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September 15, 2009

ED P. REYES
Councilmember, First District

City Council
Attn: Planning & Land Use Management Committee (PLUM)
c/o Barbara Greaves, City Clerk
200 N. Spring St., Rm. 395
Los Angeles, CA 90012

RE: CF 08-0923 - City's Proposed Medical Marijuana Ordinance

I am submitting for PLUM committee consideration on the September 22, 2009 PLUM committee agenda, the attached most current version of the proposed ordinance (alternative draft ordinance/new direction ordinance) which I introduced at PLUM on June 9, 2009 along with instructions. The Chief Legislative Analyst coordinating with several Council Offices and City Departments worked on the ordinance draft pursuant to previous PLUM committee directives.

The alternative ordinance is comprised of two components. The Zoning /land use component and the Non-zoning / land use component

The revised draft submitted herein is only to the non-zoning / land use component – *An ordinance adding Article 6.6 to Chapter IV of the Los Angeles Municipal Code to regulate medical marijuana cooperatives/collectives operating within the City of Los Angeles and to establish regulatory fees.*

If you should have any questions, you may contact my office.

Sincerely,

ED P. REYES
Councilmember, First District

Cc: Hanh D. Dao, Office of the Chief Legislative Analyst

ORDINANCE NO. _____

An ordinance adding Article 6.6 to Chapter IV of the Los Angeles Municipal Code to regulate medical marijuana cooperatives and collectives operating within the City of Los Angeles and to establish regulatory fees.

WHEREAS, on November 5, 1996, California voters approved the Compassionate Use Act of 1996 (CUA) in order to exempt seriously ill patients and their primary caregivers from state criminal liability for possession and cultivation of marijuana;

WHEREAS, the California Legislature passed the Medical Marijuana Program Act of 2003 (codified as Sections 11362.7 through 11362.83, inclusive, of the California Health and Safety Code), which supplemented and clarified the scope for application of the CUA, promoted uniform and consistent application of the CUA within the State, and enhanced access of patients and caregivers to medical marijuana;

WHEREAS, the Medical Marijuana Program Act of 2003 (MMPA) allows cities and other governing bodies to adopt and enforce laws consistent with the MMPA;

WHEREAS, the City of Los Angeles has a compelling interest in ensuring that Los Angeles residents suffering from life threatening or serious illness have access to a safe and affordable supply of medical grade marijuana and cannabis products; and

WHEREAS, the City of Los Angeles desires to establish a permitting process in order to impose regulations that will protect the peace, health, safety and welfare of qualified patients and the community as a whole.

NOW THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Chapter IV of the Los Angeles Municipal Code is hereby amended by adding Article 6.6 thereto, said Article to read:

**ARTICLE 6.6
MEDICAL MARIJUANA COOPERATIVE/COLLECTIVE PERMIT**

SEC. 46.60. PURPOSE AND INTENT.

The ordinance codified in this Article, in compliance with California Health and Safety Code Sections 11362.5, *et seq.*, does not interfere with a patient's right to medical marijuana, nor does it criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, pursuant to state law.

Under state law, only qualified patients, persons with identification cards and primary caregivers may cultivate medical marijuana collectively. Medical marijuana cooperatives and collectives shall otherwise comply with all provisions of the Los Angeles Municipal Code, including the zoning ordinance, and the California Health and Safety Code. Nothing in this ordinance purports to permit activities that are otherwise illegal under state law.

SEC. 46.61. DEFINITIONS.

The following phrases, when used in this chapter, shall be construed as defined in the California Health and Safety Code Sections 11362.5 and 11362.7, as amended from time to time:

- "Attending physician;"**
- "Cultivation of medical marijuana;"**
- "Identification card;"**
- "Person with an identification card;"**
- "Primary caregiver;"**
- "Qualified patient;"** and
- "Written Recommendation."**

The following phrases, when used in this chapter, shall be construed as defined below:

"Chief of Police." Chief of Police as designated by the City Council of the City of Los Angeles, or the authorized representative thereof.

