a document issued
19 by the State Department of Health Services pursuant to California Health and Safety Code Sections
20 11362.7 et seq. or the City pursuant to Health Code Article 28 that identifies a person authorized to
21 engage in the medical use of cannabis and the person's designated primary caregiver, if any, or
22 identifies a person as a primary caregiver for a medical cannabis patient.
23
24
25

1 (h) "Permittee" means the owner, proprietor, manager, or operator of a medical cannabis
2 dispensary or other individual, corporation, or partnership who obtains a permit pursuant to this
3 Article.

4 (i) "Primary caregiver" shall have the same definition as California Health and Safety Code
5 Section 11362.7 et seq., and as may be amended, and which defines "primary caregiver" as a
6 individual, designated by a qualified patient or by a person with an identification card, who has
7 consistently assumed responsibility for the housing, health, or safety of that patient or person, and may
8 include a licensed clinic, a licensed health care facility, a residential care facility, a hospice, or a home
9 health agency as allowed by California Health and Safety Code Section 11362.7(d)(1-3).

10 (j) "Qualified patient" shall have the same definition as California Health and Safety Code
11 Section 11362.7 et seq., and as may be amended, which states that a "qualified patient" means a person
12 who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does
13 not have a valid medical cannabis identification card. For the purposes of this Article, a "qualified
14 patient who has a valid identification card" shall mean a person who fulfills all of the requirements to
15 be a "qualified patient" under California Health and Safety Code Section 11362.7 et seq. and also has
16 a valid medical cannabis identification card.

17
18 **SEC. 3202. MEDICAL CANNABIS GUIDELINES.**

19 Pursuant to the authority granted under Health and Safety Code section 11362.77, the City and
20 County of San Francisco enacts the following medical cannabis guidelines:

21 (a) A qualified patient, person with a valid identification card, or primary caregiver may
22 possess no more than ~~one pound~~ eight ounces of dried cannabis per qualified patient. In addition, a
23 qualified patient, person with a valid identification card, or primary caregiver may also maintain no
24

1 more than ninety-nine (99) twenty-four (24) cannabis plants per qualified patient in or up to 400
2 25 square feet of total garden canopy measured by the combined vegetative growth area.

3 (b) If a qualified patient, person with an identification card, or primary caregiver has a
4 doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the
5 qualified patient, person with an identification card, or primary caregiver may possess an amount of
6 cannabis consistent with the patient's needs.

7 (c) Only the dried mature processed flowers of female cannabis plant or the plant conversion
8 shall be considered when determining allowable quantities of cannabis under this section.

9
10 **SEC. 3203. PERMIT REQUIRED FOR MEDICAL CANNABIS DISPENSARY.**

11 Except for research facilities, it is unlawful to operate or maintain, or to participate therein, or
12 to cause or to permit to be operated or maintained, any medical cannabis dispensary without first
13 obtaining a permit pursuant to this Article.

14
15 **SEC. 3204. APPLICATION FOR MEDICAL CANNABIS DISPENSARY PERMIT.**

16 (a) RESERVED Every applicant for a medical cannabis dispensary permit shall file
17 an application with the Director upon a form provided by the Director and pay a non-
18 refundable permit application fee of \$7,396.00 to cover the costs to all City departments of
19 investigating and processing the application and any applicable surcharges, exclusive of filing
20 fees for appeals before the Board of Appeals.

21 (b) The permit application form shall provide clear notice to applicants that the Fire Code
22 includes a requirement, among others that may apply, that an establishment obtain a place of assembly
23 permit if it will accommodate 100 or more persons based on its square footage.

1 (c) The applicant for a medical cannabis dispensary permit shall set forth, under penalty of
2 perjury, the following on the permit application:

3 (1) The proposed location of the medical cannabis dispensary;

4 (2) The name and residence address of each person applying for the permit and any other
5 person who will be engaged in the management of the medical cannabis dispensary;

6 (3) A unique identifying number from at least one government-issued form of identification,
7 such as a social security card, a state driver's license or identification card, or a passport for of each
8 person applying for the permit and any other person who will be engaged in the management of the
9 medical cannabis dispensary;

10 (4) Written evidence that each person applying for the permit and any other person who will be
11 engaged in the management of the medical cannabis dispensary is at least 18 years of age;

12 (5) All felony convictions of each person applying for the permit and any other person who will
13 be engaged in the management of the medical cannabis dispensary;

14 (6) Whether cultivation of medical cannabis shall occur on the premises of the medical
15 cannabis dispensary;

16 (7) Whether smoking of medical cannabis shall occur on the premises of the medical cannabis
17 dispensary;

18 (8) Whether food will be prepared, dispensed or sold on the premises of the medical cannabis
19 dispensary; and

20 (9) Proposed security measures for the medical cannabis dispensary, including lighting and
21 alarms, to insure the safety of persons and to protect the premises from theft.

22 (e) If the applicant is a corporation, the applicant shall set forth the name of the corporation
23 exactly as shown in its articles of incorporation, and the names and residence addresses of each of the
24 officers, directors and each stockholder owning more than 10 percent of the stock of the corporation. If
25

1 the applicant is a partnership, the application shall set forth the name and residence address of each of
2 the partners, including limited partners. If one or more of the partners is a corporation, the provisions
3 of this Section pertaining to a corporation apply.

4 (f) The Director is hereby authorized to require in the permit application any other information
5 including, but not limited to, any information necessary to discover the truth of the matters set forth in
6 the application.

7 (g) Each person applying for the permit and any other person who will be engaged in the
8 management of the medical cannabis dispensary shall submit with the permit application a signed
9 waiver authorizing the San Francisco Police Department to perform a thorough and complete criminal
10 and employment background check. The waiver shall state that it does not authorize the San
11 Francisco Police Department to disclose the results of the criminal and employment
12 background check to any department, agency or entity not affiliated with the City and County
13 of San Francisco.

14
15 **SEC. 3205. REFERRAL TO OTHER DEPARTMENTS.**

16 (a) Upon receiving a completed medical cannabis dispensary permit application and permit
17 application fee, the Director shall immediately refer the permit application to the City's Planning
18 Department, ~~Department of Building Inspections,~~ Police Department and Fire Department.

19 (b) Said departments shall inspect the premises proposed to be operated as a medical cannabis
20 dispensary and confirm the information provided in the application and shall make separate written
21 recommendations to the Director concerning compliance with the codes that they administer.
22 Specifically, the Police Department shall perform a thorough and complete criminal and employment
23 background check on each person applying for the permit and any other person who will be engaged in
24 the management of the medical cannabis dispensary. The Department of Building Inspections
25

1 shall, in consultation with ~~the~~ The Police Department, shall approve the security measures for the
2 medical cannabis dispensary, including lighting and alarms, to insure the safety of persons and to
3 protect the premises from theft. Departments' written approval, rejection and/or recommendations
4 regarding the permit shall be delivered to the Director. If the any department rejects the permit, it
5 shall inform the Director of the reasons for the rejection and the measures the permit applicant can
6 take to cure the rejection. The Director shall inform the permit applicant that the application is
7 denied based on rejection by a department of the rejection, the reasons for the departmental
8 rejection, and measures the permit applicant can take to cure the departmental rejection, and that
9 the denial is appealable pursuant to Section 3217 of this Article.

10
11 **SEC. 3206. NOTICE OF HEARING ON PERMIT APPLICATION.**

12 (a) After receiving written approval of the permit application from other City Departments as
13 set out in Section 3205, the Director shall fix a time and place for a public hearing on the application,
14 which date shall not be more than 45 days after the Director's receipt of the written approval of the
15 permit application from other City Departments.

16 (b) No fewer than 10 days before the date of the hearing, the permit applicant shall cause to be
17 posted a notice of such hearing in a conspicuous place on the property at which the proposed medical
18 cannabis dispensary is to be operated. The applicant shall comply with any requirements regarding
19 the size and type of notice specified by the Director. The applicant shall maintain the notice as posted
20 the required number of days.

21
22 **SEC. 3207. ISSUANCE OF MEDICAL CANNABIS DISPENSARY PERMIT.**

23 (a) Within 14 days following a hearing, the Director shall either issue the permit or mail a
24 written statement of his or her reasons for denial thereof to the applicant.

1 (b) In recommending the granting or denying of such permit and in granting or denying the
2 same, the Director, shall give particular consideration to the capacity, capitalization, complaint history
3 of the applicant and any other factors that in their discretion he or she deems necessary to the peace
4 and order and welfare of the public.

5 (c) No medical cannabis dispensary permit shall be issued if the Director finds:

6 (1) That the applicant has provided materially false documents or testimony; or

7 (2) That the applicant has not complied fully with the provisions of this Article; or

8 (3) That the operation as proposed by the applicant, if permitted, would not have complied with
9 all applicable laws, including, but not limited to, the Building, Planning, Housing, Police, Fire, and
10 Health Codes of the City, including the provisions of this Article and regulations issued by the Director
11 pursuant to this Article; or

12 (4) That the permit applicant or any other person who will be engaged in the management of
13 the medical cannabis dispensary has been convicted of a violent felony within State of California or a
14 crime that would have constituted a violent felony if committed within the State of California.

15 However, the Director may issue a medical cannabis dispensary permit to any individual convicted of
16 such a crime if the Director finds that the conviction occurred at least five years prior to the date of the
17 permit application or more than three years have passed from the date of the termination of a penalty
18 for such conviction to the date of the permit application and, that no subsequent felony convictions of
19 any nature have occurred; or

20 (5) That a permit for the operation of a medical cannabis dispensary, which permit had been
21 issued to the applicant or to any other person who will be engaged in the management of the medical
22 cannabis dispensary, has been revoked, unless more than five years have passed from the date of the
23 revocation to the date of the application; or

1 (6) That the City has revoked a permit for the operation of a business in the City which permit
2 had been issued to the applicant or to any other person who will be engaged in the management of the
3 medical cannabis dispensary unless more than five years have passed from the date of the application
4 to the date of the revocation.

5 (d) The Director shall notify the Police Department of all approved permit applications.

6 (e) The permit shall contain the following language, "Issuance of this permit by the City and
7 County of San Francisco is not intended to and does not authorize the violation of State or Federal
8 law."

9
10 **SEC. 3208. OPERATING REQUIREMENTS FOR MEDICAL CANNABIS DISPENSARY.**

11 (a) Medical cannabis dispensaries shall meet all the operating criteria for the dispensing of
12 medical cannabis as is required pursuant to California Health and Safety Code Section 11362.7 et seq.,
13 by this Article, and by the Director's administrative regulations for the permitting and operation of
14 medical cannabis dispensaries.

15 (b) Medical cannabis dispensaries shall be operated only as collectives or cooperatives in
16 accordance with California Health and Safety Code Section 11326.7 et seq. All patients or caregivers
17 served by a medical cannabis dispensary shall be members of that medical cannabis dispensary's
18 collective or cooperative.

19 (c) The medical cannabis dispensary shall receive only compensation for actual expenses,
20 including reasonable compensation incurred for services provided to qualified patients or primary
21 caregivers to enable that person to use or transport cannabis pursuant to California Health and Safety
22 Code Section 11362.7 et seq., or for payment for out-of-pocket expenses incurred in providing those
23 services, or both. Sale of medical cannabis for excessive profits is explicitly prohibited. Each
24 medical cannabis dispensary shall maintain records demonstrating that it complies with the
25

1 requirements of this paragraph. Each medical cannabis dispensary shall make these records
2 available for inspection and examination by the Department upon request by the Department.
3 Such records shall not include patient records or materials identifying individual patients.
4 Once a year, commencing in January 2007, each medical cannabis dispensary shall provide
5 to the Department a written statement by the dispensary's permittee made under penalty of
6 perjury attesting to the dispensary's compliance with this paragraph.

7 (d) Medical cannabis dispensaries shall sell or distribute only cannabis manufactured and
8 processed in the State of California that has not left the State before arriving at the medical cannabis
9 dispensary.

10 (e) It is unlawful for any person or association operating a medical cannabis dispensary under
11 the provisions of this Article to permit any breach of peace therein or any disturbance of public order
12 or decorum by any tumultuous, riotous or disorderly conduct, or otherwise, or to permit such
13 dispensary to remain open, or patrons to remain upon the premises, between the hours of 10 p.m. and 8
14 a.m. the next day. However, the Department shall issue permits to two medical cannabis dispensaries
15 permitting them to remain open 24 hours per day. These medical cannabis dispensaries shall be
16 located in order to provide services to the population most in need of 24 hour access to medical
17 cannabis. These medical cannabis dispensaries shall be located at least one mile from each other and
18 shall be accessible by late night public transportation services. However, in no event shall a
19 medical cannabis dispensary located in a Small-Scale Neighborhood Commercial District, a
20 Moderate Scale Neighborhood Commercial District, or a Neighborhood Commercial Shopping
21 Center District, as defined in Sections 711, 712 and 713 of the Planning Code, be one of the
22 two medical cannabis dispensaries permitted to remain open 24 hours per day.

23 (f) Medical cannabis dispensaries may not dispense more than one pound ounce of dried
24 cannabis per qualified patient to a qualified patient or primary caregiver per visit to the medical
25

1 cannabis dispensary. Medical cannabis dispensaries may not maintain more than ninety-nine (99)
2 cannabis plants in up to 100 square feet of total garden canopy measured by the combined vegetative
3 growth area. Medical cannabis dispensaries shall use medical cannabis identification card numbers to
4 ensure compliance with this provision. If a qualified patient or a primary caregiver has a doctor's
5 recommendation that this quantity does not meet the qualified patient's medical needs, the qualified
6 patient or the primary caregiver may possess and the medical cannabis dispensary may dispense an
7 amount of dried cannabis and maintain a number cannabis plants consistent with those needs. Only
8 the dried mature processed flowers of female cannabis plant or the plant conversion shall be
9 considered when determining allowable quantities of cannabis under this section.

10 (g) No medical cannabis shall be smoked, ingested or otherwise consumed in the public right of
11 way within fifty (50) feet of a medical cannabis dispensary. Any person violating this provision shall be
12 deemed guilty of an infraction and upon the conviction thereof shall be punished by a fine of \$100.
13 Medical cannabis dispensaries shall post a sign near their entrances and exits providing notice of this
14 policy.

15 (h) Any cultivation of medical cannabis on the premises of a medical cannabis dispensary must
16 be conducted indoors.

17 (i) All sales and dispensing of medical cannabis shall be conducted on the premises of the
18 medical cannabis dispensary. However, delivery of cannabis to qualified patients with valid
19 identification cards and primary caregivers with a valid identification card outside the premises of the
20 medical cannabis dispensary is permitted if the person delivering the cannabis is a qualified patient
21 with a valid identification card or a primary caregiver with a valid identification card who is a member
22 of the medical cannabis dispensary.

23 (j) The medical cannabis dispensary shall not hold or maintain a license from the State
24 Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells
25

1 alcoholic beverages. Nor shall alcoholic beverages be consumed on the premises or on in the public
2 right of way within fifty feet of a medical cannabis dispensary.

3 (k) In order to protect confidentiality, the medical cannabis dispensary shall maintain records
4 of all qualified patients with a valid identification card and primary caregivers with a valid
5 identification card using only the identification card number issued by the State or City pursuant to
6 California Health and Safety Code Section 11362.7 et seq. and City Health Code Article 28.

7 (l) The medical cannabis dispensary shall provide litter removal services twice each day of
8 operation on and in front of the premises and, if necessary, on public sidewalks within hundred (100)
9 feet of the premises.

10 (m) The medical cannabis dispensary shall provide adequate security on the premises,
11 including lighting and alarms, to insure the safety of persons and to protect the premises from theft.

12 (n) Signage for the medical cannabis dispensary shall be limited to one wall sign not to exceed
13 ten square feet in area, and one identifying sign not to exceed two square feet in area; such signs shall
14 not be directly illuminated. Any wall sign, or the identifying sign if the medical cannabis
15 dispensary has no exterior wall sign, shall include the following language: "Only individuals
16 with legally recognized Medical Cannabis Identification Cards may obtain cannabis from
17 medical cannabis dispensaries." The required text shall be a minimum of 2 inches in height.
18 This requirement shall remain in effect so long as the system for distributing or assigning
19 medical cannabis identification cards preserves the anonymity of the qualified patient or
20 primary caregiver.

21 (o) All print and electronic advertisements for medical cannabis dispensaries, including
22 but not limited to flyers, general advertising signs, and newspaper and magazine
23 advertisements, shall include the following language: "Only individuals with legally recognized
24 Medical Cannabis Identification Cards may obtain cannabis from medical cannabis
25

1 dispensaries." The required text shall be a minimum of 2 inches in height except in the case
2 of general advertising signs where it shall be a minimum of 6 inches in height. Oral
3 advertisements for medical cannabis dispensaries, including but not limited to radio and
4 television advertisements, shall include the same language. This requirement shall remain in
5 effect so long as the system for distributing or assigning medical cannabis identification cards
6 preserves the anonymity of the qualified patient or primary caregiver.

7 (o)(p) The medical cannabis dispensary shall provide the Director, the chief of police and all
8 neighbors located within fifty (50) feet of the establishment with the name, phone number and facsimile
9 number of an on-site community relations staff person to whom one can provide notice if there are
10 operating problems associated with the establishment. The medical cannabis dispensary shall make
11 every good faith effort to encourage neighbors to call this person to try to solve operating problems, if
12 any, before any calls or complaints are made to the police department or other City officials.

13 (p)(q) Medical cannabis dispensaries may sell or distribute cannabis only to members of the
14 medical cannabis dispensary's collective or cooperative.

15 (q)(r) Medical cannabis dispensaries may sell or distribute cannabis only to those members
16 with a medical cannabis identification card. This requirement shall remain in effect so long as the
17 system for distributing or assigning medical cannabis identification cards preserves the anonymity of
18 the qualified patient or primary caregiver.

19 (r)(s) It shall be unlawful for any medical cannabis dispensary to employ any person who is not
20 at least 18 years of age.

21 (s)(t) It shall be unlawful for any medical cannabis dispensary to allow any person who is not
22 at least 18 years of age on the premises during hours of operation unless that person is a qualified
23 patient with a valid identification card or primary caregiver with a valid identification card.
24

1 (t)(u) Medical cannabis dispensaries that display or sell drug paraphernalia must do so in
2 compliance with California Health and Safety Code §§ 11364.5 and 11364.7.

3 (u)(v) Medical cannabis dispensaries shall maintain all scales and weighing mechanisms on
4 the premises in good working order. Scales and weighing mechanisms used by medical cannabis
5 dispensaries are subject to inspection and certification by the Director.

6 (v)(w) Medical cannabis dispensaries that prepare, dispense or sell food must comply with and
7 are subject to the provisions of all relevant State and local laws regarding the preparation, distribution
8 and sale of food.

9 (w)(x) The medical cannabis dispensary shall meet any specific, additional operating
10 procedures and measures as may be imposed as conditions of approval by the Director in order to
11 insure that the operation of the medical cannabis dispensary is consistent with protection of the health,
12 safety and welfare of the community, qualified patients and primary caregivers, and will not adversely
13 affect surrounding uses.

14 (y) Medical cannabis dispensaries shall comply with wheelchair accessible as
15 required for new construction under Chapter 11B of the California Building Code as contained
16 within Title 24 of the California Code of Regulations.

17
18 **SEC. 3209. PROHIBITED OPERATIONS.**

19 All medical cannabis dispensaries operating in violation of California Health and Safety Code
20 Sections 11362.5 and 11326.7 et seq., or this Article are expressly prohibited. No entity that
21 distributed medical cannabis prior to the enactment of this Article shall be deemed to have been a
22 legally established use under the provisions of this Article. and such use shall not be entitled to claim
23 legal nonconforming status for the purposes of permitting.

1 **SEC. 3210. DISPLAY OF PERMIT.**

2 Every permit to operate a medical cannabis dispensary shall be displayed in a conspicuous
3 place within the establishment so that the permit may be readily seen by individuals entering the
4 premises.

5
6 **SEC. 3211. SALE OR TRANSFER OF PERMITS.**

7 (a) Upon sale, transfer or relocation of a medical cannabis dispensary, the permit and license
8 for the establishment shall be null and void unless another permit has been issued pursuant to this
9 Article; provided, however, that upon the death or incapacity of the permittee, the medical cannabis
10 dispensary may continue in business for six months to allow for an orderly transfer of the permit.

11 (b) If the permittee is a corporation, a transfer of 25 percent of the stock ownership of the
12 permittee will be deemed to be a sale or transfer and the permit and license for the establishment shall
13 be null and void unless a permit has been issued pursuant to this Article; provided, however, that this
14 subsection shall not apply to a permittee corporation, the stock of which is listed on a stock exchange in
15 this state or in the City of New York, State of New York, or which is required by law to file periodic
16 reports with the Securities and Exchange Commission.

17
18 **SEC. 3212. RULES AND REGULATIONS.**

19 (a) The Director shall issue rules and regulations regarding the conduct of hearings
20 concerning the denial, suspension or revocation of permits and the imposition of administrative
21 penalties on medical cannabis dispensaries.

22 (b) The Director may issue regulations governing the operation of medical cannabis
23 dispensaries. These regulations shall include, but need not be limited to:

1 (1) A requirement that the operator provide patients and customers with information regarding
2 those activities that are prohibited on the premises;

3 (2) A requirement that the operator prohibit patrons from entering or remaining on the
4 premises if they are in possession of or are consuming alcoholic beverages, or are under the influence
5 of alcohol;

6 (3) A requirement that the operator require employees to use protective gloves when handling
7 cannabis;

8 (4) A description of the size and type of notice of hearing to be posted in a conspicuous place
9 on the property at which the proposed medical cannabis dispensary is to be operated and the number of
10 days said notice shall remain posted; and

11 (5) A description of the size and type of sign posted near the entrances and exits of medical
12 cannabis dispensaries providing notice that no medical cannabis shall be smoked, ingested or
13 otherwise consumed in the public right of way within fifty (50) feet of a medical cannabis dispensary
14 and that any person violating this policy shall be deemed guilty of an infraction and upon the
15 conviction thereof shall be punished by a fine of \$100.

16 (c) Failure by an operator to do either of the following shall be grounds for suspension or
17 revocation of a medical cannabis dispensary permit: (1) comply with any regulation adopted by the
18 Director under this Article, or (2) give free access to areas of the establishment to which patrons have
19 access during the hours the establishment is open to the public, and at all other reasonable times, at the
20 direction of the Director, or at the direction of any City fire, planning, or building official or inspector
21 for inspection with respect to the laws that they are responsible for enforcing.

