

1 [Medical Cannabis Dispensaries – Zoning.]

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3 **Ordinance amending the San Francisco Planning Code by amending Sections 209.3,**  
4 **217, 303, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725,**  
5 **726, 727, 728, 729, 730, 810, 811, 812, 813, 814, 815, 816, 817, and 818, and by adding**  
6 **Sections 790.141, and 890.131, to: define medical cannabis dispensaries; prohibit**  
7 **dispensaries in residential-house and residential-mixed zoning districts; permit**  
8 **dispensaries as conditional uses elsewhere subject to the restriction that no**  
9 **dispensary may be located within 1000 feet of another dispensary; provide additional**  
10 **conditional use criteria for evaluating proposed dispensaries relating to the proposed**  
11 **dispensary's proximity to schools, playgrounds, neighborhood centers, drug treatment**  
12 **centers, child care centers, and other medical cannabis dispensaries; allow medical**  
13 **cannabis dispensaries in operation prior to April 1, 2005 twelve months from the**  
14 **effective date of this legislation to obtain a conditional use permit or otherwise**  
15 **discontinue operation; prohibit dispensaries from applying for conditional use permits**  
16 **while they are under a notice of violation from the Planning Department or the subject**  
17 **of legal action by the City; require a notice on all dispensary permits that the permits**  
18 **are not intended to and do not authorize the violation of State or Federal law; and**  
19 **making environmental findings and findings of consistency with the priority policies of**  
20 **Planning Code Section 101.1 and the General Plan.**

21 Note: Additions are *single-underline italics Times New Roman*;  
22 deletions are *strikethrough italics Times New Roman*.  
23 Board amendment additions are double underlined.  
24 Board amendment deletions are ~~strikethrough normal~~.

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

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

3 (a) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
 4 ordinance will serve the public necessity, convenience and welfare.

5 (b) Pursuant to Planning Code Section 101.1, the Board of Supervisors finds that this  
 6 ordinance is consistent with the Priority Policies of Section 101.1(b) of the Planning Code and  
 7 with the General Plan and hereby incorporates a report containing those findings as if fully set  
 8 forth herein. A copy of said report is on file with the Clerk of the Board of Supervisors in File  
 9 No. \_\_\_\_\_.

10 (c) This ordinance constitutes permanent controls to address the proliferation of  
 11 medical cannabis dispensaries and its passage terminates the efficacy of Urgency Ordinance  
 12 0098-05, the Interim Moratorium on Medical Cannabis Dispensaries.

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 14 Section 2. The San Francisco Planning Code is hereby amended by amending Section  
 15 209.3, to read as follows:

16 **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,

1														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.
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12	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
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													except for a sign as permitted by 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

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													specified therein to seven 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

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													or more children by 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

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													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. (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).)
									<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	(k) <i>Medical</i>



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												<p><u>cannabis dispensary: any association, cooperative, or collective of four or more qualified patients with a valid identification card, or primary caregivers with a valid identification card that facilitates the lawful distribution of medical cannabis provided that: (a) the medical cannabis dispensary is located not less than 1,000 feet from another medical cannabis dispensary; (b) any medical cannabis dispensary that can demonstrate that it was in operation prior to April 1, 2005 has 12 months from the effective date of this legislation to obtain a conditional use permit or must cease operation; (c) medical</u></p>
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												<p><u>cannabis dispensaries that have received Notices of Violation or are the subject of legal actions by the City Attorney may not apply for a conditional use permit until the Planning Department determines that any violations have been cured or until the City Attorney advises that the dispensary is in full compliance with any court orders regarding the dispensary;</u> <u>(d) any conditional use 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</u></p>
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									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 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

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									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 supportive activity for the institution.
<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<i>(k) Medical cannabis dispensary: any association, cooperative, or collective of four or more qualified patients with a valid identification card, or primary caregivers with a valid identification card that facilitates the lawful distribution of medical cannabis provided that: (a) the medical cannabis dispensary is located not less than 1,000 feet from another medical cannabis dispensary; (b) any medical cannabis dispensary that can demonstrate that it was in operation prior to April 1, 2005 has 12 months from the effective date of this legislation to obtain a conditional use permit or must cease operation; (c) medical cannabis dispensaries that have received Notices of Violation or are the subject of legal actions by the City Attorney may not apply for a conditional use permit until the Planning Department determines that any violations have been cured or until the City Attorney advises that the dispensary is in full compliance with any court orders regarding the dispensary; (d) any conditional use</i>

									<p><i>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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Section 4. The San Francisco Planning Code is hereby amended by amending Section 303, to read as follows:

**SEC. 303. CONDITIONAL USES.**

(a) **General.** The City Planning Commission shall hear and make determinations regarding applications for the authorization of conditional uses in the specific situations in which such authorization is provided for elsewhere in this Code. The procedures for conditional uses shall be as specified in this Section and in Sections 306 through 306.6, except that Planned Unit Developments shall in addition be subject to Section 304, medical institutions and post-secondary educational institutions shall in addition be subject to the institutional master plan requirements of Section 304.5, and conditional use and Planned Unit Development applications filed pursuant to Article 7, or otherwise required by this Code for uses or features in Neighborhood Commercial Districts, and conditional use applications within South of Market Districts, shall be subject to the provisions set forth in Sections 316 through 316.8 of this Code, in lieu of those provided for in Sections 306.2 and 306.3 of this Code, with respect to scheduling and notice of hearings, and in addition to those provided for in Sections 306.4 and 306.5 of this Code, with respect to conduct of hearings and reconsideration.

