

1 [Medical Cannabis Act Revisions.]

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3 **Ordinance approving amendments to the Medical Cannabis Act to clarify that a medical**
4 **cannabis dispensary shall be a cooperative or collective and shall operate as a non-**
5 **profit.**

6 Note: Additions are *single-underline italics Times New Roman*;
7 deletions are *strikethrough italics Times New Roman*.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough normal~~.

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

10 Section 1. The San Francisco Health Code Section 3301 et seq. is hereby amended
11 by amending Sections 3301 and 3308, to read as follows:

12 SEC. 3301. DEFINITIONS.

13 For the purposes of this Article:

14 (a) "Cannabis" means marijuana and all parts of the plant Cannabis, whether growing
15 or not; the seeds thereof; the resin extracted from any part of the plant; and every compound,
16 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It includes
17 marijuana infused in foodstuff. It does not include the mature stalks of the plant, fiber
18 produced from the stalks, oil or cake made from the seeds of the plant, any other compound,
19 manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin
20 extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant are incapable of
21 germination.

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

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

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

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

7 (f) "Medical cannabis dispensary" means ~~any association,~~ a cooperative or collective of
8 ten or more qualified patients or primary caregivers that facilitates the lawful cultivation and
9 distribution of ~~medical~~ cannabis for medical purposes and operates not for profit, consistent with
10 California Health & Safety Code Sections 11362.5 et se., with the Guidelines for the Security and Non-
11 diversion of Marijuana Grown for Medical Use issued by the California Attorney General in August
12 2008, and with this ordinance. A cooperative must be organized and registered as a Consumer
13 Cooperative Corporation under the Corporations Code, Sections 12300, et seq, or a Nonprofit
14 Cooperative Association under the Food and Agricultural Code, Sections 54002, et seq. A collective
15 may be organized as a corporation, partnership or other legal entity under state law but must be jointly
16 owned and operated by its members. As set forth in Section 3308(q), a medical cannabis dispensary may
17 purchase or obtain cannabis only from members of the cooperative or collective and may sell or
18 distribute cannabis only to members of the cooperative or collective. As set forth in Section 3308(c), a
19 medical cannabis dispensary may not earn profits for itself or its members.

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

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

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

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

21 **SEC. 3302. MEDICAL CANNABIS GUIDELINES.**

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

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1 (a) A qualified patient, person with a valid identification card, or primary caregiver may
2 possess no more than eight ounces of dried cannabis per qualified patient. In addition, a
3 qualified patient, person with a valid identification card, or primary caregiver may also
4 maintain no more than twenty-four (24) cannabis plants per qualified patient or up to 25
5 square feet of total garden canopy measured by the combined vegetative growth area.

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

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

13 **SEC. 3303. PERMIT REQUIRED FOR MEDICAL CANNABIS DISPENSARY.**

14 Except for research facilities, it is unlawful to operate or maintain, or to participate
15 therein, or to cause or to permit to be operated or maintained, any medical cannabis
16 dispensary without first obtaining a final permit pursuant to this Article. It is unlawful to operate
17 or maintain, or to participate therein, or to cause or to permit to be operated or maintained,
18 any medical cannabis dispensary with a provisional permit issued pursuant to this Article.

19 **SEC. 3304. APPLICATION FOR MEDICAL CANNABIS DISPENSARY PERMIT.**

20 (a) Every applicant for a medical cannabis dispensary permit shall file an application
21 with the Director upon a form provided by the Director and pay a non-refundable permit
22 application fee of \$6691.00 to cover the costs to all City departments of investigating and
23 processing the application and any applicable surcharges, exclusive of filing fees for appeals
24 before the Board of Appeals. Beginning with fiscal year 2006-2007, the application fee may be
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1 adjusted each year, without further action by the Board of Supervisors, to reflect changes in
2 the relevant Consumer Price Index, as determined by the Controller. No later than April 15th
3 of each year, the Health Department shall, in collaboration with the Tax Collector's Office,
4 submit the application fee to the Controller, who shall apply the price index adjustment to
5 produce a new application fee for the following year. No later than May 15th of each year, the
6 Controller shall file a report with the Board of Supervisors reporting the new application fee
7 and certifying that: (a) the application fee produces sufficient revenue to support the costs of
8 providing the services for which the annual fee is being charged and (b) the application fee
9 does not produce revenue that exceeds the costs of providing the services for which the
10 application fee is charged. Notwithstanding the procedures set forth in this Section, the Board
11 of Supervisors, in its discretion, may modify the application fee by ordinance at any time.

