

**CD1 instructions for item #2 in PLUM on 6/9/09**

**Committee Instructions:  
relative to the "new direction" draft ord.**

**Hold the matter (the new direction draft ord.) in committee** for report backs on the following instructions from city departments.

**Instruct planning** to bring back the radius citywide map for 500 and 1000' from sensitive uses and certain zones

**Instruct planning** to initiate proceedings on the land use and zoning aspects.

**Instruct CLA in collaboration** with City Attorney and city depts to review the alternative draft ord. and provide comments and recommendations to PLUM with regards to strengthening enforcement and protection of neighborhoods.

**Instruct CAO and relevant depts** to develop a fee study with regards to administration, implementation, enforcement of the "new direction" draft ord.

Date: 6-9-09  
Submitted in PLUM Committee  
Council File No: 08-0923 ✓  
Item No.: \_\_\_\_\_  
Deputy: B. GLEAVES

**Medical Marijuana Dispensary Ordinance – required changes to the Planning and Zoning Code.**

Definitions.

“Medical Marijuana Dispensary.” Xxxxx (Planning to define)

“Sensitive Uses.” Xxxx (Planning to revise or create new definition as needed)

Permitted Zoning Districts. Medical Marijuana Dispensaries may be permitted upon approval of a MMD Permit only within the following zones: C2, C4, C5, M1, M2, and M3.

Location Standards. The following location standards shall apply to Medical Marijuana Dispensaries and a building permit shall not be issued unless the MMD conforms to these standards:

A Medical Marijuana Dispensary shall not be established or located within 1000 feet of another permitted Medical Marijuana Dispensary, smoke shops which sell paraphernalia for consuming drug or tobacco products, any school, daycare, nursery, playground, park, library, or property zoned, planned, or otherwise designated for such use, or any Sensitive Use.

For 1 year after the effective date of this ordinance – A Medical Marijuana Dispensary shall not be established or located within 1000 feet of any establishment which was registered with the Los Angeles City Clerk’s office in accordance with the Interim Control Ordinance No. 179,027 before November 12, 2007.

Site/Building/Planning/Zoning Standards. The following standards shall apply to Medical Marijuana Dispensaries and a building permit shall not be issued unless the MMD conforms to these standards:

1. A Lobby/Waiting Area accessed from the street entrance of the establishment, of at least 250 square feet in size.
2. A Dispensing Area, separated from the Lobby/Waiting Area and any Social Service Area by a lockable door and not accessible from the street entrance of the establishment, of at least 250 square feet in size. The Dispensing Area shall be accessed by staff only.
3. If there is a Cultivation Area, it shall not be any greater than 25% of the gross floor area of the MMD. The Cultivation Area shall be within an enclosed building and any access points (doors or windows) shall be secured with locks or bars. The Cultivation area shall be served by the HVAC/Ventilation system for the MMD facility, not any HVAC/Ventilation system serving adjacent uses. Marijuana shall not be visible from the exterior of the building.