"Drug Paraphernalia." Same definition as ascribed in California Health and Safety Code Section 11354.5, as amended from time to time.

"Medical Marijuana." Includes "Medical Cannabis" and shall be defined in strict accordance with California Health and Safety Code Sections 11362.5 through 11362.83, inclusive, as amended from time to time.

"Medical Marijuana Cooperative/Collective." Sometimes referred to hereinafter as "Cooperative," "Collective," "Cooperative/Collective," or "MMCC," shall include the terms "Dispensing Collective," "Dispensing Cooperative," "Medical Cannabis Collective," "Medical Cannabis Cooperative," "Medical Marijuana Collective," "Medical Marijuana Cooperative," "Medical Marijuana Dispensary," "Dispensary," or similar term, and shall mean a cooperative or collective of three or more Qualified Patients or Primary Caregivers that facilitates the lawful cultivation and distribution of Medical Marijuana and operates not for profit, consistent with California Health & Safety Code Sections 11362.5 *et seq.*, with the Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use issued by the California Attorney General in August 2008, and with this Article. A cooperative must be organized and registered as a Consumer Cooperative Corporation under the California Corporations Code, Sections 12300, *et*

seq., or a Nonprofit Cooperative Association under the California Food and Agricultural Code, Sections 54002, *et seq.* A collective may be organized as a corporation, partnership or other legal entity under California state law but must be jointly owned and operated by its members. As set forth in Section 46.64(b)(3), an MMCC may obtain Medical Marijuana only from members of the cooperative or collective and may distribute Medical Marijuana only to members of the cooperative or collective. As also set forth in Section 46.64(b)(3), an MMCC may operate only on a not for profit basis and reimburse only reasonable out-of-pocket expenses to itself and its members .

An MMCC shall not include dispensing by Primary Caregivers to Qualified Patients in the following locations and uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code; a residential facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code; a residential hospice; or a home health agency licensed pursuant to Chapter 8 of Division 2 of California Health and Safety Code, as long as such use complies strictly with applicable law including, but not limited to, California Health and Safety Code Sections 11362.5 through 11362.83, inclusive.

“Permittee.” Entity or Person(s) to whom a Medical Marijuana Cooperative/Collective Permit is issued.

“School.” An institution of learning for juveniles under the age of 18, whether public or private, offering a regular course of instruction required under the California Education Code. The term “school” shall include nursery school, kindergarten, elementary school, middle school or junior high school, senior high school or any special institution of education. The term “school” does not include collegiate level institutions including colleges, graduate schools, universities and non-profit research institutions.

“Sensitive Uses.” Schools, public parks, libraries, public beach access points, substance abuse facility, child-oriented establishments, or establishments that (i) advertise in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or (ii) the individuals who regularly patronize, congregate or assemble at the establishment are primarily minors. A “Sensitive Use” shall not include a daycare facility or preschool facility that provides supervision of 12 or fewer minor children.

SEC. 46.62. MEDICAL MARIJUANA COOPERATIVE/COLLECTIVE PERMIT REQUIRED.

(a) It shall be a misdemeanor for any person or entity, within the City of Los Angeles, to operate, maintain, conduct, manage or participate therein, or cause or permit another person to operate, conduct or maintain a Medical Marijuana

Cooperative/Collective without a valid permit (MMCC Permit) having been issued for that purpose pursuant to this Article.

(b) A separate MMCC Permit is required for each location of a Medical Marijuana Cooperative/Collective, and no person or entity can hold more than one MMCC Permit at any given time. No permit shall be issued to authorize a Medical Marijuana Cooperative/Collective at any place other than a fixed location. Dispensing Medical Marijuana from any non-permanent location, including from vehicles, is prohibited. No permit shall be issued for locations where use of Medical Marijuana is prohibited by state or local law.

(c) Each day that a person or entity operates, maintains, conducts, manages or participates therein, or causes or permits another person/entity to operate, conduct or maintain a Medical Marijuana Cooperative/Collective without an MMCC Permit shall constitute a separate violation.

SEC. 46.63. APPLICATION PROCEDURE.