22
23 **SEC. 3213. INSPECTION AND NOTICES OF VIOLATION.**

1 (a) The Director may inspect each medical cannabis dispensary regularly and based on
2 complaints, but in no event fewer than two times annually, for the purpose of determining compliance
3 with the provisions of this Article and/or the rules and regulations adopted pursuant to this Article. If
4 informal attempts by the Director to obtain compliance with the provisions of this Article fail, the
5 Director may take the following steps:

6 (1) The Director may send written notice of noncompliance with the provisions of this Article to
7 the operator of the medical cannabis dispensary. The notice shall specify the steps that must be taken
8 to bring the establishment into compliance. The notice shall specify that the operator has 10 days in
9 which to bring the establishment into compliance.

10 (2) If the Director inspector determines that the operator has corrected the problem and is in
11 compliance with the provisions of this Article, the Director may so inform the operator.

12 (3) If the Director determines that the operator failed to make the necessary changes in order
13 to come into compliance with the provisions of this Article, the Director may issue a notice of violation.

14 (b) The Director may not suspend or revoke a permit issued pursuant to this Article, impose an
15 administrative penalty, or take other enforcement action against a medical cannabis dispensary until
16 the Director has issued a notice of violation and provided the operator an opportunity to be heard and
17 respond as provided in Section 3216.

18 (c) If the Director concludes that announced inspections are inadequate to ascertain
19 compliance with this Article (based on public complaints or other relevant circumstances), the Director
20 may use other appropriate means to inspect the areas of the establishment to which patrons have
21 access. If such additional inspection shows noncompliance, the Director may issue either a notice of
22 noncompliance or a notice of violation, as the Director deems appropriate.

23 (d) Every person to whom a permit shall have been granted pursuant to this Article shall post a
24 sign in a conspicuous place in the medical cannabis dispensary. The sign shall state that it is unlawful
25

1 to refuse to permit an inspection by the Department of Public Health, or any City peace, fire, planning,
2 or building official or inspector, conducted during the hours the establishment is open to the public and
3 at all other reasonable times, of the areas of the establishment to which patrons have access.

4 (e) Nothing in this Section shall limit or restrict the authority of a police officer to enter
5 premises licensed or permitted under this Article (i) pursuant to a search warrant signed by a
6 magistrate and issued upon a showing of probable cause to believe that a crime has been committed or
7 attempted, (ii) without a warrant in the case of an emergency or other exigent circumstances, or (iii) as
8 part of any other lawful entry in connection with a criminal investigation or enforcement action.

9
10 **SEC. 3214. VIOLATIONS AND PENALTIES.**

11 (a) Any person who of dispensary, dispensary operator or dispensary manager who that
12 violates any provision of this Article or any rule or regulation adopted pursuant to this Article may,
13 after being provided notice and an opportunity to be heard, be subject to an administrative penalty not
14 to exceed \$1,000 for the first violation of a provision or regulation in a 12-month period, \$2,500 for the
15 second violation of the same provision or regulation in a 12-month period, and \$5,000 for the third and
16 subsequent violations of the same provision or regulation in a 12-month period.

17 (b) The Director may not impose an administrative penalty or take other enforcement action
18 under this Article against a medical cannabis dispensary until the Director has issued a notice of
19 violation and provided the operator an opportunity to be heard and respond as provided in Section
20 3216.

21 (c) Nothing herein shall prohibit the District Attorney from exercising the sole discretion vested
22 in that officer by law to charge an operator, employee, or any other person associated with a medical
23 cannabis dispensary with violating this or any other local or state law.

1 SEC. 3215. REVOCATION AND SUSPENSION OF PERMIT.

2 (a) Any permit issued for a medical cannabis dispensary may be revoked, or suspended for up
3 to 30 days, by the Director if the Director determines that:

4 (1) the manager, operator or any employee has violated any provision of this Article or any
5 regulation issued pursuant to this Article;

6 (2) the permittee has engaged in any conduct in connection with the operation of the medical
7 cannabis dispensary that violates any State or local laws, or any employee of the permittee has
8 engaged in any conduct that violates any State or local laws at permittee's medical cannabis
9 dispensary, and the permittee had or should have had actual or constructive knowledge by due
10 diligence that the illegal conduct was occurring;

11 (3) the permittee has engaged in any material misrepresentation when applying for a permit;

12 (4) the medical cannabis dispensary is being managed, conducted, or maintained without
13 regard for the public health or the health of patrons;

14 (5) the manager, operator or any employee has refused to allow any duly authorized City
15 official to inspect the premises or the operations of the medical cannabis dispensary;

16 (6) based on a determination by another City department, including the Department of Building
17 Inspections, the Fire Department, the Police Department, and the Planning Department, that the
18 medical cannabis dispensary is not in compliance with the laws under the jurisdiction of the
19 department.

20 (b) The Director may not suspend or revoke a permit issued pursuant to this Article or take
21 other enforcement action against a medical cannabis dispensary until the Director has issued a notice
22 of violation and provided the operator an opportunity to be heard and respond as provided in Section
23 3216.

1 (c) Notwithstanding paragraph (b), the Director may suspend summarily any medical cannabis
2 dispensary permit issued under this Article pending a noticed hearing on revocation or suspension
3 when in the opinion of the Director the public health or safety requires such summary suspension. Any
4 affected permittee shall be given notice of such summary suspension in writing delivered to said
5 permittee in person or by registered letter.

6 (d) If a permit is revoked, no application for a medical cannabis dispensary may be submitted
7 by the same person for three years.

8
9 **SEC. 3216. NOTICE AND HEARING FOR ADMINISTRATIVE PENALTY AND/OR**
10 **REVOCAION OR SUSPENSION.**

11 (a) If the Director determines that a medical cannabis dispensary is operating in violation of
12 this Article and/or the rules and regulations adopted pursuant to this Article, he or she shall issue a
13 notice of violation to the operator of the medical cannabis dispensary.

14 (b) The notice of violation shall include a copy of this Section and the rules and regulations
15 adopted pursuant to this Article regarding the conduct of hearings concerning the denial, suspension or
16 revocation of permits and the imposition of administrative penalties on medical cannabis dispensaries.
17 The notice of violation shall include a statement of any informal attempts by the Director to obtain
18 compliance with the provisions of this Article pursuant to Section 3213(a). The notice of violation shall
19 inform the operator that:

20 (1) The Director has made an initial determination that the medical cannabis dispensary is
21 operating in violation of this Article and/or the rules and regulations adopted pursuant to this Article;
22 and

23 (2) The alleged acts or failures to act that constitute the basis for the Director's initial
24 determination; and

1 (3) That the Director intends to take enforcement action against the operator, and the nature of
2 that action including the administrative penalty to be imposed, if any, and/or the suspension or
3 revocation of the operator's permit; and

4 (4) That the operator has the right to request a hearing before the Director within fifteen (15)
5 days of receipt of the notice of violation in order to allow the operator an opportunity to show that the
6 medical cannabis dispensary is operating in compliance with this Article and/or the rules and
7 regulations adopted pursuant to this Article.

8 (c) If no request for a hearing is filed with the Director within the appropriate period, the
9 initial determination shall be deemed final and shall be effective fifteen (15) days after the notice of
10 initial determination was served on the alleged violator. The Director shall issue an Order imposing
11 the enforcement action and serve it upon the party served with the notice of initial determination.
12 Payment of any administrative penalty is due within 30 days of service of the Director's Order. Any
13 administrative penalty assessed and received in an action brought under this Article shall be paid to
14 the Treasurer of the City and County of San Francisco. The alleged violator against whom an
15 administrative penalty is imposed also shall be liable for the costs and attorney's fees incurred by the
16 City in bringing any civil action to enforce the provisions of this section, including obtaining a court
17 order requiring payment of the administrative penalty.

18 (d) If the alleged violator files a timely request for a hearing, within fifteen (15) days of receipt
19 of the request, the Director shall notify the requestor of the date, time, and place of the hearing. The
20 Director shall make available all documentary evidence against the medical cannabis dispensary no
21 later than fifteen (15) days prior to the hearing. Such hearing shall be held no later than forty-five (45)
22 days after the Director receives the request, unless time is extended by mutual agreement of the affected
23 parties.

1 (e) At the hearing, the medical cannabis dispensary shall be provided an opportunity to refute
2 all evidence against it. The Director shall conduct the hearing. The hearing shall be conducted
3 pursuant to rules and regulations adopted by the Director.

4 (f) Within twenty (20) days of the conclusion of the hearing, the Director shall serve written
5 notice of the Director's decision on the alleged violator. If the Director's decision is that the alleged
6 violator must pay an administrative penalty, the notice of decision shall state that the recipient has ten
7 (10) days in which to pay the penalty. Any administrative penalty assessed and received in an action
8 brought under this Article shall be paid to the Treasurer of the City. The alleged violator against
9 whom an administrative penalty is imposed also shall be liable for the costs and attorney's fees
10 incurred by the City in bringing any civil action to enforce the provisions of this section, including
11 obtaining a court order requiring payment of the administrative penalty.

12
13 **SEC. 3217. APPEALS TO BOARD OF APPEALS.**

14 (a) Right of Appeal. The final decision of the Director to grant, deny, suspend, or revoke a
15 permit, or to impose administrative sanctions, as provided in this Article, may be appealed to the Board
16 of Appeals in the manner prescribed in Article I of the San Francisco Business and Tax Regulations
17 Code. An appeal shall stay the action of the Director.

18 (b) Hearing. The procedure and requirements governing an appeal to the Board of Appeals
19 shall be as specified in Article I of the San Francisco Business and Tax Regulations Code.

20
21 **SEC. 3218. BUSINESS LICENSE AND BUSINESS REGISTRATION CERTIFICATE.**

22 (a) Every medical cannabis dispensary shall be required to obtain a business license from the
23 City in compliance with Article 2 of the Business and Tax Regulations Code.

1 **(b) Every medical cannabis dispensary shall be required to obtain a business registration**
2 **certificate from the City in compliance with Article 12 of the Business and Tax Regulations Code.**

3
4 **SEC. 3219. DISCLAIMERS AND LIABILITY.**

5 **By regulating medical cannabis dispensaries, the City and County of San Francisco is assuming**
6 **an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its**
7 **officers and employees, an obligation for breach of which it is liable in money damages to any person**
8 **who claims that such breach proximately caused injury. To the fullest extent permitted by law, the City**
9 **shall assume no liability whatsoever, and expressly does not waive sovereign immunity, with respect to**
10 **the permitting and licensing provisions of this Article, or for the activities of any medical cannabis**
11 **dispensary. To the fullest extent permitted by law, any actions taken by a public officer or employee**
12 **under the provisions of this Article shall not become a personal liability of any public officer or**
13 **employee of the City. This Article (the "Medical Cannabis Act") does not authorize the violation of**
14 **state or federal law.**

15
16 **SEC. 3220. SEVERABILITY.**

17 **If any provision of this Article or the application of any such provision to any person or**
18 **circumstance, shall be held invalid, the remainder of this Article, to the extent it can be given effect, or**
19 **the application of those provisions to persons or circumstances other than those to which it is held**
20 **invalid, shall not be affected thereby, and to this end the provisions of this Article are severable.**

21
22 **SEC. 3221. ANNUAL REPORT BY DIRECTOR.**

23 **(a) Once a year, commencing in January 2007, the Director shall make a report to the**
24 **Board of Supervisors that:**

1 (1) sets forth the number and location of medical cannabis dispensaries currently
2 permitted and operating in the City;

3 (2) sets forth an estimate of the number of medical cannabis patients currently active in
4 the City;

5 (3) provides an analysis of the adequacy of the currently permitted and operating
6 medical cannabis dispensaries in the City in meeting the medical needs of patients;

7 (4) provides a summary of the past year's violations of this Article and penalties
8 assessed.

9 (b) Upon receipt of this Report, the Board of Supervisors shall hold a hearing to
10 consider whether any changes to City law, including but not limited to, amendments to the
11 Health Code or Planning Code, are warranted.

12
13 Section 5. The San Francisco Traffic Code is hereby amended by amending Sections
14 53 and 132, to read as follows:

15 **SEC. 53. DOUBLE PARKING.**

16 A vehicle parked in violation of Section 22500 (h) of the Vehicle Code of the State of
17 California by being stopped, parked, or left standing on the roadway side of any vehicle
18 stopped, parked, or standing at the curb or edge of a highway, except for a schoolbus when
19 stopped to load or unload pupils in a business or residence district where the speed limit is 25
20 miles per hour or less, shall be cited by the appropriate authority as a violation of the statute.

21 Any person violating Section 22500(h) shall be deemed guilty of an infraction and upon
22 the conviction thereof shall be punished by a fine of not less than \$50 nor more than \$100.

23 (a) No person shall stop, park, or leave standing any vehicle such that any portion of
24 the vehicle is within a Municipal Railway bus route on restricted streets. The restricted streets
25

1 are Chestnut Street, Union Street, Clay Street, Stockton Street, Mission Street, Geary Street,
2 Polk Street, Sacramento Street, Clement Street, Fillmore Street, Haight Street, Irving Street,
3 9th Avenue, 16th Street, and 24th Street. No person shall stop, park, or leave standing in any
4 portion of a Municipal Railway bus route on such street his or her vehicle between the hours
5 of 6:00 a.m. to 9:00 a.m. and from 4:00 p.m. to 7:00 p.m. Any person violating this Section
6 shall be subject to a fine of \$100.00. The Department of Parking and Traffic shall install signs
7 and otherwise alert motorists where and when this prohibition shall take effect and the
8 applicable fine. This section shall not apply to vehicles engaged in emergency services
9 including, but not limited to, fire engines, police vehicles, ambulances, or public utility vehicles
10 while such vehicles are operating, maintaining, or repairing facilities of the public utility or are
11 being used in connection with providing public utility service.

12 (b) No person shall stop, park, or leave standing any vehicle such that any portion of the
13 vehicle is stopped, parked, or standing in front of a legally permitted medical cannabis dispensary in
14 violation of California Vehicle Code section 22500(h). Any person violating this sub-section shall be
15 subject to a fine of \$100.00. The Department of Parking and Traffic shall install signs and otherwise
16 alert motorists where and when this prohibition shall take effect and the applicable fine. This sub-
17 section shall not apply to vehicles engaged in emergency services including, but not limited to, fire
18 engines, police vehicles, ambulances, or public utility vehicles while such vehicles are operating,
19 maintaining, or repairing facilities of the public utility or are being used in connection with providing
20 public utility service.

21 **SEC. 132. PENALTY SCHEDULE.**

22 Pursuant to California Vehicle Code Section 40203.5, violation of any of the following
23 subsections of the San Francisco Traffic Code (TC), Police Code (PC) or the California
24 Vehicle Code (VC) shall be punishable by the fines set forth below.
25

1	PC97A	Occupy Camper etc.	\$100.00
2	PC710.2	For Sale Sign	\$50.00
3	PC3703A	Car Alarm / Emerg	\$65.00
4	PC3703B	Car Alarm 15 Min	\$65.00
5	PC3704A	Alarm Time 15 Min	\$50.00
6	TC21.1	Remove Chalk 1st	\$50.00
7	TC21.2	Remove Chalk 2nd	\$75.00
8	TC21.3	Remove Chalk 3rd	\$100.00
9	TC27	MC Parking Zone	\$75.00
10	TC31.2	Cable Car Lanes	\$50.00
11	TC32A.1	Towaway Zone--Downtown	\$60.00
12	TC32A.2	Towaway Zone--Other areas	\$60.00
13	TC32B	Prohib Parking	\$60.00
14	TC32C.1	Overtime Parking--Downtown	\$50.00
15	TC32C.2	Overtime Parking--Other Areas	\$40.00
16	TC32.1	City Hall Permit	\$40.00
17	TC32.1.1	Main Library	\$40.00
18	TC32.1.2	Libraries	\$40.00
19	TC32.1.3	Social Services	\$40.00
20	TC32.1.4	Housing Authority	\$40.00
21	TC32.1.5	Muni Rwy Terminals	\$40.00
22	TC32.1.6	Prk Ctrl / Castro	\$40.00
23	TC32.1.7	Prk Ctrl / SFUSD Prop	\$40.00
24	TC32.1.8	Prk Ctrl / Plum Street	\$40.00
25			

1	TC32.1.9	Prk Ctrl / PUC Prop	\$40.00
2	TC32.1.10	Prk Ctrl / Wash / Jack	\$40.00
3	TC32.1.11	Prk Ctrl / DPW Prop	\$40.00
4	TC32.2	Prk Ctrl / SF General	\$40.00
5	TC32.2.1	Health Center No. 1	\$40.00
6	TC32.2.2	Sunset / Richmnd HC	\$40.00
7	TC32.2.3	NE Dist Health Center	\$40.00
8	TC32.3	Laguna Honda Hospital	\$40.00
9	TC32.3.1	Prk Ctrl / DPH Grove St	\$40.00
10	TC32.4	Candlestick Access Rd	\$40.00
11	TC32.4.2A	Fire Lane / Candlestick	\$40.00
12	TC32.4.2B	Pkg / Candlestick	\$40.00
13	TC32.5	Youth Guid Center	\$40.00
14	TC32.6	Prk Regs / Various	\$40.00
15	TC32.10	Off Street Parking	\$40.00
16	TC32.12	Off St Overtime	\$40.00
17	TC32.13	Off St Parallel / Diag	\$35.00
18	TC32.14	Off St / Marked Space	\$35.00
19	TC32.21A	Block Charging Bay	\$100.00
20	TC33C	Temp Park Restriction	\$40.00
21	TC33.1	Temp Constr Zone	\$40.00
22	TC33.3	Spec Truck Zone	\$60.00
23	TC33.3.1	Heavy Truck Zone	\$60.00
24	TC33.3.2	Market / Bay Truck Zone	\$60.00
25	TC33.5	School Bus Zone	\$75.00

1	TC37A	Parking Over 72 Hr	\$75.00
2	TC37C	Street Cleaning	\$40.00
3	TC38A	Red Zone	\$75.00
4	TC38B	Yel Zone / Metro Dist.	\$60.00
5	TC38B.1	Yel Zn Outside Metro	\$60.00
6	TC38C	White Zone	\$75.00
7	TC38D	Green Zone	\$50.00
8	TC38K	Blue Zone	\$275.00
9	TC38N	Block Bike Lane	\$100.00
10	TC39B	Taxicab Zone	\$60.00
11	TC50	Interference / Sign	\$35.00
12	TC53A	Dbl Prking Rstrict St	\$100.00
13	<u>TC53B</u>	<u>Dbl Prking Med. Cann. Dispens.</u>	<u>\$100.00</u>
14	TC55	Angled Parking	\$35.00
15	TC56	Median Dividers	\$50.00
16	TC58A	Block Wheels	\$35.00
17	TC58C	Not Within Space	\$35.00
18	TC60	Bus / Close to Curb	\$35.00
19	TC60.5	Engine Idle Parked	\$100.00
20	TC61	100 Feet Oversize	\$50.00
21	TC63	Com Veh / Prk Limited	\$100.00
22	TC63A	Com Veh / Prk Restricted	\$100.00
23	TC63.2	Veh Hire / Prk Restricted	\$100.00
24	TC64	Shift Parked Vehicle	\$50.00
25	TC65	Repairing Vehicle	\$55.00

1	TC66	Tour Bus Loading	\$100.00
2	TC69	Key in Unattend Veh	\$35.00
3	TC70	Improperly Parked	\$35.00
4	TC71	Parked Near RR Track	\$35.00
5	TC71B	Obst Flow of Traffic	\$35.00
6	TC202	Prk Meter	\$40.00
7	TC202.1	Prk Meter Downtown	\$50.00
8	TC219	Parking Meter M/C	\$75.00
9	TC315A	Residential Permit Area	\$50.00
10	TC315C	Unauth Permit	\$50.00
11	VC4462B	Imp Regis. / Plates	\$50.00
12	VC4464	Altered Plates	\$50.00
13	VC5201	Plates / Mounting	\$50.00
14	VC5201 EF	Plate Cover	\$50.00
15	VC5202	Period of Display	\$50.00
16	VC5204A	Tabs	\$50.00
17	VC21113A	School / Pub Ground	\$45.00
18	VC21211A	Bicycle Path / Lanes	\$50.00
19	VC22500A	Parking in Intersection	\$75.00
20	VC22500B	Parking / Crosswalk	\$75.00
21	VC22500C	Safety Zone	\$75.00
22	VC22500D	15 ft Fire Station	\$75.00
23	VC22500E	Driveway	\$75.00
24	VC22500F	On Sidewalk	\$100.00
25	VC22500G	Excavation	\$35.00

Supervisor Mirkarimi
 BOARD OF SUPERVISORS

1	VC22500H	Double Parking	\$65.00
2	VC22500I	Bus Zone	\$250.00
3	VC22500J	Tube or Tunnel	\$35.00
4	VC22500K	Bridge	\$35.00
5	VC22500L	Wheelchair Access	\$250.00
6	VC22500.1	Parking in Fire Lane	\$50.00
7	VC22502A	Over 18 in from Curb	\$35.00
8	VC22502B	Wrong Way Parking	\$35.00
9	VC22502E	One-Way Road / Pkg	\$35.00
10	VC22504A	Unincorp. Area Prkg	\$35.00
11	VC22505B	Signs	\$35.00
12	VC22507.8A	Disabled Parking	\$250.00
13	VC22507.8B	Disabled Parking	\$250.00
14	VC22507.8C	Disabled Parking	\$250.00
15	VC22511.56B	Misuse of Placard	\$500.00
16	VC22511.56C	Confiscation of Placard	\$500.00
17	VC22511.57	Lost, Stolen Placard	\$500.00
18	VC22514	Fire Hydrant	\$75.00
19	VC22515A	Unattended Motor Vehicle	\$60.00
20	VC22515B	Unattended Vehicle	\$60.00
21	VC22516	Locked Vehicle	\$45.00
22	VC21718	Stop / Freeway	\$35.00
23	VC22521	RR Tracks	\$65.00
24	VC22522	W/3 ft Handicap Ramp	\$275.00
25	VC22523A	Abandoned Vehicle / Highway	\$200.00

1	VC22523B	Abandoned Vehicle / Public or Priv. Prop	\$200.00
2			
3	VC22526A	Blocking Intersection	\$75.00
4	VC22526B	Blocking Intersection While Turning	\$100.00
5	VC23333	Park / Veh Crossing	\$60.00
6			

7 Section 6. The San Francisco Business and Tax Regulation Code is hereby amended
8 by amending Section 1, and by adding Sections 1.177 and 249.17, to read as follows:

9 **SEC. 1. DESIGNATING DEPARTMENTS FOR ISSUANCE OF PERMITS.**

10 Permits shall be issued for the location and conduct of the businesses, enterprises or
11 activities, enumerated hereinafter in Sections 1.1 to ~~1.76~~ 1.77, inclusive, by the department or
12 office authorized by Sections 1.1 to ~~1.76~~ 1.77, inclusive, and Section 2 of this Article to issue
13 each such class of permit, and subject to the approval of other departments and offices of the
14 City and County, where specifically designated in any such case; provided that permit or
15 license fees as required by ordinance shall be collected by the Tax Collector as provided in
16 Section 3 of this Article.