(b) **Initiation.** A conditional use action may be initiated by application of the owner, or authorized agent for the owner, of the property for which the conditional use is sought.

1 (c) **Determination.** After its hearing on the application, or upon the  
2 recommendation of the Director of Planning if the application is filed pursuant to Sections 316  
3 through 316.8 of this Code and no hearing is required, the City Planning Commission shall  
4 approve the application and authorize a conditional use if the facts presented are such to  
5 establish:

6 (1) That the proposed use or feature, at the size and intensity contemplated and at  
7 the proposed location, will provide a development that is necessary or desirable for, and  
8 compatible with, the neighborhood or the community

9 (A) In Neighborhood Commercial Districts, if the proposed use is to be located at a  
10 location in which the square footage exceeds the limitations found in Planning Code §  
11 121.2(a) or 121.2(b), the following shall be considered:

12 (i) The intensity of activity in the district is not such that allowing the larger use will  
13 be likely to foreclose the location of other needed neighborhood-servicing uses in the area;  
14 and

15 (ii) The proposed use will serve the neighborhood, in whole or in significant part,  
16 and the nature of the use requires a larger size in order to function; and

17 (iii) The building in which the use is to be located is designed in discrete elements  
18 which respect the scale of development in the district; and

19 (2) That such use or feature as proposed will not be detrimental to the health,  
20 safety, convenience or general welfare of persons residing or working in the vicinity, or  
21 injurious to property, improvements or potential development in the vicinity, with respect to  
22 aspects including but not limited to the following:

23 (A) The nature of the proposed site, including its size and shape, and the proposed  
24 size, shape and arrangement of structures;

1 (B) The accessibility and traffic patterns for persons and vehicles, the type and  
2 volume of such traffic, and the adequacy of proposed off-street parking and loading;

3 (C) The safeguards afforded to prevent noxious or offensive emissions such as  
4 noise, glare, dust and odor;

5 (D) Treatment given, as appropriate, to such aspects as landscaping, screening,  
6 open spaces, parking and loading areas, service areas, lighting and signs; and

7 (3) That such use or feature as proposed will comply with the applicable provisions  
8 of this Code and will not adversely affect the Master Plan; and

9 (4) With respect to applications filed pursuant to Article 7 of this Code, that such use  
10 or feature as proposed will provide development that is in conformity with the stated purpose  
11 of the applicable Neighborhood Commercial District, as set forth in zoning control category .1  
12 of Sections 710 through 729 of this Code; and

13 (5)(A) With respect to applications filed pursuant to Article 7, Section 703.2(a), zoning  
14 categories .46, .47, and .48, in addition to the criteria set forth above in Section 303(c)(1—4),  
15 that such use or feature will:

16 (i) Not be located within 1,000 feet of another such use, if the proposed use or  
17 feature is included in zoning category .47, as defined by Section 790.36 of this Code; and/or

18 (ii) Not be open between two a.m. and six a.m.; and

19 (iii) Not use electronic amplification between midnight and six a.m.; and

20 (iv) Be adequately soundproofed or insulated for noise and operated so that  
21 incidental noise shall not be audible beyond the premises or in other sections of the building  
22 and fixed-source equipment noise shall not exceed the decibel levels specified in the San  
23 Francisco Noise Control Ordinance.

24 (B) Notwithstanding the above, the City Planning Commission may authorize a  
25 conditional use which does not satisfy the criteria set forth in (5)(A)(ii) and/or (5)(A)(iii) above,



1 if facts presented are such to establish that the use will be operated in such a way as to  
2 minimize disruption to residences in and around the district with respect to noise and crowd  
3 control.

4 (C) The action of the Planning Commission approving a conditional use does not  
5 take effect until the appeal period is over or while the approval is under appeal.

6 (6) With respect to applications for live/work units in RH and RM Districts filed  
7 pursuant to Section 209.9(f) or 209.9(h) of this Code, that:

8 (A) Each live/work unit is within a building envelope in existence on the effective  
9 date of Ordinance No. 412-88 (effective October 10, 1988) and also within a portion of the  
10 building which lawfully contains at the time of application a nonconforming, nonresidential use;

11 (B) There shall be no more than one live/work unit for each 1,000 gross square feet  
12 of floor area devoted to live/work units within the subject structure; and

13 (C) The project sponsor will provide any off-street parking, in addition to that  
14 otherwise required by this Code, needed to satisfy the reasonably anticipated auto usage by  
15 residents of and visitors to the project.

