



CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 13 - 00 33
JAN 18 2013

REPORT RE:

**DRAFT ORDINANCES AND RESOLUTIONS PURSUANT TO
CHARTER SECTION 453 REGARDING ACTION BY CITY COUNCIL ON
CERTIFIED INITIATIVE PETITION REGARDING MEDICAL MARIJUANA**

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

Honorable Members:

The City Clerk has presented to your Honorable Body a certified initiative petition related to medical marijuana collectives submitted by proponents Paul Scott, Barbara Andrews, Robert Kerns, Dang Le and James Rephann. In connection with the City Clerk's transmittal, this Office has prepared and now transmits the enclosed draft ordinances and resolutions pursuant to Charter Section 453 regarding action by the City Council upon presentation of a certified initiative petition proposing an ordinance amending an existing ordinance previously adopted by a vote of the people.

Background

On December 21, 2012, a group of proponents submitted an initiative petition to the City Clerk containing voter signatures in support of a proposed ordinance that would regulate and raise taxes on associations of qualified patients and/or primary caregivers who cultivate, provide or engage in other activities related to medical marijuana (MMCs). In general, the proposed initiative would require MMCs to register with the City and meet other requirements and operational standards. The initiative does not limit the number of MMCs that can register but provides registration priority to those

possessing a City tax registration certificate as of October 2012. The initiative contains exemptions for dwellings zoned residential, as well as other exemptions. The initiative also would increase the MMC tax to \$60.00 per each \$1,000.00 of gross receipts.

On December 31, 2012, the City Clerk completed its preliminary review of the initiative petition and accepted it for processing. The City Clerk thereafter examined the voter signatures contained on the petition using the random sampling method authorized in the City Election Code and in accordance with Charter Section 451. The City Clerk has now completed that examination and has determined that the initiative petition contains a sufficient number of valid voter signatures to qualify for presentation to the City Council. The City Clerk certified the petition as sufficient on January 3, 2013, and presented the certified petition to Council on January 7, 2013.

Council Options

The ordinance proposed in this initiative would, in part, amend an existing ordinance previously adopted by the vote of the people. In March 2011, the voters of Los Angeles adopted Proposition M, a tax ordinance imposing an annual tax of \$50.00 for each \$1,000.00 of the gross receipts earned by a medical marijuana collective. The ordinance proposed in this initiative would increase that tax rate to \$60.00. Charter Section 453 provides that when presented with a certified initiative petition proposing an ordinance that would amend an existing ordinance previously adopted by a vote of the people, the City Council must place the proposed ordinance on the ballot at the next election occurring in the City at any time after 90 days after the date of the Clerk's certification of the petition.

The City Clerk certified this initiative petition as sufficient on January 3, 2013. The City's General Municipal Election of May 21, 2013, will occur more than 90 days after the date of certification. Accordingly, pursuant to Charter Section 453, the ordinance proposed in this initiative petition must be submitted to the voters at the City's General Municipal Election to be held on May 21, 2013.

We have attached an election ordinance and ballot resolutions to place the measure on the ballot at the City's General Municipal Election to be held on May 21, 2013. These election documents include a ballot title for the measure.

If you have any questions regarding this matter, please contact Special Assistant City Attorney Jane Usher at (213) 978-8100. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:JEU:pj
Transmittal

RESOLUTION

WHEREAS, the Council of the City of Los Angeles has taken action pursuant to an initiative petition to place a certain initiative ordinance before the qualified voters of the City of Los Angeles at a Special Election to be called on May 21, 2013, and consolidated with the City's General Municipal Election to be held on the same date; and

WHEREAS, the City Election Code requires the City Attorney to prepare and present a ballot title and question consisting of an impartial statement of the measure; and

WHEREAS, the City Attorney has presented the following ballot title and question for the proposed measure:

MEDICAL MARIJUANA REGULATION AND TAXATION. REQUIRE COLLECTIVES TO REGISTER AND MEET OTHER REQUIREMENTS AND OPERATIONAL STANDARDS. NO LIMITATION ON NUMBER THAT CAN REGISTER. EXEMPT DWELLINGS ZONED RESIDENTIAL FROM REGULATION. INCREASE TAXES ON COLLECTIVES. INITIATIVE ORDINANCE ____.

