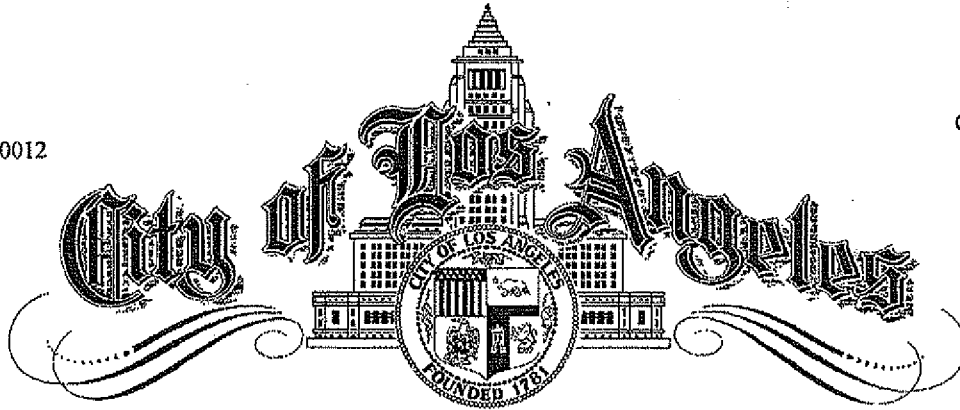


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CARMEN A. TRUTANICH
City Attorney

December 9, 2009

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

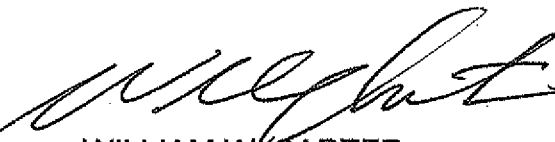
Re: **Council File No. 08-0923**
Revised Draft Ordinance Establishing Regulations Regarding
Medical Marijuana Collectives

Honorable Members:

We have attached a further revised draft ordinance in response to your motions, discussion, and actions of Tuesday, December 8, 2009. This revision does not include the additional substantive reports due back to you from other city departments. We refer you to our previous transmittal letters for prior history and for the recommended CEQA finding. As before, we recommend your swift adoption of an ordinance regulating medical marijuana collectives.

Sincerely,

CARMEN A. TRUTANICH, City Attorney

By 

WILLIAM W. CARTER
Chief Deputy City Attorney

WWC:SSC:HA:aa
Transmittal

ORDINANCE NO. _____

An ordinance adding Article 5.1 to Chapter IV of the Los Angeles Municipal Code and amending Section 91.107.3.2 of the Los Angeles Municipal Code to implement the Compassionate Use Act and the Medical Marijuana Program Act consistent with the provisions of the Acts, but without violating state or federal law.

WHEREAS, although the possession and sale of marijuana remain illegal under both state and federal law, California voters approved the Compassionate Use Act ("CUA") in 1996 to exempt seriously ill patients and their primary caregivers from criminal liability for possession and cultivation of marijuana for medical purposes; and

WHEREAS, the Medical Marijuana Program Act of 2003 ("MMPA") provides for the association of primary caregivers and qualified patients to cultivate marijuana for specified medical purposes and also authorizes local governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, the City of Los Angeles enacted an Interim Control Ordinance in 2007 for the temporary regulation of medical marijuana facilities through a registration program, which resulted in the unintended proliferation of storefront medical marijuana dispensaries to a number currently estimated to exceed 500 such locations, presenting a substantial risk of unlawful cultivation, sale, and the illegal diversion of marijuana for non-medical uses; and

WHEREAS, there have been recent reports from the Los Angeles Police Department and the media of an increase in and escalation of violent crime at the location of medical marijuana dispensaries in the City of Los Angeles, and the California Police Chiefs Association has compiled an extensive report detailing the negative secondary effects associated with medical marijuana dispensaries; and

WHEREAS, medical marijuana that has not been collectively or personally grown constitutes a unique health hazard to the public because, unlike all other ingestibles, marijuana is not regulated, inspected, or analyzed for contamination by state or federal government and may, as with samples recently tested by a U.S. Food and Drug Administration laboratory, contain harmful chemicals that could further endanger the health of persons who are already seriously ill and have impaired or reduced immunities; and

WHEREAS, the City of Los Angeles has a compelling interest in ensuring that marijuana is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which medical marijuana collectives operate, and in providing compassionate access to medical marijuana to its seriously ill residents.