16 Such action of the City Planning Commission, in either approving or disapproving the  
17 application, shall be final except upon the filing of a valid appeal to the Board of Supervisors  
18 as provided in Section 308.1.

19 (d) **Conditions.** When considering an application for a conditional use as provided  
20 herein with respect to applications for development of "dwellings" as defined in Chapter 87 of  
21 the San Francisco Administrative Code, the Commission shall comply with that Chapter which  
22 requires, among other things, that the Commission not base any decision regarding the  
23 development of "dwellings" in which "protected class" members are likely to reside on  
24 information which may be discriminatory to any member of a "protected class" (as all such  
25 terms are defined in Chapter 87 of the San Francisco Administrative Code). In addition, when

1 authorizing a conditional use as provided herein, the City Planning Commission, or the Board  
2 of Supervisors on appeal, shall prescribe such additional conditions, beyond those specified in  
3 this Code, as are in its opinion necessary to secure the objectives of the Code. Once any  
4 portion of the conditional use authorization is utilized, all such conditions pertaining to such  
5 authorization shall become immediately operative. The violation of any condition so imposed  
6 shall constitute a violation of this Code and may constitute grounds for revocation of the  
7 conditional use authorization. Such conditions may include time limits for exercise of the  
8 conditional use authorization; otherwise, any exercise of such authorization must commence  
9 within a reasonable time.

10 (e) **Modification of Conditions.** Authorization of a change in any condition  
11 previously imposed in the authorization of a conditional use shall be subject to the same  
12 procedures as a new conditional use. Such procedures shall also apply to applications for  
13 modification or waiver of conditions set forth in prior stipulations and covenants relative  
14 thereto continued in effect by the provisions of Section 174 of this Code.

15 (f) **Conditional Use Abatement.** The Planning Commission may consider the  
16 possible revocation of a conditional use or the possible modification of or placement of  
17 additional conditions on a conditional use when the Planning Commission determines, based  
18 upon substantial evidence, that the applicant for the conditional use had submitted false or  
19 misleading information in the application process that could have reasonably had a substantial  
20 effect upon the decision of the Commission or the conditional use is not in compliance with a  
21 condition of approval, is in violation of law if the violation is within the subject matter  
22 jurisdiction of the Planning Commission or operates in such a manner as to create hazardous,  
23 noxious or offensive conditions enumerated in Section 202(c) if the violation is within the  
24 subject matter jurisdiction of the Planning Commission and these circumstances have not  
25 been abated through administrative action of the Director, the Zoning Administrator or other

1 City authority. Such consideration shall be the subject of a public hearing before the Planning  
2 Commission but no fee shall be required of the applicant or the subject conditional use  
3 operator.

4 (1) The Director of Planning or the Planning Commission may seek a public hearing  
5 on conditional use abatement when the Director or Commission has substantial evidence  
6 submitted within one year of the effective date of the Conditional Use authorization that the  
7 applicant for the conditional use had submitted false or misleading information in the  
8 application process that could have reasonably had a substantial effect upon the decision of  
9 the Commission or substantial evidence of a violation of conditions of approval, a violation of  
10 law, or operation which creates hazardous, noxious or offensive conditions enumerated in  
11 Section 202(c).

12 (2) The notice for the public hearing on a conditional use abatement shall be subject  
13 to the notification procedure as described in Sections 306.3 and 306.8 except that notice to  
14 the property owner and the operator of the subject establishment or use shall be mailed by  
15 regular and certified mail.

16 (3) In considering a conditional use revocation, the Commission shall consider  
17 whether and how the false or misleading information submitted by the applicant could have  
18 reasonably had a substantial effect upon the decision of the Commission, or the Board of  
19 Supervisors on appeal, to authorize the conditional use, substantial evidence of how any  
20 required condition has been violated or not implemented or how the conditional use is in  
21 violation of the law if the violation is within the subject matter jurisdiction of the Planning  
22 Commission or operates in such a manner as to create hazardous, noxious or offensive  
23 conditions enumerated in Section 202(c) if the violation is within the subject matter jurisdiction  
24 of the Planning Commission. As an alternative to revocation, the Commission may consider  
25 how the use can be required to meet the law or the conditions of approval, how the

1 hazardous, noxious or offensive conditions can be abated, or how the criteria of Section  
2 303(c) can be met by modifying existing conditions or by adding new conditions which could  
3 remedy a violation.

4 (4) Appeals. A decision by the Planning Commission to revoke a conditional use, to  
5 modify conditions or to place additional conditions on a conditional use or a decision by the  
6 Planning Commission refusing to revoke or amend a conditional use, may be appealed to the  
7 Board of Supervisors within 30 days after the date of action by the Planning Commission  
8 pursuant to the provisions of Section 308.1(b) The Board of Supervisors may disapprove the  
9 action of the Planning Commission in an abatement matter by the same vote necessary to  
10 overturn the Commission's approval or denial of a conditional use. The Planning  
11 Commission's action on a conditional use abatement issue shall take effect when the appeal  
12 period is over or, upon appeal, when there is final action on the appeal.