Shall an ordinance regulating associations of qualified patients and/or primary caregivers who cultivate, provide or engage in other activities related to marijuana for medical purposes (MMCs) by: (1) prohibiting MMCs but providing limited immunity for MMCs that register with the City (without limiting the number that can register but giving registration priority to those possessing City tax certificates by October 2012), generally have not ceased operations for more than 90 days, pass annual background checks, are separated from residential uses, maintain certain distances from schools, parks, child care facilities, other designated places and other MMCs, and meet other requirements and operational standards; (2) exempting dwellings zoned residential, and other exemptions; and (3) increasing the MMC tax to \$60 per each \$1,000 of gross receipts; be adopted?

NOW, THEREFORE, BE IT RESOLVED that the ballot title and question presented by the City Attorney be adopted by the City Council.

I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

C.F. No. _____

RESOLUTION

Resolution providing that an initiative ordinance be submitted to the qualified voters of the City of Los Angeles.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LOS ANGELES AS FOLLOWS:

Section A. The following initiative ordinance of the City of Los Angeles is hereby proposed to be submitted for approval by a majority of the qualified voters of the City of Los Angeles at a Special Election to be called on May 21, 2013, and consolidated with the City's General Municipal Election to be held on the same date:

ORDINANCE NO. _____

Pursuant to, and consistent with California law concerning medical marijuana, the City of Los Angeles shall enact an ordinance amending in their entirety Article 5.1 of Chapter IV, and Section 21.50, of the Los Angeles Municipal Code, in order to impose strict regulations on medical marijuana collectives to protect the health, safety, and welfare of the community, and to provide additional general tax revenues to help fund the regulation of medical marijuana collectives and necessary municipal services, including, but not limited to, police protection and crime suppression services, firefighting services, code enforcement, building inspections, and other municipal services as determined by the City Council.

WHEREAS, the Compassionate Use Act ("CUA"), adopted by California voters in 1996, and the Medical Marijuana Program Act ("MMPA"), enacted by the State Legislature in 2003, decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician's recommendation and provided California's qualified patients and their primary caregivers with specified immunities under state law, thereby helping to ensure that qualified patients and their primary caregivers, who possess and use marijuana for medical purposes, are not subject to criminal prosecution or sanction;

WHEREAS, commencing in 2007, numerous medical marijuana collectives opened storefront shops and commercial growing operations in the City without any consistent land use controls under the Los Angeles Municipal Code ("LAMC," "Municipal Code," or "this Code") and, since that time, an unknown number of these collectives continue to operate in Los Angeles, all without consistent and clear regulations from the City;

WHEREAS, the Los Angeles Police Department ("LAPD") has reported that, as the number of marijuana dispensaries and commercial growing operations proliferated without sufficient legal oversight, the City and its neighborhoods have experienced negative secondary effects, including an increase in crime at certain locations associated with unregulated marijuana collectives;

WHEREAS, there presently are no ordinances in the City of Los Angeles specifically regulating or monitoring the location, zoning standards, or other aspects of the locations and facilities where medical marijuana will be dispensed to eligible persons under state law;

WHEREAS, medical marijuana dispensaries continue to operate without reasonable regulation, thus threatening the interests of local neighborhoods and businesses, as well as negatively impacting those seriously ill residents of the City who require access to the palliative effects of medical marijuana;

WHEREAS, by implementing a fair and reasonable registration process for medical marijuana collectives, which will provide priority to those registrants who have acted and which continue to act in a responsible and law-abiding manner, the City will be able to maintain order while avoiding undue burdens on its already strained financial resources;

WHEREAS, the City has a substantial and clear interest in ensuring that medical marijuana is distributed in an orderly manner, and in protecting the public health, safety and welfare of its residents, its businesses, the neighborhoods in which medical marijuana collectives operate, while ensuring compassionate access by seriously ill residents to medical marijuana in accordance with the CUA and the MMPA;

WHEREAS, taxing medical marijuana collectives in the City will help to fund general municipal services, which may include but are not limited to, code enforcement, building inspections, police protection and crime suppression services, fire prevention and suppression services, which will facilitate the purposes of this law and which will fund necessary services as determined by the City Council;

WHEREAS, the regulations in this initiative do not interfere with a qualified patient's right to use medical marijuana as authorized under California law, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under California law.

WHEREAS, medical marijuana collectives shall comply with all provisions of the Los Angeles Municipal Code ("Code"), California law, and all other applicable local laws; nothing in this initiative purports to permit activities that are otherwise illegal under state or local law;

WHEREAS, this initiative is not intended to conflict with federal or state law, nor is it intended to respond to or invite litigation over any unresolved legal questions posed by the California Attorney General or by case law regarding the scope and application of state law; it is intended that this initiative be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass;

NOW, THEREFORE,

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

SECTION 1.