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4. Storage Area where Marijuana will be kept. This Storage Area shall be within an enclosed building and any access points (doors or windows) shall be secured with locks or bars. Marijuana shall not be visible from the exterior of the building.
5. If social services, including counseling, help with housing and meals, hospice and other care referrals, are provided on site, the Social Service Area shall be located adjacent to the Lobby/Waiting Area and separated from the Dispensing Area.
6. Restrooms shall have operable locks. Consumption in restrooms shall be prohibited.
7. A HVAC/Ventilation system dedicated only to the MMD establishment and no other adjacent use. Controls for the HVAC/Ventilation system shall be located within the MMD establishment.
8. If on-site consumption is proposed, the Consumption Area shall be located adjacent to the Lobby/Waiting Area and separated from both the Dispensing Area and any Social Service Area. The Consumption Area shall be served by the HVAC/Ventilation system for the MMD facility, not any HVAC/Ventilation system serving adjacent uses.
9. If the MMD dispenses consumable Medical Marijuana products (including, but not limited to, lollipops, brownies, cookies, ice cream, etc.), such products shall be pre-packaged. On-site preparation of consumable products is prohibited. Consumption of such products must be incidental to the dispensing of medical marijuana and not a primary use.
10. Physician service shall not be provided on the premise. "Physician services" does not include social services, including counseling, help with housing and meals, hospice and other care referrals which may be provided on site.
11. Exterior signage shall consist of and be limited to site addressing, name of business, and emergency contact information including a name and phone number. Advertising of the goods and/or services shall be prohibited. Marijuana shall not be visible from the exterior of the building.
12. Interior signage in the Lobby/Waiting Area shall consist of the following:
  - a. If on-site consumption is not proposed, a sign stating "Smoking, ingesting or consuming marijuana within this building, in the parking area, or within 200 feet of this building or the parking area is prohibited at all times. Any violation of this can cause a revocation this dispensary's license to operate." Lettering on this sign shall be at least 0.5 inches in height.
  - b. If on-site consumption is proposed, a sign stating "Smoking, ingesting or consuming marijuana in any other part of this building than the Consumption Area, in the parking area, or within 200 feet of this building or the parking area is prohibited at all times. Any violation of this can cause a revocation this dispensary's license to operate." Lettering on this sign shall be at least 0.5 inches in height.
  - c. A sign stating "The diversion of marijuana for non-medical purposes is a violation of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery. Loitering at the location of a medical marijuana dispensary for an illegal purpose is prohibited by California Penal Code Section 647(h)." Lettering on this sign shall be at least 0.5 inches in height.

- d. A posting of the written notice given to all registered members, upon registration, detailing the operational requirements of the Dispensary. The posting shall be enlarged so that lettering is at minimum 0.3 inches in height.
  - e. A posting of emergency contact information including a name and phone number.
  - f. A posting of all applicable permits, including the Medical Marijuana Dispensary Permit.
    - i. If the MMD dispenses consumable Medical Marijuana products (including, but not limited to, lollipops, brownies, cookies, ice cream, etc.), a posting of Los Angeles County Department of Health Services permit and approval for handling food products.
13. A covenant requirement (Planning to define).
  14. The Dispensary may only be open between the hours of 9:00 a.m. and 8:00 p.m., Monday through Sunday.
  15. No MMD shall sell, store, or distribute alcoholic beverages. Consumption of alcoholic beverages on site is prohibited.
  16. During hours of business, no more than 10% of exterior windows shall be covered with material of any type, except for any security bars which are required by this section.
  17. During hours of business the public entrance of the MMD from the street into the lobby/waiting area, shall not be obstructed for any reason.
  18. The MMD shall install a security system, including cameras which cover at minimum the Lobby/Waiting Area, the Dispensing Area, the Social Service Area (if any), the Storage Area, any adjacent Parking Area and all doors and windows.

Parking Requirements. For the purposes of planning and zoning requirements, Medical Marijuana Dispensaries shall be considered a Retail Use and parking requirements for MMDs shall be equal to the Retail Use requirement.

Variances and Deviations. MMDs may not apply for or obtain any variances from this Code.

ORDINANCE NO. \_\_\_\_\_

An ordinance adding Article 6.6 to Chapter IV of the Los Angeles Municipal Code to regulate medical marijuana dispensaries 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 DISPENSARY 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.

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Under state law, only qualified patients, persons with identification cards and primary caregivers may cultivate medical marijuana collectively. Medical marijuana dispensaries 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 Dispensary.”** Sometimes referred to hereinafter as “Dispensary” or “MMD,” shall include the terms “Dispensing Collective,” “Dispensing Cooperative,” “Medical Cannabis Collective,” “Medical Cannabis Cooperative,” “Medical Marijuana Collective,” “Medical Marijuana Cooperative,” or similar term, and shall mean any association, cooperative, affiliation, or collective of persons where multiple “qualified patients,” “persons with an identification card,” and/or “primary caregivers” are organized to provide education, referral, or network services, and facilitate or assist in the lawful distribution of Medical Marijuana for the exclusive use of its registered members, in strict accordance with California Health and Safety Code Sections 11362.5, *et seq.* “Dispensary” also includes any facility or location where the purpose is to dispense Medical Marijuana, exclusively amongst its registered members, on a not-for-profit basis as a medication that has been recommended by a physician and where

