

**Amendment of the Whole
August 2, 2006.**

FILE NO. 060032

ORDINANCE NO.

1 [Allowing certain medical cannabis dispensaries in Residential-House or Residential-Mixed
2 districts to remain open during the 18-month application period and other amendments.]

3 **Ordinance amending the San Francisco Planning Code by amending Sections 209.3,**
4 **217, 790.141, and 890.133 to allow certain medical cannabis dispensaries in**
5 **Residential-House or Residential-Mixed districts to remain open during the 18-month**
6 **grace period provided for obtaining a permit, to define “community facility” and**
7 **“recreation building” as those that primarily serve persons under 18 years of age, and**
8 **to provide certain notice to both owners and occupants within ~~450~~ 300 feet of a**
9 **proposed medical cannabis dispensary; amending the San Francisco Health Code by**
10 **amending Sections 3303, 3304, 3305, 3306, 3307 and 3312 to amend the permitting**
11 **process for medical cannabis dispensaries to conform to the California Fire Code, to**
12 **eliminate the need for an employment background check, to provide for a provisional**
13 **permit to be issued after a hearing but before construction work is performed, to**
14 **provide for referral of permit applications to the Department of Building Inspection, and**
15 **to require employees to wash hands and use sanitary utensils when handling**
16 **cannabis; and making environmental findings and findings of consistency with the**
17 **priority planning policies of Planning Code Section 101.1 and the General Plan.**

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

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

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

1 (a) On June 22, 2006, at a duly noticed public hearing, the Planning Commission in
 2 Resolution No. 17270, found that the proposed Planning Code amendments were consistent
 3 with the City's General Plan and with Planning Code Section 101.1(b). In addition, the
 4 Planning Commission, in Resolution No. 17270, recommended that the Board of Supervisors
 5 adopt the Planning Code amendments. Copies of said Resolution and Motion are on file with
 6 the Clerk of the Board of Supervisors in File No. 060032 and are incorporated herein by
 7 reference. The Board finds that the proposed Planning Code amendments are consistent with
 8 the City's General Plan and with Planning Code Section 101.1(b) for the reasons set forth in
 9 said Resolution.

10 (b) Pursuant to Planning Code Section 302, the Board finds that the proposed zoning
 11 reclassification and map amendment will serve the public necessity, convenience and welfare
 12 for the reasons set forth in Planning Commission Resolution No. 17270, which reasons are
 13 incorporated herein by reference as though fully set forth.

14 (c) Environmental Findings. The Planning Department has determined that the actions
 15 contemplated in this Ordinance are exempt from the California Environmental Quality Act
 16 (California Public Resources Code section 21000 et seq.). Said determination is on file with
 17 the Clerk of the Board of Supervisors in File No. 060032 and is incorporated herein by
 18 reference.

19 Section 2. The San Francisco Planning Code is hereby amended by amending Section
 20 209.3 to read as follows:

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 22 **SEC. 209.3. INSTITUTIONS.**

RH- 1 (D)	RH- 1	RH- 1 (S)	RH- 2	RH- 3	R M- 1	R M- 2	R M- 3	R M- 4	R C- 1	R C- 2	R C- 3	R C- 4	
C	C	C	C	C	C	C	C	C	C	C	C	C	(a) Hospital, medical center

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													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	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 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

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													meeting all applicable requirements of Subsection 209.3 (b) above but providing lodging, board and care as specified therein to seven or more persons.
									C	C	C	C	(d) Social service or philanthropic facility providing assistance of a charitable or public service nature and not of a profitmaking or commercial nature. (With respect to RC Districts, see also Section 209.9(d).)
P	P	P	P	P	P	P	P	P	P	P	P	P	(e) Child-care facility providing less than 24-hour care for 12 or fewer children by licensed personnel and meeting the open-space and other requirements of the State of California and other authorities.
C	C	C	C	C	C	C	C	C	C	C	C	C	(f) Child-care facility providing less than 24-hour care for 13 or more children by licensed personnel and meeting the open-space and other requirements of the State of California and other authorities. (With respect to RC Districts, see also Section 209.9(d).)
C	C	C	C	C	C	C	C	C	C	C	C	C	(g) Elementary school, either public or private. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution. (With respect to RC Districts, see also Section 209.9(d).)
C	C	C	C	C	C	C	C	C	C	C	C	C	(h) Secondary school, either

