



Edwin M. Lee, Mayor

MEDICAL CANNABIS TASK FORCE



September 28th, 2011

Dear Board of Supervisors,

We hereby submit our 2011 Annual Report as called for under the legislation creating the body. After a great amount of dialogue and debate, we make a number of recommendations on most of the items we were tasked to address. For those items that we did not make recommendations, we have attached addenda that show the progress made and status of our deliberations. Given the challenges we have faced along the way, we have made marked progress on providing reasonable recommendations to the Board regarding effective regulation of medical cannabis in the City and County of San Francisco. We look forward to your review of the report and any feedback or questions you may have.

Respectfully submitted,

San Francisco Medical Cannabis Task Force members:

Michelle Aldrich
Albert Blais
Maureen Burns
Raymond Gamley
Shona Gochenaur
David Goldman
Patrick Goggin
Martin Olive
Erich Pearson
Kevin Reed
Stewart Rhoads
Mary Schroeder
Sarah Shrader
Stephanie Tucker

SAN FRANCISCO
MEDICAL CANNABIS TASK FORCE

2011 ANNUAL REPORT

THE CITY AND COUNTY OF SAN FRANCISCO

September 28, 2011

Submitted by

Members of the Medical Cannabis Task Force

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EXECUTIVE SUMMARY

In 2005, the San Francisco Board of Supervisors adopted the Medical Cannabis Act to permit and regulate medical cannabis dispensaries. At the time, few precedents existed and certainly none for a city as diverse and densely populated as San Francisco. To date, San Francisco's Medical Cannabis Act remains among the most comprehensive and patient-focused laws throughout the state of California. In light of the continued conflict with federal law, it is now more important than ever to successfully control and regulate safe access to medical cannabis at the local level.

Despite promises made during the 2008 Presidential Election to not waste federal resources to conduct paramilitary style raids on collectives and cooperatives in full compliance with state and local medical cannabis laws, President Obama's Administration has failed to prioritize any serious attempt to resolve the ongoing conflict between federal law and the medical cannabis laws of sixteen states and the District of Columbia. Instead, the Obama Administration has continued to engage Drug Enforcement Administration (DEA) and other Federal Tax Force raids in San Francisco and multiple jurisdictions around the nation. As added insult, the Obama Administration recently denied a nine-year old formal petition to reschedule cannabis based on ever-increasing scientific evidence of medical benefits, growing consensus among numerous states across the nation and an overwhelming majority of voters.

The U.S. Department of Justice has issued two memorandums (Ogden Memo, October 19th 2009; Cole Memo, June 29th 2011) to U.S. Attorneys concerning the use of federal resources to investigate and prosecute medical cannabis cases in states that have approved such law. Unfortunately, these memos provide more confusion than clarity regarding the Obama Administration's approach to the medical cannabis question. On the one hand, these memos clarify that federal resources should not be used to target medical cannabis patients or their individual caregivers for the use, cultivation or provision of medical cannabis in accordance with state and local laws. On the other, these memos underscore that large-scale, commercial medical cannabis providers are proper targets for federal enforcement, even if they are in compliance with the state law. However, there is no indication to clarify what constitutes "large-scale" operations. As a result, state and local policymakers, medical cannabis patients, their care providers, and advocates remain as confused as ever about how to effectively regulate the distribution of cannabis so as to reduce the threat of federal intervention.

California was the first state to adopt a medical cannabis Compassionate Use Act. Fifteen years later, San Francisco continues to represent the crossroad of the state and federal medical cannabis conflict. Despite all the unknowns that existed when San Francisco adopted the Medical Cannabis Act, it has provided a remarkable regulatory structure for safe access.

Five years later, it is time for the Board to analyze, review and where necessary amend the Medical Cannabis Act to ensure the future vitality of safe access for qualified medical

cannabis patients now and in the future. The San Francisco Medical Cannabis Task Force submits this Annual Report and recommendations to the Board of Supervisors as part of our purpose. In doing so it is necessary to underscore that above all else, it is important for the Board to respect and honor the sanctuary laws of our beloved city and ensure that medical cannabis laws strike an appropriate balance without putting patients or medical cannabis providers in any more jeopardy of federal prosecution than they are already.

SUMMARY OF RECOMMENDATIONS

1. In 2011, the San Francisco Board of Appeals rendered a finding to the MCA, resulting in the denial of a permit based on a typo found in the Act. This action prompted the Task Force to examine Article 33 for any other typos or ministerial corrections to facilitate clarity and proper implementation in the future. ***Upon thorough examination of the MCA, the Task Force recommends the San Francisco Board of Supervisors consider technical amendments to Article 33.***
2. At the time the MCA was drafted and approved, the ‘delivery’ of medical cannabis from out-of-county collectives and cooperatives was neither discussed nor considered. As such, changes to the MCA may be necessary to better clarify whether these services are permissible and how to properly ensure compliance with San Francisco regulations. ***Upon review of the issues, the Task Force urges the San Francisco Board of Supervisors to require any collective or cooperative serving 10 or more qualified patients for reasonable compensation in San Francisco to comply with Article 33 of the Health Code, regardless of their county of origin until that law should change.***
3. When Article 33 was adopted, few medical cannabis dispensaries were advertising. Now, medical cannabis advertising is a staple for San Francisco weekly papers, local websites, and regional blogs. ***As a result, the San Francisco Medical Cannabis Task Force recommends the Board of Supervisors amend Article 33 to: (A) require the MCD permit number be included in all advertisements; (B) eliminate onerous text size requirements, clarify who may obtain medical cannabis from licensed dispensaries; and, (C) to encourage collaboration between DPH and the Task Force to create public awareness campaigns to help patients identify licensed and regulated dispensaries.***
4. So long as federal law ignores the validity of medical cannabis and the laws that regulate safe and legal access by qualified individuals, it is necessary to underscore the importance of engaging in community mediation processes to resolve disputes when medical cannabis is concerned. ***As such, the Task Force strongly recommends: (A) All licensed medical cannabis dispensaries, and all collectives and cooperatives to include mediation clauses in membership agreements, establish good neighbor policies, faithfully engage community relations with neighbors and neighborhood associations, and work swiftly to***

resolve any complaints and all disputes; (B) The Board of Supervisors give the MCTF the authority to develop medical cannabis issue and sensitivity trainings for mediators and mediation services; and, (C) Create a referral system with Community Boards and/or other established local not-for-profit mediation service organizations.

5. For patients who cannot or choose not to consume cannabis by inhaling, food-based cannabis is a popular and necessary option. Upon thorough review of the Department of Health’s Medical Cannabis Dispensary Regulations for the Preparation of Edible Cannabis Products, the Task Force finds them intelligent, fair, and useful—in fact a model for other counties. ***The Task Force recommends: (A) that DPH clarify their enforcement procedures for medical edible regulations; (B) that there be no requirements concerning dosage on the labels of cannabis medicated edibles, because dosages for individual patients with different medical conditions should be worked out by the patients themselves in consultation with their doctors; (C) that MCDs take more seriously the responsibility for making sure that medical cannabis edibles at their dispensary conform to all the DPH edible regulations, particularly in regard to packaging, labeling and food handling licenses; and, (D) that MCD’s diligently advise patients of the proper titration and dosage when consuming medicated edibles.***

6. The Task Force was charged with making recommendations regarding the cultivation of medical cannabis, particularly in residential dwellings, that may violate the City’s planning code or applicable San Francisco or California building code requirements. After much deliberation and Task Force hearings where testimony was provided by the Departments of Building Inspection, Planning and Public Health, ***the Task Force recommends the Board of Supervisors support and make available to the general public the Residential Medical Cannabis Cultivation Guidelines (below) and the Home Garden Safety Guidelines (see appendix) developed by the Task Force rather than adopt a new ordinance regarding cultivation. We also recommend allowing non-dispensing medical cannabis collectives may provide California dispensaries with medicine.***

7. During these difficult economic times, cash-strapped local governments are looking to secure more creative sources of revenue, including taxation of medical cannabis. Regardless of the potential financial windfall from taxing cannabis, sales taxes are fundamentally regressive and disproportionately impact “consumers,” in this case qualified medical cannabis patients. ***As such, the Task Force urges the City and County of San Francisco to oppose excessive taxes that are designed to raise revenue, but it does not oppose low-impact fee structures designed to offset administrative costs.***

MEDICAL CANNABIS TASK FORCE AUTHORIZING LEGISLATION

Pursuant to San Francisco Ordinance 34-10¹, the Medical Cannabis Task Force (“Task Force”) is established to advise the Board of Supervisors on matters relating to medical cannabis. During each year of its operation the Task Force shall submit to the Board of Supervisors an annual report summarizing its recommendations. *The submission of this 2011 Annual Report fulfills, in part, the purpose and mission of this Task Force in its inaugural year.*

ABOUT THE MEDICAL CANNABIS TASK FORCE

The Medical Cannabis Task Force was established in July of 2010 and commenced its first meeting on July 16th, 2010. Between July 2010 and July 2011, the Task Force publicly noticed and conducted a total of eighteen meetings. These meetings occurred at least once per month inside City Hall. Notably, the Task Force managed to meet quorum at every noticed public meeting. In addition to the recommendations provided by committees, the Task Force amassed valuable insight about the state of medical cannabis in San Francisco in testimony provided by invited guest speakers and during general public comment. All of this information was considered by the Task force and used to help generate this Annual Report.

The Task Force authorized the creation of six committees² to facilitate discussion and fashion recommendations for consideration, including the Legal Committee, the Cultivation Committee, the Patient Advocacy Committee, the Outreach Committee, and the Veterans Committee. The Task Force also authorized two spokespersons, Ms. Stephanie Tucker and Mr. David Goldman, to respond to media requests on its behalf. And, finally, the Task Force appointed a five-member Public Response Committee body to answer thirty public requests for information including twelve by phone and another eighteen by email.