17
18 **SEC. 1.77. MEDICAL CANNABIS DISPENSARIES.**

19 *For the establishment, maintenance and operation of medical cannabis dispensaries - by the*
20 *Department of Public Health.*

21 ~~SEC. 249.17. MEDICAL CANNABIS DISPENSARY LICENSE FEE.~~


22 ~~Every person, firm or corporation engaged in operating a medical cannabis dispensary~~
23 ~~shall pay an annual license fee of \$2,182.00 to the Tax Collector to cover the costs of annual~~
24 ~~inspections, enforcement and other costs to the City.~~

1 Section 7. **Promotion of the General Welfare.** By regulating medical cannabis
2 dispensaries, the City and County of San Francisco is assuming an undertaking only to
3 promote the general welfare. It is not assuming, nor is it imposing on its officers and
4 employees, an obligation for breach of which it is liable in money damages to any person who
5 claims that such breach proximately caused injury. To the fullest extent permitted by law, the
6 City shall assume no liability whatsoever, and expressly does not waive sovereign immunity,
7 with respect to the permitting and licensing provisions of this Article, or for the activities of any
8 medical cannabis dispensary. To the fullest extent permitted by law, any actions taken by a
9 public officer or employee under the provisions of this Article shall not become a personal
10 liability of any public officer or employee of the City. This ordinance does not authorize the
11 violation of state or federal law.

12 Section 8. **Severability.** If any provision of this ordinance or the application thereof to
13 any person or circumstances is held invalid or unconstitutional, such invalidity or
14 unconstitutionality shall not affect other provisions or applications of this ordinance which can
15 be given effect without the invalid or unconstitutional provision or application. To this end, the
16 provisions of this ordinance shall be deemed severable.

17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By:


21 FREDERICK P. SHEINFIELD
22 Deputy City Attorney
23
24
25

Supervisor Mirkarimi
BOARD OF SUPERVISORS

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Public Comment

13-1174 E(3) 116 of 202



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 051250

Date Passed:

Ordinance amending the San Francisco Planning Code by amending Sections 209.3, 217, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 810, 811, 812, 813, 814, 815, 816, 817, and 818, and by adding Sections 790.141, and 890.133, to: define medical cannabis dispensaries; prohibit dispensaries in residential-house, and residential-mixed zoning districts, industrial districts, and certain mixed use districts; prohibit new medical cannabis dispensaries in neighborhood commercial cluster (NC-1) districts; permit dispensaries elsewhere subject to restrictions based on a dispensary's proximity to schools, community centers, and facilities providing substance abuse services that are licensed or certified by the State of California or funded by the Department of Public Health; require adequate ventilation in dispensaries; prohibit the sale or distribution of alcohol at dispensaries; require Planning Department notice to interested individuals and properties within 300 feet of proposed dispensaries; require the Planning Commission to hold a discretionary review hearing on each medical cannabis dispensary application; require dispensaries operating as of April 1, 2005 to obtain a permit within 18 months of the effective date of this legislation or cease operations; require dispensaries beginning operation after April 1, 2005 but before the effective date of this legislation to cease operations; require dispensaries seeking to begin operations after the effective date of this legislation to obtain a permit; require a notice that permits for dispensaries are not intended to and do not authorize the violation of State or Federal law; and make environmental findings and findings of consistency with the priority policies of Planning Code Section 101.1 and the General Plan;

Amending the San Francisco Health Code by adding Sections 3200 through 3221, to: set medical cannabis possession guidelines; require a permit, business license, and business registration certificate for a medical cannabis dispensary; set out the application process for a medical cannabis permit; set out operating requirements for medical cannabis dispensaries including signage and advertising requirements; and set out the administrative process for imposing penalties and/or permit suspension or revocation for violations;

Amending the San Francisco Traffic Code by amending Sections 53 and 132, to create an infraction for double parking in front of a medical cannabis dispensary and set the fine at \$100; and, Amending the San Francisco Business and Tax Regulations Code by amending Section 1, to add Section 1.177, to authorize the Department of Health to issue medical cannabis dispensary permits.

September 27, 2005 Board of Supervisors — SUBSTITUTED

October 18, 2005 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

October 18, 2005 Board of Supervisors — CONTINUED

Ayes: 6 - Alioto-Pier, Daly, Elsbernd, Ma, Maxwell, Sandoval
Noes: 5 - Ammiano, Dufty, McGoldrick, Mirkarimi, Peskin

October 25, 2005 Board of Supervisors — CONTINUED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

November 15, 2005 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 9 - Alioto-Pier, Ammiano, Daly, Dufty, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin

Absent: 1 - Sandoval

Excused: 1 - Elsbernd

November 15, 2005 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 9 - Alioto-Pier, Ammiano, Daly, Dufty, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin

Absent: 1 - Sandoval

Excused: 1 - Elsbernd

November 15, 2005 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 9 - Alioto-Pier, Ammiano, Daly, Dufty, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin

Absent: 1 - Sandoval

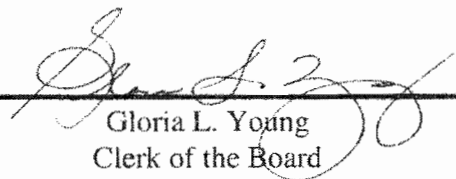
Excused: 1 - Elsbernd

November 22, 2005 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

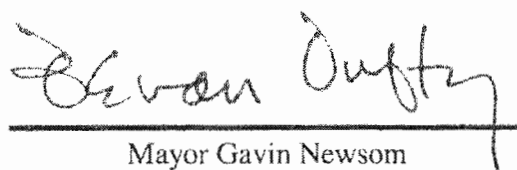
File No. 051250

I hereby certify that the foregoing Ordinance was FINALLY PASSED on November 22, 2005 by the Board of Supervisors of the City and County of San Francisco.


Gloria L. Young
Clerk of the Board

NOV 30 2005

Date Approved


Mayor Gavin Newsom

San Luis Obispo County Medical Marijuana Dispensaries



EXHIBIT LRP 2006-00007:A

ORDINANCE NO. 3114

AN ORDINANCE AMENDING TITLE 22 OF THE
SAN LUIS OBISPO COUNTY CODE, THE LAND USE ORDINANCE
TABLE 2-2 AND ARTICLE 4 RELATING TO MEDICAL MARIJUANA DISPENSARIES

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1. Section 22.06.030 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended as follows:

LAND USE	PERMIT REQUIREMENT BY L.U.C.							Specific Use Standards
	OP	CR	CS	IND	OS	REC	PF	
General Retail								
Medical Marijuana Dispensaries		MUP	MUP					22.30.225

SECTION 2. Article 4 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by adding new subsection 22.30.225 as follows:

22.30.225 - General Retail

This section applies only to Medical Marijuana Dispensaries when proposed in the Commercial Retail or Commercial Service land use categories and outside of the Central Business District (CBD). Other General Retail uses are subject to the land use permit required by 22.06.030 (Table 2-2). A Medical Marijuana Dispensary is defined as a facility where marijuana is made available for medical purposes in accordance with Health and Safety Code Section 11362.5 (Proposition 215).

- A. **Purpose.** The voters of the State of California affirmed the medical use of marijuana by voting for Proposition 215 (codified as Health & Safety Code Section 11362.5). The intent of this Proposition was to give persons who are in need of medical of marijuana the ability to obtain and use it without fear of criminal prosecution. The specific purpose of this Section is to set standards for this use consistent with neighborhood concerns.
- B. **Permit requirements.** Minor Use Permit approval is required in order to establish a Medical Marijuana Dispensary.
- C. **Design and operational standards.**
 - 1. **Location.** Medical Marijuana Dispensaries shall be located outside of the CBD, a minimum of 1000 feet from any pre-school, elementary school, high school, library, park, playground, recreation or youth center. Distance shall be measured from the building which contains the Medical Marijuana Dispensary to the property line of the enumerated use using a direct straight line measurement.

2. **Limitation on use.**
 - a. Hours of operation are limited to 11:00 a.m. to 6:00 p.m. seven days per week.
 - b. No person under the age of 18 (eighteen) shall be permitted in the Dispensary at any time except in the presence of his/her parent or guardian.
 - c. No retail sales of paraphernalia as defined in Health and Safety Code section 11364.5 are permitted at the Dispensary.
 - d. No cultivation of medical marijuana is permitted at the Dispensary or on Dispensary property.
3. **Employees.** All staff/employees employed by the Medical Marijuana Dispensary must be 21 years of age or older.
4. **Security Plan.** A security plan shall be submitted with the Minor Use Permit Application that includes lighting, security video cameras, alarm systems and secure area for medical marijuana storage. The security plan shall include a requirement that there be at least 30 business days of surveillance video that captures both inside and outside images on an on-going basis. The video system for the security cameras must be located in a locked, tamper-proof compartment.
5. **Displayed notice.** Each Dispensary, inside of the Dispensary itself, shall display in a manner legible and visible to its clientele:
 - a. Notice that persons under the age of 18 (eighteen) are not allowed in the Dispensary except in the presence of his/her parent or guardian;
 - b. Notice that there is no consumption of medical marijuana in the vicinity of the Dispensary.
6. **Sheriff notification.** A condition to establishment of a Medical Marijuana Dispensary shall be notification to the Sheriff's Department informing it of the name, location and contact information for the owner/operator of the Dispensary.

SECTION 3. That the activity is covered by a general rule exemption (State CEQA Guidelines section 15061(b)(3)) from the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 4. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5. This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and

against the ordinance.

INTRODUCED, PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the sixth day of February, 2007, by the following roll call vote, to wit:

AYES: Supervisors K.H. "Katcho" Achadjian, James R. Patterson, Bruce S. Gibson,
Chairperson Jerry Lenthall

NOES: None

ABSENT: Supervisor Harry L. Ovitt

ABSTAINING: None

/s/ Jerry Lenthall

Chairperson of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

JULIE L. RODEWALD

County Clerk and Ex-Officio Clerk of the Board of Supervisors
County of San Luis Obispo, State of California

BY: /s/ Vicki M. Shelby,
Deputy Clerk-Recorder

[SEAL]

San Mateo County Medical Marijuana Dispensary



ORDINANCE NO. _____
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

* * * * *

**AN ORDINANCE ADDING CHAPTER 5.148 TO TITLE 5 OF THE SAN MATEO
COUNTY ORDINANCE CODE, RELATING TO REGULATION OF
COLLECTIVE CULTIVATION AND DISTRIBUTION OF MEDICAL MARIJUANA**

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows

SECTION 1. Chapter 5.148 is hereby added to Title 5 (Business Regulations) of the San Mateo County Ordinance Code, to read as follows:

Chapter 5.148 Regulation of Collective Cultivation and Distribution of Medical Marijuana

5.148.010 Purpose.

- A. In 1996, the voters of the State of California approved Proposition 215, "the Compassionate Use Act", which was intended to permit cultivation and possession of medical marijuana by single patient, or the patient's caregiver, for the patient's personal use, and to create a limited defense to the crimes of possessing or cultivating marijuana; and

- B. In 2004, the State Legislature enacted Senate Bill 420, "the Medical Marijuana Program Act", to clarify the scope of the Compassionate Use Act and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to the crimes of possession for sale, transportation or furnishing marijuana, maintaining a location for unlawfully selling, giving away, or using controlled substances, managing a location for the storage or distribution of any controlled substance for sale, and the laws declaring the use of property for these purposes a nuisance; and

- C. The Medical Marijuana Program Act defines a "primary caregiver" as an individual who is designated by a qualified patient or by a person with an identification card, and who has consistently assumed responsibility for the housing, health, or safety of that patient or person; and

- D. The Medical Marijuana Program Act allows cities and counties to adopt and enforce rules consistent with the Medical Marijuana Program Act; and

- E. In August 2008, the California Attorney General issued guidelines that clarify the state's laws governing medical marijuana, and provided guidelines for patients and law enforcement to ensure that medical marijuana is not diverted to illicit markets; and
- F. This Chapter is enacted, pursuant to the Compassionate Use Act, and the Medical Marijuana Program Act, the Guidelines issued by the California Attorney General, and the County's constitutional police power to protect the health, safety and welfare of the residents of the County of San Mateo; and
- G. Since the sale of medical marijuana is unlawful, it is necessary to place restrictions on the exterior appearance of medical marijuana collectives in order to prevent the misunderstanding that collectives are places where marijuana may be purchased; and
- H. It is the purpose and intent of this chapter to adopt and enforce rules consistent with the Compassionate Use Act, the Medical Marijuana Program Act, and the Guidelines issued by the California Attorney General, which will provide for the health, safety and welfare of the public by regulating the collective cultivation and possession of medical marijuana within the unincorporated area of the County of San Mateo, consistent with state law; and
- I. This Chapter is intended to be consistent with the Compassionate Use Act, the Medical Marijuana Program Act, and the Guidelines issued by the California Attorney General, and towards that end, it is not intended to and does not criminalize activity which is otherwise permitted under state law, and it is not intended to and does not authorize conduct that is otherwise prohibited by state law, or to prohibit conduct that is authorized by state law.

5.148.020 Definitions.

- (a) "Medical marijuana collective" or "collective" means a facility or location at which qualified patients, persons with identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, associate within the unincorporated area of the County of San Mateo in order collectively or cooperatively to cultivate and/or store marijuana for medical purposes, as provided in Health & Safety Code section 11362.775.
- (b) "Primary caregiver" shall have the same meaning as provided in Health & Safety Code section 11362.7.

5.148.030 Requirement that Primary Caregivers Create and Maintain Patient List.

Each and every primary caregiver, as that term is defined by state law, is required to create and maintain an up to date list of qualified patients or persons with identification cards for whom the caregiver provides service. The list must immediately be provided

to the Sheriff or the Sheriff's designee upon request, for the purposes of verifying that the primary caregiver possesses no more than the maximum quantity per patient of medical marijuana authorized by state law, multiplied by the number of patients for whom the primary caregiver is providing service.

5.148.040 Requirement of and Application for County License.

- (a) Medical marijuana collectives are required to obtain a license to operate within the unincorporated area of the County of San Mateo. The license procedure shall be as set forth in Chapter 5.04 of this Code, and in addition, shall be subject to the specific requirements and regulations set forth in this Chapter.

In addition to the information ordinarily required in an application for a license, an application for a license under this Chapter shall include information that will enable the license board to make a finding that the collective meets the criteria that are included in the state law definition of a medical marijuana collective.

In addition, the application shall also include:

- (1) a warning that operators, employees, and members of facilities where medical marijuana is collectively cultivated may be subject to prosecution under federal laws, and
 - (2) the applicant's waiver and release of the County from any and all legal liability related to or arising from the application for a license, the issuance of the license, or the enforcement of the conditions of the license, and/or the operation of any facility at which where medical marijuana is collectively cultivated.
- (b) In addition to the findings ordinarily required for a County License, the approval of a County License for a medical marijuana collective shall require the following specific findings:
- (1) That the requested use at the proposed location will not adversely affect the economic welfare of the nearby community;
 - (2) That the requested use at the proposed location will not adversely affect the use of any property used for a school, playground, park, youth facility, child care facility, place of religious worship, or library;
 - (3) That the requested use at the proposed location is sufficiently buffered in relation to any residential area in the immediate vicinity so as not to adversely affect said area; and

- (4) That the exterior appearance of the structure is compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration, or substantial diminishment or impairment of property values within the immediate area.

5.148.050 Conditions of License.

- (a) The County License will include, at a minimum, the following conditions:
 - (1) Only qualified patients, persons with identification cards, and primary caregivers may cultivate medical marijuana collectively or associate for the purpose of doing so;
 - (2) Absolutely no advertising of marijuana is allowed at any time;
 - (3) Exterior signage is limited to site addressing only;
 - (4) The collective site will include an alarm system that is monitored at all times for security purposes;
 - (5) A centrally monitored alarm system is required;
 - (6) Interior building lighting, exterior building lighting and parking area lighting will be of sufficient foot-candles and color rendition, so as to allow the ready identification of any individual committing a crime on site at a distance of no less than forty feet;
 - (7) Windows and roof hatches will be secured with bars on the windows so as to prevent unauthorized entry, and be equipped with latches that may be released quickly from the inside to allow exit in the event of emergency;
 - (8) No cultivated marijuana or dried marijuana product may be visible from the building exterior;
 - (9) The activities that may be conducted at a licensed collective are limited to cultivation and storage of marijuana for personal use and preparation of cultivated marijuana for personal use, such as drying and processing;
 - (10) No cooking, sale, preparation, or manufacturing of marijuana enhanced or edible or drinkable products, including but not limited to cookies, candy, drinks, or brownies is allowed;

- (11) No sales of cultivated marijuana are allowed on site;
- (12) No persons under the age of eighteen are allowed on site, unless such individual is a qualified patient and accompanied by their licensed attending physician, parent or documented legal guardian;
- (13) The quantity of marijuana located at the facility where medical marijuana is collectively cultivated may not exceed the maximum quantity per patient of medical marijuana authorized by state law, multiplied by the number of participants who are served by the collective, consistent with the regulations set forth in this Chapter;
- (14) The Sheriff may inspect the collective at any reasonable time to ensure that the amounts of medical marijuana on site conform to this Chapter and state law;
- (15) No individual or group may cultivate or distribute marijuana for profit;
- (16) No money or any other thing of value shall be exchanged for medical marijuana, with the sole exception that a primary caregiver, as defined herein, who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under this Chapter;
- (17) Marijuana cultivated in a licensed collective must be secured from public access, and not be visible to the public domain. All cultivated marijuana must be secured in structures consisting of at least four walls and a roof, and conform to specified Security Standards, as to locks, deadbolts and additional security measures;
- (18) This Chapter does not authorize the consumption, use, or smoking of marijuana in the parking areas of a collective, or in vehicles located at or near or under said collective, or under any circumstances in which the consumption, use, or smoking of marijuana is prohibited by state law;
- (19) The medical marijuana collective shall comply with the all applicable building, zoning, and environmental requirements set forth in this Ordinance Code or state law;
- (20) The medical marijuana collective may not be operated or located in or within 1000 feet of the grounds of a school, recreation center, or youth center;

- (21) The medical marijuana collective may not employ any persons who are felons or who are currently on probation.
- (b) The Sheriff reserves the right to make additional security and safety conditions, if necessary, upon receipt of detailed/revised building plans.

5.148.060 Revocation of License.

This license may be revoked for any violation of state law or this Chapter, or for failure to comply with the conditions listed on said license. The revocation shall comply with the procedural requirements of Chapter 5.04 of this Code.

5.148.070 Enforcement of Chapter

The Sheriff or the Sheriff's designee shall have the duty and responsibility to investigate and enforce any violations of this chapter, and to report and enforce against any violations of the conditions of approval attached to licenses required by and obtained pursuant to this Chapter. The Sheriff shall provide a report of all violations of these provisions to the License Board, for possible revocation of the license obtained under this Chapter, pursuant to the use revocation procedures contained in Chapter 5.04 of this code.

The Sheriff or the Sheriff's designee shall have the duty and responsibility of processing and referring to the license board all license applications using the minimum guidelines established by this Chapter consistent with the license procedure established by Chapter 5.04 of this code. The Sheriff or Sheriff's designee shall also have the duty and responsibility to consider the initiation of modification or revocation proceedings in accordance with the procedures outlined in Chapter 5.04 of this code.

5.148.080 Marijuana Produced for Individual Residential On-Site Consumption.

This Chapter does not apply to individual cultivation of marijuana for consumption or use of an individual at his or her residence, or for consumption by another individual or individuals regularly residing at said residence, if such consumption is otherwise permitted by state law.

5.148.090 Violation and Penalties.

Any violation of this chapter shall be deemed a misdemeanor. Any violation of this chapter shall also be deemed a public nuisance and may be enforced by any remedy available to the County for abatement of public nuisances.

5.48.100 Severability.

If any section, subsection, sentence, clause, or phrase of this Chapter, is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any or all other portions of this Chapter.

SECTION 2. This Ordinance shall be effective sixty (60) days from the passage date thereof.

* * * * *

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Santa Clara County Medical Marijuana Dispensary



Division B26
MEDICINAL MARIJUANA DISPENSARIES

Sec. B26-1. Intent.

This division shall provide regulation for the convenient, affordable, and safe distribution of medicinal marijuana to all patients in medical need of marijuana.

(Ord. No. NS-300.599, § 1, 6-3-97; Ord. No. NS-300.599, § 1, 6-2-98; Ord. No. NS-300.619, § 1, 11-17-98)

Sec. B26-2. Applicability.

Medicinal marijuana dispensaries (also referred to as "dispensaries") are subject to the regulation contained within this division of the Santa Clara County Ordinance Code. Nothing in this division shall regulate or prohibit the following use which complies with Proposition 215:

(a) The cultivation or possession of marijuana for medical use by a single patient or primary caregiver.

(b) For the purposes of this division, "primary caregiver" may include a medicinal marijuana dispensary, subject to each of the requirements of this division, and limited to the cultivation or possession of marijuana for medical use.

(Ord. No. NS-300.599, § 1, 6-3-97; Ord. No. NS-300.599, § 1, 6-2-98; Ord. No. NS-300.619, § 1, 11-17-98)

Sec. B26-3. Medicinal marijuana dispensaries--General.

Medicinal marijuana dispensaries may be established only within CN, CG, MH, and ML zoning districts. Medicinal marijuana dispensaries shall locate no closer than 1,000 feet to schools and places of worship; and 1,000 feet from any other established dispensary. Distance shall be measured along any public road or pedestrian pathway.

(Ord. No. NS-300.599, § 1, 6-3-97; Ord. No. NS-300.599, § 1, 6-2-98)

Sec. B26-4. Authorized on-site activities.

The on-site cultivation of medicinal marijuana is an approved activity. Medicinal marijuana dispensaries shall distribute medicinal marijuana or medicinal marijuana food stuffs only. No retail sales of any products are permitted at the dispensary. On-site smoking, ingestion or consumption is not authorized. No one under 18 years of age shall enter a dispensary unless accompanied by parent or guardian. Hours of operation shall be restricted at a minimum to the hours of 7:00 a.m. to 8:00 p.m. Further hours of operation restrictions may be imposed through the use permit or ASA procedures.

Medicinal marijuana dispensaries may be designated as a primary caregiver only when the patient is an active participant in the operation of the facility, or in the cultivation of the on-site medicinal marijuana.

(Ord. No. NS-300.599, § 1, 6-3-97; Ord. No. NS-300.599, § 1, 6-2-98; Ord. No. NS-300.619, § 1, 11-17-98)

Sec. B26-5. Delivery prohibited.