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													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. (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 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

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													RC Districts, see also Section 209.9(d).)
									P	P	P	P	(k) Medical cannabis dispensary as defined by Section 3301(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 3304 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 <u>a</u> recreation building ^s as defined in Section 209.4(a) of this Code <u>that primarily serves persons under 18 years of age,</u> 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 <u>a</u> recreation building ^s as defined in Section 209.4(a) of this Code <u>that primarily serves person under 18 years of age;</u> (c) if medical cannabis is

1									service nature.
2	P	P	P	P	C	P	P		(e) Child-care facility providing less than 24-hour care for children by licensed personnel and meeting the open-space and other requirements of the State of California and other authorities.
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4	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.
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6	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.
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9	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.
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15						P	P	P	(i) Secondary or postsecondary educational institution, other than as specified in Subsection 217(g) and (h) above.
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17	P	P	P	P	P	P	P	P	(j) Church or other religious institution. Such institution may include, on the same lot, the housing of persons who engage in supportive activity for the institution.
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19	P	P	P	P	P	P			(k) Medical cannabis dispensary as defined by Section 3301(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 3304 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
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									<p>elementary or secondary school, public or private, or a community clubhouse <u>that primarily serves persons under 18 years of age</u>, or neighborhood center as defined in Section 221(e) of this Code <u>that primarily serves persons under 18 years of age</u>, 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 <u>a community clubhouse that primarily serves persons under 18 years of age, or a recreation buildings neighborhood center</u> as defined in Section 221(e) of this Code <u>that primarily serves persons under 18 years of age</u>; (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) regardless of whether medical cannabis is smoked on the premises the parcel containing the medical cannabis dispensary is not 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; (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 and mailed pursuant to the requirements of Section 312(d)(2) of this Code on the proposed site and shall cause written notice to be sent via U.S. Mail to all <u>owners and occupants of</u> 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 that have made a written request for notification of</p>
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									regarding specific properties, areas or medical cannabis dispensaries; (g) 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) after this 30 day period, the Planning Commission shall schedule a hearing to consider whether to exercise its discretionary review powers over 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; (i) 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 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 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 <u>that</u> began operation after April 1, 2005, must immediately cease operations; (j) any
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1										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.
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5 Section 4. The San Francisco Planning Code is hereby amended by amending Section
6 790.141 to read as follows:

7 SEC. 790.141. MEDICAL CANNABIS DISPENSARY.

8 A medical cannabis dispensary shall be as defined by section 3301(f) of the San
9 Francisco Health Code provided that:

10 (a) the medical cannabis dispensary has applied for a permit from the Department of
11 Public Health pursuant to Section 3304 of the San Francisco Health Code;

12 (b) if medical cannabis is smoked on the premises, the parcel containing the medical
13 cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds
14 of an elementary or secondary school, public or private, or a community facility that primarily
15 serves persons under 18 years of age, or a recreation building as defined in Section 790.50(a) of
16 this Code that primarily serves persons under 18 years of age, unless not required by State law,
17 and, regardless of whether medical cannabis is smoked on the premises, if the dispensary
18 was not in operation as of April 1, 2005, as defined in subsection (i), it is located not less than
19 1000 feet from the parcel containing the grounds of an elementary or secondary school, public
20 or private, or a community facility that primarily serves persons under 18 years of age or a recreation
21 building~~s~~ as defined in Section 790.50(f) of this Code that primarily serves persons under 18 years
22 of age;

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

4 (d) regardless of whether medical cannabis is smoked on the premises the parcel
5 containing the medical cannabis dispensary is not located on the same parcel as a facility
6 providing substance abuse services that is licensed or certified by the State of California or
7 funded by the Department of Public Health;

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

9 (f) upon acceptance of a complete application for a building permit for a medical
10 cannabis dispensary the Planning Department shall cause a notice to be posted ~~and mailed~~
11 ~~pursuant to the requirements of Section 312(d)(2) of this Code~~ on the proposed site and shall
12 cause written notice to be sent via U S. Mail to all owners and occupants of properties within
13 300 feet of the subject lot in the same Assessor's Block and on the block face across from the
14 subject lot as well as to all individuals or groups ~~which~~ that have made a written request for
15 notification ~~of~~ regarding specific properties, areas or medical cannabis dispensaries;

16 (g) all building permit applications shall be held for a period of 30 calendar days from
17 the date of the mailed notice to allow review by residents, occupants, owners of neighborhood
18 properties and neighborhood groups; ~~and~~

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

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

14 (j) any permit issued for a medical cannabis dispensary shall contain the following
15 statement in boldface type: "Issuance of this permit by the City and County of San Francisco
16 is not intended to and does not authorize the violation of State or Federal law."