Medical Marijuana is made available to and/or distributed by or to three or more Primary Caregivers, Persons with an identification card (ID Card), and/or Qualified Patients, in strict accordance with California Health and Safety Code Sections 11362.5 through 11362.83, inclusive. "Medical Marijuana Dispensary" also includes establishments from which marijuana is delivered to Qualified Patients, who are exclusively registered members, who cannot obtain it from a Dispensary due to physical or mental disability, for medical purposes in strict compliance with California Health and Safety Code Sections 11362.5 through 11362.83, inclusive.

A "Medical Marijuana Dispensary" 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.

**"Panel."** Police Permit Review Panel of the Board of Police Commissioners of the City of Los Angeles.

**"Permittee."** Entity or Person(s) to whom a Medical Marijuana Dispensary 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, 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 DISPENSARY 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 Dispensary without a valid permit (MMD Permit) having been issued for that purpose pursuant to this Article.

(b) A separate MMD Permit is required for each location of a Medical Marijuana Dispensary. No permit shall be issued to authorize a Medical Marijuana Dispensary 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 Dispensary without an MMD Permit shall constitute a separate violation.

#### **SEC. 46.63. APPLICATION PROCEDURE.**

(a) Application for an MMD Permit shall be submitted to the Los Angeles Office of Finance by any person/entity seeking the permit. The applicant must be over the age of 18 years and 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 46.65, 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. [Disqualifiers shall be specified for background checks.]

(b) Application for an MMD Permit shall include separately issued Personal Permits for each and any registered member of the Dispensary to be directly involved in dispensing medical marijuana. Personal permits shall only be issued to registered members of the Dispensary who are over the age of 18 years. A separate fee for the processing and issuance of the Personal Permits shall be paid.

(c) Documentation whether the applicant, his or her agent or employees, volunteer workers, or any person exercising managerial authority over a Dispensary and those with Personal permits issued, involved directly in dispensing medical marijuana, 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. [Disqualifiers to be specified for background checks)]



(d) Applications shall be signed under penalty of perjury by the applicant and at least 2 other Qualified Patients of the Dispensary who shall all submit to and pass a background investigation by the Los Angeles Police Department.

(e) Any change to the applicant information that occurs while the application is pending shall be reported in writing within seven calendar days to the Los Angeles Office of Finance.

(f) 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.

(g) Upon submission of an application for a 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. Incomplete applications shall be returned to the applicant within 30 business days of the date the application was filed with the Los Angeles Office of Finance. The returned application shall be accompanied by a written statement specifying all the reasons for its return. The applicant shall have 30 calendar days to submit additional information to render the application complete. Failure to do so within the 30 day period shall cause the application to be denied. If an amended application or supplemental information is submitted within the 30 day period, the Los Angeles Office of Finance shall again determine whether the application is complete in accordance with the procedures above.

(h) 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 permittee over the age of 18 years..
- (4) Applicable valid, issued Building Permit, Certificate of Occupancy AND a copy of the stamped, approved floor/Site plan from the

Department of Building and Safety in compliance with the 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 Dispensary.
- (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 Dispensary's activities. If the applicant is a partnership, the application shall list the full and complete name of the partnership, the legal names and addresses of all partners, and whether the partnership is general or limited. If the applicant is a corporation, the application shall list the legal names and addresses of all officers, directors and stock holders.

All names provided in relation to a partnership or corporation, shall be Qualified Patients and / or Primary Care Givers.