Section 21.50 of Article 1 of Chapter II of the Los Angeles Municipal Code is amended in its entirety to read:

Sec. 21.50. TAXATION OF MEDICAL MARIJUANA COLLECTIVES.

(a) No registration certificate or permit issued under the provisions of Article 1 or Article 1.5 of Chapter 2 of this Code, or the payment of any tax required under the provisions of Article 1 or Article 1.5 of Chapter 2 of this Code shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this section implies or authorizes that any activity connected with the distribution or possession of cannabis is legal unless otherwise authorized and allowed by California and federal law. Nothing in this Section shall be applied or construed as authorizing the sale of marijuana.

(b) Every person engaged in operating or otherwise conducting a medical marijuana collective not otherwise specifically taxed by other business tax provisions of this Chapter, shall pay a business tax of \$60.00 for each \$1,000.00 of gross receipts or fractional part thereof.

(c) For purposes of this section, a "medical marijuana collective" means any activity regulated or permitted by Article 5.1 of this Code or Health and Safety Code sections 11362.5, *et seq.*, that involves transporting, dispensing, delivering, providing or manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing harvesting, transporting, dispensing, delivering, providing, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing any part of the marijuana plant for medical purposes.

(d) For purposes of this section, "gross receipts" includes all amounts that would be considered gross receipts under section 21.00, including without limitation:

- (i) Membership dues;
- (ii) The value of in-kind contributions;
- (iii) Reimbursements provided by members, regardless of form; and
- (iv) Anything else of value obtained by a medical marijuana collective.

(e) All taxpayers subject to this section must pay the full tax imposed by this section regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in the Municipal Code, except as required by California or Federal Law. No provision in the Municipal Code can lower the tax rate set forth in this section or otherwise reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

(f) The City Council may impose the tax authorized by this section at a lower rate and may establish exemptions, incentives, or other reductions as otherwise allowed by the Charter and California law. No action by the Council under this paragraph shall prevent it from later increasing the tax or removing any exemption, incentive, or reduction and restoring the maximum tax specified in this section.

SECTION 2.

Article 5.1 of Chapter IV of the Los Angeles Municipal Code is amended in its entirety to read:

ARTICLE 5.1

MEDICAL MARIJUANA

SEC. 45.19.6. PURPOSES AND INTENT.

It is the purpose and intent of this article to regulate medical marijuana collectives 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 do not interfere with a qualified patient's right to use medical marijuana as authorized under California law, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under California law.

Medical marijuana collectives shall comply with all provisions of the Los Angeles Municipal Code ("Code"), California law, and all other applicable laws. Nothing in this article purports to permit activities that are otherwise illegal under federal, state or local law. This article is not intended to conflict with federal or state law, nor is this article intended to respond to or invite litigation over any unresolved legal questions posed by the California Attorney General or by case law regarding the scope and application of state law. It is intended that this article be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

SEC. 45.19.6.1. DEFINITIONS.

A. The following phrases words, when used in this section, 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 for "youth center" only, and 56.45 of this Code.

"Building" means any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels, or property of any kind.

"Live Scan" means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice ("DOJ") which involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and automated background check process as determined by the City Council.

"Live Scan application" means a form developed by the City Clerk to request Live Scan services and to contain information relevant to the Live Scan process.

"Location" means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.

"Manager" means any person with responsibility for the establishment, organization, registration, supervision, or oversight of a medical marijuana collective, including but not limited to any person who performs the functions of president, vice president, board member, director, owner, operating officer, financial officer, secretary, or treasurer of the medical marijuana collective.

"Marijuana" shall be construed as defined in California Health and Safety Code Section 11018 and further shall specifically include any product that contains marijuana or a derivative of marijuana.

"Medical marijuana collective" means the following: an unincorporated or incorporated entity or association of qualified patients and/or primary caregivers and/or persons with identification cards, who provide money and in-kind contributions, reimbursements, and reasonable compensation towards the aforementioned entity's actual expenses for activities including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, providing and/or retail sales of medical marijuana. A medical marijuana collective may provide medical marijuana, products, services and assistance to qualified patients, persons with a

medical marijuana identification card (as set forth in the MMPA), or the primary caregiver of such persons. Medical marijuana collectives may assist with the acquisition of skills necessary to cultivate or provide marijuana for medical purposes in compliance with State Law. A medical marijuana collective includes any facility, building, structure or location, whether permanent, or temporary, where marijuana is made available, sold, given, distributed, or otherwise provided in accordance with Health and Safety Code section 11362.5 *et seq.* A medical marijuana collective includes medical marijuana “cooperatives” and “collectives” that are established as not for profit entities.

