

1 [Declaring intent of the City and County of San Francisco with regard to pending legislation
2 amending the Medical Cannabis Act of 2005]

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4 **Resolution declaring the intent of the City and County of San Francisco not to take**
5 **enforcement action against those medical cannabis dispensaries that have properly**
6 **applied for the necessary permits before August 17, 2007, while current legislation is**
7 **pending to extend the deadline for obtaining final MCD permits from the Department of**
8 **Public Health.**

9 WHEREAS, The Board of Supervisors passed the Medical Cannabis Act in November
10 of 2005, thereby requiring medical cannabis dispensaries (MCD's) operating as of April 1,
11 2005 to obtain a permit to operate within eighteen (18) months of the effective date of the
12 ordinance or cease operations; and,

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14 WHEREAS, The Medical Cannabis Act, as approved by the Board of Supervisors and
15 Mayor, became effective on December 30, 2005, thus the deadline to obtain a permit to
16 operate pursuant to this ordinance is July 1, 2007; and,

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18 WHEREAS, The Medical Cannabis Act required MCD owners and operators to
19 proactively apply for the proper permits from the San Francisco Department of Public Health;
20 and,

21 WHEREAS, As originally adopted, the Medical Cannabis Act required MCDs to file
22 applications with the Department of Public Health (DPH), the City Planning Department and
23 the Department of Building Inspection (DBI), and also required MCDs to seek subsequent
24 approvals from the Fire Department and Police Department, followed by a provisional permit
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1 from the San Francisco Planning Commission, receive subsequent plan-check approval from
2 DBI and receive final approval from a hearing of the San Francisco Health Commission; and,

3 WHEREAS, In June 2007, DPH concluded that the original July 1, 2007 deadline was
4 unrealistic due to the lengthy permitting process, owing mainly to issues surrounding the San
5 Francisco Police Department's directive to approve the security plans for each MCD and the
6 Medical Cannabis Act's requirement that each MCD be classified as new construction for
7 purposes of wheelchair accessibility; and,

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9 WHEREAS, The majority of MCDs in San Francisco are located in older buildings
10 where strict compliance with the new construction standard for wheelchair accessibility is
11 extremely difficult or, in many cases, impossible; and,

12 WHEREAS, The San Francisco Police Department was restricted in its ability to
13 conduct the background checks required under the Medical Cannabis Act; and,

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15 WHEREAS, On June 26, 2007, the Board of Supervisors adopted a resolution
16 sponsored by Supervisor Alioto-Pier (File # 070933) declaring the intent of the City and
17 County of San Francisco not to take action against MCDs that had properly applied for the
18 necessary permits before July 1, 2007, while legislation to extend the permit compliance
19 deadline was pending before the Planning Commission and Board of Supervisors; and,

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21 WHEREAS, On November 2, 2007, Ordinance No. 225-07 (sponsored by Supervisor
22 Alioto-Pier) became effective, amending the Medical Cannabis Act by adding an additional
23 permit review process to be conducted by the Mayor's Office of Disability (MOD), creating a
24 hardship appeal process for the new construction standard for wheelchair accessibility and
25 extending the deadline for permit completion to March 1, 2008; and,

Supervisors Daly, Ammiano, Mirkarimi

BOARD OF SUPERVISORS

1 WHEREAS, According to DPH, as of January 31, 2008, only one (1) finalized MCD
2 permit had been issued by the City and County of San Francisco out of the twenty-five (25)
3 MCDs that had been issued provisional permits by the Planning Commission and the
4 seventeen (17) of those MCDs that had been approved by the Health Commission; and,

5 WHEREAS, While the Mayor's Office of Disability (MOD) has diligently pursued the
6 task of reviewing MCD permit applications for compliance with the new construction standard,
7 as of January 31, 2008, only three (3) MCDs had received approved plans from MOD; and,

8 WHEREAS, In the case of numerous MCD permit applicants, the Mayor's Office of
9 Disability has required extensive renovations in order for the MCD to meet the new
10 construction standard for wheelchair accessibility and it is impossible for the proposed
11 renovations to be permitted, contracted for and completed between mid-January 2008 and
12 the March 1, 2008 deadline; and,

13 WHEREAS, In late December, 2007, the United States Drug Enforcement
14 Administration sent letters to the landlords of buildings in San Francisco where MCDs operate
15 threatening forfeiture of their property and possible criminal charges if the MCD was not
16 evicted; and,

17 WHEREAS, According to the San Francisco Chronicle ("*Pot dispensaries closing*
18 *under threat of feds*," February 7, 2008), seven (7) MCDs have already closed as a result of
19 the DEA's eviction letters; and,

20 WHEREAS, The DEA letters have caused additional confusion, stress and hardship
21 for MCD operators, patients and landlords as they determine how to respond to the threat of
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1 federal law enforcement action while also attempting to diligently comply with the City's
2 permitting requirements; and,

3 WHEREAS, Supervisor Chris Daly has proposed an ordinance amending the Planning
4 Code provisions of the Medical Cannabis Act to extend the deadline for completion of all the
5 necessary permitting steps; and,

6 WHEREAS, The proposed ordinance requires the approval of the Planning
7 Commission within ninety (90) days of introduction at the Board of Supervisors; and,

8 WHEREAS, Supervisor Daly has requested an expedited hearing before the Planning
9 Commission to guarantee a timely resolution of the issue before the Board of Supervisors;
10 now, therefore, be it

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12 RESOLVED, That it is the intent of the City and County of San Francisco not to take
13 enforcement action against those medical cannabis dispensaries that have properly applied
14 for the necessary permits before August 17, 2007, while the proposed Planning Code
15 amendment extending the deadline for obtaining final DPH permits is pending legislative
16 approval.
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