13 (5) Reconsideration. The decision by the Planning Commission with regards to a  
14 conditional use abatement issue or by the Board of Supervisors on appeal shall be final and  
15 not subject to reconsideration within a period of one year from the effective date of final action  
16 upon the earlier abatement proceeding, unless the Director of Planning determines that:

17 (A) There is substantial new evidence of a new conditional use abatement issue that  
18 is significantly different than the issue previously considered by the Planning Commission; or

19 (B) There is substantial new evidence about the same conditional use abatement  
20 issue considered in the earlier abatement proceeding, this new evidence was not or could not  
21 be reasonably available at the time of the earlier abatement proceeding, and that new  
22 evidence indicates that the Commission's decision in the earlier proceeding ha not been  
23 implemented within a reasonable time or raises significant new issues not previously  
24 considered by the Planning Commission. The decision of the Director of Planning regarding  
25 the sufficiency and adequacy of evidence to allow the reconsideration of a conditional use

1 abatement issue within a period of one year from the effective date of final action on the  
2 earlier abatement proceeding shall be final.

3 (g) **Hotels and Motels.**

4 (1) With respect to applications for development of tourist hotels and motels, the  
5 Planning Commission shall consider, in addition to the criteria set forth in Subsections (c) and  
6 (d) above:

7 (A) The impact of the employees of the hotel or motel on the demand in the City for  
8 housing, public transit, childcare, and other social services. To the extent relevant, the  
9 Commission shall also consider the seasonal and part-time nature of employment in the hotel  
10 or motel;

11 (B) The measures that will be taken by the project sponsor to employ residents of  
12 San Francisco in order to minimize increased demand for regional transportation; and

13 (C) The market demand for a hotel or motel of the type proposed.

14 (2) Notwithstanding the provisions of Sub-sections (f)(1) above, the Planning  
15 Commission shall not consider the impact of the employees of a proposed hotel or motel  
16 project on the demand in the City for housing where:

17 (A) The proposed project would be located on property under the jurisdiction of the  
18 San Francisco Port Commission; and

19 (B) The sponsor of the proposed project has been granted exclusive rights to  
20 propose the project by the San Francisco Port Commission prior to June 1, 1991.

21 (3) Notwithstanding the provisions of Subsection (f)(1) above, with respect to the  
22 conversion of residential units to tourist hotel or motel use pursuant to an application filed on  
23 or before June 1, 1990 under the provisions of Chapter 41 of the San Francisco  
24 Administrative Code, the Planning Commission shall not consider the criteria contained in  
25 Subsection (f)(1) above; provided, however, that the Planning Commission shall consider the

1 criteria contained in Subsection (f)(1)(B) at a separate public hearing if the applicant applies  
2 for a permit for new construction or alteration where the cost of such construction or alteration  
3 exceeds \$100,000. Furthermore, no change in classification from principal permitted use to  
4 conditional use in Section 216(b)(i) of this Code shall apply to hotels or motels that have filed  
5 applications on or before June 1, 1990 to convert residential units to tourist units pursuant to  
6 Chapter 41 of the San Francisco Administrative Code.

7 (h) **Internet Services Exchange.**

8 (1) With respect to application for development of Internet Services Exchange as  
9 defined in Section 209.6(c), the Planning Commission shall, in addition to the criteria set forth  
10 in Subsection (c) above, find that:

11 (A) The intensity of the use at this location and in the surrounding neighborhood is  
12 not such that allowing the use will likely foreclose the location of other needed neighborhood-  
13 serving uses in the area;

14 (B) The building in which the use is located is designed in discrete elements, which  
15 respect the scale of development in adjacent blocks, particularly any existing residential uses;

16 (C) Rooftop equipment on the building in which the use is located is screened  
17 appropriately.

18 (D) The back-up power system for the proposed use will comply with all applicable  
19 federal state, regional and local air pollution controls.

20 (E) Fixed-source equipment noise does not exceed the decibel levels specified in  
21 the San Francisco Noise Control Ordinance.

22 (F) The building is designed to minimize energy consumption, such as through the  
23 use of energy-efficient technology, including without limitation, heating, ventilating and air  
24 conditioning systems, lighting controls, natural ventilation and recapturing waste heat, and as  
25 such commercially available technology evolves;

1 (G) The project sponsor has examined the feasibility of supplying and, to the extent  
2 feasible, will supply all or a portion of the building's power needs through on-site power  
3 generation, such as through the use of fuel cells or co-generation;

4 (H) The project sponsor shall have submitted design capacity and projected power  
5 use of the building as part of the conditional use application; and

6 (2) As a condition of approval, and so long as the use remains an Internet Services  
7 Exchange, the project sponsor shall submit to the Planning Department on an annual basis  
8 power use statements for the previous twelve-month period as provided by all suppliers of  
9 utilities and shall submit a written annual report to the Department of Environment and the  
10 Planning Department which shall state: (a) the annual energy consumption and fuel  
11 consumption of all tenants and occupants of the Internet Services Exchange; (b) the number  
12 of all diesel generators located at the site and the hours of usage, including usage for testing  
13 purposes; (c) evidence that diesel generators at the site are in compliance with all applicable  
14 local, regional, state and federal permits, regulations and laws; and (d) such other information  
15 as the Planning Commission may require.