(1) “Medical marijuana collectives” shall not include, nor be interpreted to include, any of the following:

(a) Any location which is a legal dwelling zoned exclusively for residential use and not permitted for any commercial activity.

(b) Any vehicle or other mode of transportation, stationary or mobile, which is used to cultivate, distribute, process, administer, deliver, give away, or transport marijuana to any person, including a qualified patient, a person with an identification card, or a primary caregiver.

(c) The location of any clinic licensed pursuant to Chapter 1 (commencing with Section 1200), a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725), any facility specified in Division 2 of the California Health and Safety Code where: (i) a qualified patient or person with an identification card receives medical care or supportive services, or both, from the clinic, facility, hospice, or home health agency, and (ii) the owner or operator, or one of not more than three employees designated by the owner or operator, of the clinic, facility, hospice, or home health agency has been designated as a primary caregiver pursuant to California Health and Safety Code Section 11362.7(d) by that qualified patient or person with an identification card.

“Premises” means the space in any buildings of a medical marijuana collective together with the spaces within any structures, yards, open spaces, lot width, and lot area at a location that is occupied or used in the operation of the medical marijuana collective.

"Reasonable compensation" means 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."

"Religious institution" means a building which is used primarily for religious worship and related religious activities and which possesses all necessary permits, certificates of occupancy and licensing to operate within the City of Los Angeles.

"Structure" means anything constructed or erected which is supported directly or indirectly on the ground, but not including any vehicle.

"Vehicle" means a conveyance or device by which any person or property may be propelled, moved, or drawn upon a street, sidewalk or waterway, including but not limited to a device moved exclusively by human power.

B. The following words or phrases when used in this section shall be construed as defined in California Health and Safety Code Sections 1746, 11362.5, and 11362.7.

"Hospice"; "Identification card";
"Person with an identification card;" "Primary caregiver"; and
"Qualified patient".

SEC. 45.19.6.2. MEDICAL MARIJUANA COLLECTIVES PROHIBITED.

A. It shall be unlawful to own, establish, operate, use, or permit the establishment or operation of a medical marijuana collective, or to participate as an employee, contractor, agent, volunteer, or in any manner or capacity other than as provided in this article 5.1.

B. The general prohibition contained in this section shall include renting, leasing, or otherwise permitting a medical marijuana collective to occupy or use a location, vehicle, or other mode of transportation.

SEC. 45.19.6.3. LIMITED IMMUNITY.

A medical marijuana collective shall be immune to the prohibition set out in Section 45.19.6.2 and the remedies set forth in Los Angeles Municipal Code section 11.00, including criminal prosecution, so long as that medical marijuana collective is registered with the City Clerk pursuant to this article and complies with all operational requirements provided in this section.

A. REGISTRATION.

1. Registration Required. No medical marijuana collective shall be subject to the limited immunity and operational requirements provisions of this article until it has filed an intent to register form in accordance with the provisions of this article, has paid all applicable registration fees, and its registration has been accepted as complete by the City Clerk.

Notwithstanding the above, medical marijuana collectives that register pursuant to priority registration provisions in Section 45.19.6.3 A.3 may operate during the registration process until such a time as their registration is denied or accepted by the City Clerk but for no longer than 6 months after the medical marijuana collective first filed its "intent to register form." No other medical marijuana collective may operate under the priority registration exception unless it submitted an "intent to register form" in accordance with this section.

2. Registration.

i. The City Clerk shall create a registration form for medical marijuana collectives to file their notice of intent to register pursuant to this article. This form shall be titled the "Intent to Register Form".

ii. The City Clerk shall initially allow two periods for priority registration of medical marijuana collectives to register pursuant to this article. The first priority registration period shall begin seven (7) days after the effective date of this ordinance and last 10 business days. The second priority registration period shall begin no later than 45 days after the effective date of the ordinance and shall last 10 business days.

iii. No later than 270 days after the completion of the second priority registration period the City Clerk shall allow the registration of additional medical marijuana collectives in the City subject to the conditions of this article and subject to the registration requirements detailed in Section 45.19.6.3.

