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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 0 9 - 0 3 2 9

REPORT RE:

SEP 22 2009

**THIRD REVISED DRAFT ORDINANCE ESTABLISHING REGULATIONS
REGARDING MEDICAL MARIJUANA COLLECTIVES**

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

Date: 9-22-09
Submitted in PLUM Committee
Council File No: 08-0923
Item No.: 3b
Deputy: B. GREENS

Council File No. 08-0923

Honorable Members:

This office has prepared and now transmits for your consideration the attached revised draft ordinance, approved as to form and legality. This draft ordinance would add Article 5.1 to Chapter IV of the Los Angeles Municipal Code (LAMC) regulating the collective cultivation of medical marijuana, pursuant to state law, in the City of Los Angeles. It includes several changes from the last draft ordinance transmitted on February 6, 2009, which are summarized below.

Background

On April 14, 2008, pursuant to a request from the City Council, the City Attorney's Office transmitted a draft ordinance for the regulation of medical marijuana cultivation. We transmitted a revised draft ordinance to the Council on January 26, 2009, and explained its provisions in a verbal presentation to the Planning and Land Use Management ("PLUM") Committee on January 27, 2009. Additional technical

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CLERK OF THE CITY ATTORNEY
CITY OF LOS ANGELES

improvements were made and a second revised draft ordinance was transmitted to the Council on February 6, 2009. All versions of the City Attorney's draft ordinance only provide for collective cultivation of medical marijuana; they do not provide for "storefront dispensaries" engaged in the sale of medical marijuana.

On June 9, 2009, an alternative draft ordinance (alternative draft) was presented to the PLUM Committee. The Office of the Chief Legislative Analyst (CLA) gave a verbal presentation explaining the provisions of the alternative draft. This office has since met with the CLA's Office regarding its recommended modifications to the City Attorney's draft ordinance, including incorporation of language from the alternative draft. The changes summarized below include modifications based on those discussions and input.

CEQA Finding

If you wish to adopt the ordinance, you must first comply with the California Environmental Quality Act (CEQA). Regarding a finding pursuant to CEQA we believe that adoption of this ordinance is exempt from CEQA under State CEQA Guidelines sections 15060(c)(2) and (3) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, since it merely establishes regulations for medical marijuana collectives and will result in a substantial decrease in the number of locations that are currently in existence. In addition, City Council could determine that adoption of the ordinance is exempt from CEQA under City CEQA Guidelines Article II, Section 1 (General Exemption) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. If the City Council concurs, it may comply with CEQA by making one or both of these findings prior to or concurrent with its action on the ordinance. We recommend that you also direct staff to file a "Notice of Exemption" as permitted by CEQA. This will have the effect of shortening the period of time within which a CEQA-based legal challenge can be brought against the City.

Summary of Changes

The registration provision would require the Department of Building and Safety to pre-inspect medical marijuana collectives, prior to registration, to verify compliance with specified development standards (Sec. 46.19.62b). These standards include the requirement that medical marijuana collectives not be located within 1000 feet of specified sensitive locations, such as schools, parks and religious institutions. No registration form will be accepted until the pre-inspection verification occurs and a pre-inspection fee is paid. The draft ordinance would amend Section 91.107.32 of the LAMC to authorize the collection of a medical marijuana collective pre-inspection fee. Other changes include:

Additional introductory recitals;

- Additional definitions and modified definition of "medical marijuana collective";
- Separation of regulations into Development Standards, which must be pre-inspected and Standards of Operation;
- Signage restriction removed;
- Lighting standard modified;
- Regulation prohibiting "refinement of marijuana", and related exemptions, removed;
- Regulation prohibiting provision of medical marijuana to collective members between 8:00 p.m. and 10:00 a.m. added;
- Maintenance of Records provisions modified to require documentation of the nature of each member's participation in the collective cultivation and members' contributions and expenditures related to the collective cultivation;
- Addition of provision making the refusal to allow inspection of records and inspection of recordings of closed-circuit monitoring, or falsification of same, unlawful;
- Provision that any marijuana cultivation operation of medical marijuana dispensary which was established and operating prior to September 14, 2007, and which registered with the City Clerk's office before November 12, 2007 shall have ninety (90) days to achieve compliance with the article added (Sec. 45.19.6.6);
- Two additional sections ("Compliance with this Article and State Law" and "Violation and Enforcement") added.