16 (3) The Planning Department shall have the following responsibilities regarding  
17 Internet Services Exchanges:

18 (A) Upon the effective date of the requirement of a conditional use permit for an  
19 Internet Services Exchange, the Planning Department shall notify property owners of all  
20 existing Internet Services Exchanges that the use has been reclassified as a conditional use;

21 (B) Upon the effective date of the requirement of a conditional use permit for an  
22 Internet Services Exchange, the Planning Department shall submit to the Board of  
23 Supervisors and to the Director of the Department of Building Inspection a written report  
24 covering all existing Internet Services Exchanges and those Internet Services Exchanges  
25 seeking to obtain a conditional use permit, which report shall state the address, assessor's

1 block and lot, zoning classification, square footage of the Internet Services Exchange  
2 constructed or to be constructed, a list of permits previously issued by the Planning and/or  
3 Building Inspection Departments concerning the Internet Services Exchange, the date of  
4 issuance of such permits, and the status of any outstanding requests for permits from the  
5 Planning and/or Building Inspection Departments concerning Internet Services Exchange; and

6 (C) Within three years from the effective date of the requirement of a conditional use  
7 permit for an Internet Services Exchange, the Planning Department, in consultation with the  
8 Department of Environment, shall submit to the Board of Supervisors a written report, which  
9 report shall contain the Planning Commission's evaluation of the effectiveness of the  
10 conditions imposed on Internet Services Exchanges, and whether it recommends additional or  
11 modified conditions to reduce energy and fuel consumption, limit air pollutant emissions, and  
12 enhance the compatibility of industrial uses, such as Internet Services Exchanges, located  
13 near or in residential or commercial districts.

14 (i) **Formula Retail Uses.**

15 (1) With respect to an application for a formula retail use as defined in Section  
16 703.3, whenever a conditional use permit is required per Section 703.3(f), the Planning  
17 Commission shall consider, in addition to the criteria set forth in Subsection (c) above:

18 (A) The existing concentrations of formula retail uses within the neighborhood  
19 commercial district.

20 (B) The availability of other similar retail uses within the neighborhood commercial  
21 district.

22 (C) The compatibility of the proposed formula retail use with the existing  
23 architectural and aesthetic character of the neighborhood commercial district.

24 (D) The existing retail vacancy rates within the neighborhood commercial district.  
25



1 (E) The existing mix of Citywide-serving retail uses and neighborhood-serving retail  
2 uses within the neighborhood commercial district.

3 (j) **Large-Scale Retail Uses.** With respect to applications for the establishment of  
4 large-scale retail uses under Section 121.6, in addition to the criteria set forth in Subsections  
5 (c) and (d) above, the Commission shall consider the following:

6 (A) The extent to which the retail use's parking is planned in a manner that creates  
7 or maintains active street frontage patterns;

8 (B) The extent to which the retail use is a component of a mixed-use project or is  
9 designed in a manner that encourages mixed-use building opportunities;

10 (C) The shift in traffic patterns that may result from drawing traffic to the location of  
11 the proposed use; and

12 (D) The impact that the employees at the proposed use will have on the demand in  
13 the City for housing, public transit, childcare, and other social services.

14 (k) **Movie Theater Uses.**

15 (1) With respect to a change in use or demolition of a movie theater use as set forth  
16 in Sections 221.1, 703.2(b)(1)(B)(ii), 803.2(b)(2)(B)(iii) or 803.3(b)(1)(B)(ii), in addition to the  
17 criteria set forth in Subsections (c) and (d) above, the Commission shall make the following  
18 findings:

19 (A) Preservation of a movie theater use is no longer economically viable and cannot  
20 effect a reasonable economic return to the property owner;

21 (i) For purposes of defining "reasonable economic return," the Planning  
22 Commission shall be guided by the criteria for "fair return on investment" as set forth in  
23 Section 228.4(a).

24 (B) The change in use or demolition of the movie theater use will not undermine the  
25 economic diversity and vitality of the surrounding neighborhood commercial district; and

1 (C) The resulting project will preserve the architectural integrity of important historic  
 2 features of the movie theater use affected.