Without support from the City and County of San Francisco, this report would not have been possible nor would have been as complete. As noted, the Task Force invited and heard testimony from city officials to help inform discussion during public meetings. The Task Force acknowledges the support, guidance, and information provided by the following individuals and City Departments:

1. San Francisco Supervisor David Campos (District 11)
2. Larry Kessler, Senior Environmental Specialist, San Francisco Department of Public Health
3. Richard Lee, Director of Environmental Health Regulatory Programs, San Francisco Department of Public Health

¹ See Appendix, San Francisco Ord. 34-10 to establish the Medical Cannabis Task Force

² See Appendix, MCTF Full Committees and Membership

4. Dan Sider, Ombudsman, San Francisco Planning Department
5. Vivian Day, Director, San Francisco Department of Building Inspection
6. Debra Walker, Commissioner, San Francisco Building Inspection Commission
7. Petra De Jesus, Commissioner, San Francisco Police Commission

A compendium of Task Force documentation, including public meeting notices and minutes, maybe found on the sfgov.org website at www.sfgov2.org/index.aspx?page=2157 or by searching “Medical Cannabis Task Force” at the homepage.

MINISTERIAL CORRECTIONS TO ARTICLE 33- MEDICAL CANNABIS ACT
(SECTION 5.2-5 [SECTION 3]; RECOMMENDATION -1)

In 2005, the San Francisco Board of Supervisors adopted Article 33³, known as the Medical Cannabis Act (MCA). The MCA establishes the rules and regulations under which medical cannabis dispensaries (MCDs) could apply for a permit to operate.

On March 16th 2011, the San Francisco Board of Appeals rendered a finding to the MCA, resulting in the denial of a permit based on a typo found in the Act.⁴ This action prompted the Task Force to examine Article 33 for any other typos or ministerial corrections to facilitate clarity and proper implementation in the future.

The Task Force heard testimony from the relevant City departments and invited public comments, then referred the matter to the Legal Committee with specific instructions to review the MCA and make recommendations concerning ministerial corrections, and to draft legislative amendments if necessary.

Upon thorough examination of the MCA, the Task Force recommends the San Francisco Board of Supervisors consider the following technical amendments to Article 33:

1. **Amend Typo:** § 3304(c) appears to have omitted the word “the”.

Suggested Amendment:

(c) The applicant for a medical cannabis dispensary permit shall set forth, under penalty of perjury, **the** following on the permit application...

2. **Amend Outdated Code Reference: § 3307(d).** It appears that the Building Code provision referenced in 3307(d) is outdated. Proper citation should be made to § 109A.1.

Suggested Amendment:

³ See Appendix, Article 33

⁴ See Appendix, SF Board of Appeals Minutes

“(d) Applicants with provisional permits shall secure a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section ~~307~~ **109A.1** and present it to the Director, and the Director shall issue the applicant a final permit.”

3. **Delete Outdated Landmark Building Provision § 3308(z).** This provision was included in an effort to enable the old CHAMP site to be utilized and is no longer applicable. It no longer applies to any parcel in operation or under consideration.

Suggested Amendment:

Delete this provision from the code.

OUT OF COUNTY MEDICAL CANNABIS DELIVERY SERVICES **(SECTION 5.2-5 [SECTION 3]; RECOMMENDATION -2)**

According to Article 33, to dispense cannabis in the City and County of San Francisco to 10 or more qualified patients, collectives or cooperatives must possess a MCD Permit from the Department of Public Health (DPH). Unfortunately, it is unclear whether the City has the authority to regulate delivery services originating from outside the county. On its face, it appears Article 33 requires entities delivering cannabis to 10 or more qualified patients in San Francisco to have an affiliation with a licensed MCD in San Francisco⁵. However, it is questionable whether San Francisco **can** regulate facilities that originate from outside its borders.

Proliferation of non-permitted and unregulated delivery services in San Francisco is evidenced by full-page advertisements in area weekly magazines, local newspapers and websites advertising delivery to San Francisco patients with the capability to process online orders including acceptance of all major credit cards. According to testimony provided to the Task Force, when DPH attempts to determine compliance with the MCA, these delivery services purport to nine or fewer patients and/or claim that they are located out of County in which case no permit is necessary. The presence of unregulated medical cannabis delivery services presents public safety concerns and raises questions about San Francisco’s ability to regulate and enforce regulations for the distribution of medical cannabis.

The Legal Committee was tasked to review and make recommendations to the Task Force concerning medical cannabis delivery services that originate from outside the borders of San Francisco. In accordance with that authority, the Legal Committee assigned two working groups to discuss the issue and report back to the Committee. In addition, the Task Force invited testimony from relevant city departments, sought legal council through the city attorney’s office, and heard public comment at several meetings of the Task Force.

⁵ See Appendix, Article 33 Section 3308(i)

There is little doubt that unregulated and unlicensed delivery services foster an uneven playing field for those collectives and cooperatives that have agreed to be permitted and regulated in accordance with Article 33 and may become a burdensome problem for San Francisco if permitted to continue unabated. Moreover, the Task Force is concerned non-regulated, unpermitted delivery services are not required to meet the same safety regulations required by MCDs licensed by the Department of Health. As a result, neither patients nor local regulators have any way of knowing whether the products they are purchasing from these services are safe and regulated.

At the time the MCA was drafted and approved, the ‘delivery’ of medical cannabis from out-of-county was not discussed and thus is difficult to account for legislative intent. As such, changes to the MCA may be necessary to better clarify whether these services are permissible and how to properly ensure compliance with our local regulations.

Upon thorough examination of the MCA, the Medical Cannabis Task Force urges the San Francisco Board of Supervisors to require any collective or cooperative serving 10 or more qualified patients for reasonable compensation in San Francisco to comply with Article 33 of the Health Code, regardless of their county of origin until that law should change.

Relevant Law, Unresolved Questions, and Other Issues

As reported to the Task Force, the working groups identified the following sections of Article 33 as relevant to the regulation of medical cannabis delivery in San Francisco. Those relevant sections are as follows:

Sec. 3308(i). All sales and dispensing of medical cannabis shall be conducted on the premises of the medical cannabis dispensary. However, delivery of cannabis to qualified patients with valid identification cards or a verifiable written recommendation from a physician for medical cannabis and primary caregivers with a valid identification card outside the premises of the medical cannabis dispensary is permitted if the person delivering the cannabis is a qualified patient with a valid identification card or a verifiable written recommendation from a physician for medical cannabis or a primary caregiver with a valid identification card who is a member of the medical cannabis dispensary.

Sec. 3308(y)(5). Any medical cannabis dispensary that distributes medical cannabis solely through delivery to qualified patients or primary caregivers and does not engage in on-site distribution or sales of medical cannabis shall be exempt from the requirements of this subsection 3308(y).

Unfortunately, the Task Force failed to reach a consensus on any specific proposal to regulate out-of-county delivery services. Instead, the Task Force identified key issues and policy options to be considered by the Board of Supervisors should it decide to remedy the matter legislatively:

Key Issues

1. What, if any, authority does San Francisco have to require permits for deliveries to 10 or more qualified patients in San Francisco?
2. What, if any, penalties are associated with noncompliance of Article 33?
3. What, if any, action is taken by DPH when a complaint is filed?
4. How does the City and County of San Francisco regulate taxicabs that originate from outside the city limits? And, how might those regulations be revised so as to apply to medical cannabis delivery?

Policy Options

1. Require that out-of-county delivery services locate and rent office space in the green zone and apply for MCD permit with the ‘delivery only’ stipulation.
2. Require the Department of Health and/or the San Francisco City Attorney to investigate these services and determine and appropriate course of action to help bring these providers into compliance with Article 33.
3. Request an opinion from the City Attorney about authority to regulate out-of-county services and recommendations about how to ensure regulation of these services in accordance with the spirit of Article 33.
4. Require licensed MCDs to include their permit number on all print advertising.
5. Require out-of-county delivery services to comply with the requirements of this Article 33 and any and all local rules upon a determination by the Department of Health to confirm the city or county requirements and regulations governing the out-of-county service’s authorized operation are functionally equivalent to those of this Article.

MEDICAL CANNABIS ADVERTISING RECOMMENDATIONS ***(SECTION 5.2-5 [SECTION 3]; RECOMMENDATION -3)***

When Article 33 was adopted, only a few medical cannabis dispensaries were advertising. Now, medical cannabis advertising is a staple for San Francisco weekly papers, local websites, and area-specific blogs. The current language that regulates advertising for MCD’s is outdated. Moreover, the Task Force has identified revisions to advertising requirements as a way to identify unregulated delivery services.

The Task Force asked the Outreach Committee to review the current language in the Medical Cannabis Act, make recommendations, and draft amendments. Upon receipt of those recommendations, the Task Force heard this issue and took public comment on the matter. ***As a result, the San Francisco Medical Cannabis Task Force recommends the Board of Supervisors consider revisions to (A) require the MCD permit number be included in all advertisements; (B) eliminate onerous text size requirements, clarify who may obtain medical cannabis from licensed dispensaries; and, (C) to encourage***

collaboration between DPH and the Task Force to create public awareness campaigns to help patients identify licensed and regulated dispensaries.

Advertising Recommendations:

1. *Amend Article 33, Section 3308(n)*, as shown below, to exclude the text size requirements:

(n) Signage for the medical cannabis dispensary shall be limited to one wall sign not to exceed ten square feet in area, and one identifying sign not to exceed two square feet in area; such signs shall not be directly illuminated. Any wall sign, or the identifying sign if the medical cannabis dispensary has no exterior wall sign, shall include the following language: "Only qualified patients or primary caregivers under State law may obtain medical cannabis from San Francisco permitted dispensaries." ~~The required text shall be a minimum of two inches in height.~~ This requirement shall remain in effect so long as the system for distributing or assigning medical cannabis identification cards preserves the anonymity of the qualified patient or primary caregiver.

2. *Amend Section 3308(o)*, as detailed below, to require all San Francisco permitted MCD's include their permit number in all advertisements and clarify individuals eligible to obtain medical cannabis from MCDs:

(o) All print and electronic advertisements for medical cannabis dispensaries, including but not limited to flyers, general advertising signs, and newspaper and magazine advertisements, shall include their San Francisco Department of Public Health issued permit number and the following language: "Only qualified patients or primary caregivers under State law may obtain medical cannabis from San Francisco permitted dispensaries." ~~The required text shall be a minimum of two inches in height except in the case of general advertising signs where it shall be a minimum of six inches in height.~~ Oral advertisements for medical cannabis dispensaries, including but not limited to radio and television advertisements shall include the same language. This requirement shall remain in effect so long as the system for distributing or assigning medical cannabis identification cards preserves the anonymity of the qualified patient or primary caregiver.