No person employed by or affiliated with a medicinal marijuana dispensary shall deliver medicinal marijuana to a patient.

(Ord. No. NS-300.599, § 1, 6-3-97; Ord. No. NS-300.599, § 1, 6-2-98)

Sec. B26-6. Clearances required.

No person, partnership, association, corporation or entity shall establish or operate a medicinal marijuana dispensary without first obtaining a use permit pursuant to Article 47 [Chapter 5.65] [of the Zoning Ordinance], in addition to the following:

(a) Architectural and site approval (ASA) permit shall be obtained from the Santa Clara County Planning Office. The ASA procedure shall place conditions on dispensaries including but not limited to parking requirements, hours of operation and signage.

(b) The Santa Clara County Public Health Department shall provide clearance to all dispensary applications determined to be in strict compliance with the regulations enforced by the Public Health Official. All physician's statements regarding the usage of marijuana for medical purposes shall be verified by the Public Health Department.

(c) The office of the Sheriff shall provide clearance to all dispensary applications determined to be in strict compliance with the regulations enforced by the Sheriff.

(Ord. No. NS-300.599, § 1, 6-3-97; Ord. No. NS-300.599, § 1, 6-2-98; Ord. No. NS-300.619, § 1, 11-17-98)

Sec. B26-7. Approvals nontransferable.

Approvals granted under this division shall not be transferable, either as to the licensee or the location. Any attempt to transfer shall render the approval in question invalid, it shall be deemed automatically revoked, and no further business may be conducted under such approval.

(Ord. No. NS-300.599, § 1, 6-3-97; Ord. No. NS-300.599, § 1, 6-2-98)

Sec. B26-8. Posting of sign and County approvals.

(a) A legible sign identifying an establishment as a medicinal marijuana dispensary shall be posted at the main entrance of the establishment. The sign shall be limited to the name, address, phone number and hours of operation. Signs are subject to approval by the Planning Commission and ASA Committee.

(b) Medicinal marijuana dispensary approvals shall be posted in a conspicuous place in the establishment.

(Ord. No. NS-300.599, § 1, 6-3-97; Ord. No. NS-300.599, § 1, 6-2-98)

Sec. B26-9. Application of division to existing businesses.

The provisions of this division shall be applicable to all persons and businesses described herein whether the herein-described activities were established before or after the effective date of this division.

(Ord. No. NS-300.599, § 1, 6-3-97; Ord. No. NS-300.599, § 1, 6-2-98)

[NOTE: The above information originated from the Santa Clara County government website http://www.sccgov.org/SCC/docs/scc_ordinance/32700000.HTM.]

Santa Cruz County Medical Marijuana Cooperative



**BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA
RESOLUTION NO.**

On the motion of Supervisor
duly seconded by Supervisor
the following is adopted:

**BOARD OF SUPERVISORS RESOLUTION MAKING FINDINGS RELATING TO
THE REGULATION OF MEDICAL MARIJUANA COOPERATIVES
AND CERTIFYING THE CEQA EXEMPTION IN CONNECTION THEREWITH
AND DIRECTING SUBMITTAL OF THE ORDINANCE TO THE CALIFORNIA
COASTAL COMMISSION**

The Board of Supervisors of the County of Santa Cruz finds as follows:

WHEREAS, in 1996 the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5, *et seq.* and entitled the Compassionate Use Act of 1996 ("the Act"); and

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances; and

WHEREAS, on January 1, 2004, Senate Bill 420 became effective to clarify the scope of the Act and to allow cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the Act; and

WHEREAS, in February 2009 the U.S. Attorney General stated that federal law enforcement officials would cease enforcement at California medical marijuana facilities; and

WHEREAS, County staff has received inquiries from members of the public as to the possibility of establishing medical marijuana cooperatives in the unincorporated area of the County of Santa Cruz; and

WHEREAS, County staff is aware that there are currently several medical marijuana distribution operations in the unincorporated area of the County of Santa Cruz operating without any land use permits; and

WHEREAS, concerns have been raised in the community regarding the need for regulations to address impacts including, but not limited to, safety and the impact that a proliferation and/or over concentration of medical marijuana cooperatives may have on the community as a whole; and

WHEREAS, many County residents would likely seek access to medical marijuana provided that the facilities are designed and located to minimize the concerns described above; and

WHEREAS, on September 28, 2010, the County of Santa Cruz enacted an urgency ordinance imposing a temporary moratorium on the establishment of medical marijuana dispensaries and production houses in the unincorporated area of Santa Cruz County; and

WHEREAS, on November 9, 2010, the County of Santa Cruz extended the urgency ordinance imposing a temporary moratorium on the establishment of medical marijuana dispensaries and production houses in the unincorporated area of Santa Cruz County for ten months and 15 days; and

WHEREAS, the County of Santa Cruz has a compelling interest in ensuring that marijuana is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and integrity of the neighborhoods in which medical marijuana cooperatives operate, and in providing seriously ill residents with compassionate access to medical marijuana; and

WHEREAS, on January 26, 2011 and February 9, 2011, the Planning Commission conducted public hearings to consider the establishment of medical marijuana standards to the Santa Cruz County Code; and

WHEREAS, on April 12, 2011, the Board of Supervisors opened the public hearing to receive public testimony regarding the establishment of medical marijuana standards to the Santa Cruz County Code, and continued the hearing to May 3, 2011; and

NOW THEREFORE, BE IT RESOLVED AND ORDERED, that the Board of Supervisors hereby approves the categorical exemption under CEQA as set forth in Attachment 4 and incorporated herein by reference, in connection with adopting an ordinance regulating medical marijuana on this same date.

BE IT FURTHER RESOLVED AND ORDERED that the Board of Supervisors hereby directs these amendments be submitted to the State of California Coastal Commission.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this day of ____, 2011 by the following vote:


AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chairperson of the Board of Supervisors

ATTEST:

Secretary

APPROVED AS TO FORM:



County Counsel

DISTRIBUTION: County Counsel
 Planning Department
 Sheriff

ORDINANCE No. _____

**ORDINANCE AMENDING SECTION 13.10.700-M AND SECTION 13.10.332(B)
AND ADDING SECTION 13.10.670 TO THE SANTA CRUZ
COUNTY CODE RELATING TO THE REGULATION OF
MEDICAL MARIJUANA COOPERATIVES**

SECTION I

Section 13.10.700-M of the Santa Cruz County Code is hereby amended to add the following definition after “Matrix Unit” to read as follows:

Medical Marijuana Cooperative. Any cooperative or collective of 10 or more persons where the primary purpose is to provide the lawful distribution of medical marijuana that has been recommended by a licensed physician, in strict accordance with Health and Safety Code Section 11362.5 *et seq.* The sharing or distribution of medical marijuana between nine or fewer persons is not subject to this code. Except as otherwise expressly authorized, the sharing or distribution of medical marijuana is not an allowed use.

SECTION II

The Commercial Uses Chart in Section 13.10.332 (b) of the Santa Cruz County Code is hereby amended by adding the category “Medical Marijuana Cooperatives, subject to the provisions of Section 13.10.670” below the category “Cottage Industry” to read as follows:

USE	PA	VA	CT	C-1	C-2	C-4
Medical Marijuana Cooperatives, subject to the provisions of Section 13.10.670	5	-	-	5	5	5

SECTION III

The Santa Cruz County Code is hereby amended by adding Section 13.10.670 entitled “Medical Marijuana Cooperatives” to read as follows:

13.10.670 Medical Marijuana Cooperatives.

(a) Purpose. Standards are required to assure that the operations of medical marijuana cooperatives are in compliance with California Health and Safety Code Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") or any State regulations and/or guidelines adopted in furtherance thereof, and to mitigate the adverse secondary effects from operations of cooperatives. This Ordinance is enacted as a health and safety measure pursuant to the county's police power. Nothing contained herein shall excuse, facilitate or promote a violation of federal law.

(b) Level 5 Approval Required. It shall be unlawful to establish, cause, or permit the operation of a medical marijuana cooperative without first obtaining a development permit required by this section. A medical marijuana cooperative shall meet the siting criteria and performance standards described below if authorized pursuant to the procedures for a Level 5 Approval. The Planning Department shall provide notice of the application to the Health Services Agency, Sheriff's Office and other relevant county departments.

(c) Siting Criteria. Applicants for a medical marijuana cooperative must meet the following siting criteria prior to consideration of a permit application:

(1) The proposed location shall lie within a P-A (Professional and Administrative Offices), C-1 (Neighborhood Commercial), C-2 (Community Commercial) or C-4 (Commercial Services) zone district.

(2) If the proposed location is located within 300 feet of any residentially zoned area, the applicant shall be required to demonstrate to the decision-maker that the use would not create an intensity of use that is incompatible with the nearby residential use and that the applicant would employ security measures that would insure that the use would not adversely affect the security and safety of the neighboring residential uses.

(3) The proposed location shall not be located within eight hundred feet of (a) any other medical marijuana cooperative, or within six hundred feet of (b) any licensed preschool, or (c) any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

(4) The distance specified in subsection (2) and (3) shall be the horizontal distance measured in a straight line from the property line of the referenced use to the closest property line of the lot on which the cooperative is to be located without regard to intervening structures.

(d) Performance Standards. Medical marijuana cooperatives, once permitted, shall meet the following operating procedures and performance standards for the duration of the use; and the Management Plan shall incorporate these procedures and standards:

- (1) The cooperative shall not provide an on-site location for doctors or medical professionals to write recommendations.
- (2) No product shall be smoked, ingested or otherwise consumed within the cooperative or within 50 feet of the building in which the cooperative is located, except that cooperative employees and volunteer staff that possess a valid medical doctor's recommendation for medical marijuana, may individually smoke, ingest or otherwise consume medical marijuana during normal break time(s).
- (3) The hours of operation shall be limited to no more than 7:00 a.m. to 8:30 p.m., daily.
- (4) Parking shall be provided at a rate of 1 space per 300 gross square feet of floor area. Exterior lighting of the parking area shall be kept at a sufficient intensity so as to provide adequate lighting for patrons, while not disturbing surrounding residential or commercial areas.
- (5) The cooperative shall prohibit loitering by persons within 50 feet of any entryway into or exit from the cooperative.
- (6) The cooperative shall provide litter removal services each day of operation on and in front of the premises and, if necessary, on public sidewalks within fifty feet of any entry into or exit from the cooperative.
- (7) The cooperative shall provide adequate security on the premises, including lighting, alarms and dedicated security personnel, to insure the safety of persons and to protect the premises from theft.
- (8) All employees of the cooperative shall be at least 18 years of age.
- (9) Signage shall be limited to one identifying sign stating the business name, address and hours of operation not to exceed 4 square feet in area; such signs shall not be directly illuminated and shall not contain graphics identifying marijuana. In addition to an identification sign, appropriate directional signage may be required.
- (10) No advertising for sale of medical marijuana shall be permitted, except advertising that is directed exclusively to cooperative or collective members. An entry in the telephone directory with the name, location and phone number of the cooperative is allowed. Each cooperative is allowed a website with the name, location and phone number of the cooperative. Such websites must include the cooperative's bylaws, membership criteria, and operating procedures but may not include the display of a sales price to non-members for any marijuana product that is dispensed by the cooperative. The display of the sales price to cooperative or collective members on a portal that may be accessed by members only may be permitted.

(11) The cooperative shall provide the Planning Director, the Sheriff and all adjoining property owners located within fifty feet of the building in which the cooperative is located with a current name, phone number, email address and facsimile number of an on-site community relations staff person to whom one can provide notice if there are concerns regarding operating problems associated with the establishment. The establishment shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the county.

(12) The cooperative shall post a copy of the conditions of approval for the permit on the premises in a place where it may be readily viewed by any member of the general public. All members shall be required to sign a "good neighbor" agreement restating and agreeing to abide by the requirements of the Level 5 Approval and this Section and indicating that if a member is found in violation, their membership may be revoked.

(13) The cooperative shall meet any specific operating procedures and measures imposed as additional conditions of approval that are reasonably related to the health, safety or welfare of the community.

(14) All cooperatives shall operate in strict compliance with Health and Safety Code Section 11362.5, *et seq.*, as amended, and any related state regulations. No cooperative shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by members towards the cooperative's actual expenses for the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in strict compliance with State Law. All such cash and in-kind amounts and items shall be fully documented. Medical marijuana shall be labeled as grown indoors or outdoors and whether or not pesticides were used in its production. The marijuana used in the products dispensed by the cooperative shall be grown locally only.

A cooperative shall maintain a management plan that governs the operation and dispensing of medical marijuana, including provisions addressing how the cooperative will meet the performance standards and other provisions of the County Code governing medical marijuana cooperatives.

A medical marijuana cooperative shall maintain records at the location accurately and truthfully documenting:

- (a) the full name, address, and telephone number(s) of the owner, landlord and/or lessees of the location;
- (b) the full name, address, telephone number(s) and specific role of all members who are engaged in the management of the cooperative;

- (c) all receipts of the cooperative, including but not limited to all contributions, reimbursements, and reasonable compensation whether cash or in-kind and all expenditures incurred by the cooperative;
- (d) an inventory record documenting the dates, amounts and content testing, if testing is conducted, of all marijuana in the possession of the cooperative;
- (e) a log documenting the transfer of medical marijuana to members;
- (f) a log documenting all complaints filed with the on-site community relations staff person, the date and how individual complaints were resolved; and
- (g) a low-income patient participation plan that fully describes and documents how low-income patients are provided assistance and access to cooperative membership, medical marijuana and cooperative services. The availability of low-income patient assistance and access shall be advertised in a prominent facility location to increase member awareness and participation.

A cooperative shall not: (a) unreasonably deny membership in the cooperative to any county resident, or (b) unreasonably deny access to a cooperative member's prescribed medication. The demonstrated financial inability of a cooperative member to pay for medical marijuana shall not, in and of itself, constitute a reasonable basis for denying membership in the cooperative, or denying or otherwise limiting the member's access to medical marijuana appropriate for the member's medical needs. The County may audit the membership and financial records of the cooperative at any time. Current copies of the management plan, and other cooperative records shall be available for inspection within a reasonable period of time by County Code Compliance staff, Sheriff's Office staff and other assigned County staff.

(15) Release of the county from liability. The owner(s) and permittee(s) of each cooperative shall release the county, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of cooperative owners, operators, employees, or members for violation of state or federal laws by executing a release of liability in a form satisfactory to the county planning director.

(16) County indemnification. The owner(s) and permittee(s) of each cooperative shall indemnify and hold harmless the county and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cooperative, and for any claims brought by any of their members for problems, injuries, damages or liabilities of any kind that may arise out of the distribution and any use of medical cannabis provided at the cooperative.

(e) Findings. In approving a Level 5 Approval, it shall be determined by the hearing body that all of the following apply:

- (1) The proposed use as described by the management plan of the cooperative complies with all of the mandatory requirements of this section and other applicable sections of this code and applicable policies of the General Plan;
- (2) The proposed use will not adversely affect the health, safety or welfare of area residents or businesses, or uses; and will not result in an undue concentration in any one neighborhood;
- (3) The operational characteristics of the proposed use, such as hours of operation, noise, odor, amount and location of parking, signage, safety, loitering and litter, will not have a negative impact upon the surrounding area;
- (4) The proposed use is compatible with the sizes and types of other neighboring uses in the surrounding area;
- (5) The proposed use is not located in what has been determined by the Santa Cruz County Sheriff's Office to be an area where a disproportionate number of law enforcement service calls occur; and
- (6) The proposed use, as a nonresidential occupancy, shall meet all building code requirements for such occupancy.
- (7) The bylaws, membership criteria, employee compensation schedules and operating procedures are all consistent with a bona fide medical marijuana cooperative.
- (f) Basis for denial. The decision-maker may deny any application which is inconsistent with the above-noted findings.
- (g) Previously existing medical marijuana cooperative. Notwithstanding any other provisions of this Code, the existing location of a cooperative in operation on September 28, 2010, that is located outside of a P-A (Professional and Administrative Offices), C-1 (Neighborhood Commercial), C-2 (Community Commercial, or C-4 (Commercial Services) zone district shall be exempt from the requirements of this chapter for the period of time allowed by subsection (1) commencing with the effective date of this chapter, if the cooperative is determined to be eligible pursuant to subsection (2):

- (1) The exemption period for a cooperative is set forth below:

<u>Number of years in Operation</u>	<u>Length of Exemption</u>
10 or more years	7 years
5 to 9 years	5 years
0 to 5 years	1 year

- (2) Each cooperative seeking an exemption pursuant to this subdivision shall apply for and obtain a written determination from the planning director as to

its eligibility for and the duration of an exemption. A Level 3 application fee shall be paid to process an application and receive a written determination. The exemption granted for a cooperative located within a residential zone district shall be no longer than 1 year in length. To be eligible for an exemption, an application shall be filed with the director within ninety (90) days after the effective date of this chapter. The director may require all information necessary to make a determination, including a management plan that complies fully with Section 13.10.670(d) (14) and proof or verification of non-profit status, with at least ten cooperative members. If one or more previously existing cooperatives are located within 800 feet of any other existing cooperative, the director may approve the locations for a period not to exceed the length of the exemption. At the conclusion of the exemption, the cooperative with the fewer years or days of operation shall be precluded from applying for a new application unless the other cooperative(s) choose not to apply or the cooperative(s) cannot comply with remaining sections of this ordinance and are therefore prohibited from making future application(s). Notwithstanding an initial approval by the Planning Director, any cooperative found to be in violation of any of the exemption requirements at any time is subject to the enforcement provisions cited in this section of the code.

(h) **Liability.** The provisions of this Section shall not be construed to protect cooperative owners, permittees, operators, and employees, or their members from prosecution pursuant to any laws that may prohibit the cultivation, sale, use, or possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of marijuana remain violations of federal law as of the date of adoption of the ordinance creating this section and this section is not intended to, nor does it, protect any of the above described persons from arrest or prosecution under those federal laws. Owners and permittees must assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from operation of a medical marijuana cooperative. Further, to the fullest extent permitted by law, any actions taken under the provisions of this section by any public officer or employee of the County or the County itself, shall not become a personal liability of such person or the liability of the County. A warning and disclaimer shall be put on medical marijuana zoning application forms and shall include the following: a warning that the cooperative operators and their employees may be subject to prosecution under federal marijuana laws; and a disclaimer that the county will not accept any legal liability in connection with any approval and/or subsequent operation of a cooperative.

(i) **Private enforcement.** Any interested person may file a civil action to enforce the membership and access requirements of subsection (d)(14). In cases where a cooperative is found by a court of law to have acted unreasonably in denying membership in a cooperative, or in denying access to a person's medicine as a result of that person's inability to pay, the cooperative shall be liable for reasonable attorney fees. The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

(j) Revocation, Periodic Review. Notwithstanding the provisions cited above, any cooperative found to be in violation of any requirements imposed by this ordinance is subject to revocation provided in Section 18.10.136 of the County Code. The County may also pursue any and all remedies and actions available under local and state laws for violations committed by a cooperative and persons related to or associated with a cooperative. The County may also require periodic review of any medical marijuana cooperative approved through a Level 5 permit.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this _____ day of _____, 2011, by the following vote:

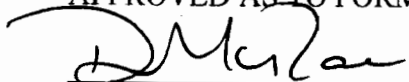
AYES: SUPERVISORS
 NOES: SUPERVISORS
 ABSENT: SUPERVISORS
 ABSTAIN: SUPERVISORS

 CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: _____

Clerk of the Board

APPROVED AS TO FORM:



 County Counsel

Copies to: Planning
 County Counsel
 Sheriff

Sonoma County Medical Marijuana Dispensary Use



ORDINANCE NO. 5715

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 26 OF THE SONOMA COUNTY CODE TO ESTABLISH USE PERMIT REQUIREMENTS AND STANDARDS FOR MEDICAL CANNABIS DISPENSARY USES IN THE C1, C2 AND LC ZONING DISTRICTS, AND REPEALING ORDINANCE NO. 5665.

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

SECTION 1. Findings.

- (a) The voters of the State of California approved proposition 215 (codified as Health and Safety Code Section 11362.5 *et seq.*) entitled “The Compassionate Use Act of 1996” (Act).
- (b) The intent of Proposition 215 was to enable persons residing in the State of California, inclusive of Sonoma County, who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances.
- (c) The State enacted SB 420 in 2004, Health and Safety Code sections 11362, *et seq.*, (“Medical Cannabis Program”), to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with the Program.
- (d) To protect the public health, safety, and welfare, it is the desire of the Board of Supervisors to modify the Zoning Code regarding the location and operation of Medical Cannabis Dispensary uses.
- (e) It is the intent of the Board of Supervisors that nothing in this ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 841, nor to permit or license any activity that is lawfully and constitutionally prohibited under that Act.
- (f) It is the intent of the Board of Supervisors that nothing in this ordinance shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow the use of cannabis for non-medical purposes, or (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal.
- (g) The Board of Supervisors finds and determines that this ordinance is exempt from environmental review pursuant to State CEQA Guidelines Section 15061(b)(3) in that there is nothing in this ordinance or its implementation that could foreseeably have a significant effect on the environment.

SECTION II. Chapter 26 of the Sonoma County Code is amended as follows:

(a) Section 26-02-140 [Definitions] is amended to add the definition of “Drug paraphernalia,” to read as follows:

Drug paraphernalia shall have the same definition as Health and Safety Code § 11364.5 (d) (12), and as may be amended.

(b) Section 26-02-140 [Definitions] is amended to add the definition for “Medical Cannabis Dispensary” to read as follows:

Medical Cannabis Dispensary includes any association, cooperative, affiliation, or collective of 4 or more persons where the primary purpose is to provide the lawful distribution of medical cannabis that has been recommended by a licensed physician, in strict accordance with Health and Safety Code Section 11362.5 *et seq.*

A Medical Cannabis Dispensary does not include dispensing by primary caregivers to qualified patients in the following locations and uses, as long as the location of such uses are otherwise regulated by this Code or applicable law:

- a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code Section 1200 *et sec*;
- a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code Section 1250 *et sec*;
- 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 Section 1568.01 *et sec*;
- residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code Section 1569 *et sec*;
- a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code Section 1725 *et sec*;
- a qualified patient’s primary place of residence.

(c) Section 26-02-140 [Definitions] is amended to add the definition for “Medical Cannabis Dispensary, Level 1” to read as follows:

Medical Cannabis Dispensary, Level 1 means a dispensary of not more than 1,000 square feet, which has less than 300 patients, where no more than 20 patients per business day are served.

(d) Section 26-02-140 [Definitions] is amended to add the definition for “Medical

Cannabis Dispensary, Level 2” to read as follows:

Medical Cannabis Dispensary, Level 2 means a dispensary which has over 299 patients, and/or which is located in a facility of greater than 1,000 square feet, and/or which serves more than 20 patients per business day.