NOW, THEREFORE,

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

Section 1. A new Article 5.1 is added to Chapter IV of the Los Angeles Municipal Code to read:

ARTICLE 5.1

MEDICAL MARIJUANA COLLECTIVE

SEC. 45.19.6. PURPOSES AND INTENT.

It is the purpose and intent of this article to regulate the collective cultivation of medical marijuana in order to ensure the health, safety and welfare of the residents of the City of Los Angeles. The regulations in this article, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, and the California Health and Safety Code (collectively referred to as "State Law") do not interfere with a patient's right to use medical marijuana as authorized under State Law, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under State Law. Under State Law, only qualified patients, persons with identification cards, and primary caregivers may cultivate medical marijuana collectively. Medical marijuana collectives shall comply with all provisions of the Los Angeles Municipal Code ("Code"), State Law, and all other applicable local and state laws. Nothing in this article purports to permit activities that are otherwise illegal under state or local law.

SEC. 45.19.6.1. DEFINITIONS.

A. The following phrases, when used in this article, shall be construed as defined in California Health and Safety Code Sections 11006.5, 11018, 11362.5 and 11362.7:

"Attending physician;"
"Concentrated Cannabis;"
"Identification card;"
"Marijuana;"
"Person with an identification card;"
"Primary caregiver;" and
"Qualified patient."

B. The following phrases, when used in this article, shall be construed as defined below. Words and phrases not defined here shall be construed as defined in Sections 11.01, 12.03, 45.19.5, 45.21, and 56.45 of this Code.

“Location.” The lot or portion of a lot that is used by a medical marijuana collective.

“Medical marijuana.” Marijuana used for medical purposes in accordance with California Health and Safety Code Section 11362.5

“Medical marijuana collective (“collective”).” An incorporated or unincorporated association, composed solely of four or more qualified patients, persons with identification cards, and designated primary caregivers of qualified patients and persons with identification cards (collectively referred to as “members”) who associate at a particular location to collectively or cooperatively cultivate marijuana for medical purposes, in strict accordance with California Health and Safety Code Sections 11362.5, *et seq.*

“Member engaged in the management.” A member with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of a collective, including but not limited to members who perform the functions of president, vice president, board member, director, owner, operating officer, financial officer, secretary, treasurer, or manager of the collective.

“Private medical record.” Documentation of the medical history of a qualified patient or person with an identification card. “Private medical records” shall not include the recommendation of an attending physician or doctor for the medical use of marijuana, an identification card, or the designation of a primary caregiver by a qualified patient or by a person with an identification card.

“Reasonable compensation.” Compensation commensurate with reasonable wages and benefits paid to employees of IRS-qualified non-profit organizations who have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked. The payment of a bonus shall not be considered “reasonable compensation.”

SEC. 45.19.6.2. REGISTRATION.

A. Registration Required. No collective shall operate until after it has filed a registration form in accordance with the provisions of this article, has paid any adopted registration fees, and its registration has been accepted as complete by the Department of Building and Safety.

B. Maximum Number of Collectives. The maximum number of collectives in the City shall be capped at 70, which represents one collective for every 57,000 City residents. These collectives shall be distributed and further capped geographically among the 35 Community Plan Areas within the City. Each Community Plan Area may have a maximum of one collective for every 57,000 residents living within its boundaries. The total population of the City and whether the citywide and Community Plan Area caps meet the

needs of qualified patients, persons with identification cards, and their primary caregivers may be reviewed and the caps may be revised every six (6) months by the City Council.