(a) Application for an MMCC Permit shall be submitted to the Los Angeles Office of Finance by any person/entity seeking the permit after review and verification by the applicable City department, including the Los Angeles Police Department, Los Angeles Department of Building and Safety, and Los Angeles Department of City Planning. The applicant shall provide all the information and documents requested on the application form, including fingerprints according to United States Department of Justice guidelines. In addition to the fee set forth in Section 46.66, each set of required fingerprints shall be accompanied by a fingerprint processing fee, which shall be equal to the fee charged by the State of California to the City of Los Angeles to process the fingerprints.

(b) Applicants must be a cooperative or a collective. If the applicant is a cooperative organized under the California Corporations Code, Sections 12300, *et seq.*, or the California Food and Agricultural Code, Sections 54002, *et seq.*, the applicant shall set forth the name of the cooperative exactly as shown in its articles of incorporation, and the names and residence addresses of each of the officers, directors and each stockholder owning more than 10 percent of the stock of the corporation. If the applicant is a collective organized as a corporation, the applicant shall set forth the name of the corporation exactly as shown in its articles of incorporation, and the names and residence addresses of each of the officers, directors and each stockholder owning more than 10 percent of the stock of the corporation. If the applicant is a collective organized as a partnership, the application shall set forth the name and residence address of each of the partners, including the general partner and any limited partners. If a corporation or a partnership is a stockholder owning more than 10 percent of the stock of a corporation or is one or more of the partners in a partnership, the provisions of this Section pertaining to the disclosure required for a corporation or partnership, as applicable, shall also apply to that entity.

(c) Application for an MMCC Permit shall identify each registered member of the Cooperative/Collective who will be directly involved in dispensing medical marijuana and/or exercising managerial authority over the Cooperative/Collective. The registered members identified pursuant to this Section must be over the age of 18 years, and submit to and pass a background investigation along with the applicant.

(d) Applications shall be signed under penalty of perjury by the applicant and at least 2 other Qualified Patients of the Cooperative/Collective who shall all submit to and pass a background investigation by the Los Angeles Police Department. An applicant, or any other person subject to a background investigation under this Article, shall not pass a background investigation under any of the following circumstances:

- (1) The applicant or person made a false or misleading statement of a material fact or omission of a material fact in the application;
- (2) The applicant or person is under eighteen years of age;
- (3) The applicant or person has committed or aided or abetted in the commission of any act or omission, which, if committed by a Permittee, would be a ground for suspension, revocation, or other disciplinary action under this Article;
- (4) The applicant or person has had a similar type of permit previously denied, suspended or revoked within five years immediately preceding the date of the filing of the application, and the applicant can show no material change in circumstances since the denial, suspension or revocation;
- (5) The business for which the permit is sought has been or is a public nuisance;
- (6) The applicant or person has within four years immediately preceding the date of the filing of the application been convicted of a felony crime in any jurisdiction involving theft, fraud, violence, sale of a controlled substance as specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code, or any moral turpitude offense;
- (7) The applicant or person has within four years immediately preceding the date of the filing of the application been convicted of any offense listed in Section 46.63(c)(6) that has been made the subject of Section 17(b) of the California Penal Code;
- (8) The applicant or person has within four years immediately preceding the date of the filing of the application been convicted of any offense involving deceptive trade practices or other illegal

business practices reasonably and narrowly related to the nature of conduct of the business for which the application is made; or

- (9) The business for which the permit is sought has failed to comply with all State or City tax laws.

(e) All information compiled pursuant to this Article shall be held and maintained by the City as confidential, with the exception of the name of the applicant(s), address, and any other information that appears on the face of the permit.

(f) Upon submission of an application for an MMCC Permit, the Los Angeles Office of Finance shall accept the application and indicate on the application the date and time the application was filed. If the Los Angeles Office of Finance determines that an application for a permit is not complete, the application shall be returned to the applicant without any further action of the Los Angeles Office of Finance.