12 (b) The permit application form shall provide clear notice to applicants that the
13 California Fire Code includes a requirement, among others that may apply, that an
14 establishment obtain a place of assembly permit if it will accommodate 50 or more persons
15 based on its square footage.

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

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

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

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

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

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

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

8 (7) Whether smoking of medical cannabis shall occur on the premises of the medical
9 cannabis dispensary;

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

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

14 (e) Applicants must be a cooperative or a collective. If the applicant is a cooperative
15 organized under the Corporations Code, Sections 12300, et seq, or the Food and Agricultural Code,
16 Sections 54002, et seq, the applicant shall set forth the name of the cooperative exactly as shown in its
17 articles of incorporation, and the names and residence addresses of each of the officers, directors and
18 each stockholder owning more than 10 percent of the stock of the corporation. If the applicant is a
19 collective organized as a corporation, the applicant shall set forth the name of the corporation
20 exactly as shown in its articles of incorporation, and the names and residence addresses of
21 each of the officers, directors and each stockholder owning more than 10 percent of the stock
22 of the corporation. If the applicant is a collective organized as a partnership, the application shall
23 set forth the name and residence address of each of the partners, including the general partner
24 and any limited partners. If one or more of the partners is a corporation or a partnership is a

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1 stockholder owning more than 10 percent of the stock of a corporation or is one or more of the partners
2 in a partnership, the provisions of this Section pertaining to ~~a corporation~~ apply the disclosure
3 required for a corporation or partnership, as applicable, shall also apply to that entity.

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

7 (g) The Department of Public Health shall make reasonable efforts to arrange with the
8 Department of Justice and with DOJ-certified fingerprinting agencies for fingerprinting services
9 and criminal background checks for the purposes of verifying the information provided under
10 Section 3304(c)(5) and certifying the listed individuals as required by Section 3307(c)(4). The
11 applicant or each person listed in Section 3304(c)(5) shall assume the cost of fingerprinting
12 and background checks, and shall execute all forms and releases required by the DOJ and
13 the DOJ-certified fingerprinting agency.

14 SEC. 3305. REFERRAL TO OTHER DEPARTMENTS.

15 (a) Upon receiving a completed medical cannabis dispensary permit application and
16 permit application fee, the Director shall immediately refer the permit application to the City's
17 Planning Department, Department of Building Inspection, Mayor's Office on Disability, and
18 Fire Department.

19 (b) Said departments shall inspect the premises proposed to be operated as a
20 medical cannabis dispensary and confirm the information provided in the application and shall
21 make separate written recommendations to the Director concerning compliance with the
22 codes that they administer.

23 SEC. 3306. NOTICE OF HEARING ON PERMIT APPLICATION.

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1 (a) After receiving written approval of the permit application from other City
2 Departments as set out in Section 3305, and notice from the Department of Building
3 Inspection that it has approved a building permit, the Director shall fix a time and place for a
4 public hearing on the application, which date shall not be more than 45 days after the
5 Director's receipt of the written approval of the permit application from other City Departments.

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

11 SEC. 3307. ISSUANCE OF MEDICAL CANNABIS DISPENSARY PERMIT.

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

14 (b) In recommending the granting or denying of a provisional permit and in granting or
15 denying the same, the Director shall give particular consideration to the capacity,
16 capitalization, complaint history of the applicant and any other factors that in their discretion
17 he or she deems necessary to the peace and order and welfare of the public. In addition, prior
18 to granting a provisional permit, the Director shall review criminal history information provided
19 by the Department of Justice for the purpose of certifying that each person applying for the
20 permit and any other person who will be engaged in the management of the medical cannabis
21 dispensary has not been convicted of a violent felony within the State of California, as defined
22 in Penal Code section 667.5(c), or a crime that would have constituted a violent felony as
23 defined in Penal Code section 667.5(c) if committed within the State of California. However,
24 the Director may certify and issue a medical cannabis dispensary provisional permit to any
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1 individual convicted of such a crime if the Director finds that the conviction occurred at least
2 five years prior to the date of the permit application or more than three years have passed
3 from the date of the termination of a penalty for such conviction to the date of the permit
4 application and, that no subsequent felony convictions of any nature have occurred.