Notwithstanding the maximum number of collectives described above, every medical marijuana collective, dispensary, operator, establishment, or provider that (1) has operated continuously at its location since on or before September 14, 2007, (2) was registered pursuant to Interim Control Ordinance No. 179,027 with the City Clerk's office before November 12, 2007, (3) has not changed ownership or management since its registration with the City Clerk's office, and (4) has not been subject to a nuisance or public safety violation, may register and operate if it immediately complies with all provisions of State Law, and within 180 days after the effective date of this ordinance completes its compliance in full with each provision of this article. Any collectives allowed to register and operate in excess of 70 shall be evenly distributed among the 35 Community Plan Areas at the rate of one additional collective for every 57,000 residents.

C. Priority Order. All collectives that meet the requirements described in Subsection B and whose continuous and current location complies with Sections 45.19.6.3 A.1 and A.2 of this article, as determined by the Department of Building and Safety, shall be granted priority order to apply for preinspection at their current locations. In order to meet but not exceed the caps specified in Subsection B, all other collectives shall be eligible to participate in one or more drawings held by the City Clerk to determine their priority order. The City Clerk shall: create the entry form for participation in the drawings; set the deadline for submittal of all entry forms; establish and publish the drawings' dates, times, and places; publish the results of all drawings; and have the authority to promulgate additional drawing rules and regulations. All such rules and regulations shall be published once in a daily newspaper of general circulation in the City, and shall take effect upon publication. A member engaged in the management of the collective must be present at a drawing in order for the collective to participate.

All collectives that meet the requirements described in Subsection B and that notify the City Clerk within one week after the effective date of this ordinance of their intention to register under this article shall be eligible to obtain priority order. If at any time after 180 days following the effective date of this ordinance, the total number of registered collectives in the City falls below 70, then any medical marijuana collective, dispensary, operator, establishment, or provider that notifies the City Clerk within one week after the publication of the date of a priority drawing shall be eligible to participate in the drawings. No collective may participate in a drawing if one or more of its owners or members engaged in its management were convicted currently or within the previous 10 years of a felony or a crime of moral turpitude, or are currently on parole or probation for the sale or distribution of a controlled substance.

D. Preinspection. A collective that receives priority order to apply for preinspection pursuant to Subsection C may thereafter apply to the Department of Building and Safety for said preinspection to verify compliance with the standards set forth in Section 45.19.6.3 A.1 and A.2 of this article. The collective shall provide the address of the proposed collective location; the name, telephone number, and address of a person

authorized to accept service of process for the collective; the name(s), telephone number(s), and address(es) of each member engaged in the management of the collective; and a 1,000-foot radius map that locates and identifies all sensitive uses set forth in Section 45.19.6.3 A.2 of this article. A preinspection fee pursuant to Section 91.107.3.2 of this Code, plus a research fee for a minimum of three hours of time pursuant to Section 98.0415 (f) of this Code, shall be paid to the Department of Building and Safety at the time of a request for preinspection. The Department of Building and Safety shall proceed by priority order within each Community Plan Area to evaluate the compliance of the proposed collectives with the requirements of Sections 45.19.6.3 A.1 and A.2 of this article. Once the Department of Building and Safety has determined that the maximum number of collectives authorized by Subsection B of this article complies, the Department of Building and Safety shall stop determining the compliance of more collectives. Any collective not in compliance with the requirements of Section 45.19.6.3 A.1 and A.2, as determined by the Department of Building and Safety, or not considered for compliance because the cap had already been met, shall be notified by the Department of Building and Safety that it is disqualified from starting the preinspection and registration process and that it may enter any future drawing conducted in accordance with Subsection C.

E. Notice of Preinspection. Prior to accepting a request for preinspection, the Department of Building and Safety shall require proof that the collective has provided written notice to the Police Department, all property owners and occupants within and outside the City that are within 1,000 feet of the exterior boundaries of the location, and to the City Council member, the Certified Neighborhood Council, and any Business Improvement District ("BID") representing the area in which the collective is located, of: the preinspection request; the proposed location of the collective; the name, telephone number, and address of a person authorized to accept service of process for the collective; the name(s), telephone number(s), and address(es) of each member engaged in the management of the collective; and the onsite telephone number at the collective and the name of the member engaged in the management of the collective who is responsible for receiving, logging, and responding to complaints regarding the collective. This notification shall be sent by certified mail, postage prepaid, and return receipt requested. Notices to property owners shall be sent to the last known name and address as shown on the records of the City Clerk or the records of the County Assessor; notices to occupants of all residential, commercial and industrial property can be mailed to "occupant". Proof of mailing shall be established if the collective files an affidavit of mailing with the Department of Building and Safety certifying the date on which the notice was sent, a copy of the notice, and a complete list of the names and addresses where the notice was sent.