(g) All applications shall be submitted on a form supplied by the City and shall include the following information:

- (1) The name, address and telephone number of the location for which the permit is sought.
- (2) The name, mailing address and telephone number of the person authorized to receive communications and notices required by or authorized by this Article. If this information is not supplied, each applicant shall be understood to consent to the provision of notice at the address of the location for which the permit is sought.
- (3) The type and identifying number of the government-issued identification presented with the application. Such identification shall confirm that the person submitting the application is over the age of 18 years.
- (4) Applicable validly issued Building Permit, Certificate of Occupancy and a copy of the stamped, approved floor/site plan from the Los Angeles Department of Building and Safety in compliance with the City of Los Angeles Planning and Zoning Code.
- (5) An estimate of the size of the group of Primary Caregivers and/or Qualified Patients who will be served by the Medical Marijuana Cooperative/Collective.
- (6) A security plan, approved by the Los Angeles Police Department, which includes the following measures:

- a) The location shall be monitored at all times by web-based closed circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on the site.
 - b) The location shall have a centrally-monitored alarm system.
 - c) Windows and roof hatches shall be secured with bars on the windows so as to prevent unauthorized entry, and be equipped with latches that may be released quickly from the inside to allow exit in the event of emergency.
 - d) Entrance to the dispensing area and any storage areas shall be locked at all times, and under the control of dispensary staff.
 - e) Interior building lighting, exterior building lighting and parking area lighting must be in compliance with Los Angeles Municipal Code Sections 93.0104, 93.0107 and 93.0117 and must be of sufficient foot-candles and color rendition, so as to allow the ready identification of any individual committing a crime on site at a distance no less than forty feet (a distance that should allow a person reasonable reaction time upon recognition of a viable threat). The lighting shall also be shielded in a manner that prevents lighting from shining on neighboring residential uses.
 - f) At least 1 State licensed security guard shall be on duty during all hours of operation. Proof of proper City and State licensing shall be presented for each guard.
- (7) The name and address of the person who is managing or responsible for the Medical Marijuana Cooperative/Collective's activities. All names provided in relation to a partnership or corporation, shall be Qualified Patients and/or Primary Care Givers registered with the Medical Marijuana Cooperative/Collective.
- (8) Other licenses and/or permits issued to and/or revoked from the applicant in the last three years prior to the year of the permit application, and the current status and issuing agency for each license /permit listed.
- (9) The name and address of the owner and lessor of the real property upon which the business is to be conducted. In the event the applicant is not the legal owner of the property, the application must include a notarized acknowledgement from the owner of the property that a Medical Marijuana Cooperative/Collective will be operated on his/her property.
- (10) Proposed hours and days of operation.

- (11) Whether the applicant, his or her agent or employees, volunteer workers, person(s) directly involved in dispensing medical marijuana at the Cooperative/Collective, or any person exercising managerial authority over a Cooperative/Collective on behalf of the applicant have been found guilty of or pleaded *nolo contendere* within the past four years to a misdemeanor or a felony.
- (12) The name and photographs (passport-type photos) of all persons who will work at the proposed Medical Marijuana Cooperative/Collective.
- (13) Any additional and further information as is deemed necessary by the Los Angeles Office of Finance.

SEC. 46.64. ISSUANCE OF PERMITS.

(a) An MMCC Permit shall state the following on its face:

- (1) Legal owner,
- (2) Doing Business As (D.B.A.),
- (3) Los Angeles Municipal Code section regulating the Medical Marijuana Cooperative/Collective,
- (4) Mailing address,
- (5) Date permit was issued and permit expiration date, and
- (6) Permit number assigned by the Los Angeles Office of Finance.

(b) No MMCC Permit or renewal of an MMCC Permit shall be issued by the Los Angeles Office of Finance unless the applicant has submitted proper documentation to the applicable City departments to demonstrate verified compliance with the following conditions:

- (1) Planning and Zoning Code: Compliance with the Los Angeles Planning and Zoning Code shall be verified by the issuance of a valid building permit from the Los Angeles Department of Building and Safety and by the submission of stamped, approved plans.
- (2) Business License Tax Liability. An operator of a Medical Marijuana Cooperative/Collective shall be required to apply for and obtain a Seller's Permit as required by the California State Board of Equalization.

