

11/15/05

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 890.134890.133, 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;**

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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.
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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1 (b) Pursuant to Planning Code Section 101.1, the Board of Supervisors finds that this
 2 ordinance is consistent with the Priority Policies of Section 101.1(b) of the Planning Code and
 3 with the General Plan and hereby incorporates a report containing those findings as if fully set
 4 forth herein. A copy of said report is on file with the Clerk of the Board of Supervisors in File
 5 No. _____051250.

6 (c) This ordinance constitutes permanent controls to address the proliferation of
 7 medical cannabis dispensaries and its passage terminates the efficacy of Urgency Ordinance
 8 0098-05, the Interim Moratorium Ordinance on Medical Cannabis Dispensaries. A copy of
 9 said ordinance is on file with the Clerk of the Board of Supervisors in File No. 051769.

10 Section 2. The San Francisco Planning Code is hereby amended by amending
 11 Sections 209.3, 217, 710 through 730, and 810 through 818, and by adding Sections 790.141,
 12 and 890.13-890.133, to read as follows:

13 **SEC. 209.3 Institutions**

14 RH- 1 (D)	RH- 1	15 RH- 1 (S)	RH- 2	RH- 3	16 RM- 1	17 RM- 2	18 RM- 3	19 RM- 4	20 RC- 1	21 RC- 2	22 RC- 3	23 RC- 4	
24 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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												<p><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;</u><i>(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</i></p>
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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;</u> <u>(e) no alcohol is sold or distributed on the premises for on or off-site consumption;</u> <u>(f) 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; (fg) 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 (fh) 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>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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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; <u>(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 providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health; (e) 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 (h)</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><u>no case shall a dispensary that had or has 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."</u></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 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					

<u>712.84</u>	<u>Medical Cannabis</u> <u>Dispensary</u>	<u>§ 790.141</u>	<u>P#</u>		
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SPECIFIC PROVISIONS FOR NC-3 DISTRICTS

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

**SEC. 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S
ZONING CONTROL TABLE.**

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

SPECIFIC PROVISIONS FOR NC-S DISTRICTS

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

SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL 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.

			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>P</u>		

**SEC. 718. UPPER FILLMORE 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>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.**

			Controls by Story		
No.	Zoning Category	§ References	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.

			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>P</u>		

SEC. 727. 24TH STREET - MISSION NEIGHBORHOOD COMMERCIAL DISTRICT
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>P</u>		

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

			Controls by Story		
No.	Zoning Category	§ References	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>§ 890.13-890.133</u>	<u>P</u>		

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

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

.82	<i>Medical Cannabis Dispensary</i>	§ 890.131 <u>890.133</u>	<i>P</i>		
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SEC. 812. CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE.

No.	Zoning Category	§ References	Controls by Story		
			1st	2nd	3rd+
.83	<i>Medical Cannabis Dispensary</i>	§ 890.131 <u>890.133</u>	<i>P</i>		

SEC. 813. RED -- RESIDENTIAL ENCLAVE DISTRICT ZONING CONTROL TABLE.

Institutions			
No.	Zoning Category	§ References	Controls
<u>813.23</u>	<i>Medical Cannabis Dispensary</i>	890.131 <u>890.1</u>	<u>PP#</u>
		<u>33</u>	

SPECIFIC PROVISIONS FOR RED DISTRICTS

<u>Article 8 Code Section</u>	<u>Other Code Section</u>	<u>§ Zoning Controls</u>
<u>§813.23</u> <u>§890.133</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 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>

		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. 23	<i>Medical Cannabis Dispensary</i>	890.131890.1 33	PP#

SPECIFIC PROVISIONS FOR SPD DISTRICTS

<u>Article 8 Code</u> <u>Section</u>	<u>Other Code Section</u>	<u>§ Zoning Controls</u>
§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

813.23815. 23	<i>Medical Cannabis Dispensary</i>	890.134890.1 33	PP#
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SPECIFIC PROVISIONS FOR RSD DISTRICTS

<u>Article 8 Code Section</u>	<u>Other Code Section</u>	<u>§ Zoning Controls</u>
§815.23 §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 RSD District.

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

ZONING CONTROL TABLE.

<u>Institutions</u>	<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
813.23816. 23	<i>Medical Cannabis Dispensary</i>	890.134890.1 33	PP#

SPECIFIC PROVISIONS FOR SLR DISTRICTS

<u>Article 8 Code Section</u>	<u>Other Code Section</u>	<u>§ Zoning Controls</u>
§816.23		Only those medical cannabis dispensaries

<p>1 <u>§890.133</u></p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p>		<p>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.</p>
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9 **SEC. 817. SLI -- SERVICE/LIGHT INDUSTRIAL DISTRICT ZONING CONTROL TABLE.**

Institutions			
No.	Zoning Category	§ References	Controls
<p>10 <u>§13-23817.</u></p> <p>11 <u>23</u></p>	<p><i>Medical Cannabis Dispensary</i></p>	<p><u>890.134890.1</u></p> <p><u>33</u></p>	<p>PP#</p>

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14 **SPECIFIC PROVISIONS FOR SLI DISTRICTS**

<u>Article 8 Code</u> <u>Section</u>	<u>Other Code Section</u>	<u>§ Zoning Controls</u>
<p>15 <u>§817.23</u></p> <p>16 <u>§890.133</u></p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>		<p>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.</p>

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

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Institutions			
No.	Zoning Category	§ References	Controls
813.23818. 23	<i>Medical Cannabis Dispensary</i>	890.131890.1 33	PP#

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7 **SPECIFIC PROVISIONS FOR SSO DISTRICTS**

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<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.

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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 ~~(ef) 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 (h) 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."

1
2 SEC. § 890.131890.133. 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
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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
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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,
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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.

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
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1 more than ninety nine (99) twenty-four (24) cannabis plants per qualified patient in or up to 100
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 ~~t~~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

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 ~~(x)~~(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.**
24
25

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 or 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 EE	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

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. SHEINFELD
22 Deputy City Attorney
23
24
25



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

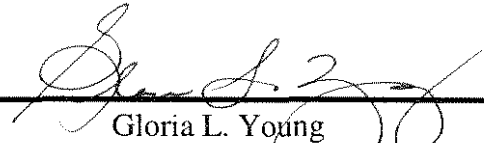
Excused: 1 - Elsbernd

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