F. Registration Form. Upon receipt of a Department of Building and Safety preinspection report verifying compliance with the standards set forth in Section 45.19.6.3 A.1 and A.2 of this article, the collective shall file a registration form with the Department of Building and Safety. The registration form shall require the following accurate and truthful information: the address and physical description (e.g., one-story commercial building, etc.) of the proposed location at and upon which the collective will

be located; the name, telephone number, and address of a person authorized to accept service of process for the collective; the name(s), telephone number(s), and address(es) of each member engaged in the management of the collective; the onsite telephone number at the collective and the name of the member engaged in the management of the collective who is responsible for receiving, logging, and responding to complaints regarding the collective; and any other information reasonably required to show that the collective complies with this article. In addition, the registration form shall confirm the consent by the collective, without requirement for a search warrant, subpoena or court order, for the inspection and copying by the Police Department of the recordings and records required to be maintained under Sections 45.19.6.3, 45.19.6.4, and 45.19.6.5 of this article, except that private medical records shall be made available by the collective to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order.

The collective shall file an updated registration form quarterly, but only if there were changes during the previous quarter to any of the information provided in the initial registration form or any change in status of compliance with the regulations set forth in Section 45.19.6.3. If an enforcement action has been filed against the collective for any violation of this article, the updated registration form shall include the names of all of the members of the collective. A change of location cannot be accomplished by an updated registration form, but shall instead require a new preinspection and registration. Each and every member who is engaged in the management of the collective shall print his or her name and sign the initial registration form and any subsequent updated registration form, under penalty of perjury certifying that all information contained in the registration form is true and correct. It shall be the sole responsibility of the members engaged in the management of the collective to ensure that all forms and documents are submitted as required by this article and that the information provided is accurate, complete and timely submitted.

G. Additional Registration Documents. As attachments to the original and any subsequently updated registration form, the collective shall provide to the Department of Building and Safety: (1) proof that the property owner of the location, and landlord if applicable, was given written notice sent by certified mail, postage prepaid, and return receipt requested that the collective intends to file the registration form and that the owner of the location, and landlord if applicable, has received a copy of the information contained in the registration form; (2) for each member engaged in the management of the collective, a fully legible copy of one government-issued form of identification, such as a social security card, a state driver's license or identification card, or a passport; and (3) the collective's Certificate of Occupancy for the cultivation use.

H. Registration Timetables. All collectives that meet the requirements described in Subsection B shall comply with the following timetable: (1) they shall notify the Department of Building and Safety of their intent to register under this article within one week after the effective date of this ordinance; (2) they shall complete their preinspection obligations under Subsections D and E within thirty (30) days after receiving

priority under Subsection C to apply for preinspection; and (3) they shall comply in full with all registration and other provisions of this article within 180 days after the effective date of this ordinance. All other collectives shall comply with the following timetable: (1) they shall notify the Department of Building and Safety of their intent to register under this article within one week after the publication by the City Clerk of the date of a priority drawing that will be conducted because the total number of registered collectives in the City has fallen below 70; and (2) they shall complete their preinspection obligations under Subsections D and E within thirty (30) days after receiving priority order under Subsection C to apply for preinspection; and (3) they shall comply in full with all registration and other provisions of this article within 180 days after the publication by the City Clerk of the date of a priority drawing that will be conducted because the total number of registered collectives in the City has fallen below 70. A collective that does not comply with its applicable timetable shall be disqualified from further participation in the registration process.