- (3) Operational Requirements. No person or entity shall engage in, conduct or be permitted to engage in or conduct a Medical Marijuana Cooperative/Collective, unless each of the following requirements is continually met:
- a) The Cooperative/Collective shall comply fully with all of the applicable restrictions and mandates set forth in state law.
 - b) The Cooperative/Collective may only be open between the hours of 9:00 a.m. and 8:00 p.m., Monday through Sunday.
 - c) The Cooperative/Collective shall issue a written notice to all registered members, upon registration, detailing the operational requirements of the Cooperative/Collective as detailed by this Article. The notice shall also be posted in a conspicuous location inside the Cooperative/Collective as required by the Los Angeles Planning and Zoning Code.
 - d) The Cooperative/Collective shall verify that each patient has a valid, state issued ID Card or, alternatively, shall verify each patient's physician prior to dispensing initially and at least every six months.
 - e) The Cooperative/Collective shall only dispense Medical Marijuana cultivated by registered members of the Cooperative/Collective and to Qualified Patients and/or designated Primary Caregivers who are registered members of the Cooperative/Collective.
 - f) No Medical Marijuana provided to a Primary Caregiver may be supplied to any person(s) other than the Primary Caregiver's Qualified Patient(s) or Persons with ID Card.
 - g) Cooperative/Collective staff must also be Qualified Patients and registered members of the Cooperative/Collective.
 - h) Cooperative/Collective staff shall submit to and pass a background investigation by the Los Angeles Police Department.
 - i) At a minimum, each Cooperative/Collective shall have a collective agreement among its members that complies with the requirements of California Health and Safety Code Section 11362.775, as amended from time to time. If organized as a cooperative, proof that the Cooperative/Collective is properly registered with the State shall be displayed.
 - j) All transactions shall be recorded by the Cooperative/Collective. No Automatic Teller Machines (ATM) are permitted on site.
 - k) Proof that the Cooperative/Collective operates in a not-for-profit manner through submission of an Exemption Application (Form 501.1) to the Los Angeles Office of Finance.
 - l) Cooperative/Collective staff shall maintain patient records on site, including, but not limited to, a copy of any State ID Card

issued pursuant to California Health and Safety Code Sections 11362.7 through 11362.83, inclusive, the physician's Written Recommendation (required only if no State issued ID Card), and, if using a Primary Caregiver, a notarized written authorization from the patient to be represented by the said Primary Caregiver.

- m) At any given time, no Cooperative/Collective may possess more marijuana or marijuana plants than would reasonably meet the immediate needs of its registered members, nor possess marijuana that was not cultivated by the registered members of the Cooperative/Collective. The dispensary shall not dispense more than 2 oz. of marijuana per patient per day unless specifically recommended by their physician.
- n) The names of all registered members of the Cooperative/Collective who will be contributing Medical Marijuana to the Cooperative/Collective must be disclosed in writing and in advance to the Los Angeles Police Department.
- o) No person under the age of 18 years shall be allowed on premise at any time, unless the individual is a Qualified Patient or ID Card holder and accompanied by his/her licensed attending physician, parent or documented legal guardian.
- p) Security recordings shall be made in an on-going manner with at least 120 concurrent hours of digitally recorded documentation in a format approved by the Chief of Police. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the dispensing areas, storage areas, all doors and windows and any others as determined by the Chief of Police.
- q) At least 1 State licensed security guard shall be on duty during all hours of operation. Proof of proper City and State licensing shall be presented upon the request of any City personnel.
- r) Litter removal shall occur twice per day on and in front of the premise, and if necessary, on public sidewalks within 100 feet of the premise.

(c) It shall be the duty of the Los Angeles Office of Finance to administer and process the MMCC Permit application; mail renewal notices to Permittees by November 1st of each year; and deposit funds collected for each MMCC Permit into the General Fund.

SEC. 46.65. EFFECT OF GRANTING PERMIT.