3 (l) **Medical Cannabis Dispensaries.**

4 With respect to applications for the establishment of medical cannabis dispensaries under  
 5 Sections 209.3, 217, 790.141 and 890.131 of this Code, in addition to the criteria set forth in  
 6 Subsections (c) and (d) above, the Commission shall consider the proximity of the proposed medical  
 7 cannabis dispensary to elementary or secondary schools, public or private, to children's playgrounds  
 8 operated by the Department of Recreation and Parks, to community clubhouses, neighborhood centers  
 9 or other community cultural centers, to institutions for the treatment of addictive diseases, to child care  
 10 facilities providing less than 24 hour care for 13 or more children by licensed personnel, or to other  
 11 medical cannabis dispensaries.

12  
 13 Section 5. The San Francisco Planning Code is hereby amended by amending  
 14 Section 710, to read as follows:

15 **SEC. 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT**

16 **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>C</u>		

22  
 23 Section 6. The San Francisco Planning Code is hereby amended by amending  
 24 Section 711, to read as follows:  
 25

1 **SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT**

2 **NC-2 ZONING CONTROL TABLE.**

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

8  
9 Section 7. The San Francisco Planning Code is hereby amended by amending  
10 Section 712, to read as follows:

11 **SEC. 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT**

12 **NC-3 ZONING CONTROL TABLE.**

			Controls by Story		
No.	Zoning Category	§ References	1st	2nd	3rd+
Institutions and Non-Retail Sales and Services					
<u>712.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>C</u>		

18 Section 8. The San Francisco Planning Code is hereby amended by amending  
19 Section 713, to read as follows

21 **SEC. 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT**

22 **NC-S ZONING CONTROL TABLE.**

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

1	<u>713.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>		
2		<u>Dispensary</u>				

3  
4 Section 9. The San Francisco Planning Code is hereby amended by amending  
5 Section 714, to read as follows:

6 **SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT**  
7 **ZONING CONTROL TABLE.**

8	9	10	Controls by Story		
			11	12	13
No.	Zoning Category	§ References	1st	2nd	3rd+
14 Institutions and Non-Retail Sales and Services					
15	<u>714.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>	
16		<u>Dispensary</u>			

17  
18 Section 10. The San Francisco Planning Code is hereby amended by amending  
19 Section 715, to read as follows:

20 **SEC. 715. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING**  
21 **CONTROL TABLE.**

22	23	24	Controls by Story		
			25		
No.	Zoning Category	§ References	1st	2nd	3rd+
26 Institutions and Non-Retail Sales and Services					
27	<u>715.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>	
28		<u>Dispensary</u>			

29  
30 Section 11. The San Francisco Planning Code is hereby amended by amending  
31 Section 716, to read as follows:

1 **SEC. 716. INNER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

2 **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>C</u>		

8  
9 Section 12. The San Francisco Planning Code is hereby amended by amending  
10 Section 717, to read as follows:

11 **SEC. 717. OUTER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

12 **ZONING CONTROL TABLE.**

			Controls by Story		
No.	Zoning Category	§ References	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>C</u>		

18  
19 Section 13. The San Francisco Planning Code is hereby amended by amending  
20 Section 718, to read as follows:

21 **SEC. 718. UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

22 **ZONING CONTROL TABLE.**

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

1	<u>718.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>		
2		<u>Dispensary</u>				

3  
4 Section 14. The San Francisco Planning Code is hereby amended by amending  
5 Section 719, to read as follows:

6 **SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING**  
7 **CONTROL TABLE.**

8	9	10	Controls by Story		
			11	12	13
No.	Zoning Category	§ References	1st	2nd	3rd+
14 Institutions and Non-Retail Sales and Services					
15	<u>719.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>	
16		<u>Dispensary</u>			

17  
18 Section 15. The San Francisco Planning Code is hereby amended by amending  
19 Section 720, to read as follows:

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

22	23	24	Controls by Story		
			25		
No.	Zoning Category	§ References	1st	2nd	3rd+
26 Institutions and Non-Retail Sales and Services					
27	<u>720.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>	
28		<u>Dispensary</u>			

29  
30 Section 16. The San Francisco Planning Code is hereby amended by amending  
31 Section 721, to read as follows:

1 **SEC. 721. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

2 **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>C</u>		

8  
9 Section 17. The San Francisco Planning Code is hereby amended by amending  
10 Section 722, to read as follows:

11 **SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT ZONING**  
12 **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>C</u>		

18 Section 18. The San Francisco Planning Code is hereby amended by amending  
19 Section 723, to read as follows:

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

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

1	<u>723.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>		
2		<u>Dispensary</u>				

3  
4 Section 19. The San Francisco Planning Code is hereby amended by amending  
5 Section 724, to read as follows:

6 **SEC. 724. SACRAMENTO STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING**  
7 **CONTROL TABLE.**

8	9	10	Controls by Story		
			11	12	13
No.	Zoning Category	§ References	1st	2nd	3rd+
14 Institutions and Non-Retail Sales and Services					
15	<u>724.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>	
16		<u>Dispensary</u>			

17  
18 Section 20. The San Francisco Planning Code is hereby amended by amending  
19 Section 725, to read as follows:

20 **SEC. 725. UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING**  
21 **CONTROL TABLE.**