(e) Section 26-02-140 [Definitions] is amended to add the definition of “Primary caregiver,” to read as follows:

Primary caregiver has the same meaning as Health and Safety Code § 11362.7 (d), as may be amended.

(f) Section 26-02-140 [Definitions] is amended to add the definition of “Qualified patient,” to read as follows:

Qualified patient has the same meaning as Health and Safety Code § 11362.7 (f), as may be amended.

(g) Section 26-30-020 [Uses Permitted with a Use Permit - C1 Zoning District] is amended to add a new subsection (y) to read:

(y) Level 1 Medical Cannabis Dispensaries, subject to the criteria in Section 26-88-126.

(h) Section 26-32-020 [Uses Permitted with a Use Permit - C2 Zoning District] is amended to add new subsections (x) and (y) to read:

(x) Level 1 Medical Cannabis Dispensaries, subject to the criteria in Section 26-88-126.

(y) Within designated Urban Service Areas, Level 2 Medical Cannabis Dispensaries, subject to the criteria in Section 26-88-126.

(i) Section 26-36-020 [Uses Permitted with a Use Permit - LC Zoning District] is amended add new subsections (hh) and (ii) to read:

(hh) Level 1 Medical Cannabis Dispensaries, subject to the criteria in Section 26-88-126.

(ii) Within designated Urban Service Areas, Level 2 Medical Cannabis Dispensaries, subject to the criteria in Section 26-88-126.

(j) Section 26-88-126, Medical Cannabis Dispensary Uses, is added to read:

“26-88-126 - Medical Cannabis Dispensary Uses.

- (a) **Purpose.** This Section provides the location and operational standards for any Medical Cannabis Dispensary use within the unincorporated County in order to promote the health, safety, and general welfare of its residents and businesses.
- (b) **Applicability.** Medical Cannabis Dispensaries shall be permitted only in compliance with the requirements of this Section, and all other applicable requirements of the underlying zoning district.
- (c) **Permit Requirements.** A Use Permit in compliance with Sections 26-92-070 and 26-92-080 shall be required for any Medical Cannabis Dispensary. Additionally, Medical Cannabis Dispensaries must comply with all other applicable Building Codes and requirements, including accessibility requirements.
- (d) **Compliance with Operating Plan and Conditions Required.** A Medical Cannabis Dispensary shall submit, as a part of the Use Permit application, an Operating Plan that specifies the manner in which operations will be handled and security provided, and which details the number of employees, number of patients, hours and days of operation allowed and approved. The Operating Plan shall provide that the dispensary shall require, at a minimum, a doctor’s written recommendation in compliance with state law, as well as a photo identification for any person entering the site. Any Medical Cannabis Dispensary approved under this Section shall be operated in conformance with the approved Operating Plan and shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval to ensure that the operation of the Dispensary is consistent with protection of the health, safety and welfare of the community, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.
- (e) **Limited Term.** Use permits for Medical Cannabis Dispensaries shall be limited-term, and shall be issued for a maximum period of one year. All Use Permits issued for a Medical Cannabis Dispensary shall contain the following provision: “This permit shall be a limited term permit and shall be subject to revocation or modification following a public hearing if the approving body finds that there has been a violation or noncompliance with the Operating Plan or any of the Use Permit conditions, or if the use for which this permit is hereby granted constitutes a nuisance.
- (f) **Exercise and Renewal of Permit.** Use permits for Medical Cannabis Dispensaries shall be exercised only by the applicant, who must be a qualified patient or primary caregiver, and shall expire upon termination of

the business for which it was issued, or upon sale or transfer of ownership of the Medical Cannabis Dispensary. All Use Permits issued for a Medical Cannabis Dispensary shall include the following provision: "This Use Permit shall expire upon change of tenancy or sale or transfer of the business or property." Any Use Permit that is abandoned for a period of 6 months shall automatically expire, and shall become null and void with no further action required on the part of the County. A Use Permit Renewal may be administratively approved by the Planning Director only if all of the following findings are made:

- (1) The use has been conducted in accordance with this Section, with the dispensary's approved Operating Plan, and with all applicable Use Permit conditions of approval.
- (2) The business for which the Use Permit was approved has not been transferred to another owner or operator.
- (3) There are no outstanding Code Enforcement violations.

Notwithstanding, a Use Permit approved under this Section may be revoked or modified at any time following public hearing in accordance with Section 26-92-120.

(g) **Signed Affidavit.** The property owner and applicant, if other than the property owner, shall sign the application for the Use Permit, and shall include affidavits agreeing to abide by and conform to the conditions of the Use Permit and all provisions of the Sonoma County Code pertaining to the establishment and operation of the Medical Cannabis Dispensary use, including, but not limited to, the provisions of this Section. The affidavit(s) shall acknowledge that the approval of the Medical Cannabis Dispensary Use Permit shall in no way permit any activity contrary to the Sonoma County Code, or any activity which is in violation of any applicable laws.

(h) **Location Requirements.**

- (1) A Medical Cannabis Dispensary shall not be established on any parcel containing a dwelling unit used as a residence, nor within 100 feet of a residential zoning district.
- (2) A Medical Cannabis Dispensary shall not be established within 1,000 feet of any other Medical Cannabis Dispensary, nor within 500 feet from a smoke shop or similar facility selling drug paraphernalia.

- (3) A Medical Cannabis Dispensary shall not be established within 1,000 feet from any public school, park, or an establishment, public or private, that caters to or provides services primarily to persons under eighteen (18) years of age.
- (4) Notwithstanding, the above provisions (h) (1) - (2) may be waived by the decision-maker when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur.

(i) **Development Standards and Operational Criteria in General.** The following are the minimum development standards and operational criteria applicable to any Medical Cannabis Dispensary use (Level 1 and Level 2):

- (1) The building in which the Dispensary is located shall comply with all applicable local, state and federal rules, regulations, and laws including, but not limited to, building codes and accessibility requirements.
- (2) The Dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. The Operational Plan shall include the approved security measures.
- (3) The site plan, circulation, parking, lighting, facility exterior, and any signage shall be subject to design review committee review and approval. The Planning Director may waive this requirement where the applicant can demonstrate that existing facilities, including parking, lighting and landscaping, already meet the requirements of this Section.
- (4) No exterior signage or symbols shall be displayed which advertises the availability of cannabis, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior.
- (5) A Dispensary shall have no operators or employees who are not qualified patients or primary caregivers meeting all terms and conditions of applicable law.
- (6) A Dispensary may possess cannabis at its facility only in the collective amount that each qualified patient or primary caregiver served is allowed to possess under Health and Safety Code section 11362.77, as may be amended from time to time.

- (7) No person shall be allowed onto the premises unless they are a primary caregiver and/or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq. No person under the age of 18 shall be allowed on the dispensary site. All persons entering the site shall present a photo identification and shall establish proof of doctor's recommendation. The Operating Plan submitted as a part of the Use Permit application shall specify how this provision will be complied with and enforced.
 - (8) No Dispensary shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.
 - (9) An exhaust and ventilation system shall be utilized to prevent off-site odors.
 - (10) No Dispensary shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the Use Permit.
 - (11) No cannabis shall be smoked, ingested or otherwise consumed on the premises. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings.
- (j) **Level 1 Medical Cannabis Dispensary additional criteria.** The following additional criteria shall apply to a Level 1 Medical Cannabis Dispensary:
- (1) A Level 1 Medical Cannabis Dispensary shall have to more than 300 total patients at any one time, and shall serve an average of 20 or less patients per day.
 - (2) The size of a Level 1 Medical Cannabis Dispensary shall be limited, and shall not exceed 1,000 square feet unless specifically approved by the Use Permit. No dispensary may increase in size without amending the Use Permit. The size limitation shall be included in the Operational Plan required by 26-88-126 (e), above.
 - (3) Operating days and hours shall be limited to Monday through Saturday from 8:00 a.m. to 5:00 p.m., or as otherwise approved by the Use Permit. Operating hours may be further restricted through

the Use Permit process where needed to provide land use compatibility.

(k) **Level 2 Medical Cannabis Dispensary Additional Criteria.** The following additional criteria shall apply to any Level 2 Medical Cannabis Dispensary:

- (1) Parking must meet the requirements of Section 26-86-010. Additionally, parking requirements may be further increased through the Use Permit process for any Medical Cannabis Dispensary where on-site consumption is allowed.
- (2) Operating days and hours shall be limited to Monday through Saturday from 7:00 a.m. to 7:00 p.m., or as otherwise allowed by the Use Permit. Operating hours may be further restricted through the Use Permit process where needed to provide land use compatibility.”

(k) Section 26-86-010 (Required Parking) shall be amended to add the following, in alphabetical order:

(Use:)

(Parking Spaces:)

“Medical Cannabis Dispensary	Two (2) spaces, including at least one (1) van-accessible space; plus one (1) additional space for every 200 square feet of gross floor area, plus one (1) additional space for each employee on maximum shift; but in no case less than 5 off-street parking spaces.”
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SECTION III. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason declared to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION IV. This ordinance shall be and the same is hereby declared to be in full force and effect from and after 30 days after the date of its passage.

SECTION V. Ordinance No. 5665 is hereby repealed.

Stanislaus County Medical Marijuana Dispensaries



Stanislaus County Code

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Chapter 9.86 MEDICAL MARIJUANA DISPENSARIES**9.86.010 General prohibition, purpose and intent.**

A. Dispensing of medical marijuana in the unincorporated area of Stanislaus County is prohibited except as specifically allowed or authorized under state and federal law. No use that is illegal under local, state or federal law shall be allowed in any zoning district within the unincorporated area of the county.

B. The purpose and intent of the chapter is to provide a means for regulating the operation of medical marijuana dispensaries in the unincorporated portions of the county if such activity or business is authorized by state and federal law in a manner that is consistent with applicable law and which promotes the health, safety and general welfare of the residents and businesses in the county.

C. The ordinance codified in this chapter shall be effective only to the extent the uses permitted in this chapter are otherwise authorized or allowed by state and federal laws, regulations and rules. This chapter does not provide separate authority for allowing an otherwise illegal activity to occur on the permitted property. (Ord. 998 §1 (part), 2007).

9.86.020 Definitions.

The following words and phrases shall have the following meanings when used in this chapter:

A. "Applicant" means a person who shall seek a permit under this chapter by filing an application as provided for in this chapter. "Application" means that form provided by the sheriff in accordance with this chapter for the purpose of seeking a permit.

B. "County" means the county of Stanislaus. "State" means the state of California.

C. "Eligible application" means an application that complies with the requirements of the initial review and is submitted for final selection, as provided for in Section 9.86.100.

D. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

E. "Marijuana" has the same definition as in Section 802 (16) of Title 21 of the United States Code, and generally means all parts or psychoactive products of plants of the Genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; every compound, manufacture, salt, derivative mixture, or preparation of such plant, its seeds or resin; and any compound that contains THC (delta 9 tetrahydrocannabinol) including both natural and synthetic variations in any form.

F. "Medical marijuana dispensary" or "dispensary" means any facility where marijuana is made available and/or distributed under the authority of California Compassionate Use Act, as amended, and as regulated by this chapter for medically approved uses; provided, however, that the following facilities are exempt from the requirement of a permit:

1. A clinic that is licensed under Chapter 1 of Division 2 of the California Health and Safety Code.
2. A health care facility that is licensed under Chapter 2 of Division 2 of the California Health and Safety Code.
3. A residential care facility for persons with chronic life-threatening illness that is licensed under Chapter 3.01 of Division 2 of the California Health and Safety Code.
4. A residential care facility for the elderly that is licensed under Chapter 3.2 of Division 2 of the California Health and Safety Code.

5. A residential hospice or a home health agency that is licensed under Chapter 8 of Division 2 of the California Health and Safety Code.

G. "Non-profit entity" means a person that has applied for and obtained recognition by the Internal Revenue Service of tax-exempt status under Section 501(c) of the Internal Revenue Code, and that has applied for and obtained tax-exempt status under Article 2 (commencing with Section 23701) of Chapter 4, Part 11, Division 2 of the California Revenue and Taxation Code.

H. "Permit" means a permit issued by the county to a medical marijuana dispensary under this chapter. "Permittee" means a person or legally recognized entity that holds an effective and current permit under this chapter.

I. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.

J. "Person with an identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended. Until such time as the state implements a program for issuance of identification cards under Section 11362.7 of the California Health and Safety Code throughout California, any identification card issued under the authority of the state or a local agency in California shall be deemed to comply with this section.

K. "Premises" means the building in which a medical marijuana dispensary is operated and, in addition, any accessory structures and appurtenant areas.

L. "Sheriff" means the sheriff of the county of Stanislaus and his or her authorized representatives.

M. "Primary caregiver" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

N. "Qualified patient" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

O. "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction and any child or day care facility. (Ord. 998 §1 (part), 2007).

9.86.030 Permit required.

A. It is unlawful for any person to conduct, engage in or allow to be conducted or engaged in the operation of a medical marijuana dispensary in the unincorporated portion of Stanislaus County, unless such medical marijuana dispensary has been granted a legally effective permit issued under this chapter. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws.

B. The owner, managing partner, officer of a corporation or such other person who shall be primarily responsible for the operation of a proposed medical marijuana dispensary shall apply for a permit under this chapter and, if granted, shall maintain the operation of the medical marijuana dispensary in conformity with the terms of this chapter and of the permit.

C. The fact that an applicant possesses other types of state or county permits or licenses, other than those identified in Section 9.86.020(F), shall not exempt the applicant from obtaining a permit under this chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this chapter.

D. At no time shall the county have in effect more than five permits, consisting of a maximum of one permit in each of the supervisorial districts as set forth in Chapter 1.08 of this code.

E. No person or entity shall be granted a permit to operate a dispensary in more than one supervisorial district. Each permittee shall be entirely independent of every other permittee. Permittees shall be independent as to ownership, operational capability and financial support. Prior to the granting of a permit, and on July 1st of each year after issuance of a permit, each permittee shall file a statement of ownership, operational capability and financial support and shall verify the same as being true and correct under the penalty of perjury. The statement shall be in such

form as may be prescribed therefore by the department issuing the permit.

F. Notwithstanding subsection D of this section, each medical marijuana dispensary shall also meet all of the following locational standards:

1. No dispensary may be closer than one thousand feet from any other dispensary.
2. No dispensary may be closer than one thousand feet from any school, public park or playground, recreation area, amusement park, sports facility, drug recovery facility, adult business as defined in Chapter 21.68 of this code, or any church, chapel or other place of worship.
3. Each dispensary shall be located in a "C-2" general commercial or "M" industrial zone. Dispensaries are not permitted to be located or operate in any other zoning district. Nothing in this chapter eliminates the need for obtaining any other permits or authorizations required by the county, or any permit, approval or entitlement required by any other government jurisdiction, agency or special district.

G. In accordance with Health and Safety Code Section 11362.765, a permit to operate a dispensary shall be issued only to government entities, public corporations, and any person who holds an approved application for recognition of tax exemption as a non-profit entity from the state and federal governments. (Ord. 998 §1 (part), 2007).

9.86.040 Term of permits and renewals.

A. Each permit shall expire two years after the date of its issuance. Any permit may be renewed by the sheriff for successive two-year periods upon the submission of an application by the permittee. At the time of consideration of a renewal application, the sheriff shall consider compliance with conditions in the prior term and, in addition, the county health services agency may review and revise the mission statement of the dispensary in accordance with the requirements of Sections 9.86.080 and 9.86.090.

B. Notwithstanding subsection A of this section, all permits issued pursuant to this chapter shall expire upon the effective date of an ordinance that provides for the operation of a medical marijuana dispensary by the county, whether as a county facility or under contract with the county.

C. Any application for renewal shall be filed at least forty-five calendar days before expiration of the permit.

D. Any application for renewal shall be rejected if:

1. The application is filed less than forty-five calendar days before its expiration.
2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permittee's appeal of the suspension or revocation of a permit.
3. The dispensary authorized by the permit has not been in regular operation in the four months prior to the renewal application.
4. The dispensary fails to conform to the criteria set forth in Section 9.86.090(A).
5. The applicant or holder of a permit is not a qualified non-profit entity. This provision does not apply to government entities or public corporations. (Ord. 998 §1 (part), 2007).

9.86.050 Application, renewal and revocation procedures.

A. The sheriff shall initiate a review process upon receipt of an application for the establishment of a dispensary within an area where a dispensary could be established based upon the provisions of Section 9.86.030(D). Applications will not be accepted for establishment of a dispensary in any supervisorial district where a valid permit already has been issued by the sheriff.

B. Each application for the establishment of a dispensary or renewal of an existing permit shall be filed with the sheriff and the sheriff shall be responsible for administering the application process as set forth in this chapter.

C. The board of supervisors shall, by resolution or ordinance, adopt such forms, fees and procedures as are

necessary to implement this chapter with respect to the initial selection, future selection, renewal, revocation and suspension of permits.

D. Wherever this chapter requires the county to give notice to an applicant, appellant or permittee, such notice shall be given by the sheriff, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice may be posted at the address of the dispensary on the date of the mailing of notice. (Ord. 998 §1 (part), 2007).

9.86.060 Contents of application.

A. Each application shall set forth or incorporate by reference the following information in a standard form adopted by the sheriff:

1. Address of the proposed dispensary and the name and address of the owner of any building where the dispensary will be located and, if different, the owner of the land on which the dispensary is intended to be located.

2. If the applicant is an individual, the full name, date of birth, Social Security number, present mailing address and telephone number of the applicant. If the applicant is not an individual, the name and address of the applicant's agent who is authorized to receive notice of actions pertaining to the proposal, and an applicant in one of the following categories must furnish the information specified for that category:

a. If the applicant is a state or local government agency: a copy of the authorization under which the proposal is made;

b. If the applicant is a public corporation: the statute or other authority under which it was organized;

c. If the applicant is a Federal Government agency: the title of the agency official delegated the authority to file the proposal;

d. If the applicant is a private corporation:

i. Evidence of incorporation and its current good standing,

ii. If reasonably obtainable by the applicant, the name and address of each shareholder owning three percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote,

iii. The name and address of each affiliate entity of the corporation,

iv. In the case of an affiliate which is controlled by the entity, the number of shares and the percentage of any class of voting stock of the affiliate that the entity owns either directly or indirectly, or, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, either directly or indirectly by the affiliate, or

e. If the applicant is a partnership, association, or other unincorporated entity: a certified copy of the partnership agreement or other similar document, if any, creating the entity, or a certificate of good standing under the laws of the state.

3. Evidence that the applicant has obtained federal and state recognition that it is a tax-exempt non-profit organization, together with all supporting documents. This provision shall not apply to government or public corporation applicants.

4. The address to which notice of action on the application is to be mailed.

5. All residential addresses of the applicant for the five years immediately prior to the date of the application.

6. If the applicant is an individual, written proof that the applicant is eighteen years of age or older (i.e., California driver's license, California identification card or certified birth certificate).

7. The names and addresses of all businesses operated by and, if an individual, the employment of the applicant for the five years immediately prior to the date of the application.

8. The address of any dispensaries that had previously been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.

9. The names and telephone numbers of the person or persons to be regularly engaged in the operation of the proposed dispensary, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed dispensary. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information, (including height, weight, eye color, and hair color) for a background check to the Stanislaus County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will work at the proposed medical marijuana dispensary must submit their information to the sheriff's office within five days prior to their employment.

10. A description of the proposed security arrangements for insuring the safety of persons and protection of the premises from theft that will meet the minimum requirements set forth in Section 9.86.110(A)(12).

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

12. A description of external appearance of the dispensary, including a precise depiction of any signage.

13. A description of products to be sold or dispensed by the dispensary.

14. The mission statement of the dispensary with respect to meeting the medical needs of patients in its area.

15. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as loitering, odors or noise, on surrounding property owners.

16. Authorization for the county, its agents and employees to seek verification of the information contained in the application.

17. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 9.86.110. If the applicant does not own the premises where the dispensary is located, the application shall include the signature(s) of all landowners where the use will occur and all owners of buildings where the dispensary will be located, indicating such owners knowledge and consent to such use of the premises.

18. Certification, under penalty of perjury, that all the information contained in the application is true and correct.

19. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.

20. Additional information as needed to conduct an environmental assessment of the proposed permit as may be required to comply with the California Environmental Quality Act.

B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 9.86.070.

C. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act; provided, however, the sheriff shall keep confidential, to the extent reasonable and authorized by law, any information revealed during the application process that is (1) protected under privacy laws of the state, (2) information that, if disclosed, would pose a substantial risk to the safety or welfare of the community, or (3) when requested by the applicant, any proprietary project and program information. (Ord. 998 §1 (part), 2007).

9.86.070 Fees.

A. Every application or renewal of a permit shall be accompanied by a nonrefundable fee, as adopted by the board of supervisors, in order to reimburse the county for the cost of reviewing and acting upon the application.

B. In addition to any application or renewal fee, each dispensary shall pay an annual fee, as adopted by the board of supervisors, for the administration of the permit, including monitoring and enforcing compliance with terms of the permit.

C. The board of supervisors may enact such other fees as may be necessary to recover the county's costs of

inspection and corrective actions in relation to dispensaries.

D. The board of supervisors may enact fees to be paid to schools located in the areas where dispensaries are permitted for reimbursement for drug and alcohol treatment and education for students. (Ord. 998 §1 (part), 2007).

9.86.080 Initial review of application.

A. The sheriff shall commence review of any application immediately upon its filing. In conducting this review, the following county agencies shall comment on specific portions of the application:

1. The sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and its employees of the proposed dispensary.
2. The sheriff shall comment upon the adequacy of security measures that are described in the application.
3. The department of planning and community development shall comment upon the proposed location's compliance with the requirements of subsections D and E of Section 9.86.030 and shall recommend conditions that are needed to mitigate adverse impacts on surrounding uses. The department of planning and community development shall also provide assistance and advice to the sheriff regarding compliance with the California Environmental Quality Act.
4. The health services agency shall comment upon the services to be provided and the mission statement set forth in the application.

B. Within ten business days after the filing of an application, the sheriff shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.

C. At the conclusion of the initial review, the sheriff shall notify the applicant of the results of the initial review of the application.

D. The sheriff shall keep confidential, to the extent reasonable and authorized by law, any information revealed during the application process that is (1) protected under privacy laws of the state, (2) information that, if disclosed, would pose a substantial risk to the safety or welfare of the community, or (3) when requested by the applicant, any proprietary project and program information. (Ord. 998 §1 (part), 2007).