I. Completed Registration. The Department of Building and Safety, after verification that all required fees have been paid, shall mail proof of a completed registration and any subsequent updated registration to the person authorized to accept service of process on behalf of the collective, to the owner of the location, to the local City Council and Neighborhood Council offices, and to any applicable Business Improvement District ("BID") in which the collective is located.

J. Term of Registration/Renewal. Each registration shall expire three years from the date the Department of Building and Safety mails proof of the completed registration to the person authorized to accept service of process on behalf of the collective. In the event of an extension of the sunset of this ordinance, a collective that has operated at all times in strict compliance with this article may seek to renew its registration 90 days prior to the registration's expiration. The process for renewal of the registration shall be the same as the process for the original registration as set forth in this section. Upon registration expiration, the collective shall cease all operations.

K. Registration Null and Void. A registration accepted as complete under this article shall become null and void upon the cessation of marijuana cultivation at the location for 90 days or longer, upon the relocation of the collective to a different location, upon conviction of the collective or any of its members for a violation of a provision of this article, three (3) years after the issuance of the registration as set forth in Section 45.19.6.2 H, or upon the expiration or sunset of this article.

SEC. 45.19.6.3. REGULATIONS.

The location at or upon which a collective cultivates and provides medical marijuana to its members must meet the following requirements:

A. Preinspection Requirements.

1. The location shall comply with the provisions of Chapters I and IX of the Code. Permits for a change of use, any alterations to the building, and a

Certificate of Occupancy shall be obtained from the Department of Building and Safety;

~~2. No collective shall be located on a lot abutting a vacant residential lot, a lot improved with an exclusively residential building, or a lot improved with a mixed use building containing residential units. This provision shall not apply to a collective that is also a licensed residential medical or eldercare facility;~~

2. No collective shall be located within a 1,000-foot radius of a school, public park, public library, religious institution, licensed child care facility, youth center, vacant residential lot, lot improved with a residential building or mixed use building containing residential units, substance abuse rehabilitation center, or any other medical marijuana collective(s). The distances specified in this subdivision shall be the horizontal distance measured in a straight line from the property line of the school, public park, public library, religious institution, licensed child care facility, youth center, vacant residential lot, lot improved with a residential building or mixed use building containing residential units, substance abuse rehabilitation center, or other medical marijuana collective(s), to the closest property line of the lot on which the collective is located without regard to intervening structures. This provision shall not apply to a collective that is also a licensed residential medical or eldercare facility;

3. Exterior building lighting and parking area lighting for the location must be in compliance with Sections 93.0104, 93.0107 and 93.0117 of the Code. In addition, the location shall be equipped with lighting fixtures of sufficient intensity to illuminate all interior areas of the lot with an illumination of not less than 1.5 foot-candles evenly distributed as measured at floor level, except that a licensed residential medical or eldercare facility shall not be required to comply with this provision;

4. Any exterior signs and any interior signs visible from the exterior shall be unlighted;

5. Windows and roof hatches of the building or portion of the building where the collective is located shall be secured from the inside with bars so as to prevent unauthorized entry, and shall be equipped with latches that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building code provisions;

6. Exterior doors to the collective shall remain locked from the outside to prevent unauthorized ingress to the premises of the collective. Ingress shall be allowed by means of a remote release operated from within the premises of the collective. In all cases, doors shall remain openable from the inside to allow egress without the use of a key or special knowledge. If installed, access-controlled egress doors shall comply with Section 1008.1.3.4 of the California Building Code;

7. A sign shall be posted in a conspicuous location inside the structure at the location advising: "This collective is registered in accordance with the laws of the City of Los Angeles. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations 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 collective for an illegal purpose is prohibited by California Penal Code Section 647(h)"; and

8. A sign shall be posted at the entrance to the location containing the name and functioning telephone number of a 24-hour on-call member engaged in the management of the collective who shall receive, log, and respond to complaints and other inquires on behalf of the collective.

B. Conditions of Operation.

1. 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 or adjacent to the location. The recordings shall be maintained for a period of not less than ninety (90) days and shall be made available by the collective to the Police Department upon request.