MEDICAL CANNABIS MEDIATION RECOMMENDATIONS
(SECTION 5.2-5 [SECTION 4]; RECOMMENDATION -4)

The Medical Cannabis Task Force was directed to develop and make recommendations for a mediation process to be used by operators of medical cannabis dispensaries, their members, and neighbors to address community concerns and resolve conflicts and disputes. So long as federal law ignores the validity of medical cannabis and the laws that regulate safe and legal access by qualified individuals, it necessary to underscore the

importance of engaging community mediation processes to resolve disputes when medical cannabis is concerned.

Presently, the Department of Public Health does not have an official mediation policy as part of its current regulations pursuant to Article 33. Instead, DPH relies on a provision⁶ in Article 33 requiring permitted MCDs to provide all neighbors within 50 feet of the facility and the Department with the name and contact information of an on-site community relations staff person responsible for trying to resolve operational issues before call or complaints are made with SFPD or other city departments. Moreover, Article 33 gives DPH the authority to inspect, investigate, and enforce violations of the MCA based on complaints about the operation of medical cannabis dispensaries – including revocation of the permit.

The Task Force assigned the Outreach Committee to review and make recommendations about community mediation, and invited San Francisco attorney and mediation specialist, Daniele Bornstein, to present information about mediating medical cannabis issues. Mr. Bornstein is the founding partner of the Law Offices of Bornstein & Bornstein and possesses over 15 years experience in dispute resolution and mediation. The Outreach Committee outlined disputes between the following parties as being the most necessitate mediation: neighbors and MCDs, MCD and other MCDs, members and MCDs, cultivator and MCDs, patient and cultivators, neighbor and cultivator, individual patients, and landlord and MCD-tenant.

As such, the Task Force strongly recommends: (A) All licensed medical cannabis dispensaries, and all collectives and cooperatives to include mediation clauses in membership agreements, establish good neighbor policies, faithfully engage community relations with neighbors and neighborhood associations, and work swiftly to resolve any complaints and all disputes; (B) The Board of Supervisors give the MCTF the authority to develop medical cannabis issue and sensitivity trainings for mediators and mediation services; and, (C) Create a referral system with Community Boards and/or other established local not-for-profit mediation service organizations.

CULTIVATION, PRODUCTION AND BAKING GUIDELINES FOR MEDICAL CANNABIS

DISPENSARIES

(SECTION 5.2-5 [SECTION 5]; RECOMMENDATION -5)

For patients who cannot or choose not to consume cannabis by inhaling, food-based cannabis is a popular and necessary option. Pursuant to Article 33, the Department of Health issued Regulations for the Preparation of Edible Cannabis Products, and in May 2004 amended those regulations to provide added clarity.⁷ The Task Force asked the Cultivation Committee to review the San Francisco Department of Public Health Regulations for Preparation of Edible Cannabis Products. The Cultivation Committee, in

⁶ See Appendix, Article 33, Section 3308(p)

⁷ See Appendix, DPH Edible Guidelines

turn, appointed a subcommittee to discuss and make any necessary recommendations concerning the production of medical cannabis edibles.

First, the subcommittee reviewed the Medical Cannabis Act. Edibles are specifically mentioned only once in the Act, at Section 3301(a), where the definition of cannabis “includes cannabis infused in foodstuff.” Thus, all references to cannabis in the MCA include edibles. For example, MCA Sec. 3308(q) states that MCDs can only purchase or obtain cannabis from members and can only sell or distribute cannabis (edibles) to members. Moreover, Sec. 3304(c)(8) stipulates that applicants for an MCD permit must state whether food is to be prepared, dispensed, or sold on premises. As such, we presume that this refers to “regular” food products not containing cannabis, because cannabis is defined as a medicine, not a food, under the definition in 3301(a).

The subcommittee then reviewed the Department of Public Health’s regulations, noting that San Francisco is among few jurisdictions across the state that actively regulates medical cannabis edible products as part of their medical cannabis dispensary law. During discussion, Task Force member Michelle Aldrich provided examples of edible products distributed at the 2010 SF Medical Cannabis Competition, and focused attention to the packaging and labeling. Upon review of DPH’s rules, it was disappointing to learn that many did not conform to the SFDPH regulations, particularly the rules concerning opacity of the packaging and disclosure of the product ingredients.

According to the regulations, all labels must include the total weight (in ounces or grams) of cannabis in the package.⁸ However, it is important to note that the regulations do not require information about dosages on the package. The Task Force applauds the wisdom of this policy and agrees that it is difficult if not impossible to estimate doses with present technology. Until product testing is widely available, the Task Force believes the current regulations to be sufficient. The best way for patients to determine appropriate dosages is self-titration in consultation with their physicians.

The Task Force is troubled by the disregard of edible packaging and labeling regulations at several dispensaries. It is imperative that MCDs be responsible for making sure that all edibles distributed by the dispensary are properly packaged according to DPH regulations. However, we are equally concerned that the edible regulations lack enforcement procedures. Therefore, it may be necessary for DPH to clarify the enforcement and penalties associated with specific and deliberate violations of the law.

Upon thorough review of the Department of Health’s Medical Cannabis Dispensary Regulations for the Preparation of Edible Cannabis Products, the Task Force finds them intelligent, fair, and useful—in fact a model for other counties. The Task Force recommends: (A) that DPH clarify their enforcement procedures for medical edible regulations; (B) that there be no requirements concerning dosage on the labels of cannabis medicated edibles, because dosages for individual patients with different medical conditions should be worked out by the patients themselves in consultation with their doctors; (C) that MCDs take more seriously the responsibility for making

⁸ See Appendix, DPH Edible Guidelines #4.

sure that medicated edibles at their dispensary conform to all the SFDPH medicated edible regulations, particularly in regard to packaging, labeling and food handling licenses; and, (D) that MCD's diligently advise patients of the proper titration and dosage when consuming medicated edibles.

CULTIVATION OF MEDICAL CANNABIS, PARTICULARLY IN RESIDENTIAL DWELLINGS THAT MAY VIOLATE THE CITY'S PLANNING OR APPLICABLE SAN FRANCISCO OR CALIFORNIA BUILDING CODE REQUIREMENTS
(SECTION 5.2-5 [SECTION 7]; RECOMMENDATION -6)

The Task Force was tasked to develop and make recommendations regarding the cultivation of medical cannabis, particularly in residential dwellings, that may violate the City's planning code or applicable San Francisco or California building code requirements. After much deliberation and Task Force hearings where testimony was provided by the Departments of Building Inspection, Planning and Public Health, *the Task Force recommends the Board of Supervisors support and make available to the general public the Residential Medical Cannabis Cultivation Guidelines (below) and the Home Garden Safety Guidelines⁹ developed by the Task Force rather than adopt a new ordinance regarding cultivation.* Each of the departments prioritized public safety as the City's overriding concern. We share that as our top concern and, therefore, offer the guidelines found in the Appendix.

It is necessary to reiterate that the Task Force believes all cultivation of medical cannabis by a qualified patient or primary caregiver shall be lawful and shall in no way be subject to criminal prosecution when said cultivation is conducted solely for the personal medical purposes of qualified patients and in accordance with the draft guidelines. Such lawful cultivation may include cultivation and possession of both female and male plants at all stages of growth, clones, seedlings, seeds and related cultivation equipment and supplies. Medical cannabis collectives and cooperatives may cultivate and associate individually or collectively. Non-dispensing medical cannabis collectives may provide California dispensaries with medicine.

RESIDENTIAL MEDICAL CANNABIS CULTIVATION GUIDELINES – *All residential medical cannabis cultivation shall be maintained by qualified medical cannabis patients or primary caregivers, one of which must dwell in the residence. The plant numbers in each residence shall comply with the limitations found in San Francisco Health Code Section 3302(a), namely 24 plants, or up to 25 square feet of garden canopy, per patient. At no point shall an accessory use of the home exceed 25% of residential square footage pursuant to Planning Code Sections 204.1 and 204.2. All electrical, building, plumbing and ventilation alterations shall comply with San Francisco Building and Planning Codes. To determine whether an alteration requires a permit, the medical cannabis patient or primary caregiver shall refer to San Francisco*

⁹ See Appendix, Home Garden Safety Guidelines

Building and Planning Codes and/or consult with the Department of Building Inspections that addresses electrical, mechanical, plumbing, and ventilation. City issued permits require landlord notification.

TAXATION OF MEDICAL CANNABIS LAWFULLY DISPENSED OR CULTIVATED IN THE CITY AND COUNTY

(SECTION 5.2-5 [SECTION 8]; RECOMMENDATION -7)

During these difficult economic times, cash-strapped local governments are looking to secure more creative sources of revenue, including taxation of medical cannabis. This trend began once the California Board of Equalization (BOE) voted in 2005 to implement a policy that taxed the sale of medical cannabis¹⁰. Since then, the BOE has collected millions of dollars from hundreds of dispensaries across California. On the heels of the BOE action, neighboring communities have imposed taxes on medical cannabis. Regardless of the potential financial windfall from taxing cannabis, sales taxes are fundamentally regressive and disproportionately impact “consumers,” in this case qualified medical cannabis patients.

The experience of other jurisdictions reveals that localized sales taxes results in higher prices for qualified patients. Medical cannabis advocacy organizations have publicly opposed taxing medical cannabis on several grounds, including, the hardship to patients, that prescribed medicines are non-taxable, and the real danger of self-incrimination. Let there be no doubt, sales taxes invariably and unintentionally restrict access to medical cannabis.

A tax on medical cannabis is a tax on patients. As such, the Task Force urges the City and County of San Francisco to oppose excessive taxes that are designed to raise revenue, but it does not oppose low-impact fee structures designed to offset administrative costs.

PATIENT CONCERNS AND PROPOSED SOLUTIONS

Below are a compilation of identified concerns and possible solutions that we have heard through both Patient Advocacy Committee and public testimony. Members of the Patient Advocacy Committee included a statement; the Patient Bill of Rights following the patient concerns and proposed solutions.

Concern: Medical Cannabis Patients who use or possess their medicine at home can be at risk of losing their federally subsidized housing or Veterans benefits.