9.86.090 Action upon completion of initial review.

A. Upon completion of the initial review, the sheriff shall reject any permit that meets any of the following criteria:

1. The proposed dispensary does not comply with requirements of this chapter.
2. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
3. The operation of the proposed dispensary at the proposed location is prohibited by any state, federal or local law or regulation.
4. Any person who is listed on the application pursuant to Section 9.86.060(A)(10) has been convicted of a felony within the past ten years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
5. The applicant or the operator listed in the application is less than eighteen years of age.
6. The health services agency has determined that the application has failed to state a health care purpose that fulfills the purposes of Section 11362.5 et seq., of the California Health and Safety Code.

B. Any application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final selection process.

C. The sheriff shall mail notice of each eligible application to surrounding landowners within one thousand feet of the property where the proposed dispensary will be located. The sheriff may consider any comments received

from landowners, or any other person, in setting operating conditions of approval pursuant to Section 9.86.100(C) of this code. (Ord. 998 §1 (part), 2007).

9.86.100 Final selection of medical marijuana dispensaries.

A. The sheriff shall make a final selection of eligible applications in accordance with subsection B of this section, and, pursuant to subsection C of this section, may establish operating conditions for any permits issued under this chapter. The final selection process shall not exceed thirty days in the absence of an appeal.

B. The final selection process shall commence with the separation of all eligible applications into the areas that are delineated in Section 9.86.030(D). If an area has a number of eligible applications that is the same as or less than the allowable number of medical marijuana dispensaries for such area, then all applications for that area shall be submitted for establishment of operating conditions as set forth in subsection C of this section. If any area has a number of eligible applications that exceeds the maximum number of dispensaries for such area, the eligible applications to be submitted for final selection shall be designated by drawing or other method that ensures that each eligible application has an equal chance of being selected for the area; provided, however, priority shall be given first to governmental agencies of any kind, and second to non-profit entities.

C. The sheriff, the department of planning and community development and the health services agency may establish operating conditions, in addition to the standard conditions contained in Section 9.86.110, for each eligible application that has been submitted for final review. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter, to mitigate specific and foreseeable adverse impacts on properties in the vicinity and to achieve the mission statement in the application.

D. At the conclusion of the final selection, the sheriff shall give notice to the applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:

1. Certify acceptance of the operating conditions and the standard conditions of the permit, and the permit shall thereupon issue immediately.

2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.

E. No application for a permit which has been denied wholly or in part by the sheriff, or by the board of supervisors on appeal, shall be resubmitted for a period of one year from the date the order of denial became final, except on grounds of new evidence or proof of changed conditions found to be valid by the sheriff or the board of supervisors, whichever issued the order of denial.

F. No building permit shall be issued in any case where a dispensary permit is required by the terms of this chapter unless and until the dispensary permit has been granted by the sheriff or board of supervisors and then only in accordance with the terms and conditions of the dispensary permit. (Ord. 998 §1 (part), 2007).

9.86.110 Standard conditions.

A. Throughout the term of the permit, each permittee shall not violate this chapter and shall comply with the following standard conditions:

1. It shall be a violation of this chapter for a dispensary to distribute, provide or allow to be provided marijuana to any person except those persons who are primary caregivers or qualified patients who are in possession of an identification card which is in compliance with the regulations established by the California Department of Health or health services agency. All distribution that does not strictly comply with Section 11362.5 of the California Health and Safety Code and the terms of the permit and this chapter is prohibited. It shall be the responsibility of the permittee to ensure that a good faith effort be made to verify the validity of any identification card provided to the dispensary.

2. Each dispensary shall maintain records of persons who have received marijuana from the dispensary. These records shall set forth only the identification card number issued pursuant to California Health and Safety Code

Section 11362.71 et seq., as a protection of the confidentiality of the cardholders or a copy of such documentation that authorizes such distribution under this chapter.

3. Dispensary hours of operation are limited to and shall be between nine a.m. and nine p.m., and no activities that are undertaken in the operation of the dispensary shall be conducted outside the interior premises of the dispensary.
4. Marijuana may not be grown or cultivated on the premises. It is a violation of this chapter if at any time the amount of marijuana on the premises exceeds the lesser of:
 - a. An amount of marijuana equal to eight ounces per qualified patient, primary caregiver and person with an identification card who has received marijuana from the dispensary during the previous thirty calendar days; or
 - b. A total of twenty pounds of marijuana.
5. No marijuana shall be smoked, ingested or otherwise consumed on the premises of a dispensary.
6. A dispensary shall label its products by stating the name of the dispensary and the weight of cannabis. Any food products must be contained in a package that is labeled to indicate the ingredients, including the amount of cannabis contained in the package, and such other information as may be required by state or local law. The sale of food products shall comply with the California Uniform Retail Food Facilities Law.
7. No person who is less than eighteen years of age may be employed or otherwise engaged in the operation of the dispensary. No person under the age of eighteen shall be allowed on the premises.
8. The entrance to a dispensary shall be posted with a notice that states the restrictions on the presence of persons under the age of eighteen and that smoking, ingesting or consuming marijuana on the premises is prohibited. In addition, each dispensary shall conspicuously display the permit.
9. No dispensary may hold a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, nor may it include a business that sells alcoholic beverages. No alcohol may be stored, sold, dispensed or used on the premises.
10. No dispensary may hold or conduct gaming or cardroom operations, or hold a permit issued under Chapters 10.12 or 10.13 of this code.
11. No dispensary may hold or conduct an "adult business" as defined in Section 21.69.020, or hold a permit issued under Chapter 21.69 of this code.
12. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in the operation of the dispensary. The registry shall be provided to the sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person.
13. No person who has been convicted of a felony within the past ten years may be actively engaged in the operation of any dispensary. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
14. Each dispensary permittee shall be responsible and liable for its patrons' safety and security in and around the dispensary, and shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. Before it shall be allowed to operate, each dispensary shall adopt a plan to provide for the safety and security of patrons, and after the plan has been approved by the sheriff or his or her representative, shall operate in conformance with the approved plan. As part of the plan, dispensaries shall install and maintain in proper working order, video monitoring equipment capable of providing surveillance of both interior and exterior areas of the licensed establishment. Dispensaries shall maintain such surveillance video tapes for a period of at least thirty days and shall make such video tapes available to the sheriff or his or her representative upon demand. When reasonably required to protect the safety of persons or protect the premises from theft, as determined by the sheriff, dispensaries shall employ security officers that meet all applicable state laws and regulations. Dispensaries shall not permit any person or persons to loiter either inside or outside of the licensed premises.
15. The permittee shall provide the sheriff with the name, telephone number and facsimile number of a community relations contact to whom one can provide notice of problems associated with the dispensary. The

permittee shall make a good faith effort to resolve problems without the need for intervention by the county.

16. A dispensary shall comply with all applicable federal, state and local laws, ordinances and regulations, including without limitation, county building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations.

17. A dispensary shall not be delinquent in the payment of fees required by this chapter.

18. All activities of the dispensary must take place within the interior of the building and not be visible from the street. A dispensary may not cover or alter the windows or building doors to comply with this requirement.

19. A dispensary must have appropriate restroom facilities that will accommodate both male and female customers.

20. The sale of drug paraphernalia, as that term is defined in Section 10.20.010, shall comply with the provisions of Chapter 10.20 of this code. For purposes of this section, a primary care provider is not exempt from Chapter 10.20 pursuant to Section 10.20.060(A)(1).

21. The holder of a dispensary permit shall maintain during the term of the permit its status as a non-profit entity.

B. In order to minimize any adverse impacts on surrounding properties or residents, the standard operating conditions that are set forth in this section may be modified upon the issuance of the permit or upon ten days' notice during the term of the permit.

C. During the term of each permit, the county shall require the permittee to comply with the standard operating conditions that are set forth in this section or as they may be modified in accordance with subsection B of this section and, in addition, any such operating conditions that may be established pursuant to subsections C and D of Section 9.86.100.

D. At any time during the operation of a dispensary and without notice, the sheriff, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the dispensary with the conditions of its permit. (Ord. 998 §1 (part), 2007).

9.86.120 Appeal from administrative determinations.

A. The applicant, permittee or any other interested person or entity may appeal an administrative determination that is made in relation to any of the following actions:

1. Finding that an application is complete or incomplete;
2. Determination that an application does not comply with the requirements of Section 9.86.090;
3. Establishment or modification of operating conditions;
4. Grant or denial of permit; or
5. Suspension or revocation of a permit.

B. Any appeal shall be filed with the sheriff within ten days after the date of the notice of any such administrative determination, and shall be accompanied by an appeal fee established by the board of supervisors. When the last day of the appeal period would fall upon a non workday or a holiday, the appeal period shall be extended to include the next subsequent regular working day.

C. Within ten days after the filing of an appeal, notice shall be given in accordance with Section 9.86.050 and to all landowners within one thousand feet of the dispensary premises. Such notice shall set forth the grounds for the appeal, the method of submitting comments to the county regarding the appeal and the date and location of the hearing of the appeal.

D. Any appeal that is not timely filed will be deemed ineffective and the administrative determination that is being appealed will become final. (Ord. 998 §1 (part), 2007).

9.86.130 Administrative review of appeal.

A. Within thirty days after the filing of an appeal of an administrative determination, the sheriff shall convene a panel consisting of a representative of the county chief executive office, department of planning and community development, community services agency, health services agency and the sheriff at which the appeal shall be heard in public session. The appellant and any interested parties will be allowed to address the panel regarding the appeal.

B. Within ten days after conclusion of the hearing of the appeal by the administrative panel, the sheriff shall give notice of the decision of the panel.

C. Any appellant may file with the clerk of the board of supervisors an appeal of the determination of the administrative panel within ten days after the date of the notice of the decision of the administrative panel, and shall be accompanied by an appeal fee established by the board of supervisors. When the last day of the appeal period would fall upon a non workday or a holiday, the appeal period shall be extended to include the next subsequent regular working day. (Ord. 998 §1 (part), 2007).

9.86.140 Hearing by the board of supervisors.

A. Decisions appealed to the board of supervisors shall be set for specific time and place of public hearing at the next regular meeting and considered not later than forty five days from the date on which the appeal is filed. The hearing date may be extended beyond forty-five days upon request or consent of the applicant or permittee.

B. At least ten days prior to the hearing of the appeal by the board of supervisors, notice shall be given in accordance with Section 9.86.050 and to all landowners within one thousand feet of the dispensary premises. Such notice shall set forth the grounds for the appeal, the method of submitting comments to the county regarding the appeal and the date and location of the hearing of the appeal by the board of supervisors. The board of supervisors may give such additional notice of hearing as it deems appropriate in a particular case.

C. The board of supervisors may take any appropriate action upon the original administrative action that was appealed pursuant to Section 9.86.120, including granting or denying the appeal or imposing, deleting or modifying operating conditions of the permit. The decision of the board of supervisors shall be final. (Ord. 998 §1 (part), 2007).

9.86.150 Suspension and revocation.

A. The sheriff may initiate the revocation or suspension of a permit when it shall appear that the permittee has committed any of the following actions:

1. Violates the operating or standard conditions of the permit or the requirements of State, federal or local laws, ordinances or regulations.

2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the premises.

B. No permit shall be revoked or suspended by virtue of this section until a hearing has been held in the same manner as described in Sections 9.86.130 and 9.86.140. Notice of the hearing shall contain a brief statement of the grounds for revoking or suspending the permit and the time and date for the hearing.

C. The decision of the administrative panel may include suspension, revocation or the modification of the permit by adding conditions that are designed to reduce or remove the problems that caused the proposed revocation or suspension of the permit.

D. Within ten days after conclusion of the hearing of the appeal by the administrative panel, the sheriff shall give notice of the decision of the panel.

E. Any interested party may appeal the determination of the administrative panel to the board of supervisors within ten days after the date of the notice of the decision of the administrative panel. The board of supervisors shall act upon the appeal in accordance with Section 9.86.140. (Ord. 998 §1 (part), 2007).

9.86.160 Transfer of the permit.

A. A dispensary permit issued under this chapter does not grant any interest in real property or create any interest of value. A dispensary permit is not transferable, and automatically terminates upon transfer of ownership of the property or improvements subject to a dispensary permit. The county does not require holders of permits issued under this chapter to obtain its consent to the sale of improvements. However, there is no obligation on the part of the county to issue a new permit to the persons acquiring the improvements.

B. A new owner or proposed new owner of the property or facilities authorized by a dispensary permit may apply for a new dispensary permit by submitting an application that complies with Section 9.86.060. The sheriff shall verify information in the application and shall approve the new permit unless it fails to comply with the standards set forth in Section 9.86.090. The new holder must qualify and agree to comply with and be bound by the terms and conditions of the authorization, and the new authorization shall contain any new conditions or stipulations, which circumstances may warrant. A new permit issued pursuant to this Section 9.86.160 shall be effective on either the date of transfer of ownership of the property or facilities subject to the permit, or the date of approval and issuance of a permit by the sheriff, whichever occurs last. (Ord. 998 §1 (part), 2007).

9.86.170 Prohibited operations.

The permittee and or his or her agents shall at all times comply with Section 11326.5 et seq., of the California Health and Safety Code and this chapter in the operation of the dispensary. This includes, but is not limited to, the prohibition of sales, transportation and delivery of medicinal marijuana off the site of the dispensary premises. (Ord. 998 §1 (part), 2007).

9.86.180 Nonconforming uses.

A. Notwithstanding any conflicting provision in Chapter 21.80 of this code, any use of real property existing on the effective date of this ordinance, which does not conform to the provisions of this chapter, but which was constructed, operated, and maintained in compliance with all previous regulations, shall be regarded as a nonconforming use which may be continued in compliance with this chapter and other provisions of this code for a period of one year after the effective date of the ordinance codified in this chapter. On or before such date, all such nonconforming uses shall be terminated unless an extension of time has been approved in accordance with the provisions of this section.

B. Notwithstanding the above, any discontinuance or abandonment of the use of any lot or structure as a marijuana dispensary for a period of thirty consecutive calendar days shall result in a loss of legal nonconforming status of such use.

C. The owner or operator of a nonconforming use as described in this section may apply to the chief executive officer for an extension of time within which to terminate the nonconforming use. An application for an extension of time within which to terminate a use made nonconforming by the provisions of this chapter, may be filed by the owner of the real property upon which such use is operated, or by the operator of the use, with the chief executive officer at least ninety days prior to the time established in this section for termination of such use. The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be the same as that for a land use variance as is set forth in the schedule of fees established from time to time by the board of supervisors.

D. The chief executive officer shall appoint a hearing officer to hear the application. The hearing officer shall set the matter for hearing within forty-five days of receipt of the application. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this subsection may be continued for a reasonable time for the convenience of a party or a witness. The decision of the hearing officer shall be final and subject to judicial review pursuant to Section 9.108.220.

E. Any extension under the provisions of this section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the hearing officer makes all of the following findings and

such other findings as are required by law:

1. The applicant has made a substantial investment (including, but not limited to, lease obligations) in the property or structure on or in which the nonconforming use is conducted, and such property or structure cannot be readily converted to another legally conforming use; and
2. The applicant will be unable to recoup the investment as of the date established for termination of the use; and
3. The applicant has made good faith efforts to recoup the investment and to relocate the use to a location in conformance with this chapter. (Ord. 998 §1 (part), 2007).

9.86.190 Misdemeanor violation.

Any person violating any of the provisions or failing to comply with Section 9.86.110(A)(2)—(7) or (9) of this chapter shall be guilty of a misdemeanor. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter or the permit is committed, continued or allowed in conjunction with the operation of a dispensary and shall be punishable accordingly. (Ord. 998 §1 (part), 2007).

9.86.200 Civil injunction.

In addition to the penalties provided in this chapter, any condition caused or allowed to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and shall, at the discretion of county, create a cause of action for injunctive relief. (Ord. 998 §1 (part), 2007).

9.86.210 Severability.

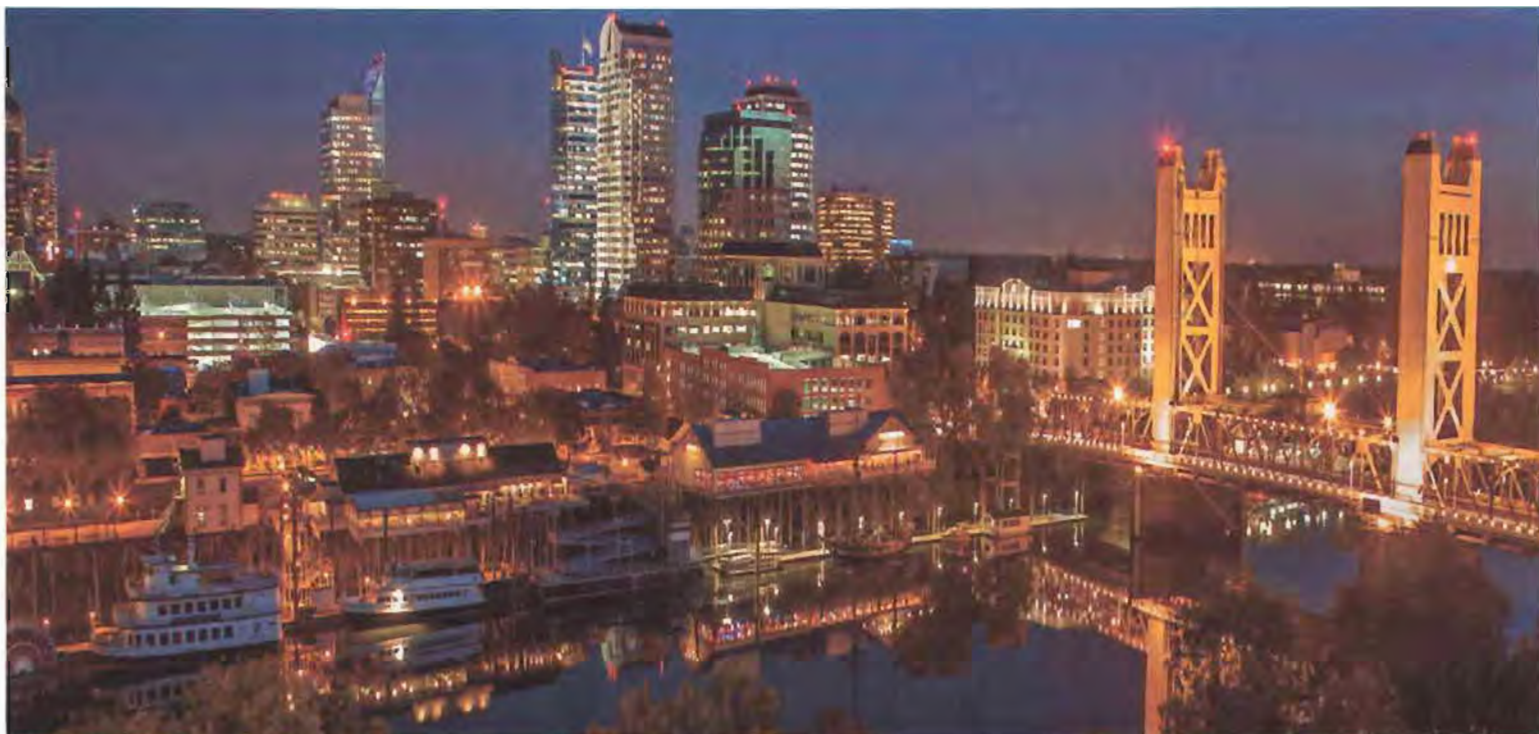
The provisions of this chapter are declared to be severable. If any provision, clause, word, sentence or paragraph of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter. (Ord. 998 §1 (part), 2007).

9.86.220 Judicial review.

Judicial review of a final decision made under this chapter may be had by filing a petition for a writ of mandate with the Superior Court in accordance with the provisions of Section 1094.5 of the California Code of Civil Procedure. Any such petition or any other action seeking judicial review shall be filed within ninety days after the day the decision becomes final. (Ord. 998 §1 (part), 2007).

City of Sacramento

Medical Marijuana Dispensaries



ORDINANCE NO. 2010-037

Adopted by the Sacramento City Council

November 9, 2010

**AN ORDINANCE ADDING CHAPTER 5.150 TO TITLE 5 OF THE
SACRAMENTO CITY CODE AND REPEALING ORDINANCE NO.
2009 -033, AND ORDINANCE NO. 2009-041, RELATING TO
MEDICAL MARIJUANA DISPENSARIES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1.

Chapter 5.150 is added to the Sacramento City Code to read as follows:

Chapter 5.150

MEDICAL MARIJUANA DISPENSARIES

5.150.010 Purpose and intent.

In 1996 California voters approved Proposition 215, entitled "The Compassionate Use Act," that was later codified at Health and Safety Code section 11362.5. The Compassionate Use Act ensures that qualified patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction under state law. In 2003 the state enacted Senate Bill 420, known as the Medical Marijuana Program, codified at Health and Safety Code sections 11362.7 et seq. The Medical Marijuana Program was intended to supplement the provisions, and clarify the intent, of the Compassionate Use Act and to allow cities to adopt and enforce rules and regulations consistent with the Medical Marijuana Program.

It is the purpose and intent of the city council to regulate medical marijuana dispensaries consistent with the Medical Marijuana Program and to protect the health, safety, and welfare of the residents of the City of Sacramento. The regulations in this chapter do not interfere with a qualified patient's right to obtain and use marijuana as authorized under state law, nor do they criminalize the possession or cultivation of marijuana by qualified patients or their primary caregivers. Medical marijuana dispensaries shall comply with all provisions of the Sacramento City Code, state law, and all other applicable local codes and regulations. It is neither the intent nor the effect of this chapter to condone or legitimize the illegal use or consumption of marijuana under federal, state, or local law.

5.150.020 Definitions.

As used in this chapter:

"City manager" means the city manager or designee.

"Dispensary" shall have the same definition as "medical marijuana dispensary," as set forth in this section.

"Dispensary area" means the dispensary property and the area within 100 feet of the dispensary property.

"Dispensary building" means the portion of a building within which a dispensary is operated.

"Dispensary permit" means a medical marijuana dispensary permit issued pursuant to this chapter.

"Dispensary property" means the parcel of real property or portion of the parcel of real property that is owned or leased by a dispensary and upon which a dispensary is operated.

"Drug paraphernalia" shall have the same definition as set forth in California Health and Safety Code section 11364.5.

"Identification card" shall have the same definition as set forth in California Health and Safety Code section 11362.7.

"Marijuana" shall have the same definition as set forth in California Health and Safety Code section 11018.

"Medical marijuana" means marijuana used for medical purposes in accordance with the Compassionate Use Act (California Health and Safety Code section 11362.5) and the Medical Marijuana Program Act (California Health and Safety Code sections 11362.7 et seq.).

"Medical marijuana dispensary" means a cooperative or collective of four or more members who associate at a particular location or real property to collectively or cooperatively distribute marijuana to members for medical purposes, and operate on a not-for-profit basis, consistent with California Health and Safety Code section 11362.5, Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code (Health and Safety Code sections 11362.7 et seq.), the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued by the California Attorney General in August 2008, and this chapter. A medical marijuana dispensary shall not include the following uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; and a residential hospice or

a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies with applicable laws including, but not limited to, California Health and Safety Code section 11362.5, Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code (Health and Safety Code sections 11362.7 et seq.), and the Sacramento City Code.