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

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

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

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

13 (4) That the permit applicant or any other person who will be engaged in the
14 management of the medical cannabis dispensary has been convicted of a violent felony as
15 defined in Penal Code section 667.5(c) within the State of California or a crime that would
16 have constituted a violent felony as defined in Penal Code section 667.5(c) if committed within
17 the State of California. However, the Director may issue a medical cannabis dispensary
18 provisional permit to any individual convicted of such a crime if the Director finds that the
19 conviction occurred at least five years prior to the date of the permit application or more than
20 three years have passed from the date of the termination of a penalty for such conviction to
21 the date of the permit application and, that no subsequent felony convictions of any nature
22 have occurred; or

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

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

7 (d) Applicants with provisional permits shall secure a Certificate of Final Completion
8 and Occupancy as defined in San Francisco Building Code Section 307 and present it to the
9 Director, and the Director shall issue the applicant a final permit.

10 (e) The Director shall notify the Police Department of all approved permit applications.

11 (f) The final permit shall contain the following language: "Issuance of this permit by
12 the City and County of San Francisco is not intended to and does not authorize the violation of
13 State or Federal law."

14 SEC. 3308. OPERATING REQUIREMENTS FOR MEDICAL CANNABIS
15 DISPENSARY.

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

20 (b) Medical cannabis dispensaries shall be operated only as collectives or
21 cooperatives in accordance this ordinance. All patients or caregivers served by a medical
22 cannabis dispensary shall be members of that medical cannabis dispensary's collective or
23 cooperative. Medical cannabis dispensaries shall maintain a current record of their members,
24 including each member's name and address.

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1 (c) The medical cannabis dispensary shall operate on a non-profit basis. It shall receive
2 only compensation for actual expenses, including reasonable compensation incurred for
3 services provided to qualified patients or primary caregivers to enable that person to use or
4 transport cannabis pursuant to California Health and Safety Code Section 11362.7 et seq., or
5 for payment for out-of-pocket expenses incurred in providing those services, or both. Sale of
6 medical cannabis for ~~excessive~~ profits is explicitly prohibited. Once a year, commencing in
7 March 2008, each medical cannabis dispensary shall provide to the Department a written
8 statement by the dispensary's permittee made under penalty of perjury attesting to the
9 dispensary's compliance with this paragraph. Upon request by the Department, the medical
10 cannabis dispensary shall provide the Department copies of, or access to, such books, records and any
11 other financial information as the Department determines is necessary to show compliance with this
12 paragraph.

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

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

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

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

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

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1 (i) All sales and dispensing of medical cannabis shall be conducted on the premises
2 of the medical cannabis dispensary. However, delivery of cannabis to qualified patients with
3 valid identification cards or a verifiable, written recommendation from a physician for medical
4 cannabis and primary caregivers with a valid identification card outside the premises of the
5 medical cannabis dispensary is permitted if the person delivering the cannabis is a qualified
6 patient with a valid identification card or a verifiable, written recommendation from a physician
7 for medical cannabis or a primary caregiver with a valid identification card who is a member of
8 the medical cannabis dispensary.

9 (j) The medical cannabis dispensary shall not hold or maintain a license from the
10 State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a
11 business that sells alcoholic beverages. Nor shall alcoholic beverages be consumed on the
12 premises or on in the public right-of-way within fifty feet of a medical cannabis dispensary.

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

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

21 (m) The medical cannabis dispensary shall provide and maintain adequate security on
22 the premises, including lighting and alarms reasonably designed to ensure the safety of
23 persons and to protect the premises from theft.

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1 (n) Signage for the medical cannabis dispensary shall be limited to one wall sign not
2 to exceed ten square feet in area, and one identifying sign not to exceed two square feet in
3 area; such signs shall not be directly illuminated. Any wall sign, or the identifying sign if the
4 medical cannabis dispensary has no exterior wall sign, shall include the following language:
5 "Only individuals with legally recognized Medical Cannabis Identification Cards or a verifiable,
6 written recommendation from a physician for medical cannabis may obtain cannabis from
7 medical cannabis dispensaries." The required text shall be a minimum of two inches in height.
8 This requirement shall remain in effect so long as the system for distributing or assigning
9 medical cannabis identification cards preserves the anonymity of the qualified patient or
10 primary caregiver.

11 (o) All print and electronic advertisements for medical cannabis dispensaries,
12 including but not limited to flyers, general advertising signs, and newspaper and magazine
13 advertisements, shall include the following language: "Only individuals with legally recognized
14 Medical Cannabis Identification Cards or a verifiable, written recommendation from a
15 physician for medical cannabis may obtain cannabis from medical cannabis dispensaries."
16 The required text shall be a minimum of two inches in height except in the case of general
17 advertising signs where it shall be a minimum of six inches in height. Oral advertisements for
18 medical cannabis dispensaries, including but not limited to radio and television
19 advertisements shall include the same language. This requirement shall remain in effect so
20 long as the system for distributing or assigning medical cannabis identification cards
21 preserves the anonymity of the qualified patient or primary carver.