22	23	24	Controls by Story		
			25		
No.	Zoning Category	§ References	1st	2nd	3rd+
26 Institutions and Non-Retail Sales and Services					
27	<u>725.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>	
28		<u>Dispensary</u>			

29  
30 Section 21. The San Francisco Planning Code is hereby amended by amending  
31 Section 726, to read as follows:



1 **SEC. 726. VALENCIA STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING**  
 2 **CONTROL TABLE.**

			Controls by Story		
No.	Zoning Category	§ References	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>C</u>		

8  
 9 Section 22. The San Francisco Planning Code is hereby amended by amending  
 10 Section 727, to read as follows:

11 **SEC. 727. 24TH STREET - MISSION NEIGHBORHOOD COMMERCIAL DISTRICT**  
 12 **ZONING CONTROL TABLE.**

			Controls by Story		
No.	Zoning Category	§ References	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>C</u>		

18  
 19 Section 23. The San Francisco Planning Code is hereby amended by amending  
 20 Section 728, to read as follows:

21 **SEC. 728. 24TH STREET - NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT**  
 22 **ZONING CONTROL TABLE.**

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

1	<u>728.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>		
2		<u>Dispensary</u>				

3  
4 Section 24. The San Francisco Planning Code is hereby amended by amending  
5 Section 729, to read as follows:

6 **SEC. 729. WEST PORTAL AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT**  
7 **ZONING CONTROL TABLE.**

8	9	10	Controls by Story		
			11	12	13
No.	Zoning Category	§ References	1st	2nd	3rd+
14 Institutions and Non-Retail Sales and Services					
15	<u>729.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>	
16		<u>Dispensary</u>			

17  
18 Section 25. The San Francisco Planning Code is hereby amended by amending  
19 Section 730, to read as follows:

20 **SEC. 730. INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING**  
21 **CONTROL TABLE.**

22	23	24	Controls by Story		
			25		
No.	Zoning Category	§ References	1st	2nd	3rd+
26 Institutions and Non-Retail Sales and Services					
27	<u>730.84</u>	<u>Medical Cannabis</u>	<u>§ 790.141</u>	<u>C</u>	
28		<u>Dispensary</u>			

29  
30 Section 26. The San Francisco Planning Code is hereby amended by amending  
31 Section 810, to read as follows:

1 **SECTION 810. CHINATOWN COMMUNITY BUSINESS DISTRICT ZONING CONTROL**  
 2 **TABLE.**

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
<u>.83</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 890.131</u>	<u>C</u>		

7  
 8 Section 27. The San Francisco Planning Code is hereby amended by amending  
 9 Section 811, to read as follows:

10 **SECTION 811. CHINATOWN VISITOR RETAIL DISTRICT ZONING CONTROL TABLE.**

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
<u>.83</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 890.131</u>	<u>C</u>		

15  
 16 Section 28. The San Francisco Planning Code is hereby amended by amending  
 17 Section 812, to read as follows:

18 **SECTION 812. CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT**  
 19 **ZONING CONTROL TABLE.**

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
<u>.83</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 890.131</u>	<u>C</u>		

1 Section 29. The San Francisco Planning Code is hereby amended by amending  
2 Section 813, to read as follows:

3 **SEC. 813. RED – RESIDENTIAL ENCLAVE DISTRICT ZONING CONTROL TABLE.**

<b>Institutions</b>			
No.	Zoning Category	§ References	Controls
<u>813.23</u>	<u>Medical Cannabis Dispensary</u>	<u>890.131</u>	<u>C</u>

7  
8 Section 30. The San Francisco Planning Code is hereby amended by amending  
9 Section 814, to read as follows:

10 **SEC. 814. SPD – SOUTH PARK DISTRICT ZONING CONTROL TABLE.**

<b>Institutions</b>			
No.	Zoning Category	§ References	Controls
<u>813.23</u>	<u>Medical Cannabis Dispensary</u>	<u>890.131</u>	<u>C</u>

15  
16 Section 31. The San Francisco Planning Code is hereby amended by amending  
17 Section 815, to read as follows:

18 **SEC. 815. RSD – RESIDENTIAL/SERVICE MIXED USE DISTRICT ZONING CONTROL**  
19 **TABLE.**

<b>Institutions</b>			
No.	Zoning Category	§ References	Controls
<u>813.23</u>	<u>Medical Cannabis Dispensary</u>	<u>890.131</u>	<u>C</u>

23  
24 Section 32. The San Francisco Planning Code is hereby amended by amending  
25 Section 816, to read as follows:

1 **SEC. 816. SLR – SERVICE/LIGHT INDUSTRIAL/RESIDENTIAL MIXED USED DISTRICT**  
 2 **ZONING CONTROL TABLE.**

<b>Institutions</b>			
No.	Zoning Category	§ References	Controls
<u>813.23</u>	<u>Medical Cannabis Dispensary</u>	<u>890.131</u>	<u>C</u>