We believe the above-referenced changes, and additional technical changes have resulted in an improved draft for your consideration. Copies of the revised draft ordinance have been provided, pursuant to Council Rule 38, to the Los Angeles Police Department, the Department of Building and Safety, and the Office of the City Clerk with a request that all comments, if any, be presented directly to your Honorable Body at the time this matter is considered.

If you have any questions regarding this matter, please contact Assistant City Attorney Sharon Siedorf Cardenas at (213) 978-8235 or Deputy City Attorney Heather Aubry at (213) 978-8380. They or another member of this office will be available when you consider this matter to answer any questions you may have.

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 to 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.

WHEREAS, in 1996, California voters approved the Compassionate Use Act in order to exempt seriously ill patients and their primary caregivers from criminal liability for possession and cultivation of marijuana for medical purposes; and

WHEREAS, the City of Los Angeles has a compelling interest in ensuring that marijuana is not distributed in an illicit manner; and

WHEREAS, the Medical Marijuana Program Act of 2003 provides for the association of primary caregivers and qualified patients to cultivate marijuana for medical purposes; and

WHEREAS, the regulation of these associations is essential to preserve the peace and quiet of the neighborhoods in which these associations are established and operate; and

WHEREAS, the California Police Chiefs Association has compiled an extensive report detailing the negative secondary effects associated with medical marijuana dispensaries; and

WHEREAS, there has been a recent report of increased violent crime at the location of many of the medical marijuana dispensaries in the City of Los Angeles, and

WHEREAS, the proliferation of medical marijuana establishments inhibit law enforcement and jeopardize the public health, safety and welfare of residents and businesses within the City of Los Angeles; and

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, pursuant to state law, 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 and the Medical Marijuana Program Act, California Health and Safety Code Sections 11362.5, *et seq.*, ("State Law") do not interfere with a patient's right to use medical marijuana as authorized under State Law, nor does it 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 federal, state law 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 and 45.21 of this Code.

"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 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.*

"Medical marijuana dispensary." Any facility or location, including but not limited to a retail store, office building, or structure, from which marijuana is distributed, transmitted, given, dispensed, or otherwise provided in any manner.

Sec. 45.19.6.2. REGISTRATION.

A. All collectives shall register with the City Clerk by completing a registration form provided by the City Clerk. The form shall, at a minimum, contain the following accurate and truthful information: the names of all persons who are members of the collective, the address and physical description (i.e., one-story commercial building, etc.) of the property at and upon which the collective is located ("property"), a telephone number at the property, the name(s) and address(es) of a person(s) authorized to accept service of process for the collective, and any other information reasonably required on the form provided by the City Clerk to show that the collective complies with all of the standards and requirements of this article. Attached to the registration form, the collective shall also provide written proof that the owner, and landlord if applicable, of the property, was given notice that (1) the collective intends to file the registration form and (2) that the owner, and landlord if applicable, has received a copy of the information contained in the registration form. The collective shall file an amended registration form within fifteen days of any changes in the information provided in the initial registration form filed with the City Clerk or any change in status of compliance with the regulations set forth in Section 45.19.6.3. The City Clerk shall provide proof of registration to the person authorized to accept service of process for the collective. Each and every member of the collective shall both list (in print) his or her name and sign the initial registration form filed with the City Clerk, and any subsequent amended registration form, as required under this article, under penalty of perjury and certifying that all information provided and contained in the registration form is true and correct. The failure or refusal of any member of the collective to sign the initial or any amended registration form shall result in the City Clerk refusing to accept the registration form. Changes in the membership of the collective shall be reported to the City Clerk within 60 days of the change.

B. No registration form for the establishment of a collective shall be accepted by the City Clerk until a preinspection by the Department of Building and Safety has been conducted to verify compliance with the standards set forth in Section 45.19.6.3 A of this article. A preinspection fee pursuant to Section 91.107.3.2 of this Code shall be collected by the Department of Building and Safety.

Sec. 45.19.6.3. REGULATIONS.