3. Priority Registration.

i. Beginning on the date that is seven (7) days after the effective date of this ordinance, and lasting for 10 business days, any medical marijuana collective that: (1) possesses a valid City of Los Angeles Tax Registration Certificate designation L050 - with an issue date on or before October 9, 2012; (2) possesses a valid City of Los Angeles Tax Registration Certificate designation L044 - with an issue date on or before October 9, 2012; (3) possesses a valid City of Los Angeles Tax Registration designation L049 - with an

issue date on or before October 9, 2012; (4) possesses a valid State Board of Equalization sellers permit for the sale of medical marijuana which was applied for and issued on or before October 9, 2012; (5) pays the required registration fee as determined by the City Clerk; (6) provides the name, phone number, and e-mail address of each manager together with proof that each manager has submitted a Live Scan and Live Scan application to the Los Angeles Police Department pursuant to this article; (7) provides the name, phone number and e-mail address of each member and/or employee that distributes medical marijuana, together with proof that each manager has submitted a Live Scan and Live Scan application to the Los Angeles Police Department; (8) provides its current location of operation and proof that it operates with the approval of its current landlord; and (9) identifies a location that it will occupy after registration that meets the requirements of this article; may submit its notice of intent to register with the City Clerk.

ii. Beginning on the date that is 45 days after the effective date of this ordinance, and lasting for 10 business days, any medical marijuana collective that: (1) possesses a valid City of Los Angeles Tax Registration Certificate designation L050 with an issue date on or before October 20, 2012; (2) possesses a valid City of Los Angeles Tax Registration Certificate designation L044 with an issue date on or before October 20, 2012; (3) possesses a valid City of Los Angeles Tax Registration designation L049 with an issue date on or before October 20, 2012; (4) possesses a valid State Board of Equalization sellers permit for the sale of medical marijuana with an issue date on or before October 20, 2012; (5) pays the required registration fee as determined by the City Clerk; (6) provides the name, phone number, and e-mail address of each manager together with proof that each manager has submitted a Live Scan and Live Scan application to the Los Angeles Police Department pursuant to this article; (7) provides the name, phone number and e-mail address of each member and/or employee that distributes medical marijuana, together with proof that each manager has submitted a Live Scan and Live Scan application to the Los Angeles Police Department; (8) provides its current location of operation and proof that it operates with the approval of its current landlord; and (9) identifies a location that it will occupy after registration that meets the requirements of this article; may submit its notice of intent to register with the City Clerk.

4. Priority Order.

i. All medical marijuana collectives that meet the applicable requirements provided in Subsection A(1), (2) or (3), above, and

that notify the City Clerk of their intention to register under this article at an identified location shall be eligible to be registered pursuant to this article. Priority order shall be applied to each registration group under Section 45.19.6.3 A.3(i) and 45.19.6.3 A.3(ii) separately. At no time shall the registrants provided priority in Section 45.19.6.3 A.3(ii) have registration priority over those registrants provided priority under Section 45.19.6.3 A.3(i). The City Clerk shall provide registration priority to medical marijuana collectives who operated in the City longer. In order to determine the length a medical marijuana collective has operated in the City, the City Clerk shall use the earliest issue date appearing on any required City Tax Registration Certificate provided by the registrants during the medical marijuana collective's registration to determine the priority order in which the City Clerk will complete registration of medical marijuana collectives.

ii. The date each medical marijuana collective registration is deemed completed by the City Clerk shall determine priority in the operation of a medical marijuana collective pursuant to the zoning prohibition in Section 45.19.6.3 B(5).

5. General Registration.

i. Beginning on the date that is no sooner than 270 days after the completion of the second registration period, the City Clerk shall allow additional applicants to submit an intent to register form with the City Clerk. The submission of an intent to register form does not provide the medical marijuana collective the ability to operate until its registration has been deemed complete by the City Clerk.

ii. Every medical marijuana collective that: (1) possesses a valid City of Los Angeles Tax Registration Certificate designation L050; (2) possesses a valid City of Los Angeles Tax Registration Certificate designation L044; (3) possesses a valid City of Los Angeles Tax Registration designation L049; (4) possesses a valid State Board of Equalization sellers permit for the sale of medical marijuana; (5) pays the required registration fee as determined by the City Clerk; (6) provides the name, phone number, and e-mail address of each manager together with proof that each manager has submitted a Live Scan and Live Scan application to the Los Angeles Police Department pursuant to this article; (7) provides the name, phone number and e-mail address of each member and/or employee that distributes medical marijuana, together with proof that each manager has submitted a Live Scan and Live Scan application to the Los Angeles Police Department; and (8) identifies a location that it will occupy after registration that meets the

requirements of this article; may submit its notice of intent to register with the City Clerk pursuant to the general registration.