7 Section 33. The San Francisco Planning Code is hereby amended by amending  
 8 Section 817, to read as follows:

9 **SEC. 817. SLI – SERVICE/LIGHT INDUSTRIAL DISTRICT ZONING CONTROL TABLE.**

<b>Institutions</b>			
No.	Zoning Category	§ References	Controls
<u>813.23</u>	<u>Medical Cannabis Dispensary</u>	<u>890.131</u>	<u>C</u>

14 Section 34. The San Francisco Planning Code is hereby amended by amending  
 15 Section 818, to read as follows:

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

<b>Institutions</b>			
No.	Zoning Category	§ References	Controls
<u>813.23</u>	<u>Medical Cannabis Dispensary</u>	<u>890.131</u>	<u>C</u>

22 Section 35. The San Francisco Planning Code is hereby amended by adding Section  
 23 790.141, to read as follows:

24 **SEC. 790.141. MEDICAL CANNABIS DISPENSARY.**

1           Any association, cooperative, or collective of four or more qualified patients with a valid  
2 identification card, or primary caregivers with a valid identification card that facilitates the lawful  
3 distribution of medical cannabis provided that: (a) the medical cannabis dispensary is located not less  
4 than 1,000 feet from another medical cannabis dispensary; (b) any medical cannabis dispensary that  
5 can demonstrate that it was in operation prior to April 1, 2005 has 12 months from the effective date of  
6 this legislation to obtain a conditional use permit or must cease operation; (c) medical cannabis  
7 dispensaries that have received Notices of Violation or are the subject of legal actions by the City  
8 Attorney may not apply for a conditional use permit until the Planning Department determines that any  
9 violations have been cured or until the City Attorney advises that the dispensary is in full compliance  
10 with any court orders regarding the dispensary; (d) any conditional use permit issued for a medical  
11 cannabis dispensary shall contain the following statement in bold-face type "Issuance of this permit by  
12 the City and County of San Francisco is not intended to and does not authorize the violation of State or  
13 Federal law."

14  
15           Section 36. The San Francisco Planning Code is hereby amended by adding Section  
16 890.131, to read as follows:

17 **SEC. 890.131. MEDICAL CANNABIS DISPENSARY.**

18           Any association, cooperative, or collective of four or more qualified patients with a valid  
19 identification card, or primary caregivers with a valid identification card that facilitates the lawful  
20 distribution of medical cannabis provided that: (a) the medical cannabis dispensary is located not less  
21 than 1,000 feet from another medical cannabis dispensary; (b) any medical cannabis dispensary that  
22 can demonstrate that it was in operation prior to April 1, 2005 has 12 months from the effective date of  
23 this legislation to obtain a conditional use permit or must cease operation; (c) medical cannabis  
24 dispensaries that have received Notices of Violation or are the subject of legal actions by the City  
25 Attorney may not apply for a conditional use permit until the Planning Department determines that any

1 violations have been cured or until the City Attorney advises that the dispensary is in full compliance  
2 with any court orders regarding the dispensary; (d) any conditional use permit issued for a medical  
3 cannabis dispensary shall contain the following statement in bold-face type "Issuance of this permit by  
4 the City and County of San Francisco is not intended to and does not authorize the violation of State or  
5 Federal law."  
6

7           **Section 37. Promotion of the Public Welfare.** By regulating medical cannabis  
8 dispensaries, the City and County of San Francisco is assuming an undertaking only to  
9 promote the general welfare. It is not assuming, nor is it imposing on its officers and  
10 employees, an obligation for breach of which it is liable in money damages to any person who  
11 claims that such breach proximately caused injury. To the fullest extent permitted by law, the  
12 City shall assume no liability whatsoever, and expressly does not waive sovereign immunity,  
13 with respect to the permitting provisions of this ordinance, or for the activities of any medical  
14 cannabis dispensary. To the fullest extent permitted by law, any actions taken by a public  
15 officer or employee under the provisions of this ordinance shall not become a personal liability  
16 of any public officer or employee of the City. This ordinance does not authorize the violation  
17 of state or federal law.  
18

19           **Section 38. Severability.** If any provision of this ordinance or the application thereof  
20 to any person or circumstances is held invalid or unconstitutional, such invalidity or  
21 unconstitutionality shall not affect other provisions or applications of this ordinance which can  
22 be given effect without the invalid or unconstitutional provision or application. To this end, the  
23 provisions of this ordinance shall be deemed severable.  
24  
25

1           Section 39. **Environmental Findings.** The Planning Department concluded  
2 environmental review of this ordinance pursuant to the California Environmental Quality Act.  
3 Documentation of that review is on file with the Clerk of the Board of Supervisors in File No.  
4 \_\_\_\_\_.

5  
6

7 APPROVED AS TO FORM:  
8 DENNIS J. HERRERA, City Attorney

9 By: \_\_\_\_\_  
10 Sarah Ellen Owsowitz  
11 Deputy City Attorney

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