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

A. Development Standards.

1. The property shall comply with the provisions of Chapters I and IX of the Code;
2. No collective shall be located within a 1,000-foot radius of a school, public park and playground, public library, religious institution, licensed child care

facility, youth center, hospital, substance abuse rehabilitation center, collective(s) or medical marijuana dispensary. The distance specified in this subdivision shall be the horizontal distance measured in a straight line from the property line of a school, public park and playground, public library, religious institution, licensed child care facility, youth center, hospital, substance abuse rehabilitation center, medical marijuana collective or medical marijuana dispensary to the closest exterior structural wall of the collective without regard to intervening structures;

3. Exterior building lighting and parking area lighting for the property must be in compliance with Sections 93.0104, 93.0107 and 93.0117 of the Code. In addition, the property shall be equipped with lighting fixtures of sufficient intensity to illuminate all interior areas of the property with an illumination of not less than 1.5 foot-candles evenly distributed as measured at floor level; and

4. Windows and roof hatches of the property 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.

B. Conditions of Operation.

1. The property 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 near the property. The recordings of the monitoring shall be maintained for a period of one week and made available and accessible by the collective to the Department of Building and Safety and the Police Department upon request, without the need for a search warrant, subpoena or court order, for review and copying;

2. The property shall have a centrally-monitored alarm system;

3. No cultivation of medical marijuana on the property 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 property unless it 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 provide medical marijuana to its members between the hours of 8:00 p.m. and 10:00 a.m.;

6. No sale of marijuana or edible products containing marijuana shall be allowed, nor shall the manufacturing of these products for sale be permitted;

7. No persons under the age of eighteen shall be allowed on the property, 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 medical marijuana collective shall possess more than five pounds of dried marijuana or more than 100 plants on the property. No collective shall possess marijuana that was not cultivated either on the property or at a previous location, registered in accordance with Section 45.19.6.2 of this article, by that particular collective;

9. A sign shall be posted in a conspicuous location inside the structure on the property advising: "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 collective for an illegal purpose is prohibited by California Penal Code Section 647(h)";

10. No collective may provide medical marijuana to any persons other than its members who participate in the collective cultivation of marijuana at 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 establishment or maintenance of the sale or dispensing of alcoholic beverages for consumption on the property or off-site of the property;

12. No dried medical marijuana shall be stored in structures on the property without at least four walls and a roof, 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; and

13. Medical marijuana may not be consumed on the property, in the parking areas of the property, 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 or a person with an identification card who resides on the property with respect to the use of marijuana for his or her own medical purposes.

Sec. 45.19.6.4. MAINTENANCE OF RECORDS.

A medical marijuana collective shall maintain records on the property accurately and truthfully documenting: (1) the full name, address, and telephone number(s) of the owner, landlord and/or lessee of the property; (2) the full name, address, and telephone number(s) of all members who participate in the collective cultivation, the date they joined the collective and the exact nature of each member's participation; (3) the full name, address, and telephone number(s) of members to whom the collective provides medical marijuana; (4) the designation, by qualified patient(s) and person(s) with identification cards, of any and all primary caregivers who participate in the collective cultivation; (5) all contributions, whether in cash or in kind, by the members to the collective and all expenditures incurred by the collective for the cultivation of medical marijuana, (6) inventory record documenting the dates and amounts of marijuana cultivated on the property, including the amounts of marijuana stored on the property; and (7) proof of registration with the City Clerk in conformance with Section 45.19.6.2 of this article, including evidence of an accepted registration form. These records shall be maintained for a period of five years and made available and accessible by the collective to the Department of Building and Safety and the Police Department upon request, without the need for a search warrant, subpoena or court order, for review and copying.

Sec. 45.19.6.5. INSPECTION AUTHORITY.

The Department of Building and Safety and the Police Department may enter and inspect the property of every collective and the records maintained pursuant to Section 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 the provisions of this article and both Departments, within their respective jurisdictions, are authorized to enforce the provisions of this article. It is unlawful for any owner, landlord, lessee, member 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 records or monitoring.

Sec. 45.19.6.6. EXISTING MEDICAL MARIJUANA DISPENSARIES.

Any marijuana cultivation operation or medical marijuana dispensary 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 a marijuana cultivation operation or medical marijuana dispensary not in compliance with the requirements of this article that was established and operating prior to September 14, 2007, and which registered with the City Clerk's office before November 12, 2007, in accordance with Interim Control Ordinance No. 179,027, shall have 90 days from the effective date of this article during which to fully comply with the requirements of this article or to cease operation.

Sec. 45.19.6.7. 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 law.

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 law.

B. 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 the activities of collectives.

Sec. 45.19.6.8. VIOLATION AND ENFORCEMENT.

Any violation of this article shall be subject to all remedies and enforcement measures authorized by Section 11.00 of this Code and, additionally, as a nuisance per se, all of which shall also be subject to injunctive relief, revocation of the certificate of occupancy for the property, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, and 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 law for any violations committed by the collectives and persons related or associated with the collective.