Solution: This would require a change in Federal law; Veterans Administration and HUD housing have both come out with statements regarding medical cannabis use, but we have

¹⁰ See Appendix, BOE Sales Tax Notice

not seen a change in Federal law. Until we see Federal change, it would be ideal to have City funded housing available where tenants are only required to follow State law.

Concern: Medical Cannabis patients have been evicted from shelters for use or odor of cannabis.

Solution: San Francisco is a sanctuary city for medical cannabis patients, and shelter staff should be knowledgeable on State and local law. Shelter employees should not put a person's safety at risk over the medicine recommended by their physician. San Francisco Shelter Monitoring Task Force should hold shelter staff accountable if there is a violation.

Concern: Only a few medical cannabis dispensaries have compassion programs.

Solution: Each dispensary should create a unique compassion program, supporting the San Francisco non-binding resolution regarding compassionate care passed in February of 2006.

Concern: It's expensive for patients on fixed incomes to pay for doctor's visit and the State Medical Marijuana Identification card. Even if one is lucky enough to pass those hurdles, the medicine itself is unaffordable.

Solution: Healthy San Francisco should include medical cannabis. Patients on different income levels can contribute with co-pay that fits their budget.

Concern: Current MCD definition of 10 or more patients, may include low income cultivation, and patient centers, these types of facilities cannot afford to come up with the permitting fees, nor should be required to go through the same process as storefront facilities.

Solutions:

1. Change the definition of MCD's
2. Allow for other types of Medical Cannabis Facilities:
 - a. Compassionate Collective Facilities
 - b. Self Consumption Garden

Concern: Many low-income patients have living conditions that do not allow them to cultivate such as roommates, or section 8 housing, nor do they have the resources to cultivate in communal gardening projects.

Solution: Municipal medicine should be implemented and supported through voter approved Proposition S.

Concern: Youth housing for HIV positive patients does not allow for use or storage of medical cannabis.

Solution: State law allows medical cannabis patients to use and possess cannabis; this should apply to ones residence as well.

Concern: *It's expensive for patients on fixed incomes to pay for doctor's visit and the State Medical Marijuana Identification card. Even if one is lucky enough to pass those hurdles, the medicine itself is unaffordable.*

Solution: For a Doctor's Recommendations - Encourage San Francisco Department of Public Health to allow any qualified physician of an SF Public Health clinic to write medical cannabis recommendations (i.e. Tom Wadell clinic).

For affordable medicine –

1. Healthy San Francisco should include medical cannabis. Patients on different income levels can contribute with a co-pay that fits their budget
2. Implement Proposition S
3. Review Self Consumption Cultivation model
4. Compassion program from MCD
5. Compassion from compassionate collective facilities

Concern: *Medical cannabis collectives and cooperative are member-based organizations, most patient feel that they have no say in how their collective is run and operated.*

Solution: Each MCD should host an annual membership meeting, where each collective member gets an equal vote in the collective's policies. It should be clear from the membership agreement; rules of the collective, when the annual membership meeting takes place, who the community liaison is, and what services are provided to members. Each MCD should have a suggestions & grievance process.

Concern: *Medicine donated to patients is often low quality; the patients in most need are not getting the high quality cannabis that works best for them.*

Solution: San Francisco collectives should follow SF's non-binding resolution regarding low and no income cannabis patients, defining as compassion "donation of high grade medicinal quality cannabis which is received on a consistent basis...."

Concern: *No selection for compassion program patients, what you see is what you get, rather than choosing the medicine that works best for their medical condition.*

Solution: Collectives should check in with their patients to find out what their needs are (indica vs. sativa, topical, edibles, tinctures), and arrange a patient's compassion accordingly.

Concern: *Patient recommendations are being posted at cultivation sites. Patients should have the right to know how many plants are being cultivated on their behalf, and how much medicine will be given to them at harvest.*

Solution: Mandatory transparency, in your membership agreement, it should be clear

what is expected from the collective and from the patient. A patient has the right to state their recommendation is to be used for verification purposes only.

Patient Advocacy Committee voted in favor on the following statements at the meeting on 7/13/11:

1. Patients may join as many collectives or cooperatives as needed to fulfill their medical need, or to share their surplus within the legal limitations
2. Every member of any collective or cooperative has the right of a membership vote
3. Every collective should have a suggestion process as well as a grievance process
4. Every member has the right to not have plants grown in their name, and to request that their recommendation be used for verification process only

CANNABIS TESTING

Medical cannabis has been used safely for thousands of years, and there is no evidence to suggest that cannabis provided to qualified patients in San Francisco represents any serious threat of harm. Because standards for testing medical cannabis are still under development no mandate for testing is advised at this point in time. Nonetheless, it is strongly encouraged that medical cannabis dispensaries screen their cannabis for quality and to ensure it is free from pesticides, pests, chemical residue, harmful bacteria, and molds.

While it is ideal to use a *gas chromatography, liquid chromatography, or related technology* to evaluate the contents of cannabis products, it may be cost-prohibitive to send each sample to a testing lab. As a minimum standard, dispensaries should have their own screening requirements in place which may include, but is not limited to: magnified visual inspection, product sampling, disclosure and inspection of cultivation sites, and discussing best practices and growing preferences with the cultivator.

CURRENT DISCUSSIONS

There are a number of important discussions that have taken place at the Task Force level, which we have not come to a final resolution on. These discussions continue as we vet multiple solutions and suggestions presented. The majority of these topics have been sent to committees for further review, **we have not voted on a final recommendation for these topics presented below at the Task Force.** We do expect these conversations to continue, and look forward to including more details and resolutions in our next report.

Self Consumption Gardens¹¹

San Francisco's medical cannabis dispensary ordinance requires a permit for 10 or more patients collectively or cooperatively working together within city limits. A garden that exceeds this limit would be required to through the same process as a dispensing collective or cooperative facility. It has been assumed that a garden of less than 10 patients would not require going through such a process. It has come to the Task Forces' attention that there are a few groups of low-income patients that are not exchanging money for their medicine, but do exceed 9 participating individuals. Brent Saupe has drafted a plan which would not increase the garden size currently allowed, but does allow more patients to participate without requiring an MCD DPH permit application. At the July 29th Task Force meeting a motion passed to send this plan to the legal committee, followed by the annual report subcommittee. A second motion was passed which would allow members to contribute excess medicine to dispensing collectives and cooperatives facilities.

Delivery Services

San Francisco is leading the way in California, having the first and only delivery service regulated in the state of California. There are a number of delivery services serving patients in San Francisco city limits that do not hold a medical cannabis dispensary permit, some of which are based outside of the city. It is clear that San Francisco departments do not have the staffing capacity or authority to regulate businesses that are based outside of San Francisco City Limits. It's unfair that some facilities are required to go through such an extensive process when others are serving patients with no oversight. The goal is to create a level playing field for all delivery services, and with that intent, the Task Force has approved two motions; one requires any organization serving 10 or more patients to go through the permit process, and the other requiring a permit number from Department of Public Health on all advertising of medical cannabis in San Francisco.

Multiple solutions have been introduced on this topic including:

1. Creating separate permitting process for delivery services.
2. Amending the current dispensary ordinance, lifting the "green zone" requirement for non-storefront distribution.
3. Reciprocity, recognizing other cities and counties permits.
4. Amending the dispensary ordinance to open up the green zone by implementing statewide zoning requirement, AB2650 (passed in 2010, dispensaries can operate within 600 ft from schools).

Voluntary Registration for Collectives of 9 Patients or Less¹²

¹¹ See Appendix, Proposal Non-Dispensing Self-Consumption Garden

¹² See Appendix, Proposed Collective Registration Document

Stewart Rhoads of the Cultivation Committee presented template collective registration forms that could be used to certify and post in gardens of 9 patients or less. There is also the option of using one's state identification card for registration to protect the identities of the patient. This is intended to be draft registration forms that could be adopted by appropriate departments to regulate gardens of less than 216 plants, and less than 10 patients. This has been referred to the annual report subcommittee.

Clustering and Crowding of Medical Cannabis Dispensaries

The Planning Commission has asked the Board of Supervisors to take up the issue of Medical Cannabis Dispensary "clustering," i.e., multiple MCDs in limited areas of the City, with few or no MCDs in many neighborhoods. Clustering is caused directly by the planning and zoning requirements of the MCA, which severely restrict the areas in which MCDs are allowed to locate. Proximity rules require MCDs to be at least 1,000 feet from elementary and secondary schools, and from youth facilities and recreation buildings serving people under the age of 18. Moreover, the Board held (during the 2005 hearings on the MCA) that new MCDs could not be located in certain neighborhoods (e.g., Bayview- Hunters Point), and not in most residential neighborhoods. In addition, neighborhood groups were successful in not allowing applicant MCDs in North Beach, Oceanview, and several other locations. As a result, the "Green Zones" where MCDs may locate need to be expanded. Patients throughout the City should be able to access MCDs in their own neighborhoods.

A related issue is "crowding," i.e., multiple MCDs close to each other. This too, is caused by the limited number of "Green Zones" in which MCDs may apply to locate.

The Medical Cannabis Task Force is currently discussing a number of options to address clustering and "crowding" solutions in the City and County of San Francisco.

APPENDIX

1. San Francisco Ordinance 34-10 amending the San Francisco Administrative Code by adding Sections 5.2-1 through 5.2-6, to establish a Medical Cannabis Task Force to advise the Board of Supervisors on medical cannabis issues.
2. San Francisco Medical Cannabis Task Force Full Committees and Membership
3. San Francisco Article 33, The Medical Cannabis Act
4. San Francisco Board of Appeals Minutes, March 16th 2011
5. San Francisco Article 33, Section 3308(i)
6. San Francisco Article 33, Section 3308 (p)
7. San Francisco Department of Public Health Medical Cannabis Dispensary Regulations for Preparation of Edible Cannabis Products
8. San Francisco Department of Public Health Medical Cannabis Dispensary Regulations for Preparation of Edible Cannabis Products #4
9. San Francisco Medical Cannabis Task Force Home Garden Safety Guidelines
10. Board of Equalization Sales Tax Notice
11. Proposal Non Dispensing Self Consumption Garden
12. Proposed Collective Registration Document

34-10

FILE NO. 091402

ORDINANCE NO.