22 (p) The medical cannabis dispensary shall provide the Director and all neighbors
23 located within 50 feet of the establishment with the name phone number and facsimile number
24 of an on-site community relations staff person to whom one can provide notice if there are
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1 operating problems associated with the establishment. The medical cannabis dispensary shall
2 make every good faith effort to encourage neighbors to call this person to try to solve
3 operating problems, if any, before any calls or complaints are made to the Police Department
4 or other City officials.

5 (q) Medical cannabis dispensaries may purchase or obtain cannabis only from members of
6 the medical cannabis dispensary's cooperative or collective and may sell or distribute cannabis
7 only to members of the medical cannabis dispensary's cooperative or collective ~~or cooperative~~.

8 (r) Medical cannabis dispensaries may sell or distribute cannabis only to those
9 members with a medical cannabis identification card or a verifiable, written recommendation
10 from a physician for medical cannabis. This requirement shall remain in effect so long as the
11 system for distributing or assigning medical cannabis identification cards preserves the
12 anonymity of the qualified patient or primary caregiver.

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

15 (t) It shall be unlawful for any medical cannabis dispensary to allow any person who is
16 not at least 18 years of age on the premises during hours of operation unless that person is a
17 qualified patient with a valid identification card or primary caregiver with a valid identification
18 card or a verifiable, written recommendation from a physician for medical cannabis.

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

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

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

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

9 (y) Medical cannabis dispensaries shall be accessible as required under the California
10 Building Code. Notwithstanding the foregoing, if a medical cannabis dispensary cannot show
11 that it will be able to meet the disabled access standard for new construction, it shall meet the
12 following minimum standards:

13 (1) An accessible entrance;

14 (2) Any ground floor service area must be accessible, including an accessible
15 reception counter and access aisle to the employee workspace behind; and,

16 (3) An accessible bathroom, with a toilet and sink, if a bathroom is provided, except
17 where an unreasonable hardship exemption is granted.

18 (4) A "limited use/limited access" (LULA) elevator that complies with ASME A17.1
19 Part XXV or an Article 15 elevator may be used on any accessible path of travel, but vertical
20 or inclined platform lifts may not.

21 (5) Any medical cannabis dispensary that distributes medical cannabis solely through
22 delivery to qualified patients or primary caregivers and does not engage in on-site distribution
23 or sales of medical cannabis shall be exempt from the requirements of this subsection
24 3308(y).

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1 (z) Any medical cannabis dispensary in a building that began the Landmark Initiation
2 process (as codified by Article 10 of the San Francisco Planning Code) by August 13, 2007 is
3 exempt from the requirements set forth in section 3308(y) of this legislation until September 1,
4 2008.

5 (aa) Prior to submission of a building permit application, the applicant shall submit its
6 application to the Mayor's Office on Disability. The Mayor's Office on Disability shall review the
7 application for access compliance and forward recommendations to the Department of
8 Building Inspection.

9 SEC. 3309. PROHIBITED OPERATIONS.

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

15 SEC. 3310. DISPLAY OF PERMIT.

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

19 SEC. 3311. SALE OR TRANSFER OF PERMITS.

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

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

8 SEC. 3312. RULES AND REGULATIONS.

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

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

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

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

19 (3) A requirement that the operator require employees to wash hands and use
20 sanitary utensils when handling cannabis;

21 (4) A description of the size and type of notice of hearing to be posted in a
22 conspicuous place on the property at which the proposed medical cannabis dispensary is to
23 be operated and the number of days said notice shall remain posted; and
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1 (5) A description of the size and type of sign posted near the entrances and exits of
2 medical cannabis dispensaries providing notice that no medical cannabis shall be smoked,
3 ingested or otherwise consumed in the public right of way within fifty (50) feet of a medical
4 cannabis dispensary and that any person violating this policy shall be deemed guilty of an
5 infraction and upon the conviction thereof shall be punished by a fine of \$100.

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

13 SEC. 3313. INSPECTION AND NOTICES OF VIOLATION.

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

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

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

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

7 (b) The Director may not suspend or revoke a permit issued pursuant to this Article,
8 impose an administrative penalty, or take other enforcement action against a medical
9 cannabis dispensary until the Director has issued a notice of violation and provided the
10 operator an opportunity to be heard and respond as provided in Section 3316.