17 Section 5. The San Francisco Planning Code is hereby amended by amending Section
18 890.133 to read as follows:

19 SEC. 890.133. MEDICAL CANNABIS DISPENSARY.

20 A medical cannabis dispensary shall be as defined by Section 3301(f) of the San
21 Francisco Health Code provided that.

22 (a) the medical cannabis dispensary has applied for a permit from the Department of
23 Public Health pursuant to Section 3304 of the San Francisco Health. Code;

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1 (b) if medical cannabis is smoked on the premises, the parcel containing the medical
2 cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds
3 of an elementary or secondary school, public or private, or a community facility that primarily
4 serves persons under 18 years of age, or a recreation building as defined in Section 890.50(a) of
5 this Code that primarily serves persons under 18 years of age, unless not required by State law,
6 and, regardless of whether medical cannabis is smoked on the premises, if the dispensary
7 was not in operation as of April 1, 2005, as defined in subsection(i), it is located not less than
8 1,000 feet from the parcel containing the grounds of an elementary or secondary school,
9 public or private, or a community facility that primarily serves persons under 18 years of age, or a
10 recreation buildings as defined in Section 890.50(a) of this Code that primarily serves persons
11 under 18 years of age;

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

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

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

20 (f) upon acceptance of a complete application for a building permit for a medical
21 cannabis dispensary the Planning Department shall cause a notice to be posted ~~and mailed~~
22 ~~pursuant to the requirements of Section 312(d)(2) of this Code~~ on the proposed site and shall
23 cause written notice to be sent via U.S. Mail to all owners and occupants of properties within
24 300 feet of the subject lot in the same Assessor's Block and on the block face across from the
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1 subject lot as well as to all individuals or groups ~~which~~ that have made a written request for
2 notification ~~of~~ regarding specific ~~properties, areas or~~ medical cannabis dispensaries;

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

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

10 (i) Medical cannabis dispensaries that can demonstrate to the Planning Department,
11 based on any criteria it may develop, they were in operation as of April 1, 2005 and have
12 remained in continuous operation since then, have 18 months from the effective date of this
13 legislation to obtain a permit or must cease operations at the end of that 18 month period, or
14 upon denial of a permit application if it occurs before the end of that 18 month period. Medical
15 cannabis dispensaries that were in operation as of April 1, 2005, and were not in continuous
16 operation since then, but can demonstrate to the Planning Department, based on any criteria
17 it may develop, that the reason for their lack of continuous operation was not closure due to
18 an actual violation of federal, state or local law, also have 18 months from the effective date of
19 this legislation to obtain a permit or must cease operations at the end of that 18 month period,
20 or upon denial of a permit application if it occurs before the end of that 18 month period.
21 Notwithstanding the foregoing, in no case shall a dispensary that had or has a suspended or
22 revoked permit be considered to be in continuous operation. Any dispensary ~~operating in a~~
23 ~~Residential House or Residential Mixed district of the City or~~ ~~which~~ that began operation after April
24 1, 2005, must immediately cease operations.

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

4 Section 6. The San Francisco Health Code is hereby amended by amending Section
5 3303 to read as follows:

6 SEC. 3303. PERMIT REQUIRED FOR MEDICAL CANNABIS DISPENSARY.

7 Except for research facilities, it is unlawful to operate or maintain, or to participate
8 therein, or to cause or to permit to be operated or maintained, any medical cannabis
9 dispensary without first obtaining a final permit pursuant to this Article. It is unlawful to operate
10 or maintain, or to participate therein, or to cause or to permit to be operated or maintained, any
11 medical cannabis dispensary with a provisional permit issued pursuant to this Article.