[Medical Cannabis Task Force.]

Ordinance amending the San Francisco Administrative Code by adding Sections 5.2-1 through 5.2-6, to establish a Medical Cannabis Task Force to advise the Board of Supervisors on medical cannabis issues.

Note: Additions are single-underline italics Times New Roman; deletions are ~~strikethrough italics Times New Roman~~. Board amendment additions are double underlined. Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Administrative Code is hereby amended by adding Sections 5.2-1 through 5.2-6, to read as follows:

Chapter 5: Committees

Article II: Medical Cannabis Task Force

SEC. 5.2-1. CREATION OF TASK FORCE.

The Board of Supervisors hereby establishes a Medical Cannabis Task Force ("the Task Force") for the City and County of San Francisco.

SEC. 5.2-2. PURPOSE.

The Task Force shall advise the Board of Supervisors on matters relating to medical cannabis.

SEC. 5.2-3. MEMBERSHIP.

(a) The Task Force shall consist of 13 members, appointed by the Board of Supervisors as follows:

Supervisors Campos, Mirkarimi, Avalos and Daly
BOARD OF SUPERVISORS

1 (1) Seat 1: A community organizer representative with a background in organizing
2 neighbors, businesses or organizations around social justice and quality of life issues. This
3 representative should also have a background working on medical cannabis related issues;

4 (2) Seat 2: A representative of a local patient advocacy organization with a
5 background in working to protect the interests of medical cannabis patients;

6 (3) Seat 3: A representative of a local patient advocacy organization with a
7 background in working to protect the interests of medical cannabis patients;

8 (4) Seat 4: A representative of a hospice or a residential care facility with a
9 background as an employee or volunteer in direct services working with medical cannabis
10 patients or as a nurse or physician with a background in working with or treating of medical
11 cannabis patients;

12 (5) Seat 5: A person with a background in the management of a medical cannabis
13 dispensary;

14 (6) Seat 6: A person with a background in the management of a medical cannabis
15 dispensary;

16 (7) Seat 7: A person with a background in the management of a medical cannabis
17 dispensary whose primary mode of operation is delivery;

18 (8) Seat 8: A representative of a drug policy organization working specifically on
19 medical cannabis issues;

20 (9) Seat 9: A licensed California attorney with a background working with San
21 Francisco medical cannabis dispensaries and experience with the City's medical cannabis
22 dispensary permitting and regulatory process;

23 (10) Seat 10: A person with a background in providing medical cannabis to low-
24 income patients;

1 (11) Seat 11: A person with a background in providing medical cannabis to permitted
2 medical cannabis dispensaries located in the City and County;

3 (12) Seat 12: A person with at least fifteen years of experience working on medical
4 cannabis issues in the City and County; and

5 (13) Seat 13: A person with at least fifteen years of experience working on
6 medical cannabis issues. A representative of a recognized neighborhood organization that
7 has a medical cannabis dispensary within its boundaries.

8 (b) All members of the Task Force shall be residents of the City and County, in accordance
9 with Section 4.101 of the Charter. A waiver of the residency requirement may be granted by the Board
10 of Supervisors upon a finding that a resident of the City and County with specific experience, skills or
11 qualifications willing to serve could not be located within the City and County.

12
13 **SEC. 5.2-4. ORGANIZATION AND TERMS OF OFFICE.**

14 (a) The term of each member of the Task Force shall be two years; provided, however, that the
15 members first appointed to the even-numbered seats shall serve a one-year term. On the expiration of
16 these and successive terms, their successors shall be appointed for a two-year term. Members may
17 serve multiple terms.

18 (b) The Board of Supervisors may remove any member of the Task Force for cause at any time.

19 (c) In the event a vacancy occurs during the term of office of any member, the Board of
20 Supervisors shall appoint a successor for the unexpired term of the office vacated.

21 (d) At the initial meeting of the Task Force, and annually thereafter, the members of the Task
22 Force shall select two co chairpersons, and any other officers as deemed necessary by the Task Force.
23 One co chairperson selected by Task Force members in seats 2, 3, 4, 12 and 13 shall have at least
24 three years of experience working on medical cannabis patient advocacy issues. One co chairperson
25

1 selected by Task Force members in seats 1, 5, 6, 7, 8, 9, 10 and 11 shall have at least three years of
2 experience representating a permitted medical cannabis dispensary in the City and County that has
3 been in operation for at least three years. The Task Force shall have a revolving chair. Each member
4 of the Task Force shall serve as chair for one of 13 annual meetings. The order for members serving as
5 chair shall follow the same order of the seats as listed in paragraph (a) above. The eo chairpersons
6 The chair shall fairly chair and facilitate Task Force meetings, coordinate with Task Force members to
7 set the agenda of Task Force meetings, and serves as Task Force's liaisons to the City Attorney and the
8 Board of Supervisors. All Task Force members may submit Task Force meeting agenda items to the
9 Task Force eo chairpersons chair.

10 (e) Services of the members of the Task Force shall be voluntary and members will serve
11 without compensation. Any member who misses four regularly scheduled meetings of the Task Force
12 during each two-year term without the express approval of the Task Force at a regularly scheduled
13 meeting will be deemed to have resigned from the Task Force.

14 (f) The Office of the City Administrator shall provide administrative support to the Task Force.

15 (g) The Task Force shall establish rules for its own organization and procedures and shall
16 meet when necessary as determined by the Task Force; provided, however that the Task Force shall
17 hold a regular meeting not less than once every month. All meetings shall, except as provided by law,
18 be open to the public.

19 (h) All City departments, commissions, boards and agencies shall cooperate with the Task
20 Force in conducting its business. The Office of the City Administrator shall provide administrative
21 support for the Task Force.

22
23 **SEC. 5.2-5. POWERS AND DUTIES OF THE MEDICAL CANNABIS TASK FORCE.**

24 (a) The Task Force shall have the power and duty to:
25

1 (1) Hold hearings and take testimony regarding medical cannabis issues and related
2 matters;

3 (2) Create subcommittees as necessary;

4 (3) Review local medical cannabis related laws, and make recommendations for
5 changes;

6 (4) Develop and make recommendations for a mediation process to be used by
7 operators of medical dispensaries, patients and neighbors of dispensaries to address community
8 concerns and resolve conflicts and disputes;

9 (5) Develop and make recommendations regarding medical cannabis cultivation,
10 production and baking guidelines for medical cannabis dispensaries;

11 (6) Develop and make recommendations regarding cultivation and distribution of
12 medical cannabis by individual patients, caregivers or small collectives that may fall outside the
13 definition of a medical cannabis dispensary under the City's Health Code;

14 (7) Develop and make recommendations regarding the cultivation of medical cannabis,
15 particularly in residential dwellings, that may violate the City's Planning Code or applicable
16 San Francisco or California Building Code requirements; and

17 (8) Develop and make recommendations regarding the taxation of medical cannabis
18 lawfully dispensed or cultivated in the City and County.

19 (b) During each year of its operation the Task Force shall submit to the Board of Supervisors
20 an annual report summarizing its recommendations.

21 / / /

22 / / /

23 / / /

24 / / /

25

1 **SEC. 5.2-6. SUNSET PROVISION.**

2 The Medical Cannabis Task Force shall terminate by operation of law on December 31, 2012,
3 and after that date the City Attorney shall cause this Article to be removed from the Administrative
4 Code.

5
6
7 APPROVED AS TO FORM:

8 DENNIS J. HERRERA, City Attorney

9
10 By:


11 Terence Howzell
12 Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails
Ordinance

File Number: 091402

Date Passed: February 02, 2010

Ordinance amending the San Francisco Administrative Code by adding Sections 5.2-1 through 5.2-6, to establish a Medical Cannabis Task Force to advise the Board of Supervisors on medical cannabis issues.

January 26, 2010 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 9 - Avalos, Campos, Chiu, Chu, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi
Noes: 1 - Daly
Excused: 1 - Alioto-Pier

January 26, 2010 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 8 - Avalos, Campos, Chiu, Daly, Dufty, Mar, Maxwell and Mirkarimi
Noes: 2 - Chu and Elsbernd
Excused: 1 - Alioto-Pier

February 02, 2010 Board of Supervisors - FINALLY PASSED

Ayes: 8 - Avalos, Campos, Chiu, Daly, Dufty, Mar, Maxwell and Mirkarimi
Noes: 2 - Chu and Elsbernd
Excused: 1 - Alioto-Pier

File No. 091402

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 2/2/2010 by the Board of Supervisors of the City and County of San Francisco.

Handwritten signature of Angela Calvillo

Angela Calvillo

UNSIGNED

Mayor Gavin Newsom

2/12/10

Date Approved

Date: February 12, 2010

I hereby certify that the foregoing Ordinance, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

File No. 091402

Handwritten signature of Clerk of the Board

Clerk of the Board

SAN FRANCISCO MEDICAL CANNABIS TASK FORCE CULTIVATION COMMITTEE

The Cultivation Committee was formed to address the many aspects of cultivation that have arisen since the adoption of the Medical Cannabis Act.

1. **RAYMOND GAMLEY (CHAIRPERSON)**
2. **J. ERICH PEARSON**
3. **KEVIN REED**
4. **ALBERT BLAIS**
5. **SHONA GOCHENHAUR**
6. **MARTIN OLIVE**
7. **STEWART RHOADS**
8. **CHAD CONNOR**
9. **JERRED KILOH**
10. **ERIC LEVY**
11. **BRENT SAUPE**
12. **GREG SCHOEPP**
13. **STEVE SMITH**
14. **MARK SYDOW**
15. **CAREN WOODSON**

SAN FRANCISCO MEDICAL CANNABIS TASK FORCE LEGAL/LEGISLATIVE COMMITTEE

The Legislative/ Legal Committee meets to advise the Task Force on the legal and legislative framework of our medical cannabis laws in San Francisco. The committee also drafts legal language based on the direction of the Task Force.