“Management member” means a member with responsibility for the establishment, registration, supervision, or oversight of the operation of a medical marijuana dispensary, including but not limited to, a member who performs the functions of a board member, director, officer, owner, operating officer, or manager of the dispensary.

“Member” means any qualified patient, primary caregiver, or person with an identification card who is registered with a medical marijuana dispensary.

“Juvenile” means any natural person who is under the age of 18 years.

“Operate a dispensary” means to engage in or conduct the not-for-profit business of a dispensary, including, but not limited to, distributing medical marijuana and maintaining the facilities of a dispensary.

“Person with an identification card” shall have the same definition as set forth in California Health and Safety Code section 11362.7.

“Physician” means a licensed medical doctor as defined in California Business and Professions Code section 4039.

“Primary caregiver” shall have the same definition as set forth in California Health and Safety Code section 11362.7.

“Private medical records” means records related to the medical history of a qualified patient and includes the recommendation of a physician for the medical use of medical marijuana and the designation of a primary caregiver by a qualified patient.

“Qualified patient” shall have the same definition as set forth in California Health and Safety Code section 11362.7.

“Reasonable compensation” means compensation commensurate with wages and benefits paid to officers and employees of other not-for-profit organizations who have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked.

“Special permit” means any special permit issued by the city pursuant to Title 17 of this code related to the operation of a medical marijuana dispensary.

5.150.030 Medical marijuana dispensary permit required to operate.

A. No person shall operate a medical marijuana dispensary unless the dispensary has a valid medical marijuana dispensary permit issued pursuant to this chapter.

- B. Neither the obtaining of a dispensary permit nor compliance with the operating standards provided in this chapter shall excuse any violation of this code or state law.

5.150.040 Registered medical marijuana dispensaries.

- A. For purposes of this section a "registered medical marijuana dispensary" means a dispensary: (1) that was properly registered with the city manager pursuant to Ordinance No. 2009-033; and (2) that is organized and operates as a cooperative or collective within the meaning of this chapter; and (3) the owner and operator of which has not been cited or convicted of maintaining a public nuisance or of a public safety violation of state or local law relating to the operation of a medical marijuana dispensary by the city or any governmental law enforcement agency.
- B. An application for a dispensary permit may only be filed by a registered medical marijuana dispensary.
- C. The applicant for the dispensary permit must be the same owner(s) or principal(s) named on the medical marijuana dispensary's registration as of July 27, 2010, and must be a management member of the registered medical marijuana dispensary.
- D. Notwithstanding the provisions of Section 5.150.030, a person may continue to operate a registered medical marijuana dispensary without a dispensary permit until February 7, 2011. If an application for a dispensary permit is properly filed, a person may continue to operate that dispensary without a dispensary permit until January 9, 2012, and while the application's approval is pending.
- E. The authorization to continue to operate a dispensary pursuant to subsection D of this section shall not entitle the applicant to an approval of their dispensary permit application, a determination that the dispensary is a legally established use under the provisions of this code, or legal nonconforming status.

5.150.050 Phase one applications for medical marijuana dispensary permit.

- A. Phase one applications for dispensary permits shall be filed with the city manager's office no later than February 7, 2011. Applications shall be on forms provided by the city and shall be accompanied by a non-refundable dispensary permit application fee, in the amount established by resolution of the city council. Applications received after February 7, 2011, shall be rejected.
- B. The phase one application shall be signed by one or more management members under penalty of perjury and shall set forth in writing:
 - 1. Identity of the dispensary. A description of the statutory entity or business form that will serve as the legal structure for the collective or cooperative and a copy of its formation and organizing documents, including but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement. If a corporation, limited liability company, or a

general or limited partnership is a stockholder owning more than 10 percent of the stock or membership interest of an applicant's dispensary, or is one or more of the partners in an applicant's dispensary, the applicant shall set forth the names and addresses of each of the partners, officers, directors, and stockholders of the corporation, limited liability company, or general or limited partnership.

2. Management Information.
 - a. The name, address, telephone number, title, and function(s) of each management member of the dispensary.
 - b. For each management member, a legible copy of one valid government-issued form of photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.
3. Applicant's Phone Number and Mailing Address. The phone number and address to which notice of action on the application and future correspondence is to be mailed.
4. Previous Addresses. Previous addresses of the applicant for the past five years immediately prior to the present address.
5. Verification of Age. Evidence that the applicant and all management members of the dispensary are at least 18 years of age.
6. Criminal Background.
 - a. A list of each misdemeanor and/or felony conviction, if any, of the applicant and the management member(s), whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each conviction, set forth the date of arrest, the offense charged, and the offense of which the applicant or management member was convicted.
 - b. The applicant and each management member shall consent to fingerprinting and a criminal background investigation.
7. Employee Information. Number of employees, volunteers, and other persons who will work or provide services at the dispensary.
8. Plan of Operations. A plan describing how the dispensary will operate consistent with state law and the provisions of this chapter, including controls to:
 - a. Ensure that medical marijuana is not purchased or sold by the dispensary in a manner that would generate a profit.
 - b. Ensure that medical marijuana will be distributed to members only.

c. Ensure that access to the dispensary property is adequately monitored and restricted to members.

9. **Dispensary Description.** A description of the proposed location, including the street address and parcel number, the square footage, the number of expected members, and the characteristics of the neighborhood or surrounding area.
10. **Response to Title 17.** An explanation of how the dispensary complies or expects to comply with Title 17 of this code, including but not limited to, the location requirements.
11. **Compliance with Applicable Taxes.** The applicant shall provide a current copy of its business operations tax certificate and state sales tax seller's permit.
12. **City Authorization.** Authorization and consent for the city manager to seek verification of the information contained within the application.
13. **Statement of Owners Consent.** Consent to operate a dispensary at the proposed location, specifying the street address and parcel number, from the owner or landlord, of the proposed location.

5.150.060 Review of phase one application.

- A. Upon receiving a phase one application for a dispensary permit, the city manager shall determine whether the application is complete. If the city manager determines that the application is incomplete or has been completed improperly, the city manager shall notify the applicant. The city manager may grant the applicant an extension of up to ten days to complete the phase one application.
- B. If the city manager determines that the phase one application is complete and, on the face of the application, there appears to be no basis for denial of the permit under Section 5.150.090, the city manager shall notify the applicant that it may continue to phase two in the application process pursuant to Section 5.150.070.
- C. If the application is incomplete, or remains incomplete upon the expiration of any extension, the city manager may deny the application. If the city manager denies the phase one application, pursuant to the provisions of this section, written notice of denial shall be served on the applicant. Notwithstanding any provisions of this code to the contrary, the decision of the city manager shall be final and not subject to administrative appeal.
- D. In the event of denial, the applicant shall cease operating the dispensary within 15 days from the date notice of denial is served on the applicant. Continued operations shall be unlawful and subject to the penalties in Section 5.150.220.

5.150.070 Review of phase two application.

- A. If the city manager notifies the applicant that it may continue to phase two in the application process the applicant shall, no later than October 11, 2011, file a phase

two application with the city manager's office, that includes the following:

1. A non-refundable dispensary permit program fee in the amount established by resolution of the city council. The dispensary permit program fee shall be in addition to any other fee imposed by this code.
2. Security Plan. A detailed security plan, prepared by a qualified professional, outlining the measures that will be taken to ensure the safety of persons and to protect the dispensary property from theft.
3. Floor Plan. A scaled floor plan for each level of the entire building showing the interior configuration of the dispensary building, including a statement of the total floor area occupied by the dispensary. The floor plan must include entrances, exits, restrooms, waiting area, office space, storage, and area for distributing marijuana to members. The floor plan must be professionally prepared by a licensed civil engineer or architect.
4. Site Plan. A scaled site plan of the parcel of real property on which the dispensary building is located, including the outline of all structures, driveways, parking and landscape areas, and boundaries of the parcel. The site plan must be professionally prepared by a licensed civil engineer or architect.
5. Accessibility Evaluation. A written evaluation of accessibility by the physically disabled to and within the building and identification of any planned accessibility improvements to comply with all state and federal disability access laws, including, but not limited to, Title 24 of the California Code of Regulations and the Americans with Disabilities Act. The evaluation must be professionally prepared by a licensed civil engineer or architect.
6. Neighborhood Context Map. An accurate straight-line drawing depicting the boundaries of the dispensary property, the boundaries of all other properties within 1000 feet of the dispensary property, and the uses of those properties, specifically including, but not limited to, any use identified in the location requirements of Title 17 of this code. The map must be professionally prepared by a licensed civil engineer or architect.
7. Lighting Plan. A lighting plan showing existing and proposed exterior and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use.
8. Zoning Code Compliance. A copy of a valid special permit approved by the city's zoning administrator or planning commission for the proposed dispensary location.
9. A copy of the dispensary's commercial general liability insurance policy and all other insurance policies related to the operation of the dispensary.
10. A copy of the dispensary's annual budget for operations.

11. A copy of the dispensary's most recent year's financial statement and tax return.
12. A list of the most recent prices for all products and services provided by the dispensary.
13. Applicant's Certification. A statement dated and signed by each management member, under penalty of perjury, that the management member has personal knowledge of the information contained in the phase one and phase two applications, that the information contained therein is true and correct, and that the applications have been completed under their supervision.
14. Other Information. Such other information as deemed necessary by the city manager to demonstrate compliance with this code.

B. Complete Application.

1. Upon receiving a phase two application, the city manager shall determine whether the application is complete. If the city manager determines that the application is incomplete or has been completed improperly, the city manager shall notify the applicant. The city manager may grant the applicant an extension up to ten days to complete the phase two application.
2. An application is not to be considered incomplete for purposes of this subsection B if the sole document remaining to be filed is a copy of the special permit referenced in subsection A (8) of this Section.
3. If the phase two application is incomplete, or remains incomplete upon the expiration of any extension, the city manager may deny the application. If the city manager denies the phase two application for being incomplete, pursuant to the provisions of this section, written notice of denial shall be served on the applicant. Notwithstanding any provisions of this code to the contrary, the decision of the city manager shall be final and not subject to administrative appeal.
4. In the event of denial, the applicant shall cease operating the dispensary within 15 days from the date notice of denial is served on the applicant. Continued operations shall be unlawful and subject to the penalties in Section 5.150.220.
5. If the city manager determines that the application is complete, the completion date of a phase two application shall be the date when the city manager notifies the applicant that it has received all of the information or materials required, including compliance with subsection (A)(8); has determined that the content in the submitted documents is responsive to the requirements; and has deemed the application complete

5.150.080 Notices.

All notices required by this chapter shall be deemed issued and served upon the date

they are either deposited in the United States mail, postage pre-paid, addressed to the applicant or dispensary at the mailing address identified in its application, the last updated address on file with the city manager's office, or the mailing address on the appeal form; or the date upon which personal service of such notice is provided to the applicant or a management member identified on the application or appeal form.

5.150.090 Criteria for review.

The city manager may deny, revoke, or suspend a dispensary permit on the following grounds:

- A. The application(s) and/or documents submitted are incomplete, filed late, or not responsive to the requirements of this chapter.
- B. The issuance of the dispensary permit or operation of the dispensary at the proposed location is inconsistent with state law, the provisions of this chapter, or this code.
- C. The dispensary has generated an excessive number of calls for police service compared to similarly situated businesses of the same size as the dispensary.
- D. The dispensary has caused secondary criminal or public nuisance impacts in the surrounding area or neighborhood, including, but not limited to, disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, littering, loitering, illegal parking, loud noises, or lewd conduct.
- E. The applicant, management member, or any employee is a juvenile.
- F. The dispensary has a history of inadequate safeguards or procedures that show it would not comply with the operating requirements and standards in this chapter.
- G. The dispensary has failed to pay fees, penalties, or taxes required by this code or has failed to comply with the production of records or other reporting requirements of this chapter.
- H. The proposed location does not comply with the provisions of this code or is prohibited by state law.
- I. The site plan, floor plan, or security plan do not incorporate features necessary to assist in reducing potential crime-related problems as specified in Section 5.150.130. These features include, but are not limited to, security on site; procedure for allowing entry; openness to surveillance and control of the area, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting outdoor furnishings and features that encourage loitering and nuisance behavior.
- J. The dispensary or one or more management members, employees, or volunteers have violated a provision of this chapter.
- K. The proposed location of the dispensary is likely to adversely affect the health, peace,

or safety of persons living or working in the surrounding area or contribute to a public nuisance.

- L. One or more provisions of this code, conditions of the dispensary permit, conditions imposed by another city issued permit, or any provision of any other local, state law or federal law, regulation, order, or permit has been violated.
- M. It appears, based upon the information before the city manager, that the applicant has provided a false statement of material fact or has knowingly omitted a material fact in the application for, or renewal of, a dispensary permit.
- N. The applicant or one or more management members, or employees has been convicted of a felony, or has engaged in misconduct that is substantially related to the qualifications, functions or duties of a dispensary operator. A conviction within the meaning of this section means a plea or verdict of guilty, or a conviction following a plea of nolo contendere. Notwithstanding the above, an application shall not be denied solely on the basis that the applicant, any management member or any employee has been convicted of a felony if the person convicted has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar federal statute or state law where the expungement was granted.
- O. The applicant or dispensary has previously or is currently engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

5.150.100 Payment of fees.

- A. Every phase one application for a dispensary permit shall include a non-refundable dispensary permit application fee and every phase two application for a dispensary permit shall include a non-refundable dispensary permit program fee, in the amounts established by resolution of the city council.
- B. In addition to any other fees, a dispensary shall be required to pay a non-refundable annual dispensary permit program fee at the time the dispensary submits an application for renewal, in the amount established by resolution of the city council
- C. Any applicant or dispensary that files an appeal as provided by this chapter shall be required to pay a non-refundable appeal fee in the amount established by resolution of the city council.
- D. In addition to any other city imposed fees, a dispensary shall be required to pay the applicable business operations tax pursuant to Title 3 of this code, and be subject to state law requirements regarding sales tax.

5.150.110 Issuance of Dispensary Permit

- A. The city manager shall either grant or deny a dispensary permit within 90 days from the date the phase two application is complete as specified in Section 5.150.070(B)(5).

- B. In granting a permit, the city manager may impose conditions on the permit.
- C. Conditions placed on the medical marijuana dispensary special permit issued under Title 17 shall be conditions of the dispensary permit. Violations of the special permit's conditions are grounds for suspending or revoking the dispensary permit. Nothing in this section shall be construed to limit the authority of the city manager to place additional conditions upon the dispensary permit.

5.150.120 Request for reconsideration.

- A. If the city manager denies the application for a dispensary permit after the application is accepted as complete, written notice of denial shall be served on the applicant. The notice shall contain:
 - 1. A brief statement of the grounds for the denial.
 - 2. A statement that the applicant may request reconsideration of the denial, in writing to the city manager, within ten days of the date of service of the notice.
 - 3. A statement that the failure to request reconsideration of the denial will constitute a waiver of all rights to a hearing for reconsideration, and the denial will be final.
- B. If the applicant properly files a request for reconsideration the city manager shall set the date of the hearing within 30 days from the date the request is filed. The hearing shall be conducted by the city manager.
- C. Failure to properly file a written request for reconsideration of the notice of denial within ten days of the date of service of the notice shall constitute a waiver of all rights to a hearing, and the city manager's decision shall be final. Failure to properly and timely file a request for reconsideration of the notice of denial shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the city manager's decision.
- D. If the applicant files a proper request for reconsideration and then fails to appear at the hearing, the request for reconsideration is abandoned, and the decision of the city manager is final and may not be further appealed. Failure to appear at the hearing constitutes a waiver of all rights to a hearing and shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the city manager's decision.
- E. Written notice of the decision of the city manager shall be served on the applicant within ten days following the hearing.
- F. The decision of the city manager under this section shall be subject to appeal in accordance with Section 5.150.170.

5.150.130 Operating requirements.

Dispensary operations shall comply with the following:

A. Criminal History. No person who has been convicted of a felony, or who is currently on parole or probation for the sale or distribution of a controlled substance, shall operate the dispensary, or manage or handle the receipts, expenses or medical marijuana of the dispensary. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

B. Juveniles.

1. No juvenile shall operate a dispensary in any capacity, including but not limited to, as a management member, employee, contractor or volunteer.
2. No juvenile shall be allowed on the dispensary property unless they are a qualified patient or a primary caregiver, and they are accompanied by their parent or legal guardian.

C. Operating Hours. The maximum hours of operation shall be daily from 7:00 a.m. to 9:00 p.m. unless the city manager imposes more restrictive hours as a condition of the permit.

D. Dispensary Size and Access.

1. The dispensary building shall not exceed 8,000 square feet.
2. Management members, employees, and volunteers must be registered members of the dispensary.
3. All entrances into the dispensary's building shall be locked from the exterior at all times with entry controlled by dispensary personnel.
4. Only dispensary members and persons with bona fide purposes for being in the dispensary shall be allowed entry into the dispensary property. Non-members shall be escorted by a management member at all times while in the dispensary building.

E. Dispensing Operations.

1. A dispensary shall only distribute to members that are:
 - a. Qualified patients with a currently valid physician's recommendation in compliance with the criteria in California Health and Safety Code sections 11362.5 et seq., and valid official identification such as a Department of Motor Vehicles driver's license or State Identification Card; or
 - b. Primary caregivers with a verified primary caregiver designation by their qualified patients, a copy of their qualified patient's valid physician's recommendation in compliance with the criteria in California Health and Safety Code sections 11362.5 et seq., and valid official identification

such as a Department of Motor Vehicles driver's license or State Identification Card.

2. A dispensary shall not have a physician on the dispensary property to evaluate patients or provide a recommendation for medical marijuana.
 3. Notwithstanding the provisions of Chapter 9.08 of this code to the contrary, up to 150 square feet of the dispensary building may be utilized for display and distribution of drug paraphernalia necessary for administering medical marijuana, including but not limited to, rolling papers and related materials and devices, pipes, water pipes, and vaporizers. Such paraphernalia may only be provided to members and shall not generate a profit.
 4. A dispensary shall not conduct or engage in the commercial sale of products, goods, or services. The term "commercial sale" does not include the provision of marijuana paraphernalia as specified above in subsection 3, or the provision of services, for members only, that do not generate a profit and are incidental to the medicinal use of marijuana, such as yoga, meditation, and substance abuse counseling.
 5. A dispensary shall not provide any form of a delivery service. All distribution of medical marijuana must be conducted within the enclosed building areas of the dispensary property.
- F. Consumption Restrictions. Marijuana shall not be smoked, ingested or otherwise consumed in any form on, or within 20 feet of, the dispensary property.
- G. Dispensary Supply and Distribution
1. A dispensary may only possess an amount of medical marijuana consistent with each member's reasonable medical needs.
 2. Except for immature nursery stock marijuana plants, no medical marijuana shall be grown or cultivated on the dispensary property.
 3. A dispensary shall acquire its supply of medical marijuana only from its members.
 4. A dispensary shall not purchase or otherwise supply itself with medical marijuana from non-members.
 5. A dispensary shall operate on a not-for-profit basis. It may credit its members for medical marijuana they provide to it, which it may then distribute to other members. Members may also reimburse the dispensary for medical marijuana or marijuana paraphernalia that has been distributed to them. Any monetary reimbursement that members provide to the dispensary shall not exceed the dispensary's overhead costs and expenses for operating the dispensary, including reasonable compensation for services provided to members.

6. A dispensary shall not distribute or sell medical marijuana or marijuana paraphernalia to non-members or for a profit.
7. A dispensary shall comply with the operating criteria for the distribution of medical marijuana as required pursuant to California Health and Safety Code sections 11362.5 and 11362.7 et seq.
8. Dispensary operations shall not result in the diversion of marijuana for non-medical purposes in any manner that violates local or state law.

H. Operating Plans.

1. **Floor Plan.** A dispensary shall have a lobby waiting area at the entrance to receive persons to verify that they are members of that dispensary or to determine whether the person meets the criteria of a valid qualified patient or primary caregiver. A dispensary shall also have a separate and secure area designated for distributing medical marijuana to its members. The main entrance shall be located and maintained clear of barriers, landscaping, and similar obstructions so that it is clearly visible from public streets or sidewalks.
2. **Storage.** A dispensary shall have adequate locked storage on the dispensary property, identified and approved as a part of the security plan, for after-hours storage of medical marijuana. Medical marijuana shall be stored at the dispensary property in secured rooms that are completely enclosed or in a safe that is bolted to the floor.
3. **Odor Control.** A dispensary shall have an air treatment system that prevents odors generated from the storage of marijuana on the dispensary property from being detected by any reasonable person of normal sensitivity outside the dispensary property.
4. **Security Plans.** A dispensary shall comply with a security plan that is approved by the city manager that includes, but is not limited to, building security specifications, lighting, alarms, and adequate state licensed security personnel to patrol the dispensary area in order to preserve the safety of persons and to protect the dispensary from theft.
5. **Security Cameras.** Security surveillance cameras and a video recording system shall be installed to monitor the interior, main entrance, and exterior dispensary area to discourage loitering, crime, and illegal or nuisance activities. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present in the dispensary area.
6. **Security Video Retention.** Video from the security surveillance cameras shall be maintained for a period of not less than 30 days and shall be made available to the city upon request.

7. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition.
8. Concealed. A dispensary shall not allow or permit medical marijuana to be visible from the building exterior.
9. Emergency Contact. A dispensary shall provide the city manager with the current name and primary and secondary telephone numbers of at least one 24-hour on-call management member to address and resolve complaints and to respond to operating problems or concerns associated with the dispensary. The dispensary shall make good faith efforts to encourage neighborhood residents to call this person to solve operating problems, if any, before any calls or complaints are made to the city.

I. Signage

1. The following signs in measurements of not less than eight by ten inches shall be clearly and legibly posted in a conspicuous location inside the dispensary where they will be visible to members in the normal course of a transaction, stating:
 - a. "Smoking, ingesting or consuming marijuana on this property or within 20 feet of the dispensary is prohibited."
 - b. "Juveniles are prohibited from entering this property unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian."
 - c. "Neither the City of Sacramento, County of Sacramento, nor any other governmental agency has tested or inspected any marijuana product for pesticides, or other regulated contaminants, distributed at this location."
 - d. "The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of state law."
2. Signs on the dispensary building shall not obstruct the entrance or windows of the dispensary.

J. Maintenance of Records.

1. A dispensary shall maintain the following records on the dispensary property:
 - a. The name, address, and telephone number(s) of the owner and/or landlord of the dispensary property.
 - b. The name, address, and telephone number(s) of each member and management member who participates in the cultivation of medical marijuana for the benefit of the dispensary.