2. The location shall have a centrally-monitored fire and burglar alarm system and the building or the portion of the building where the collective is located shall contain a fire-proof safe;

3. No cultivation of medical marijuana at the location shall be visible with the naked eye from any public or other private property, nor shall cultivated marijuana or dried marijuana be visible from the building exterior. No cultivation shall occur at the location unless the area devoted to the cultivation is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry;

4. No manufacture of concentrated cannabis in violation of California Health and Safety Code section 11379.6 is allowed;

5. No collective shall be open or provide medical marijuana to its members between the hours of 8:00 p.m. and 10:00 a.m. This prohibition shall not apply to a qualified patient's use of marijuana for his or her own medical needs if the qualified patient's permanent legal residence is the location;

6. No collective shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by members towards the collective's actual expenses of the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in strict compliance

with State Law. All such cash and in-kind amounts and items shall be fully documented in accordance with Section 45.19.6.4 of this article;

7. No persons under the age of eighteen shall be allowed at the location, unless that minor is a qualified patient or person with an identification card and accompanied by his or her licensed attending physician, parent or documented legal guardian;

8. No collective shall possess more dried marijuana or plants per member other than the amounts permitted pursuant to State Law. No collective shall possess or provide marijuana other than marijuana that was cultivated by the collective in strict accordance with State Law and this article;

9. The light fixtures required in Section 45.19.6.3 A.4, above, shall be turned on from dusk to dawn;

10. No collective may provide medical marijuana to any persons other than its members who participate in the collective cultivation of marijuana at or upon the location of that collective. 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 person(s) with an identification card;

11. No collective shall cause or permit the sale, dispensing, or consumption of alcoholic beverages at the location or in the parking area of the location;

12. No dried medical marijuana shall be stored in buildings that are not completely enclosed, or stored in an unlocked vault or safe, or other unsecured storage structure; nor shall any dried medical marijuana be stored in a safe or vault that is not bolted to the floor or structure of the facility;

13. Medical marijuana may not be inhaled, smoked, eaten, ingested, or otherwise consumed at the location, in the parking areas of the location, or in those areas restricted under the provisions of California Health and Safety Code Section 11362.79. This prohibition shall not apply to a qualified patient's use of marijuana for his or her own medical needs if the qualified patient's permanent legal residence is the location, nor shall this prohibition limit the exceptions provided in local and state law that permit smoking in designated areas within licensed residential medical and eldercare facilities;

14. Only members of the collective may be engaged in the management of the collective. A person who has been convicted currently or within the previous 10 years of a felony or a crime of moral turpitude, or who is currently on parole or probation for the sale or distribution of a controlled substance, as determined by the Police Department, shall not be engaged directly or indirectly in the management of the collective and, further, shall not manage, handle, or

benefit from the receipts and expenses of the collective. Verification shall be processed and received by the Police Department in accordance with the State of California Department of Justice guidelines. No person may be engaged in the management of more than one collective located within the City;

15. No qualified patient, person with an identification card, or primary caregiver may be a member, at the same time, of more than one collective located within the City, except that in the event of a medical emergency, a qualified patient, person with an identification card, or primary caregiver may obtain medical marijuana sufficient to meet that medical emergency from another collective located within the City. In addition to all other required documentation, for a medical emergency, the qualified patient, person with an identification card, or primary caregiver shall provide written proof of the medical emergency and, as applicable, his or her attending physician or doctor recommendation, identification card, and, in the case of a primary caregiver, the patient designation to both the member's collective and to the collective that is distributing the emergency medical marijuana. This written documentation shall be maintained in the records of both collectives;

16. Collectives shall not store more than \$200.00 in cash overnight at the location and shall make twice daily bank drops that include all cash collected on that day;

17. Collectives shall provide a state-licensed and uniformed security guard patrol for a two-block radius surrounding the location during all hours of operation. Security guards shall not possess firearms or tasers; and

18. Collectives shall operate and maintain an onsite 24-hour telephone number at the collective for receiving complaints and other inquiries regarding the collective. A member engaged in the management of the collective shall be responsible for receiving, logging, and responding to these complaints and other inquiries. The log shall be maintained in the records of the collective.