- 1. PATRICK GOGGIN (CHAIRPERSON),**
- 2. RAYMOND GAMLEY**
- 3. STEPHANIE TUCKER**
- 4. SHONA GOCHENHAUR**
- 5. MICHELLE ALDRICH**
- 6. DAVID GOLDMAN**
- 7. STEWART RHOADS**
- 8. THERESA LYNN COOPER**
- 9. MICHAEL GOLDMAN**
- 10. DEAN HOLTER**
- 11. DAVID OWEN**
- 12. CHRISTINE WAGNER**
- 13. DEREK ST. PEIRRE**
- 14. DAN RUSH**
- 15. CAREN WOODSON**

SAN FRANCISCO MEDICAL CANNABIS TASK FORCE OUTREACH COMMITTEE

The Outreach Committee works to create and maintain dialogue with the public at large about medical cannabis related issues. The committee has hosted trainings, special meetings and has created outreach policy.

- 1. STEPHANIE TUCKER (CHAIRPERSON)**
- 2. MICHELLE ALDRICH**
- 3. MARTIN OLIVE**
- 4. KEVIN REED**
- 5. MAUREEN BURNS**
- 6. DAVID GOLDMAN**
- 7. ROGER SIEGAL**
- 8. BRENT SAUPE**
- 9. JAMES KOUTSOUKOS**
- 10. CONRAD WADE**
- 11. MICHAEL ALDRICH**
- 12. JEAN TALLYRAND**
- 13. CAREN WOODSON**

SAN FRANCISCO MEDICAL CANNABIS TASK FORCE PATIENT ADVOCACY COMMITTEE

The Patient Advocacy Committee ensures that medical cannabis patients continue to be heard and have safe access to medical cannabis as well as any other concerns within the medical cannabis movement.

1. **SHONA GOCHENHAUR (CHAIRPERSON)**
2. **ALBERT BLAIS**
3. **RAYMOND GAMLEY**
4. **KEVIN REED**
5. **MARY SCHROEDER**
6. **STEWART RHOADS**
7. **MARQUIS AUSBY**
8. **ELISE CLEVELAND**
9. **CHAD CONNOR**
10. **MICHAEL GOLDMAN**
11. **KEN LIMA**
12. **JAE WOONG SOHN**
13. **PAUL TORELLO**

SAN FRANCISCO MEDICAL CANNABIS TASK FORCE VETERANS COMMITTEE

The Veterans Committee works to protect Veterans rights who use medical cannabis to help relieve the multitude of symptoms that can affect Veterans.

- 1. MAUREEN BURNS (CHAIRPERSON)**
- 2. STEPHANIE TUCKER**
- 3. SHONA GOCHENHAUR**
- 4. THOMAS BERNHEIM**

SAN FRANCISCO MEDICAL CANNABIS TASK FORCE PUBLIC REQUEST COMMITTEE

The Public Requests Committee was formed to efficiently respond to public requests for information, and answer general questions pertaining to medical cannabis laws and regulations in San Francisco, CA.

- 1. DAVID GOLDMAN**
- 2. STEPHANIE TUCKER**
- 3. MARTIN OLIVE**
- 4. MICHELLE ALDRICH**
- 5. KEVIN REED**

SAN FRANCISCO MEDICAL CANNABIS TASK FORCE TASK FORCE SPOKESPERSONS

The spokesperson is authorized to respond to media requests on behalf of the MCTF. The position was created by and the Medical Cannabis Task Force appointed spokespersons.

- 1. STEPHANIE TUCKER**
- 2. DAVID GOLDMAN**

ARTICLE 33: MEDICAL CANNABIS ACT

[Sec. 3301. Definitions.](#)

[Sec. 3302. Medical Cannabis Guidelines.](#)

[Sec. 3303. Permit Required for Medical Cannabis Dispensary.](#)

[Sec. 3304. Application for Medical Cannabis Dispensary Permit.](#)

[Sec. 3305. Referral to Other Departments.](#)

[Sec. 3306. Notice of Hearing on Permit Application.](#)

[Sec. 3307. Issuance of Medical Cannabis Dispensary Permit.](#)

[Sec. 3308. Operating Requirements for Medical Cannabis Dispensary.](#)

[Sec. 3309. Prohibited Operations.](#)

[Sec. 3310. Display of Permit.](#)

[Sec. 3311. Sale or Transfer of Permits.](#)

[Sec. 3312. Rules and Regulations.](#)

[Sec. 3313. Inspection and Notices of Violation.](#)

[Sec. 3314. Violations and Penalties.](#)

[Sec. 3315. Revocation and Suspension of Permit.](#)

[Sec. 3316. Notice and Hearing for Administrative Penalty and/or Revocation or Suspension.](#)

[Sec. 3317. Appeals to Board of Appeals.](#)

[Sec. 3318. Business License and Business Registration Certificate.](#)

[Sec. 3319. Disclaimers and Liability.](#)

[Sec. 3320. Severability.](#)

[Sec. 3321. Annual Report by Director.](#)

SEC. 3301. DEFINITIONS.

For the purposes of this Article:

(a) "Cannabis" means marijuana and all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It includes marijuana infused in foodstuff. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant are incapable of germination.

(b) "City" means the City and County of San Francisco.

(c) "Convicted" means having pled guilty or having received a verdict of guilty, including a verdict following a plea of nolo contendere, to a crime.

(d) "Director" means the Director of Public Health or any individual designated by the Director to act on his or her behalf, including but not limited to inspectors.

(e) [*Reserved.*]

(f) "Medical cannabis dispensary" means a cooperative or collective of ten or more qualified patients or primary caregivers that facilitates the lawful cultivation and distribution of cannabis for medical purposes and operates not for profit, consistent with California Health & Safety Code Sections 11362.5 et seq., with the Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use issued by the California Attorney General in August 2008, and with this ordinance. A cooperative must be organized and registered as a Consumer Cooperative Corporation under the Corporations Code, Sections 12300, et seq., or a Nonprofit Cooperative Association under the Food and Agricultural Code, Sections 54002, et seq. A collective may be organized as a corporation, partnership or other legal entity under state law but must be jointly owned and operated by its members. As set forth in Section 3308(q), a medical cannabis dispensary may purchase or obtain cannabis only from members of the cooperative or collective and may sell or distribute cannabis only to members of the cooperative or collective. As set forth in Section 3308(c), a medical cannabis dispensary

may operate only on a not for profit basis and pay only reasonable compensation to itself and its members and pay only reasonable out-of-pocket expenses.

(g) "Medical Cannabis Identification Card" or "Identification Card" means a document issued by the State Department of Health Services pursuant to California Health and Safety Code Sections 11362.7 et seq. or the City pursuant to Health Code Article 28 that identifies a person authorized to engage in the medical use of cannabis and the person's designated primary caregiver, if any, or identifies a person as a primary caregiver for a medical cannabis patient.

(h) "Permittee" means the owner, proprietor, manager, or operator of a medical cannabis dispensary or other individual, corporation, or partnership who obtains a permit pursuant to this Article.

(i) "Primary caregiver" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., and as may be amended, and which defines "primary caregiver" as an individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include a licensed clinic, a licensed health care facility, a residential care facility, a hospice, or a home health agency as allowed by California Health and Safety Code Section 11362.7(d)(1-3).

(j) "Qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., and as may be amended, and which states that a "qualified patient" means a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have a valid medical cannabis identification card. For the purposes of this Article, a "qualified patient who has a valid identification card" shall mean a person who fulfills all of the requirements to be a "qualified patient" under California Health and Safety Code Section 11362.7 et seq. and also has a valid medical cannabis identification card

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 225-07, File No. 070667, App. 10/2/2007; Ord. 25-09, File No. 081199, App. 2/13/2009)

SEC. 3302. MEDICAL CANNABIS GUIDELINES.

Pursuant to the authority granted under Health and Safety Code section 11362.77, the City and County of San Francisco enacts the following medical cannabis guidelines:

(a) A qualified patient, person with a valid identification card, or primary caregiver may possess no more than eight ounces of dried cannabis per qualified patient. In addition, a qualified patient, person with a valid identification card, or primary caregiver may also maintain no more than twenty-four (24) cannabis plants per qualified patient or up to 25 square feet of total garden canopy measured by the combined vegetative growth area.

(b) If a qualified patient, person with an identification card, or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient, person with an identification card, or primary caregiver may possess an amount of cannabis consistent with the patient's needs.

(c) Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of cannabis under this section.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3303. PERMIT REQUIRED FOR MEDICAL CANNABIS DISPENSARY.

Except for research facilities, it is unlawful to operate or maintain, or to participate therein, or to cause or to permit to be operated or maintained, any medical cannabis

dispensary without first obtaining a final permit pursuant to this Article. It is unlawful to operate or maintain, or to participate therein, or to cause or to permit to be operated or maintained, any medical cannabis dispensary with a provisional permit issued pursuant to this Article.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 225-06, File No. 060032, Effective without the signature of the Mayor)

SEC. 3304. APPLICATION FOR MEDICAL CANNABIS DISPENSARY PERMIT.

(a) Every applicant for a medical cannabis dispensary permit shall file an application with the Director upon a form provided by the Director and pay a non-refundable permit application fee of \$8,459 to cover the costs to all City departments of investigating and processing the application and any applicable surcharges, exclusive of filing fees for appeals before the Board of Appeals. Beginning with fiscal year 2008-2009, fees set forth in this Section may be adjusted each year, without further action by the Board of Supervisors, as set forth in this Section.

Not later than April 1, the Director shall report to the Controller the revenues generated by the fees for the prior fiscal year and the prior fiscal year's costs of operation, as well as any other information that the Controller determines appropriate to the performance of the duties set forth in this Section.

Not later than May 15, the Controller shall determine whether the current fees have produced or are projected to produce revenues sufficient to support the costs of providing the services for which the fees are assessed and that the fees will not produce revenue which is significantly more than the costs of providing the services for which the fees are assessed.

The Controller shall if necessary, adjust the fees upward or downward for the upcoming fiscal year as appropriate to ensure that the program recovers the costs of operation without producing revenue which is significantly more than such costs. The adjusted rates shall become operative on July 1.

(b) The permit application form shall provide clear notice to applicants that the California Fire Code includes a requirement, among others that may apply, that an establishment obtain a place of assembly permit if it will accommodate 50 or more persons based on its square footage.