The granting of an MMCC Permit is not to be considered as approving or condoning any act, conduct or condition of the applicant/permittee committed or existing prior to the grant of the MMCC Permit. The granting of an MMCC Permit does not:

- (a) Relieve the applicant/permittee from obtaining all other appropriate permits or approvals required by the City of Los Angeles, or state or federal law;
- (b) Relieve an applicant/permittee from compliance with all applicable local, state, and federal laws, including those related to building, zoning, fire, and other public safety regulations;
- (c) Vest any development rights in the property or business; or
- (d) Relieve the Permittee from complying with conditions imposed upon the operation of a business pursuant to a discretionary land use permit or a nuisance abatement proceeding. In case of a conflict, the more restrictive conditions shall control.

SEC. 46.66. FEES FOR PERMIT.

(a) A fee shall be charged for an MMCC Permit. The permit fee will be recalculated annually and approved by the City Council. The permit fee shall be calculated so as not to exceed the amount necessary to recover the cost of both the administration, implementation and enforcement of the MMCC Permit Program, including the costs of issuing the permits, renewing the permits, administering and implementing the MMCC Permit Program, Medical Marijuana Cooperative/Collective education, Medical Marijuana Cooperative/Collective inspection and compliance checks, documentation of violations, prosecution of violators, adjudications, and convictions. The permit fee for calendar year 2009 shall be \$_____. The permit fee for calendar year 2010 and thereafter shall be \$_____ until such fee is recalculated and the revised fee is approved by the City Council. All fees are non-refundable, except as required by law, and shall be used exclusively to reimburse the costs incurred for the program. Fees shall not be prorated. All fees collected shall be deposited into a separately established Enterprise Fund for the Medical Marijuana Program.

(b) A \$5.00 charge shall be imposed for the issuance of a duplicate permit upon the permittee or an authorized representative stating, in a properly executed affidavit of loss, that the original permit has been lost or destroyed. This charge shall be deposited into the General Fund.

SEC. 46.67. RENEWAL OF PERMIT; DELINQUENCY.

(a) An MMCC Permit is invalid unless the required fee has been paid in full and the term of the permit has not yet expired. The term of the permit shall not exceed one year, and the permit shall be deemed expired on December 31st of the year for which the permit was issued. Renewal statements shall be due and payable November 1st of each year and shall be delinquent by January 1st of the next year. Delinquent renewals shall be charged an additional sum equal to 25 percent of the required permit fee. This additional sum shall become a part of the fee required by the Los Angeles Office of Finance.

(b) Renewal permits shall be granted only upon the Permittee's re-verification of compliance with Section 46.64(b) and timely payment in full per renewal statements. If any violations of this Article are pending, the renewal of the permit shall require an inspection by the applicable City department demonstrating compliance before the renewal permit is issued. The applicant/permittee shall be responsible for payment of the inspection fee in the amount of \$_____. The applicant/permittee shall be responsible for arranging and scheduling an inspection to timely process the renewal permit to avoid any lapse, delinquent fees and/or late issuance of the renewal permit.

SEC. 46.68. PERMIT ASSIGNMENT.

The assignment or attempted assignment of any permit issued pursuant to this Article is unlawful and any such assignment or attempted assignment shall render the permit null and void.

SEC. 46.69. PERMITTEE RESPONSIBLE FOR THE OPERATION OF THE COOPERATIVE/COLLECTIVE.

The Permittee shall not operate or allow the operation of the Cooperative/Collective in violation of the Penal Code of the State of California, this Article or any other applicable state law. During the term of the MMCC Permit, any change(s) to person(s) subject to a background investigation under this Article must be reported in writing to the Los Angeles Office of Finance, and a successful background investigation completed by the Los Angeles Police Department prior to initiation of the change.

SEC. 46.70. MAINTENANCE OF RECORDS.