Notwithstanding an initial verification of compliance by the collective with the development standards 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 development standards at any time is subject to the enforcement provisions provided in this section.

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 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. 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 September 22, 2009

File No. CF 08-0923

ORDINANCE NO. _____

An ordinance adding Article 5.1 to Chapter IV to 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.

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WHEREAS, the City of Los Angeles has a compelling interest in ensuring that marijuana is not distributed in an illicit manner; and

WHEREAS, the Medical Marijuana Program Act of 2003 provides for the association of primary caregivers and qualified patients to cultivate marijuana for medical purposes; and

WHEREAS, the regulation of these associations is essential to preserve the peace and quiet of the neighborhoods in which these associations are established and operate; and

WHEREAS, the California Police Chiefs Association has compiled an extensive report detailing the negative secondary effects associated with medical marijuana dispensaries; and

WHEREAS, there has been a recent report of increased violent crime at the location of many of the medical marijuana dispensaries in the City of Los Angeles, and

WHEREAS, the proliferation of medical marijuana establishments inhibit law enforcement and jeopardize the public health, safety and welfare of residents and businesses within the City of Los Angeles; and

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, pursuant to state law, 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 and the Medical Marijuana Program Act, California Health and Safety Code Sections 11362.5, *et seq.*, ("State Law") do not interfere with a patient's right to use medical marijuana as authorized under State Law, nor does it 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 federal, state law 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 and 45.21 of this Code.

"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 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.*

"Medical marijuana dispensary." Any facility or location, including but not limited to a retail store, office building, or structure, from which marijuana is distributed, transmitted, given, dispensed, or otherwise provided in any manner.

Sec. 45.19.6.2. REGISTRATION.

A. All collectives shall register with the City Clerk by completing a registration form provided by the City Clerk. The form shall, at a minimum, contain the following accurate and truthful information: the names of all persons who are members of the collective, the address and physical description (i.e., one-story commercial building, etc.) of the property at and upon which the collective is located ("property"), a telephone number at the property, the name(s) and address(es) of a person(s) authorized to accept service of process for the collective, and any other information reasonably required on the form provided by the City Clerk to show that the collective complies with all of the standards and requirements of this article. Attached to the registration form, the collective shall also provide written proof that the owner, and landlord if applicable, of the property, was given notice that (1) the collective intends to file the registration form and (2) that the owner, and landlord if applicable, has received a copy of the information contained in the registration form. The collective shall file an amended registration form within fifteen days of any changes in the information provided in the initial registration form filed with the City Clerk or any change in status of compliance with the regulations set forth in Section 45.19.6.3. The City Clerk shall provide proof of registration to the person authorized to accept service of process for the collective. Each and every member of the collective shall both list (in print) his or her name and sign the initial registration form filed with the City Clerk, and any subsequent amended registration form, as required under this article, under penalty of perjury and certifying that all information provided and contained in the registration form is true and correct. The failure or refusal of any member of the collective to sign the initial or any amended registration form shall result in the City Clerk refusing to accept the registration form. Changes in the membership of the collective shall be reported to the City Clerk within 60 days of the change.

B. No registration form for the establishment of a collective shall be accepted by the City Clerk until a preinspection by the Department of Building and Safety has been conducted to verify compliance with the standards set forth in Section 45.19.6.3 A of this article. A preinspection fee pursuant to Section 91.107.3.2 of this Code shall be collected by the Department of Building and Safety.

Sec. 45.19.6.3. REGULATIONS.

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

A. Development Standards.

1. The property shall comply with the provisions of Chapters I and IX of the Code;

2. No collective shall be located within a 1,000-foot radius of a school, public park and playground, public library, religious institution, licensed child care

facility, youth center, hospital, substance abuse rehabilitation center, collective(s) or medical marijuana dispensary. The distance specified in this subdivision shall be the horizontal distance measured in a straight line from the property line of a school, public park and playground, public library, religious institution, licensed child care facility, youth center, hospital, substance abuse rehabilitation center, medical marijuana collective or medical marijuana dispensary to the closest exterior structural wall of the collective without regard to intervening structures;

3. Exterior building lighting and parking area lighting for the property must be in compliance with Sections 93.0104, 93.0107 and 93.0117 of the Code. In addition, the property shall be equipped with lighting fixtures of sufficient intensity to illuminate all interior areas of the property with an illumination of not less than 1.5 foot-candles evenly distributed as measured at floor level; and