(c) The applicant for a medical cannabis dispensary permit shall set forth, under penalty of perjury, following on the permit application:

- (1) The proposed location of the medical cannabis dispensary;
- (2) The name and residence address of each person applying for the permit and any other person who will be engaged in the management of the medical cannabis dispensary;
- (3) A unique identifying number from at least one government-issued form of identification, such as a social security card, a state driver's license or identification card, or a passport for of each person applying for the permit and any other person who will be engaged in the management of the medical cannabis dispensary;
- (4) Written evidence that each person applying for the permit and any other person who will be engaged in the management of the medical cannabis dispensary is at least 18 years of age;
- (5) All felony convictions of each person applying for the permit and any other person who will be engaged in the management of the medical cannabis dispensary;
- (6) Whether cultivation of medical cannabis shall occur on the premises of the medical cannabis dispensary;

(7) Whether smoking of medical cannabis shall occur on the premises of the medical cannabis dispensary;

(8) Whether food will be prepared, dispensed or sold on the premises of the medical cannabis dispensary; and

(9) Proposed security measures for the medical cannabis dispensary, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.

(e) If the applicant is a corporation, the applicant shall set forth the name of the corporation exactly as shown in its articles of incorporation, and the names and residence addresses of each of the officers, directors and each stockholder owning more than 10 percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporation apply.

(f) The Director is hereby authorized to require in the permit application any other information including, but not limited to, any information necessary to discover the truth of the matters set forth in the application.

(g) The Department of Public Health shall make reasonable efforts to arrange with the Department of Justice and with DOJ-certified fingerprinting agencies for fingerprinting services and criminal background checks for the purposes of verifying the information provided under Section 3304(c)(5) and certifying the listed individuals as required by Section 3307(c)(4). The applicant or each person listed in Section 3304(c)(5) shall assume the cost of fingerprinting and background checks, and shall execute all forms and releases required by the DOJ and the DOJ-certified fingerprinting agency.

(Added by Ord. 271-05, File No. 051747, App. 11/30/2005; amended by Ord. 273-05, File No. 051748, App. 11/30/2005; Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 225-06, File No. 060032, Effective without the signature of the Mayor; Ord. 225-07, File No. 070667, App. 10/2/2007; Ord. 149-08, File No. 080744, App. 7/30/2008; Ord. 25-09, File No. 081199, App. 2/13/2009)

SEC. 3305. REFERRAL TO OTHER DEPARTMENTS.

(a) Upon receiving a completed medical cannabis dispensary permit application and permit application fee, the Director shall immediately refer the permit application to the City's Planning Department, Department of Building Inspection, Mayor's Office on Disability, and Fire Department.

(b) Said departments shall inspect the premises proposed to be operated as a medical cannabis dispensary and confirm the information provided in the application and shall make separate written recommendations to the Director concerning compliance with the codes that they administer.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 225-06, File No. 060032, Effective without the signature of the Mayor; Ord. 225-07, File No. 070667, App. 10/2/2007)

SEC. 3306. NOTICE OF HEARING ON PERMIT APPLICATION.

(a) After receiving written approval of the permit application from other City Departments as set out in Section 3305, and notice from the Department of Building Inspection that it has approved a building permit, the Director shall fix a time and place for a public hearing on the application, which date shall not be more than 45 days after the Director's receipt of the written approval of the permit application from other City Departments.

(b) No fewer than 10 days before the date of the hearing, the permit applicant shall cause to be posted a notice of such hearing in a conspicuous place on the property at which the proposed medical cannabis dispensary is to be operated. The applicant shall comply with any requirements regarding the size and type of notice specified by the Director. The applicant shall maintain the notice as posted the required number of days. (Added by Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 225-06, File No. 060032, Effective without the signature of the Mayor)

SEC. 3307. ISSUANCE OF MEDICAL CANNABIS DISPENSARY PERMIT.

(a) Within 14 days following a hearing, the Director shall either issue a provisional permit or mail a written statement of his or her reasons for denial thereof to the applicant.

(b) In recommending the granting or denying of a provisional permit and in granting or denying the same, the Director shall give particular consideration to the capacity, capitalization, complaint history of the applicant and any other factors that in their discretion he or she deems necessary to the peace and order and welfare of the public. In addition, prior to granting a provisional permit, the Director shall review criminal history information provided by the Department of Justice for the purpose of certifying that each person applying for the permit and any other person who will be engaged in the management of the medical cannabis dispensary has not been convicted of a violent felony within the State of California, as defined in Penal Code section 667.5(c), or a crime that would have constituted a violent felony as defined in Penal Code section 667.5(c) if committed within the State of California. However, the Director may certify and issue a medical cannabis dispensary provisional permit to any individual convicted of such a crime if the Director finds that the conviction occurred at least five years prior to the date of the permit application or more than three years have passed from the date of the termination of a penalty for such conviction to the date of the permit application and, that no subsequent felony convictions of any nature have occurred.

(c) No medical cannabis dispensary provisional permit shall be issued if the Director finds:

- (1) That the applicant has provided materially false documents or testimony; or
- (2) That the applicant has not complied fully with the provisions of this Article; or
- (3) That the operation as proposed by the applicant, if permitted, would not have complied will all applicable laws, including, but not limited to, the Building, Planning, Housing, Police, Fire, and Health Codes of the City, including the provisions of this Article and regulations issued by the Director pursuant to this Article; or
- (4) That the permit applicant or any other person who will be engaged in the management of the medical cannabis dispensary has been convicted of a violent felony as defined in Penal Code section 667.5(c) within the State of California or a crime that would have constituted a violent felony as defined in Penal Code section 667.5(c) if committed within the State of California. However, the Director may issue a medical cannabis dispensary provisional permit to any individual convicted of such a crime if the Director finds that the conviction occurred at least five years prior to the date of the permit application or more than three years have passed from the date of the termination of a penalty for such conviction to the date of the permit application and, that no subsequent felony convictions of any nature have occurred; or
- (5) That a permit for the operation of a medical cannabis dispensary, which permit had been issued to the applicant or to any other person who will be engaged in the management of the medical cannabis dispensary, has been revoked, unless more than five years have passed from the date of the revocation to the date of the application; or

(6) That the City has revoked a permit for the operation of a business in the City which permit had been issued to the applicant or to any other person who will be engaged in the management of the medical cannabis dispensary unless more than five years have passed from the date of the application to the date of the revocation.

(d) Applicants with provisional permits shall secure a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 307 and present it to the Director, and the Director shall issue the applicant a final permit.

(e) The Director shall notify the Police Department of all approved permit applications.

(f) The final permit shall contain the following language: "Issuance of this permit by the City and County of San Francisco is not intended to and does not authorize the violation of State or Federal law."

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 225-06, File No. 060032, Effective without the signature of the Mayor; Ord. 225-07, File No. 070667, App. 10/2/2007)

SEC. 3308. OPERATING REQUIREMENTS FOR MEDICAL CANNABIS DISPENSARY.

(a) Medical cannabis dispensaries shall meet all the operating criteria for the dispensing of medical cannabis as is required pursuant to California Health and Safety Code Section 11362.7 et seq., by this Article, by the Director's administrative regulations for the permitting and operation of medical cannabis dispensaries and by the AG's Guidelines.

(b) Medical cannabis dispensaries shall be operated only as collectives or cooperatives in accordance this ordinance. All patients or caregivers served by a medical cannabis dispensary shall be members of that medical cannabis dispensary's collective or cooperative. Medical cannabis dispensaries shall maintain membership records on-site or have them reasonably available.

(c) The medical cannabis dispensary shall operate on a not for profit basis. It shall receive only compensation for the reasonable costs of operating the dispensary, including reasonable compensation incurred for services provided to qualified patients or primary caregivers to enable that person to use or transport cannabis pursuant to California Health and Safety Code Section 11362.7 et seq., or for payment for reasonable out-of-pocket expenses incurred in providing those services, or both. Reasonable out-of-pocket expenses may include reasonable expenses for patient services, rent or mortgage, utilities, employee costs, furniture, maintenance and reserves. Sale of medical cannabis to cover anything other than reasonable compensation and reasonable out-of-pocket expenses is explicitly prohibited. Once a year, commencing in March 2008, each medical cannabis dispensary shall provide to the Department a written statement by the dispensary's permittee made under penalty of perjury attesting to the dispensary's compliance with this paragraph. Upon request by the Department, based on reasonable suspicion of noncompliance, the medical cannabis dispensary shall provide the Department copies of, or access to, such financial records as the Department determines are necessary to show compliance with this paragraph. Reasonable suspicion is defined as possession of specific and articulate facts warranting a reasonable belief that the dispensary is not complying with the requirement that it be not for profit. Financial records are records of revenues and expenses for the organization, including but not limited to Board of Equalization returns, payroll records, business expense records and income tax returns. The Director only shall disclose these financial records to those City and County departments necessary to support the Director's review of the records. Upon completion of the Director's review,

and provided that the Director no longer has any need for the records, the Director shall return any financial records, and copies thereof, to the medical cannabis dispensary.

(d) Medical cannabis dispensaries shall sell or distribute only cannabis manufactured and processed in the State of California that has not left the State before arriving at the medical cannabis dispensary.

(e) It is unlawful for any person or association operating a medical cannabis dispensary under the provisions of this Article to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct, or otherwise, or to permit such dispensary to remain open, or patrons to remain upon the premises, between the hours of 10 p.m. and 8 a.m. the next day. However, the Department shall issue permits to two medical cannabis dispensaries permitting them to remain open 24 hours per day. These medical cannabis dispensaries shall be located in order to provide services to the population most in need of 24 hour access to medical cannabis. These medical cannabis dispensaries shall be located at least one mile from each other and shall be accessible by late night public transportation services. However, in no event shall a medical cannabis dispensary located in a Small-Scale Neighborhood Commercial District, a Moderate Scale Neighborhood Commercial District, or a Neighborhood Commercial Shopping Center District as defined in Sections 711, 712 and 713 of the Planning Code, be one of the two medical cannabis dispensaries permitted to remain open 24 hours per day.

(f) Medical cannabis dispensaries may not dispense more than one ounce of dried cannabis per qualified patient to a qualified patient or primary caregiver per visit to the medical cannabis dispensary. Medical cannabis dispensaries may not maintain more than ninety-nine (99) cannabis plants in up to 100 square feet of total garden canopy measured by the combined vegetative growth area. Medical cannabis dispensaries shall use medical cannabis identification card numbers to ensure compliance with this provision. If a qualified patient or a primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or the primary caregiver may possess and the medical cannabis dispensary may dispense an amount of dried cannabis and maintain a number cannabis plants consistent with those needs. Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of cannabis under this Section.