Medical Marijuana Cooperatives/Collectives shall maintain records reflecting: (1) the full name, address, and telephone number(s) of the owner or lessee of the property; (2) the full name, address, and telephone number(s) of all Qualified Patients, Persons with ID Card, and/or Primary Caregivers who participate in the Cooperative/Collective cultivation; (3) the full name, address, and telephone number(s) of all Qualified Patients and Persons with ID Card to whom the Cooperative/Collective provides Medical Marijuana; (4) the designation, by Qualified Patient(s) and Person with ID Card, of any and all Primary Caregivers who participate in the Cooperative/Collective cultivation; (5) the amount of compensation, if any, for specified cultivation-related services received by any Primary Caregiver in accordance with California Health and Safety Code Section 11362.765, and; (6) proof of valid MMCC Permit pursuant to Section 46.62 of the Los Angeles Municipal Code.

SEC. 46.71. INSPECTION AUTHORITY AND ENFORCEMENT.

The Los Angeles Department of Building and Safety and the Los Angeles Police Department shall have the right to enter the Medical Marijuana Cooperative/Collective

from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this Article and all laws of the City and State of California. An outstanding Order to Comply from the Department of Building and Safety shall constitute a violation of this Code.

SEC. 46.72. INDEMNIFICATION AND DISCLAIMER PROVISIONS.

(a) To the fullest extent permitted by law, the City of Los Angeles shall assume no liability whatsoever, and expressly does not waive sovereign immunity, with respect to the distribution and/or use of Medical Marijuana, or for the activities of any Medical Marijuana Cooperative/Collective. Upon receiving possession of a permit for a Medical Marijuana Cooperative/Collective, the Permittee of the Cooperative/Collective:

- (1) Shall sign an agreement, in a form satisfactory to the Los Angeles City Attorney, indemnifying the City of Los Angeles;
- (2) Carry insurance in the amounts and of the types that are acceptable to the City of Los Angeles Risk Manager; and
- (3) Name the City of Los Angeles as an additionally insured.

(b) As a condition of approval of an MMCC Permit, the Permittee of the MMCC by utilizing the benefits of the approval, shall thereby agree to defend at its sole expense, any action against the City of Los Angeles, its agents, officers and employees (collectively, the "City Indemnities") arising out of or in any way related to such approval or the activity authorized by such approval. In addition, the Permittee shall reimburse the City Indemnities for any court costs and attorney fees that the City Indemnities may incur or be required to pay as a result of such action. The City of Los Angeles may, at its sole discretion, participate, at its own expense, in the defense of any such action, but such participation shall not relieve the Permittee of its obligation hereunder.

(c) Approval and inspection processes conducted pursuant to this Article shall preserve to the maximum extent possible all legal protections and privileges, consistent with reasonably verifying the qualifications and status of Qualified Patients and Primary Caregivers. Disclosure of any patient information to assert facts in support of a qualified status shall not be deemed a waiver of confidentiality of that information under any provision of law.

SEC. 46.73. EXISTING "MEDICAL MARIJUANA DISPENSARIES".

Any marijuana cooperative or collective, including any "Medical Marijuana Dispensary," as that term is defined in Interim Control Ordinance No. 179,027, not in compliance with the requirements of this Article shall have one year from the operative date of this Article to obtain an MMCC Permit, provided the operation, cooperative, collective or Medical Marijuana Dispensary was registered with the Los Angeles City Clerk's office in accordance with the Interim Control Ordinance No. 179,027 before November 12, 2007, proving it was operating prior to September 14, 2007.

In evaluating applications for an MMCC Permit, cooperatives or collectives who qualify for the one year extension period under this Section (qualified cooperatives/collectives) shall have preference over non-qualified cooperatives/collectives with regards to location restrictions designated by applicable Planning and Zoning Codes for the City of Los Angeles, and no application by a non-qualified cooperative/collective shall be approved during the one year extension period if the proposed location is in conflict with the location of an existing qualified cooperative/collective.

SEC. 46.74. SEVERABILITY.

If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions which can be implemented without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable.

Sec. 2. The City Clerk shall certify the passage of this ordinance and have it published in accordance with the Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance at the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting held on _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN TRUTANICH, City Attorney

By _____
Deputy City Attorney

Date _____

File No. _____