12 Section 7. The San Francisco Health Code is hereby amended by amending Section
13 3304 to read as follows:

14 SEC. 3304. APPLICATION FOR MEDICAL CANNABIS DISPENSARY PERMIT.

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

7 (b) The permit application form shall provide clear notice to applicants that the
8 California Fire Code includes a requirement, among others that may apply, that an
9 establishment obtain a place of assembly permit if it will accommodate ~~100~~50 or more persons
10 based on its square footage.

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

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

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

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

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

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

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

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

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

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

12 (e) If the applicant is a corporation, the applicant shall set forth the name of the
13 corporation exactly as shown in its articles of incorporation, and the names and residence
14 addresses of each of the officers, directors and each stockholder owning more than 10
15 percent of the stock of the corporation. If the applicant is a partnership, the application shall
16 set forth the name and residence address of each of the partners, including limited partners.
17 If one or more of the partners is a corporation, the provisions of this Section pertaining to a
18 corporation apply.

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

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

5 Section 8. The San Francisco Health Code is hereby amended by amending Section
6 3305 to read as follows:

7 SEC. 3305. REFERRAL TO OTHER DEPARTMENTS.

8 (a) Upon receiving a completed medical cannabis dispensary permit application and
9 permit application fee, the Director shall immediately refer the permit application to the City's
10 Planning Department, Department of Building Inspection, Police Department and Fire
11 Department.

12 (b) Said departments shall inspect the premises proposed to be operated as a
13 medical cannabis dispensary and confirm the information provided in the application and shall
14 make separate written recommendations to the Director concerning compliance with the
15 codes that they administer. Specifically, the Police Department shall perform a thorough and
16 complete criminal *and employment* background check on each person applying for the permit
17 and any other person who will be engaged in the management of the medical cannabis
18 dispensary. *The Police Department shall approve the security measures for the medical cannabis*
19 *dispensary, including lighting and alarms, to insure the safety of persons and to protect the premises*
20 *from theft.* Departments' written approval, rejection and/or recommendations regarding the
21 permit shall be delivered to the Director. If the any department rejects the permit, it shall
22 inform the Director of the reasons for the rejection and the measures the permit applicant can
23 take to cure the rejection. The Director shall inform the permit applicant that the application is
24 denied based on rejection by a department, the reasons for the departmental rejection,

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1 measures the permit applicant can take to cure the departmental rejection, and that the denial
2 is appealable pursuant to Section 3317 of this Article.

3 Section 9. The San Francisco Health Code is hereby amended by amending Section
4 3306 to read as follows:

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

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

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

16 Section 10. The San Francisco Health Code is hereby amended by amending Section
17 3307 to read as follows:

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

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

21 (b) In recommending the granting or denying of ~~such~~ a provisional permit and in
22 granting or denying the same, the Director shall give particular consideration to the capacity,
23 capitalization, complaint history of the applicant and any other factors that in their discretion
24 he or she deems necessary to the peace and order and welfare of the public.

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

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

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

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

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

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

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

3 (d) Applicants with provisional permits shall secure a Certificate of Final Completion and
4 Occupancy as defined in San Francisco Building Code Section 307 and present it to the Director. After
5 the applicant has secured a Certificate of Final Completion and Occupancy, the Police Department
6 shall review the security measures for the medical cannabis dispensary, including lighting and alarms,
7 to ~~insure~~ ensure the safety of persons and to protect the premises from theft. The Police Department
8 shall deliver to the Director its written approval or rejection of the security measures for the medical
9 cannabis dispensary. If the Police Department rejects the security measures , it shall inform the
10 Director of the reasons for the rejection and the measures the permit applicant can take to cure the
11 rejection. The Director shall inform the permit applicant that the application is denied based on
12 rejection by a department, the reasons for the departmental rejection, measures the permit applicant
13 can take to cure the departmental rejection, and that the denial is appealable pursuant to Section 3317
14 of this Article. If the Police Department approves the security measures for the medical cannabis
15 dispensary, and an applicant with a provisional permit has presented a Certificate of Final Completion
16 and Occupancy to the Director, the Director shall issue the applicant a final permit.

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

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

22 Section 11. The San Francisco Health Code is hereby amended by amending Section
23 3312 to read as follows:

24 SEC. 3312. RULES AND REGULATIONS.

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

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

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

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

11 (3) A requirement that the operator require employees to wash hands and use sanitary
12 utensils~~use protective gloves~~ when handling cannabis;

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

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

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

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

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

20
21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 Marlena G. Byrne
25 Deputy City Attorney