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

17 (d) Every person to whom a permit shall have been granted pursuant to this Article
18 shall post a sign in a conspicuous place in the medical cannabis dispensary. The sign shall
19 state that it is unlawful to refuse to permit an inspection by the Department of Public Health, or
20 any City peace, fire, planning, or building official or inspector, conducted during the hours the
21 establishment is open to the public and at all other reasonable times, of the areas of the
22 establishment to which patrons have access.

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

5 SEC. 3314. VIOLATIONS AND PENALTIES.

6 (a) Any dispensary, dispensary operator or dispensary manager who violates any
7 provision of this Article or any rule or regulation adopted pursuant to this Article may, after
8 being provided notice and an opportunity to be heard, be subject to an administrative penalty
9 not to exceed \$1,000 for the first violation of a provision or regulation in a 12-month period,
10 \$2,500 for the second violation of the same provision or regulation in a 12-month period; and
11 \$5, 000 for the third and subsequent violations of the same provision or regulation in a 12-
12 month period.

13 (b) The Director may not impose an administrative penalty or take other enforcement
14 action under this Article against a medical cannabis dispensary until the Director has issued a
15 notice of violation and provided the operator an opportunity to be heard and respond as
16 provided in Section 3316.

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

21 SEC. 3315. REVOCATION AND SUSPENSION OF PERMIT.

22 (a) Any permit issued for a medical cannabis dispensary may be revoked, or
23 suspended for up to 30 days, by the Director if the Director determines that:
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1 (1) the manager, operator or any employee has violated any provision of this Article or
2 any regulation issued pursuant to this Article;

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

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

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

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

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

18 (b) The Director may not suspend or revoke a permit issued pursuant to this Article or
19 take other enforcement action against a medical cannabis dispensary until the Director has
20 issued a notice of violation and provided the operator an opportunity to be heard and respond
21 as provided in Section 3316.

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

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

5 SEC. 3316. NOTICE AND HEARING FOR ADMINISTRATIVE PENALTY AND/OR
6 REVOCATION OR SUSPENSION.

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

10 (b) The notice of violation shall include a copy of this Section and the rules and
11 regulations adopted pursuant to this Article regarding the conduct of hearings concerning the
12 denial, suspension or revocation of permits and the imposition of administrative penalties on
13 medical cannabis dispensaries. The notice of violation shall include a statement of any
14 informal attempts by the Director to obtain compliance with the provisions of this Article
15 pursuant to Section 3313(a). The notice of violation shall inform the operator that:

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

19 (2) The alleged acts or failures to act that constitute the basis for the Directors initial
20 determination; and

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

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

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

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

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

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

10 SEC. 3317. APPEALS TO BOARD OF APPEALS.

11 (a) Right of Appeal. The final decision of the Director to grant, deny, suspend, or
12 revoke a permit, or to impose administrative sanctions, as provided in this Article, may be
13 appealed to the Board of Appeals in the manner prescribed in Article 1 of the San Francisco
14 Business and Tax Relations Code. An appeal shall stay the action of the Director.

15 (b) Hearing. The procedure and requirements governing an appeal to the Board of
16 Appeals shall be as specified in Article 1 of the San Francisco Business and Tax Regulations
17 Code.

18 SEC. 3318. BUSINESS LICENSE AND BUSINESS REGISTRATION CERTIFICATE.

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

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

24 SEC. 3319. DISCLAIMERS AND LIABILITY.
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1 By regulating medical cannabis dispensaries, the City and County of San Francisco is
2 assuming an undertaking only to promote the general welfare. It is not assuming, nor is it
3 imposing on its officers and employees, an obligation for breach of which it is liable in money
4 damages to any person who claims that such breach proximately caused injury. To the fullest
5 extent permitted by law, the City shall assume no liability whatsoever, and expressly does not
6 waive sovereign immunity, with respect to the permitting and licensing provisions of this
7 Article, or for the activities of any medical cannabis dispensary. To the fullest extent permitted
8 by law, any actions taken by a public officer or employee under the provisions of this Article
9 shall not become a personal liability of any public officer or employee of the City. This Article
10 (the "Medical Cannabis Act") does not authorize the violation of state or federal law.

11 SEC. 3320. SEVERABILITY.

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

17 SEC. 3321. ANNUAL REPORT BY DIRECTOR.

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

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

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

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

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

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

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

11 By: _____
12 LINDA M. ROSS
13 Deputy City Attorney
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