4. Windows and roof hatches of the property 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.

B. Conditions of Operation.

1. The property 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 near the property. The recordings of the monitoring shall be maintained for a period of one week and made available and accessible by the collective to the Department of Building and Safety and the Police Department upon request, without the need for a search warrant, subpoena or court order, for review and copying;

2. The property shall have a centrally-monitored alarm system;

3. No cultivation of medical marijuana on the property 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 property unless it 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 provide medical marijuana to its members between the hours of 8:00 p.m. and 10:00 a.m.;

6. No sale of marijuana or edible products containing marijuana shall be allowed, nor shall the manufacturing of these products for sale be permitted;

7. No persons under the age of eighteen shall be allowed on the property, 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 medical marijuana collective shall possess more than five pounds of dried marijuana or more than 100 plants on the property. No collective shall possess marijuana that was not cultivated either on the property or at a previous location, registered in accordance with Section 45.19.6.2 of this article, by that particular collective;

9. A sign shall be posted in a conspicuous location inside the structure on the property advising: "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 collective for an illegal purpose is prohibited by California Penal Code Section 647(h)";

10. No collective may provide medical marijuana to any persons other than its members who participate in the collective cultivation of marijuana at 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 establishment or maintenance of the sale or dispensing of alcoholic beverages for consumption on the property or off-site of the property;

12. No dried medical marijuana shall be stored in structures on the property without at least four walls and a roof, 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; and

13. Medical marijuana may not be consumed on the property, in the parking areas of the property, 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 or a person with an identification card who resides on the property with respect to the use of marijuana for his or her own medical purposes.

Sec. 45.19.6.4. MAINTENANCE OF RECORDS.

A medical marijuana collective shall maintain records on the property accurately and truthfully documenting: (1) the full name, address, and telephone number(s) of the owner, landlord and/or lessee of the property; (2) the full name, address, and telephone number(s) of all members who participate in the collective cultivation, the date they joined the collective and the exact nature of each member's participation; (3) the full name, address, and telephone number(s) of members to whom the collective provides medical marijuana; (4) the designation, by qualified patient(s) and person(s) with identification cards, of any and all primary caregivers who participate in the collective cultivation; (5) all contributions, whether in cash or in kind, by the members to the collective and all expenditures incurred by the collective for the cultivation of medical marijuana, (6) inventory record documenting the dates and amounts of marijuana cultivated on the property, including the amounts of marijuana stored on the property; and (7) proof of registration with the City Clerk in conformance with Section 45.19.6.2 of this article, including evidence of an accepted registration form. These records shall be maintained for a period of five years and made available and accessible by the collective to the Department of Building and Safety and the Police Department upon request, without the need for a search warrant, subpoena or court order, for review and copying.

Sec. 45.19.6.5. INSPECTION AUTHORITY.

The Department of Building and Safety and the Police Department may enter and inspect the property of every collective and the records maintained pursuant to Section 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 the provisions of this article and both Departments, within their respective jurisdictions, are authorized to enforce the provisions of this article. It is unlawful for any owner, landlord, lessee, member 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 records or monitoring.

Sec. 45.19.6.6. EXISTING MEDICAL MARIJUANA DISPENSARIES.

Any marijuana cultivation operation or medical marijuana dispensary 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 a marijuana cultivation operation or medical marijuana dispensary not in compliance with the requirements of this article that was established and operating prior to September 14, 2007, and which registered with the City Clerk's office before November 12, 2007, in accordance with Interim Control Ordinance No. 179,027, shall have 90 days from the effective date of this article during which to fully comply with the requirements of this article or to cease operation.

Sec. 45.19.6.7. 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 law.

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 law.

B. 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 the activities of collectives.

Sec. 45.19.6.8. VIOLATION AND ENFORCEMENT.

Any violation of this article shall be subject to all remedies and enforcement measures authorized by Section 11.00 of this Code and, additionally, as a nuisance per se, all of which shall also be subject to injunctive relief, revocation of the certificate of occupancy for the property, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, and 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 law for any violations committed by the collectives and persons related or associated with the collective.

Notwithstanding an initial verification of compliance by the collective with the development standards 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 development standards at any time is subject to the enforcement provisions provided in this section.

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 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. 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 September 22, 2009

File No. CF 08-0923