SEC. 45.19.6.4. MAINTENANCE OF RECORDS.

A medical marijuana collective shall maintain records at the location accurately and truthfully documenting: (1) the full name, address, and telephone number(s) of the owner, landlord and/or lessee of the location; (2) the full name, address, and telephone number(s) of all members who are engaged in the management of the collective and the exact nature of each member's participation in the management of the collective; (3) the full name, address, and telephone number(s) of all patient members to whom the collective provides medical marijuana and a copy of every attending physician's or doctor's recommendation or patient identification card; (4) the full name, address, and telephone number(s) of all primary caregiver members to whom the collective provides medical marijuana and a copy of every written designation(s) by the primary caregiver's qualified patient(s) or the primary caregiver's identification card; (5) written documentation of all circumstances under which the collective provided medical

marijuana to a non-member, including but not limited to the recipient's full name, address, and telephone number, amount of medical marijuana received, and medical emergency justification; (6) all receipts of the collective, including but not limited to all contributions, reimbursements, and reasonable compensation, whether in cash or in kind, and all expenditures incurred by the collective for the cultivation of medical marijuana; (7) an inventory record documenting the dates, amounts, and content testing results of all marijuana cultivated by the collective, including the amounts of marijuana stored at the location at any given time; (8) a log documenting the date, nature, and response by the collective to all complaints received by the collective pursuant to Section 45.19.6.3 B.18 of this article; (9) a copy of the annual audit reports required pursuant to Section 45.19.6.5 A of this article; (10) the testing log required to be maintained pursuant to Section 45.19.6.5 C of this article; and (11) proof of registration with the Department of Building and Safety in conformance with Section 45.19.6.2 of this article, including evidence of an accepted registration form. These records shall be maintained by the collective for a period of five years and shall be made available by the collective to the Police Department upon request, except that private medical records shall be made available by the collective to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. In addition to all other formats that the collective may maintain, these records shall be stored by the collective at the location in a printed format in its fire-proof safe. Any loss, damage or destruction of the records shall be reported to the Police Department within 24 hours of the loss, destruction or damage. In addition to all other formats that the collective may maintain, these records shall be stored by the collective at the location in a printed format in its fire-proof safe. Any loss, damage or destruction of the records shall be reported to the Police Department within 24 hours of the loss, destruction or damage.

SEC. 45.19.6.5. AUDITS AND TESTING.

A. Annual Audits. No later than February 15 of every year, each collective shall file with the City Controller an audit of its operations of the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The audit shall include but not be limited to a discussion, analysis, and verification of each of the records required to be maintained pursuant to Section 45.19.6.4 of this article.

B. Testing of Medical Marijuana. The collective shall use an independent and certified laboratory to analyze a representative sample of dried medical marijuana and a representative sample of edible marijuana for pesticides and any other regulated contaminants pursuant to established local, state, or federal regulatory or statutory standards at levels of sensitivity established for the food and drug supply before providing the medical marijuana to its members. Any medical marijuana from which the representative sample analysis tested positive for a pesticide or other contaminant at a level which exceeds the local, state, or federal regulatory or statutory standard for the food and drug supply shall not be provided to members and shall be destroyed forthwith. Any medical marijuana provided to members shall be properly labeled in strict compliance with state and local laws.

C. Testing Log. The collective shall maintain a written log at the location documenting the date, type, and amount of marijuana tested; the name of the laboratory where the marijuana was tested; the laboratory report containing the results of the testing, including the name and level of the substance detected; and the disposition of the marijuana from which the contaminated sample was obtained, including the amount of marijuana and the date and manner of disposition.

SEC. 45.19.6.6. INSPECTION AND ENFORCEMENT RESPONSIBILITIES.