6. Modification of Intent to Register Form and Registration.

i. The City Clerk shall allow a medical marijuana collective, which timely submitted an intent to register form, the ability to amend its intent to register form, as needed, and in compliance with this article.

ii. After the completed registration of each medical marijuana collective, the City Clerk shall allow each registered medical marijuana collective the ability to update its registration, as needed, and in compliance with this article.

B. OPERATIONAL REQUIREMENTS.

A medical marijuana collective shall be immune to the prohibition set out in Section 45.19.6.2 and the remedies set forth in Los Angeles Municipal Code Section 11.00, including criminal prosecution, so long as that medical marijuana collective is registered as pursuant to Section 45.19.6.3 above and complies with the following operational requirements:

1. The medical marijuana collective possesses valid Business Tax Registration Certificates with Designation L050, L044 and L049;
2. The medical marijuana collective possesses a valid and current State Board of Equalization seller's permit;
3. The medical marijuana collective maintains proper documentation and registration of its employees pursuant to the requirements of the State Employment Development Department;
4. The medical marijuana collective shall make available to the City Clerk the names of each person who dispenses marijuana at the medical marijuana collective together with a Live Scan background check of each such person, and shall only allow those persons whose names are submitted to the City Clerk to dispense medical marijuana;
5. The medical marijuana collective shall not be located within:
 - i. a 1000-foot radius of a "school" as defined under Health and Safety Code § 11362.768 (h);
 - ii. a 500-foot radius of a public park, public library, licensed child care facility, youth center, substance abuse rehabilitation center,

religious institution and any other registered medical marijuana collectives;

iii. The distances specified in this paragraph 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, substance abuse rehabilitation center, or other medical marijuana collective(s), to the closest property line of the lot on which the medical marijuana collective is located without regard to intervening structures;

6. The medical marijuana collective may not be more than 30 days past due on its City taxes from the date it first submitted its intent to register form;

7. The medical marijuana collective shall not cease operation in the City for more than a 90 day period of time from the day it first submitted its intent to register form, as evidenced by its self-reported disclosures to the City, by City field inspection, by lack of activity on its utilities bills, by the return to the City by the U.S. Postal Service of mail sent to the business by the City, or by confirmation from the Los Angeles Police Department or any law enforcement agency of a closure arising out of a law enforcement proceeding;

i. For purposes of this subsection, a medical marijuana collective will not be deemed to have ceased operations if closure or non-operation was in response to a letter or notice from the Federal government or any of its agencies.

8. The medical marijuana collective shall not be more than 60 days past due in the annual renewal of its City business tax registration from the date it first submitted its intent to register form;

9. The medical marijuana collective shall remain closed and/or shall not operate between the hours of 10 PM and 10 AM;

10. The medical marijuana collective shall not allow any minors to enter its premises;

11. The medical marijuana within a medical marijuana collective shall not be visible from the exterior of the business's premises;

12. The medical marijuana collective shall not illuminate the interior of its premises during closure hours by lighting that is substantially visible from the exterior of the premises, except such lighting that is utilized for the security of the premises;

13. The medical marijuana collective shall bar ingress or egress to its premises on any side of its location that abuts or is across a street, alley or walk from, or has a common corner, with a residential use of land, except that an exit door required by this Code may be maintained for emergency egress only and must be locked from the exterior at all times;

14. Prior to being offered a position of management or employment at a medical marijuana collective, an applicant for a position of manager, volunteer, or employee of the medical marijuana collective who dispenses medical marijuana must submit and successfully pass an annual LAPD Live Scan background check by December 31 of each year in order to be employed at the medical marijuana collective. A failed LAPD Live Scan is any Live Scan that shows a felony conviction having occurred within the past 10 years and/or shows that the manager, volunteer, or employee is currently on parole or probation for the sale or distribution of a controlled substance;

15. The medical marijuana collective shall prohibit the sale, dispensing, or consumption of alcoholic beverages at its location or in the parking area of the location;

16. During those hours that the medical marijuana collective is closed or not operating, the medical marijuana collective shall not keep and not store medical marijuana that is not in a locked vault or safe, or other secured storage structure. In the event that any dried medical marijuana is to be stored in a safe or vault, such safe or vault must be bolted to the floor or structure of the premises;

17. The medical marijuana collective shall not allow any persons to inhale, smoke, eat, ingest, or otherwise consume marijuana 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 at the medical marijuana collective's location, nor shall this prohibition limit or conflict with the exceptions provided in local and state law that permit smoking in designated areas within licensed residential medical and elder care facilities;