- (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 Dispensary 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, or any person exercising managerial authority over a Dispensary 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 Dispensary.
- (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 MMD 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 Dispensary,
  - (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 MMD Permit or renewal of an MMD Permit shall be issued by the Los Angeles Office of Finance unless the applicant has verified compliance with the following conditions:

- (1) Planning and Zoning Code: Compliance with the Planning and Zoning Code shall be verified only by the issuance of a valid building permit from the Department of Building and Safety and by the submission of stamped, approved plans.
- (2) Business License Tax Liability. An operator of a Medical Marijuana Dispensary shall be required to apply for and obtain a Seller's Permit as required by the State Board of Equalization.
- (3) Operational Requirements. No person shall engage in, conduct or be permitted to engage in or conduct a Medical Marijuana Dispensary, unless each of the following requirements is continually met:
  - a) The Dispensary shall comply fully with all of the applicable restrictions and mandates set forth in state law.
  - b) The Dispensary may only be open between the hours of 9:00 a.m. and 8:00 p.m., Monday through Sunday.
  - c) The Dispensary shall issue a written notice to all registered members, upon registration, detailing the operational requirements of the Dispensary as detailed by this Article. The notice shall also be posted in a conspicuous location inside the Dispensary as required by the Planning and Zoning Code.
  - d) The Dispensary 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 Dispensary shall only dispense Medical Marijuana cultivated by registered members of the Dispensary and to Qualified Patients and/or designated Primary Caregivers who are registered members of the Dispensary.
  - 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) Dispensary staff must also be Qualified Patients and registered members of the Dispensary.
  - h) Dispensary staff shall submit to and pass a background investigation by the Los Angeles Police Department.
  - i) At a minimum, each Dispensary 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 Dispensary is properly registered with the State shall be displayed.
- j) All transactions shall be recorded by the Dispensary. No Automatic Teller Machines (ATM) are permitted on site.
  - k) Proof that the Dispensary operates in a not-for-profit manner through submission of an Exemption Application (Form 501.1) to the Los Angeles Office of Finance.
  - l) Dispensary 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 Dispensary 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 Dispensary. 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 Dispensary who will be contributing Medical Marijuana to the Dispensary 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 MMD Permit application; mail renewal notices to permittees by November

1st of each year; and deposit funds collected for each MMD Permit into the General Fund.

**SEC. 46.65. FEES FOR PERMIT.**

(a) A fee shall be charged for an MMD 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 MMD Permit Program, including the costs of issuing the permits, renewing the permits, administering and implementing the MMD Permit Program, Medical Marijuana Dispensary education, Medical Marijuana Dispensary 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.

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(b) A fee shall be charged for a Personal 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 Personal Permit, including the costs of issuing the permits, renewing the permits, administering and implementing Medical Marijuana Dispensary education, Medical Marijuana Dispensary 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.

(c) 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. 46.66. RENEWAL OF PERMIT; DELINQUENCY.**

An MMD 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.

Renewal of a MMD Permit. Renewal permits shall be granted automatically every year upon timely payment in full per renewal statements. If any violations of this article are pending, the renewal of the permit shall require an inspection 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/scheduling for an inspection to timely process the renewal permit to avoid any lapse, delinquent fees and late issuance of the renewal permit.

**SEC. 46.67. 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. 46.68. PERMITTEE RESPONSIBLE FOR THE OPERATION OF THE DISPENSARY.**

The Permittee shall not operate or allow the operation of the Dispensary in violation of the Penal Code of the State of California, this Article or any other applicable law.

**SEC. 46.69. MAINTENANCE OF RECORDS.**

Medical Marijuana Dispensaries 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 Dispensary cultivation; (3) the full name, address, and telephone number(s) of all Qualified Patients and Persons with ID Card to whom the Dispensary 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 Dispensary 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 MMD Permit pursuant to Section 46.62 of the Los Angeles Municipal Code.

**SEC. 46.70. 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 Dispensary 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. 46.71. ADMINISTRATIVE VIOLATIONS.**

(a) The violations set forth in this section are cumulative to, and in addition to, any other violations of state or local law and shall be punished as specified in Section 46.72.