The Department of Building and Safety may enter and inspect the location of any collective between the hours of 10:00 a.m. and 8:00 p.m., or at any reasonable time, to ensure compliance with Section 45.19.6.3 A of this article. In addition, a designated unit within the Police Department may enter and inspect the location of any collective and the recordings and records maintained pursuant to Sections 45.19.6.3, 45.19.6.4, and 45.19.6.5 of this article between the hours of 10:00 a.m. and 8:00 p.m., or at any reasonable time, to ensure compliance with this article, except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. It is unlawful for any owner, landlord, lessee, member (including but not limited to a member engaged in the management), or any other person having any responsibility over the operation of the collective to refuse to allow, impede, obstruct or interfere with an inspection, review or copying of records and closed-circuit monitoring authorized and required under this article, including but not limited to, the concealment, destruction, and falsification of any recordings, records, or monitoring.

SEC. 45.19.6.7. EXISTING MEDICAL MARIJUANA OPERATIONS.

Any existing medical marijuana collective, dispensary, operator, establishment, or provider that does not comply with the requirements of this article must immediately cease operation until such time, if any, when it complies fully with the requirements of this article; except that any medical marijuana collective, dispensary, operator, establishment, or provider that meets each of the requirements described in Section 45.19.6.2 B of this article shall have 180 days from the effective date of this article during which to fully comply with the requirements of this article or to cease operation. No medical marijuana collective, dispensary, operator, establishment, or provider that existed prior to the enactment of this article shall be deemed to be a legally established use under the provisions of this article, and such medical marijuana collective, dispensary, operator, establishment, or provider shall not be entitled to claim legal nonconforming status.

SEC. 45.19.6.8 COMPLIANCE WITH THIS ARTICLE AND STATE LAW.

A. It is unlawful for any person to cause, permit or engage in the cultivation, possession, distribution or giving away of marijuana for medical purposes except as provided in this article, and pursuant to any and all other applicable local and state laws.

B. It is unlawful for any person to cause, permit or engage in any activity related to medical marijuana except as provided in Health and Safety Code Sections 11362.5 *et seq.*, and pursuant to any and all other applicable local and state laws.

C. It is unlawful for any person to knowingly make any false, misleading or inaccurate statements or representations in any forms, records, filings or documentation required to be maintained, filed or provided to the City under this article, or to any other local, state or federal government agency having jurisdiction over any of the activities of collectives.

D. It shall be the sole responsibility of the members engaged in the management of the collective to ensure that the collective is at all times operating in a manner compliant with all applicable state laws and this article. Nothing in this article shall be construed as authorizing any actions which violate state law with regard to the cultivation, transportation, provision, and sale of medical marijuana.

SEC. 45.19.6.9. VIOLATION AND ENFORCEMENT.

Each and every violation of this article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by Section 11.00 of this Code. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the collective's registration, revocation of the certificate of occupancy for the location, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the collective and persons related or associated with the collective.

Notwithstanding an initial verification of compliance by the collective with the preinspection requirements set forth in Section 45.19.6.3 A of this article prior to the filing of the registration form, any collective later found to be in violation of any of the preinspection requirements at any time is subject to the enforcement provisions provided in this section.

SEC. 45.19.6.10. SUNSET CLAUSE.

The provisions of this article shall sunset three years after the effective date of this ordinance, unless the City Council adopts an ordinance to extend these provisions.

Sec. 2. Section 91.107.3.2 of the Los Angeles Municipal Code is amended by adding a new item 5 to read:

5. Medical Marijuana Collective Preinspection. A preinspection fee pursuant to Section 45.19.6.2 B of the Los Angeles Municipal Code shall be collected by the Department to verify compliance with Section 49.19.6.3 A of the

Los Angeles Municipal Code. The preinspection fee shall be in addition to any other fee that the Department determines is necessary due to the nature of the work involved.

Sec. 3. Operative Date.

This ordinance shall not become effective until the registration fee specified in Section 2 of this ordinance becomes effective.

Sec. 4. Severability. Pursuant to the provisions of Los Angeles Municipal Code Section 11.00 (k), 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 of this ordinance which can be implemented without the invalid provision, and, to this end, the provisions of this ordinance are declared to be severable.

Sec. 5 The City Clerk shall certify to the passage of this ordinance and have it published in accordance with 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 at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 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 of _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By _____
SHARON SIEDORF CARDENAS
Assistant City Attorney

Date _____

File No. CF 08-0923

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