18. The medical marijuana collective shall utilize the Live Scan background check system as set forth in this article prior to employing any manager, volunteer, or employee. The medical marijuana collectives' managers must be registered members of the medical marijuana collective. A medical marijuana collective shall not knowingly employ any manager who has been convicted of a felony within the previous 10 years, or be currently on parole or probation for the sale or distribution of a

controlled substance. Any person who does not qualify under this section shall not be engaged directly or indirectly in the management of the medical marijuana collective and, further, shall not manage, or benefit from the receipts and expenses of the medical marijuana collective. Verification of all Live Scan applications received by a medical marijuana collective shall be processed and received by the Los Angeles Police Department in accordance with California Department of Justice guidelines;

19. The medical marijuana collective shall not engage in, participate in, or otherwise engage in the manufacture of concentrated cannabis in violation of California Health and Safety Code section 11379.6;

20. Medical marijuana collectives shall not operate as a for-profit entity. Individual member/s may not receive remuneration above and beyond reasonable compensation. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by members towards the medical marijuana collective's actual expenses including but not limited to the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in compliance with State Law;

21. The medical marijuana collective shall not maintain more than \$200.00 in cash overnight at its location, and shall make twice daily bank drops that include all cash collected by the business on that day;

22. The medical marijuana collective shall have no interior illumination of any exterior signs nor shall any interior signs be visible from the exterior of the premises be allowed;

23. The windows and roof hatches of the building or portion of the medical marijuana collective's building where the medical marijuana collective is located shall be secured from the inside with bars or other reasonable security measures so as to prevent unauthorized entry, and shall be equipped with latches that may be released quickly from the inside to allow egress in the event of an emergency in compliance with all applicable building code provisions;

24. The medical marijuana collective 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 for the reasonable 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 90 days;

25. Exterior doors to the medical marijuana collective shall remain locked from the outside to prevent unauthorized ingress to the premises of the

medical marijuana collective. Ingress shall be allowed by means of a remote release operated from within the premises of the medical marijuana 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;

26. The medical marijuana collective shall provide a duly-licensed and uniformed security guard patrol for the premises during all hours of operation;

27. A sign shall be posted at the entrance to the medical marijuana collective containing the name and functioning telephone number of a 24-hour on-call manager who shall receive, log, and respond to complaints and other inquires on behalf of the medical marijuana collective;

28. The medical marijuana collective shall provide parking at a ratio of one parking space per 300 square feet of floor area. For purposes of applying the parking ratio, the floor area of the medical marijuana collective will only include those areas dedicated to the packaging and dispensing of marijuana;

29. No later than March 15 of every year, each medical marijuana 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, without limitation, a discussion, analysis, and verification of each of the records required to be maintained pursuant to Section 45.19.6.4 of this Article; and

30. The medical marijuana collective shall analyze a representative sample of dried medical marijuana and a representative sample of edible marijuana using a liquid chromatography/mass spectrometry/mass spectrometry method of analysis 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 tests 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.

SEC. 45.19.6.4. VIOLATION AND ENFORCEMENT.

Each 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 legally authorized remedies, including procedures for injunctive relief, as well as procedures to revoke the medical marijuana collective's registration, certificate of occupancy for the business's location, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney's 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 medical marijuana collective and persons related or associated with such medical marijuana collective. Notwithstanding an initial verification of compliance by the medical marijuana collective with the registration requirements set forth in Section 45.19.6.3 of this article prior to the filing of the registration form, any medical marijuana collective later found to be in violation at any time of any of the registration requirements shall be subject to the enforcement provisions provided in this section.

SEC. 45.19.6.5. SEVERABILITY

If any portion of this ordinance is for any reason held to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, that invalidity shall not affect the remaining portions of this ordinance which can be implemented without the invalid provision, and, to this end, the provisions of this ordinance are severable.

SECTION 3.

Majority Approval; Effective Date. This ordinance shall be effective only if approved by a majority of voters and shall go into effect on September 3, 2013.

SECTION 4.

Competing Measures. In the event that this measure and another measure or measures relating to the regulation of medical marijuana in the City of Los Angeles shall appear on the same ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other relating to the regulation of medical marijuana in the City of Los Angeles shall be null and void.

SECTION 5.

Amendment and Repeal. The provisions of the Los Angeles Municipal Code added by, amended by, or contained in this initiative measure may be amended to further its purposes by ordinance passed by a majority vote of the Council and approved by the Mayor. The provisions of the Los Angeles Municipal Code added by, amended by, or contained in this initiative measure shall not be repealed, except by an ordinance adopted either by petition or by the Council at its own instance and adopted by a vote of the electors, or by an amendment of the Charter superseding the aforementioned provisions.