- c. The name, date of birth, physical address, and telephone number(s) of each member and management member of the dispensary; the date each member and management member joined the dispensary; the nature of each member's and management member's participation in the dispensary; and the status of each member and management member as a qualified patient or primary caregiver.
 - d. A copy of each member's and qualified patient's written physician recommendation and the designation of a primary caregiver by a qualified patient.
 - e. A written accounting of all cash and in-kind contributions, reimbursements, and reasonable compensation provided by the management members and members to the dispensary, and all expenditures and costs incurred by the dispensary.
 - f. A copy of the dispensary's commercial general liability insurance policy and all other insurance policies related to the operation of the dispensary.
 - g. A copy of the dispensary's most recent year's financial statement and tax return.
 - h. An inventory record documenting the dates and amounts of medical marijuana received at the dispensary, the daily amounts of medical marijuana stored on the dispensary property, and the daily amounts distributed to members.
 - i. Proof of a valid and current dispensary permit issued by the city in accordance with this chapter. Every dispensary shall display at all times during business hours the dispensary permit issued pursuant to the provisions of this chapter in a conspicuous place so that it may be readily seen by all persons entering the dispensary.
2. These records shall be maintained by the dispensary in printed format for a period of not less than three years and shall be produced to the city within twenty-four hours after receipt of the city's request.
 3. Any loss, damage or destruction of these records shall be reported to the city manager within 24 hours of the loss, damage or destruction.
- K. Site Management. The dispensary shall prevent and eliminate conditions in the dispensary area that constitute a nuisance.
- L. Trash, Litter, Graffiti.
1. The dispensary shall maintain the sidewalks within 20 feet of the dispensary property as well as any parking lots under the control of the dispensary, free of litter, debris, and trash.

2. Notwithstanding any provisions of this code to the contrary, the dispensary shall remove all graffiti from the dispensary property and parking lots under the control of the dispensary within 72 hours of its application.

M. Alcoholic Beverages.

No dispensary or management member shall cause or permit the sale, distribution, or consumption of alcoholic beverages on the dispensary property; hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages; or operate a business on or adjacent to the dispensary property that sells alcoholic beverages. No alcoholic beverages shall be allowed or stored on the dispensary property.

N. Indemnification.

Every permit issued under this chapter shall contain a condition requiring the dispensary, through its management members, to execute an agreement in a form approved by the city attorney whereby the dispensary (1) releases the city, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of the dispensary or its management members, employees, or members for violation of state or federal laws, and (2) defends, indemnifies and holds harmless the city and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the dispensary, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise out of the distribution of medical marijuana provided at the dispensary.

5.150.140 Inspection authority.

- A. City officials may enter and inspect the dispensary property at any time between the hours of 7:00 a.m. and 9:00 p.m. on any day of the week or at any reasonable time to ensure compliance and enforcement of the provisions of this chapter.
- B. City officials may inspect and demand copies of records maintained by the dispensary, except for private medical records that shall be made available to law enforcement agencies only pursuant to a properly executed search warrant, subpoena, or court order.
- C. No person shall refuse, impede, obstruct, or interfere with an inspection pursuant to this chapter.

5.150.150 Term of Permits and Renewals

- A. Unless revoked on an earlier date, all dispensary permits shall expire one year after the date of issuance.
- B. A dispensary permit may be renewed for additional periods of one year by filing an

application for renewal with the city manager's office. Applications shall be on forms provided by the city and shall be accompanied by the annual dispensary permit program fee, in the amount established by resolution of the city council. The application for renewal and the fee shall be filed at least 30 days, but not more than 60 days, prior to the expiration of the permit. If a timely renewal application is filed, the dispensary permit's expiration shall be stayed until the date that notification is provided by the city manager pursuant to subsection G of this section.

- C. Applications for renewal filed less than 30 days prior to the expiration of the dispensary permit shall not stay the expiration date of the permit and may be rejected or denied.
- D. The City Manager shall either approve or deny the renewal of a dispensary permit within 90 days from the date the application for renewal is filed.
- E. Applications for renewal shall be acted on using the criteria for review in section 5.150.080 of this chapter. The city manager may add, remove, or modify permit conditions as a condition of permit renewal.
- F. If the city manager denies the application for renewal of a dispensary permit, written notice of denial shall be served on the applicant. The notice shall contain:
 - 1. A brief statement of the grounds for the denial.
 - 2. A statement that the dispensary may appeal the denial in accordance with Section 5.150.170.
 - 3. A statement that the failure to appeal the denial will constitute a waiver of all rights to an appeal hearing, and the denial will be final.
- G. The denial of a renewal shall cause the dispensary permit to expire and the dispensary shall cease operations within 15 days from the date notice of denial is served. Continued operations shall be unlawful and subject to the penalties in Section 5.150.220.
- H. If the city manager approves the application for renewal with new or modified conditions the dispensary shall have ten days from the date the notice of renewal is served on the dispensary to file an appeal of the proposed conditions in accordance with Section 5.150.170. Failure to properly file a written appeal of the proposed conditions within ten days of the date of service of the notice of renewal shall constitute a waiver of all rights to an appeal hearing, and the proposed conditions shall be deemed permanent conditions of the permit. Failure to properly and timely appeal the notice of renewal with the proposed conditions shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the city manager's decision.

5.150.160 Suspension and revocation.

- A. In addition to any other remedy authorized by law, a dispensary permit may be

suspended, modified or revoked.

- B. If the city manager proposes to suspend, modify, or revoke a permit, written notice of the proposed suspension, modification or revocation shall be served on the dispensary at least 15 days prior to the date of the proposed suspension, modification or revocation. The notice shall contain:
1. A brief statement of the grounds for such suspension, modification, or revocation.
 2. A statement that the dispensary may appeal the denial in accordance with Section 5.150.170.
 3. A statement that the failure to appeal the notice of suspension, modification or revocation will constitute a waiver of all rights to an appeal hearing, and the suspension, modification, or revocation will be final.
- C. Notwithstanding subsection B above, if any dispensary, management member, or employee of a dispensary is convicted of a felony or is convicted of a misdemeanor for misconduct that is substantially related to the qualifications, functions, or duties of a dispensary, the city manager may immediately revoke the dispensary permit without prior notice. A dispensary may appeal the revocation in accordance with Section 5.150.170. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
- D. Notwithstanding subdivision B above, if any dispensary or person holding a current dispensary permit or acting under the authority of the permit pursuant to this chapter ceases the operation of a dispensary for 90 consecutive days or longer, the city manager may immediately revoke the dispensary permit without prior notice. A dispensary may appeal the revocation in accordance with Section 5.150.170.

5.150.170 Denial, suspension, revocation, and non-renewal – appeals.

- A. Except as otherwise provided in this chapter, any applicant or dispensary aggrieved by the decision of the city manager in conditioning, denying, suspending, revoking, or not renewing a dispensary permit, may appeal the decision by filing a written appeal, accompanied by a non-refundable appeal fee, with the city manager's office within ten days from the date of service of the notice from the city manager. The written appeal shall contain:
1. A brief statement in ordinary and concise language of the specific action protested, together with any material facts claimed to support the contentions of the appellant.
 2. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside.
 3. The verification (by declaration under penalty of perjury) of the applicant or dispensary as to the truth of the matters stated in the appeal.
- B. The appeal hearing shall be conducted by a hearing examiner appointed pursuant to

Section 8.04.070 of this code.

- C. Upon receipt of any appeal filed pursuant to this section, the city manager shall transmit the appeal to the secretary of the hearing examiner who shall calendar it for hearing as follows:
 - 1. If the appeal is received by the city manager no later than fifteen days prior to the next regular appeal hearing, it shall be calendared for hearing at said meeting.
 - 2. If the appeal is received by the city manager on a date less than fifteen days prior to the next appeal hearing, it shall be calendared for the next subsequent appeal hearing.
- D. Written notice of the time and place of the hearing shall be provided at least ten calendar days prior to the date of the hearing to each appellant by the secretary of the hearing examiner either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy addressed to the appellant at the address shown on the appeal.
- E. Failure of any person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and the city manager's decision shall be final.
- F. Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.
- G. Any condition, denial, suspension, revocation, or non-renewal of a dispensary permit shall be stayed during the pendency of an appeal which is properly and timely filed pursuant to this section.

5.150.180 Appeal hearings.

- A. At the time set for hearing, the hearing examiner shall proceed to hear the testimony of the city manager, the appellant, and other competent persons, including members of the public, respecting those matters or issues specifically listed by the appellant in the notice of appeal.
- B. The proceedings at the hearing shall be electronically recorded. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.
- C. The hearing examiner may, upon request of the appellant or upon request of the city manager, grant continuances from time to time for good cause shown, or upon his or her own motion.
- D. In any proceedings under this chapter, the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

5.150.190 Conduct of hearing.

- A. Hearings need not be conducted according to the technical rules relating to evidence

and witnesses. Government Code section 11513, subdivision (a), (b) and (c) shall apply to hearings under this chapter.

- B. Oral evidence shall be taken only upon oath or affirmation.
- C. Irrelevant and unduly repetitious evidence shall be excluded.
- D. Each party shall have these rights, among others:
 - 1. To call and examine witnesses on any matter relevant to the issues of the hearing.
 - 2. To introduce documentary and physical evidence.
 - 3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing.
 - 4. To impeach any witness regardless of which party first called the witness to testify.
 - 5. To rebut the evidence presented against the party.
 - 6. To represent himself, herself, or itself or to be represented by anyone of his, her, or its choice who is lawfully permitted to do so.
- E. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the city or any of its departments.

5.150.200 Form and contents of decision.

- A. If it is shown, by a preponderance of the evidence, that one or more grounds exist to condition, deny, suspend, revoke, or not renew a dispensary permit, the hearing examiner shall affirm the city manager's decision. The decision of the hearing examiner shall be in writing and shall contain findings of fact and a determination of the issues presented.
- B. The decision shall inform the appellant that the decision is a final decision and that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6. Copies of the decision shall be delivered to the parties personally or sent by certified mail to the address shown on the appeal. The decision shall be final when signed by the hearing examiner and served as provided in this section.

5.150.210 Relocation or permit transfer prohibited.

- A. A dispensary shall not relocate or operate a dispensary at any place other than the address of the dispensary property or the physical location for which the original dispensary permit was granted.

- B. A dispensary shall not transfer ownership or management control of a dispensary or transfer a dispensary permit to another person.
- C. A dispensary permit is not property and shall have no value. Any attempt to transfer a dispensary permit or relocate a dispensary, directly or indirectly in violation of the provisions of this chapter shall be unlawful and void, and shall automatically revoke the permit.

5.150.220 Violations.

- A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28.
- B. Violations of this chapter are hereby declared to be public nuisances.
- C. Any person who violates a provision of this chapter is liable for civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day the violation continues.
- D. In addition to criminal sanctions, civil penalties as provided in this section, and other remedies set forth in this code, administrative penalties may be imposed pursuant to chapter 1.28 against any person violating any provision of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to chapter 1.28.

5.150.230 Remedies cumulative.

All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

5.150.240 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

Section 2. Operative Date.

This ordinance shall take effect 60 days after adoption.

Section 3. Repeal of Ordinances Nos. 2009-033 and 2009-041.

Ordinance No. 2009 -033 and Ordinance No. 2009-041 are repealed on the effective date of this ordinance.

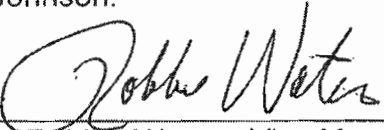
Adopted by the City of Sacramento City Council on November 9, 2010 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Sheedy, Waters.

Noes: None.

Abstain: None.

Absent: Councilmembers Pannell, Tretheway, and Mayor Johnson.


Robbie Waters, Vice-Mayor

Attest:


Shirley Concolino, City Clerk

Passed for Publication: October, 26, 2010

Published: October 29, 2010

Effective: January 7, 2011

ORDINANCE NO. 2010-038

Adopted by the Sacramento City Council

November 9, 2010

AN ORDINANCE AMENDING SECTIONS 17.16.010, 17.24.030, 17.24.050, 17.108.020, AND 17.108.030 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO MEDICAL MARIJUANA DISPENSARIES (M10- 015)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. Section 17.16.010 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The following definitions are added to Section 17.16.010 to read as follows:

“Medical marijuana dispensary” means a facility as defined in Chapter 5.150.

B. Except as amended in subsection A, above, Section 17.16.010 remains unchanged and in full force and effect.

Section 2. Section 17.24.030 Commercial Land Use Chart of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. A matrix for “medical marijuana dispensary” is added to Table 17.24.030 A to read as follows:

Uses Allowed	RE	R-1	R-1A	R-1B	R-2	R-2A	R-2B	R-3	R-3A	R-4	R-4A	R-5	RMX	RO	OB
Medical marijuana dispensary*															

B. A matrix for “medical marijuana dispensary” is added to Table 17.24.030 B to read as follows:

Uses Allowed	EC	HC	SC	C-1	C-2	C-3	C-4	M-1	M-1(S)	M-2	M-2(S)	MIP	MRD	H	SPX	TC	A	AOS	F	AR P-F	
Medical marijuana dispensary*					85		85	85	20/85	85	20/85										

C. Except as specifically amended to add a matrix for “medical marijuana dispensary,” Section 17.24.030 and Tables 17.24.030 A and 17.24.030 B remain unchanged and in full force and effect.

Section 3. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote 85 is added to Section 17.24.050 to read as follows:

85. Medical Marijuana Dispensary.

a. Definitions.

As used in this Footnote 85:

“Church/faith congregation” means a structure or place that is used primarily for religious worship and related religious activities.

“Park” means all publicly owned and operated parks that are used, operated or maintained for recreational purposes.

“Substance abuse rehabilitation center” means any facility that provides care for persons who have a dependency on alcohol or controlled substances, or both alcohol and controlled substances. This care shall include, but not be limited to, the following basic services: medication, patient counseling, group therapy, physical conditioning, family therapy, and dietetic services. This definition does not include any hospital, city or county jail, or state prison.

“Youth-oriented facility” means any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

b. Medical Marijuana Dispensary Permit Required. A medical marijuana dispensary must obtain and maintain at all times a valid medical marijuana dispensary permit as required by Chapter 5.150.

c. Special Permit Required.

i. Except as provided in subsection (c)(ii), below, a planning commission special permit is required to establish or operate a medical marijuana dispensary in this zone.

ii. A zoning administrator's special permit is required to establish or operate a medical marijuana dispensary located in the C-4, M-1, M-1(S), M-2, and M-2(S) zones if all of the location requirements set forth below are satisfied.

d. Location and Permit Requirements. Except as provided in subsection (m), below, the following location requirements apply to all medical marijuana dispensaries and may not be waived or modified by special permit or variance:

i. No medical marijuana dispensary shall be established or located within

1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other medical marijuana dispensary.

- ii. No medical marijuana dispensary shall be established or located within 300 feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone or residential use.
 - iii. No medical marijuana dispensary shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any park, school (public or private K-12), child care center, child care-family day care home (large or small), youth-oriented facility, church/faith congregation, substance abuse center, movie theater/cinema, or tobacco store.
- e. Relevant Date for Determining Compliance with Location Requirements. Only those uses established and in operation as of the date that the application for a medical marijuana dispensary special permit is determined or deemed to be complete shall be considered for purposes of determining whether the location requirements are met.
- f. The zoning administrator or planning commission may address development and operational standards through conditions on the special permit as it determines to be necessary or appropriate for the medical marijuana dispensary special permit under consideration; provided, that conditions shall not conflict with the provisions of Chapter 5.150 relating to operating requirements of medical marijuana dispensaries and shall be subordinate to conditions placed on the medical marijuana program permit issued under Chapter 5.150.
- g. Parking. Off-street parking shall be provided as required for retail stores under Section 17.64.020.
- h. The application for a special permit for a medical marijuana dispensary shall include a floor plan, site plan, neighborhood context map, and a security and lighting plan.
- i. Findings. In granting a special permit for a medical marijuana dispensary, and in addition to the findings required by Chapter 17.212, the planning commission or zoning administrator shall find the following:
- i. The medical marijuana dispensary has not generated an excessive number of calls for police service compared to similarly situated businesses of the same size as the dispensary.
 - ii. The medical marijuana dispensary has not caused secondary criminal or public nuisance impacts in the surrounding area or neighborhood, including, but not limited to, disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, littering, loitering, illegal parking, loud noises, or lewd conduct.

- iii. The proposed location, size, and other development standards of the medical marijuana dispensary are consistent with state law and this code.

- j. Discontinuance. Notwithstanding the provisions of Section 17.212.100(G), a special permit for a medical marijuana dispensary, the exercise of which is voluntarily or involuntarily interrupted for a period in excess of one year, shall be deemed automatically revoked.

- k. Pre-Existing Medical Marijuana Dispensaries Not Non-Conforming. No medical marijuana dispensary operating or purporting to operate prior to the effective date of the ordinance that added this Footnote 85 to Section 17.24.050 shall be deemed to have been a legally established use under the provisions of this code, nor shall the operation of such dispensary be deemed a legal nonconforming use under this Title 17.

- l. Additional Grounds for Revocation of Medical Marijuana Dispensary Special Permit. In addition to the circumstances stated in Section 17.212.080 for revocation of a special permit, a special permit for a medical marijuana dispensary may be revoked on the following grounds:
 - i. The medical marijuana dispensary is operated in a manner that violates any of the provisions of state law or this code; or
 - ii. The medical marijuana dispensary does not have a valid medical marijuana dispensary permit as required by Chapter 5.150.

- m. Registered Medical Marijuana Dispensaries.
 - i. Definitions. For purposes of this subsection (m),
 - (A) "Registered medical marijuana dispensary" means a medical marijuana dispensary:
 - (1) that was properly registered with the city manager pursuant to Ordinance No. 2009-033; and
 - (2) that is operating and has operated continuously at the location for which a special permit is requested since at least October 26, 2010; and
 - (3) that is organized and operates as a cooperative or a collective within the meaning of Chapter 5.150; and
 - (4) the location of which does not meet the location requirements stated in subsection (d), above; and
 - (5) the owner and operator of which has not been cited or convicted of

maintaining a public nuisance or of a public safety violation of state or local law relating to the operation of a medical marijuana dispensary by the city or other governmental law enforcement agency.

(B) "Medical marijuana dispensary registration" or "registration" means a medical marijuana dispensary's registration with the city manager pursuant to Ordinance No. 2009-033.

ii. Limitations and Requirements for Registered Medical Marijuana Dispensary Special Permits. If a special permit is requested and approved for a registered medical marijuana dispensary under this subsection (m), the following limitations and requirements shall apply to the special permit, and these limitations and requirements shall control over any other provisions of this title that may conflict:

(A) A planning commission special permit shall be required for a registered medical marijuana dispensary under this subsection (m).

(B) The applicant for the special permit must be the same owner(s) or principal(s) named on the medical marijuana dispensary's registration as of July 27, 2010, and must be a managing member of the registered medical marijuana dispensary. The application must be for the registered dispensary's location established as of October 26, 2010.

(C) The location requirements stated in subsection (d), above, shall not apply.

(D) The special permit shall be deemed automatically revoked if the medical marijuana dispensary ceases operation at any time, voluntarily or involuntarily, for 30 consecutive days.

(E) The special permit shall be deemed automatically revoked if the medical marijuana dispensary fails to obtain a medical marijuana dispensary permit under Chapter 5.150 and commence operation within 90 days of the date of approval of the special permit.

(F) The special permit shall be deemed automatically revoked upon transfer of ownership or management control of the dispensary to another person.

(G) The special permit shall be deemed automatically revoked upon revocation of the medical marijuana dispensary permit issued under Chapter 5.150.

(H) A special permit modification may not be approved to allow an expansion of the registered medical marijuana dispensary.

B. Except as specifically amended to add Footnote 85, Section 17.24.050 remains unchanged and in full force and effect.

Section 4. Section 17.108.020 of Title 17 of the Sacramento City Code (the Zoning Code) is

amended as follows:

A. Subsection A of Section 17.108.020 is amended to read as follows:

- A. Prohibited Uses. In addition to other uses prohibited in the underlying zone, the following additional uses are prohibited for properties with C-2 zoning in the Del Paso Boulevard SPD:
1. Adult entertainment business;
 2. Adult related establishment;
 3. Astrology and related practices;
 4. Tattoo and/or body piercing parlors;
 5. Used appliance sales;
 6. Auto sales (new and used), storage;
 7. RV/mobilehome sales yard;
 8. RV storage;
 9. RV repair;
 10. Mini-storage/surface storage;
 11. Used tire storage and sales;
 12. Check cashing center;
 13. Money lender;
 14. Mortuary;
 15. Card room;
 16. Bingo activities licensed under Chapter 5.24 of this code;
 17. Retail tobacco store;
 18. Laundromat;
 19. Medical marijuana dispensary.

B. Except as specifically amended by the amendment to subsection A, Section 17.108.020 remains unchanged and in full force and effect.

Section 5. Section 17.108.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection A of Section 17.108.030 is amended to read as follows:

- A. Prohibited Uses. In addition to other uses prohibited in the underlying zone, the following additional uses are prohibited for properties with M-1 zoning in the Del Paso Boulevard SPD:
1. Adult entertainment business;
 2. Adult related establishment;
 3. Astrology and related practices;
 4. Tattoo and/or body piercing parlors;
 5. Used appliance sales;
 6. Auto sales (new and used), storage;
 7. RV/mobilehome sales yard;
 8. RV storage;
 9. RV repair;
 10. Recycling facilities;
 11. Auto dismantler;

12. Used tire storage and sales;
13. Check cashing center;
14. Money lender;
15. Pawn shop;
16. Mortuary;
17. Card room;
18. Bingo activities licensed under Chapter 5.24 of this code;
19. Retail tobacco stores;
20. Laundromat;
21. Medical marijuana dispensary.

B. Except as specifically amended by the amendment to subsection A, Section 17.108.030 remains unchanged and in full force and effect.

Section 6. Effective Date.

This Ordinance shall take effect 60 days after adoption.

Section 7. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

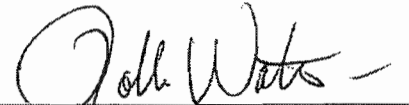
Adopted by the City of Sacramento City Council on November 9, 2010 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Sheedy, Waters.

Noes: None.

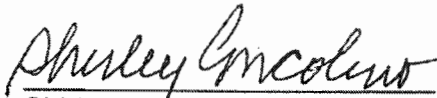
Abstain: None.

Absent: Councilmembers Pannell, Tretheway and Mayor Johnson.



Robbie Waters, Vice-Mayor

Attest:



Shirley Concolino, City Clerk

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