(b) Any Medical Marijuana Dispensary for whom a duly certified abstract of the record of any court or administrative adjudicative proceeding has been received by the Los Angeles City Attorney showing that the Dispensary has violated any state or local law regarding Medical Marijuana shall be guilty of an administrative violation. An administrative penalty will be imposed under Section 46.72 when the person or entity has either been:

- (1) determined to be in violation of any state or local law by an appropriate governmental administrative agency, or
- (2) determined to be in violation of any state or local law by a court of competent jurisdiction including but not limited to the entry of a plea of guilty or *nolo contendere* in a criminal case.

#### **SEC. 46.72. ADMINISTRATIVE PENALTIES**

(a) Any Dispensary determined by the Los Angeles City Attorney or his/her designee to have violated Section 46.71 shall be subject to the penalties of this section. The Los Angeles City Attorney or his/her designee shall notify the Dispensary that there has been an initial determination of violation under the provisions of this ordinance, and shall specify the violation and the penalty imposed, including the effective date of the suspension, if any. The notice shall further state that the Dispensary may, within 15 calendar days of receipt of the notice, submit to the Los Angeles City Attorney any written or documentary evidence to contest the initial determination of violation. After receiving and considering the evidence that is provided, the Los Angeles City Attorney or his/her designee shall prepare a final written decision with findings, and shall serve this final determination upon the Dispensary. Upon written request, the Dispensary shall have the right to receive copies of any records upon which the final determination is based. This final determination shall be served within 30 calendar days of the initial determination.

(b) Administrative penalties shall be imposed as follows:



- (1) for the first violation in any five-year period, the Dispensary shall receive a letter of reprimand from the Los Angeles City Attorney including a requirement to pay a penalty fee;
- (2) for a second violation in any five-year period, the MMD Permit shall be suspended for 90 calendar days and the Permittee shall be required to pay a penalty fee;
- (3) for a third or subsequent violation in any five-year period, the MMD Permit shall be revoked and the Permittee shall be required to pay a penalty fee.

(c) Notwithstanding any other provision of this Article, prior violations at a location shall continue to be counted against a location and permit suspension periods shall continue to apply to a location.

#### **SEC. 46.73. RIGHT TO ADMINISTRATIVE REVIEW AND PROCEDURES.**

(a) The Medical Marijuana Dispensary shall have the right to an administrative review of the final determination of the Los Angeles City Attorney. The administrative review shall be conducted by the Police Permit Review Panel (Panel) as authorized by Los Angeles Municipal Code Section 102.13.01. To obtain an administrative review of the Los Angeles City Attorney's final determination, the Dispensary must notify the Los Angeles City Attorney, in writing, within 15 calendar days of its receipt of the Los Angeles City Attorney's final determination. The timely filing of a request for an administrative review shall hold in abeyance any permit suspension until the administrative review is heard and decided.

(b) If a review is requested pursuant to Section 46.73(a), the Los Angeles City Attorney shall provide written notice, within 45 calendar days of its receipt of the request, to the Dispensary of the date, time and place of the review.

(c) The administrative review hearing shall be recorded by a certified court reporter. During the hearing, no evidence or testimony shall be presented to the Panel. The purpose of the Panel's review is to ascertain whether the final determination of the Los Angeles City Attorney was supported by the administrative record. A decision shall be rendered by the Police Permit Review Panel at the conclusion of the hearing. Notice of the decision shall be mailed to the Dispensary which requested the review.

(d) The decision of the Police Permit Review Panel shall be the final decision of the City.

#### **SEC. 46.74. 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 dispensing and/or use of Medical Marijuana, or for the activities of any Medical Marijuana Dispensary. Upon receiving possession of a permit for a Medical Marijuana Dispensary, the Permittee of the Dispensary:

- (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 MMD Permit, the Permittee of the MMD 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. 46.75. EXISTING "MEDICAL MARIJUANA DISPENSARIES".**

Any marijuana cultivation operation or dispensary, 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 1 year from the operative date of this Article to obtain an MMD Permit, provided the operation, dispensary 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.

#### **SEC. 46.76. 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

ROCKARD J. DELGADILLO, City Attorney

By \_\_\_\_\_  
Deputy City Attorney

Date \_\_\_\_\_

File No. \_\_\_\_\_