Sec. B. The City Clerk is hereby authorized and directed to publish a notice containing the proposed ballot measure, specifying the date of May 21, 2013, as the date the measure is to be voted upon by the qualified voters of the City of Los Angeles. The notice shall be published once in a newspaper of general circulation in the City of Los Angeles, and in each edition thereof during that day of publication. The City Clerk is authorized and directed to prepare and keep in the City Clerk's office a sufficient supply of copies of the proposed ballot measure and to distribute the proposed ballot measure to any and all persons requesting a copy. Further, the City Clerk is authorized and directed to mail copies of the proposed ballot measure to each of the qualified voters of the City of Los Angeles.

Sec. C. The City Clerk is hereby authorized and directed to cause a notice to be published once in a newspaper of general circulation that copies of voter information pamphlets containing the proposed ballot measure may be obtained upon request in the City Clerk's office.

Sec. D. The City Clerk shall file a duly certified copy of this Resolution forthwith with the Board of Supervisors and with the Registrar-Recorder of the County of Los Angeles.

I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

C.F. No. _____

ORDINANCE NO. _____

An ordinance calling a Special Election to be held on Tuesday, May 21, 2013, for the purpose of submitting to the qualified voters of the City of Los Angeles a certain initiative ordinance and to consolidate this Special Election with the City's General Municipal Election to be held on the same date.

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

Section 1. A Special Election is hereby called to be held in the City of Los Angeles on May 21, 2013, for the purpose of submitting to the qualified voters of the City a certain initiative ordinance ordered to be placed on the ballot by the Council of the City of Los Angeles pursuant to an initiative petition.

Sec. 2. The ballot title and question to be used at the Special Election for the initiative ordinance to be submitted to the qualified voters of the City of Los Angeles shall be:

MEDICAL MARIJUANA REGULATION AND TAXATION. REQUIRE COLLECTIVES TO REGISTER AND MEET OTHER REQUIREMENTS AND OPERATIONAL STANDARDS. NO LIMITATION ON NUMBER THAT CAN REGISTER. EXEMPT DWELLINGS ZONED RESIDENTIAL FROM REGULATION. INCREASE TAXES ON COLLECTIVES. INITIATIVE ORDINANCE ____.

Shall an ordinance regulating associations of qualified patients and/or primary caregivers who cultivate, provide or engage in other activities related to marijuana for medical purposes (MMCs) by: (1) prohibiting MMCs but providing limited immunity for MMCs that register with the City (without limiting the number that can register but giving registration priority to those possessing City tax certificates by October 2012), generally have not ceased operations for more than 90 days, pass annual background checks, are separated from residential uses, maintain certain distances from schools, parks, child care facilities, other designated places and other MMCs, and meet other requirements and operational standards; (2) exempting dwellings zoned residential, and other exemptions; and (3) increasing the MMC tax to \$60 per each \$1,000 of gross receipts; be adopted?

Sec. 3. The initiative ordinance shall be designated on the ballot or ballot pages by a letter or number by the City Council in accordance with applicable City laws. Upon the designation by the proper officials of the letter or number to be assigned to the initiative ordinance, that letter or number is hereby adopted and shall be the designation for the ballot title.

Sec. 4. To vote on the initiative ordinance, the voter shall mark the ballot next to the word "Yes" or the word "No." A "Yes" vote shall be counted in favor of adoption of the initiative ordinance and a "No" vote shall be counted against adoption of the initiative ordinance.

Sec. 5. The Special Election hereby called shall be, and hereby is ordered to be, consolidated with the City's General Municipal Election to be held in the City of Los Angeles on Tuesday, May 21, 2013.

Sec. 6. The voting polls on election day shall open at 7:00 a.m., May 21, 2013, and shall remain open until 8:00 p.m. of the same day when the voting polls shall be closed, except as provided in City Election Code Section 857.

Sec. 7. The election precincts, polling places, and officers of election for the Special Election shall be the same as those provided in the City of Los Angeles for the General Municipal Election, and the election shall be held in all respects as if there were only one election. Furthermore, for the precincts, polling places, and officers of election, reference is hereby made to the list that will be prepared and approved by the City Clerk and filed in the City Clerk's Office not later than April 21, 2013, and that list is incorporated into and made part of this ordinance.

Sec. 8. In all other particulars, the Special Election shall be held and conducted as provided by law for holding of the General Municipal Election in the City of Los Angeles.

Sec. 9. 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  _____
HARIT U. TRIVEDI
Deputy City Attorney

Date 1/18/13

File No. 13-1300-53