(g) No medical cannabis shall be smoked, ingested or otherwise consumed in the public right-of-way within fifty (50) feet of a medical cannabis dispensary. Any person violating this provision shall be deemed guilty of an infraction and upon the conviction thereof shall be punished by a fine of \$100. Medical cannabis dispensaries shall post a sign near their entrances and exits providing notice of this policy.

(h) Any cultivation of medical cannabis on the premises of a medical cannabis dispensary must be conducted indoors.

(i) All sales and dispensing of medical cannabis shall be conducted on the premises of the medical cannabis dispensary. However, delivery of cannabis to qualified patients with valid identification cards or a verifiable, written recommendation from a physician for medical cannabis and primary caregivers with a valid identification card outside the premises of the medical cannabis dispensary is permitted if the person delivering the cannabis is a qualified patient with a valid identification card or a verifiable, written recommendation from a physician for medical cannabis or a primary caregiver with a valid identification card who is a member of the medical cannabis dispensary.

(j) The medical cannabis dispensary shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. Nor shall alcoholic beverages be consumed on

the premises or on in the public right-of-way within fifty feet of a medical cannabis dispensary.

(k) In order to protect confidentiality, the medical cannabis dispensary shall maintain records of all qualified patients with a valid identification card and primary caregivers with a valid identification card using only the identification card number issued by the State or City pursuant to California Health and Safety Code Section 11362.7 et seq. and City Health Code Article 28.

(l) The medical cannabis dispensary shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within hundred (100) feet of the premises.

(m) The medical cannabis dispensary shall provide and maintain adequate security on the premises, including lighting and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft.

(n) Signage for the medical cannabis dispensary shall be limited to one wall sign not to exceed ten square feet in area, and one identifying sign not to exceed two square feet in area; such signs shall not be directly illuminated. Any wall sign, or the identifying sign if the medical cannabis dispensary has no exterior wall sign, shall include the following language: "Only individuals with legally recognized Medical Cannabis Identification Cards or a verifiable, written recommendation from a physician for medical cannabis may obtain cannabis from medical cannabis dispensaries." The required text shall be a minimum of two inches in height. This requirement shall remain in effect so long as the system for distributing or assigning medical cannabis identification cards preserves the anonymity of the qualified patient or primary caregiver.

(o) All print and electronic advertisements for medical cannabis dispensaries, including but not limited to flyers, general advertising signs, and newspaper and magazine advertisements, shall include the following language: "Only individuals with legally recognized Medical Cannabis Identification Cards or a verifiable, written recommendation from a physician for medical cannabis may obtain cannabis from medical cannabis dispensaries." The required text shall be a minimum of two inches in height except in the case of general advertising signs where it shall be a minimum of six inches in height. Oral advertisements for medical cannabis dispensaries, including but not limited to radio and television advertisements shall include the same language. This requirement shall remain in effect so long as the system for distributing or assigning medical cannabis identification cards preserves the anonymity of the qualified patient or primary carver.

(p) The medical cannabis dispensary shall provide the Director and all neighbors located within 50 feet of the establishment with the name phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the establishment. The medical cannabis dispensary shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police Department or other City officials.

(q) Medical cannabis dispensaries may purchase or obtain cannabis only from members of the medical cannabis dispensary's cooperative or collective and may sell or distribute cannabis only to members of the medical cannabis dispensary's cooperative or collective.

(r) Medical cannabis dispensaries may sell or distribute cannabis only to those members with a medical cannabis identification card or a verifiable, written recommendation from a physician for medical cannabis. This requirement shall remain in effect so long as the system for distributing or assigning medical cannabis identification cards preserves the anonymity of the qualified patient or primary caregiver.

(s) It shall be unlawful for any medical cannabis dispensary to employ any person who is not at least 18 years of age.

(t) It shall be unlawful for any medical cannabis dispensary to allow any person who is not at least 18 years of age on the premises during hours of operation unless that person is a qualified patient with a valid identification card or primary caregiver with a valid identification card or a verifiable, written recommendation from a physician for medical cannabis.

(u) Medical cannabis dispensaries that display or sell drug paraphernalia must do so in compliance with California Health and Safety Code §§ 11364.5 and 11364.7.

(v) Medical cannabis dispensaries shall maintain all scales and weighing mechanisms on the premises in good working order. Scales and weighing mechanisms used by medical cannabis dispensaries are subject to inspection and certification by the Director.

(w) Medical cannabis dispensaries that prepare, dispense or sell food must comply with and are subject to the provisions of all relevant State and local laws regarding the preparation, distribution and sale of food.

(x) The medical cannabis dispensary shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the Director in order to insure that the operation of the medical cannabis dispensary is consistent with the protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.

(y) Medical cannabis dispensaries shall be accessible as required under the California Building Code. Notwithstanding the foregoing, if a medical cannabis dispensary cannot show that it will be able to meet the disabled access standard for new construction, it shall meet the following minimum standards:

(1) An accessible entrance;

(2) Any ground floor service area must be accessible, including an accessible reception counter and access aisle to the employee workspace behind; and,

(3) An accessible bathroom, with a toilet and sink, if a bathroom is provided, except where an unreasonable hardship exemption is granted.

(4) A "limited use/limited access" (LULA) elevator that complies with ASME A17.1 Part XXV, an Article 15 elevator may be used on any accessible path of travel. A vertical or inclined platform lift may be used if an elevator is not feasible and the ramp would require more than thirty percent (30%) of the available floor space.

(5) Any medical cannabis dispensary that distributes medical cannabis solely through delivery to qualified patients or primary caregivers and does not engage in on-site distribution or sales of medical cannabis shall be exempt from the requirements of this subsection 3308(y).

(z) Any medical cannabis dispensary in a building that began the Landmark Initiation process (as codified by Article 10 of the San Francisco Planning Code) by August 13, 2007 is exempt from the requirements set forth in section 3308(y) of this legislation until September 1, 2008.

(aa) Prior to submission of a building permit application, the applicant shall submit its application to the Mayor's Office on Disability. The Mayor's Office on Disability shall review the application for access compliance and forward recommendations to the Department of Building Inspection.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 225-07, File No. 070667, App. 10/2/2007; Ord. 318-08, File No. 081230, 12/19/2008; Ord. 25-09, File No. 081199, App. 2/13/2009)

SEC. 3309. PROHIBITED OPERATIONS.

All medical cannabis dispensaries operating in violation of California Health and Safety Code Sections 11362.5 and 11326.7 et seq., or this Article are expressly prohibited. No entity that distributed medical cannabis prior to the enactment of this Article shall be deemed to have been a legally established use under the provisions of this Article, and such use shall not be entitled to claim legal nonconforming status for the purposes of permitting,

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3310. DISPLAY OF PERMIT.

Every permit to operate a medical cannabis dispensary shall be displayed in a conspicuous place within the establishment so that the permit may be readily seen by individuals entering the premises.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3311. SALE OR TRANSFER OF PERMITS.

(a) Upon sale, transfer or relocation of a medical cannabis dispensary, the permit and license for the establishment shall be null and void unless another permit has been issued pursuant to this Article; provided, however, that upon the death or incapacity of the permittee, the medical cannabis dispensary may continue in business for six months to allow for an orderly transfer of the permit.

(b) If the permittee is a corporation, a transfer of 25 percent of the stock ownership of the permittee will be deemed to be a sale or transfer and the permit and license for the establishment shall be null and void unless a permit has been issued pursuant to this Article; provided, however that this subsection shall not apply to a permittee corporation, the stock of which is listed on a stock exchange in this State or in the City of New York, State of New York, or which is required by law, to file periodic reports with the Securities and Exchange Commission.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3312. RULES AND REGULATIONS.

(a) The Director shall issue rules and regulations regarding the conduct of hearings concerning the denial, suspension or revocation of permits and the imposition of administrative penalties on medical cannabis dispensaries.

(b) The Director may issue regulations governing the operation of medical cannabis dispensaries. These regulations shall include, but need not be limited to:

(1) A requirement that the operator provide patients and customers with information regarding those activities that are prohibited on the premises;

(2) A requirement that the operator prohibit patrons from entering or remaining on the premises if they are in possession of or are consuming alcoholic beverages or are under the influence of alcohol;

(3) A requirement that the operator require employees to wash hands and use sanitary utensils when handling cannabis;

(4) A description of the size and type of notice of hearing to be posted in a conspicuous place on the property at which the proposed medical cannabis dispensary is to be operated and the number of days said notice shall remain posted; and

(5) A description of the size and type of sign posted near the entrances and exits of medical cannabis dispensaries providing notice that no medical cannabis shall be smoked, ingested or otherwise consumed in the public right of way within fifty (50) feet of a medical cannabis dispensary and that any person violating this policy shall be deemed

guilty of an infraction and upon the conviction thereof shall be punished by a fine of \$100.

(c) Failure by an operator to do either of the following shall be grounds for suspension or revocation of a medical cannabis dispensary permit: (1) comply with any regulation adopted by the Director under this Article, or (2) give free access to areas of the establishment to which patrons have access during the hours the establishment is open to the public, and at all other reasonable times, at the direction of the Director, or at the direction of any City fire, planning, or building official or inspector for inspection with respect to the laws that they are responsible for enforcing.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 225-06, File No. 060032, Effective without the signature of the Mayor)

SEC. 3313. INSPECTION AND NOTICES OF VIOLATION.

(a) The Director may inspect each medical cannabis dispensary regularly and based on complaints, but in no event fewer than two times annually, for the purpose of determining compliance with the provisions of this Article and/or the rules and regulations adopted pursuant to this Article. If informal attempts by the Director to obtain compliance with the provisions of this Article fail, the Director may take the following steps:

(1) The Director may send written notice of noncompliance with the provisions of this Article to the operator of the medical cannabis dispensary. The notice shall specify the steps that must be taken to bring the establishment into compliance. The notice shall specify that the operator has 10 days in which to bring the establishment into compliance.

(2) If the Director inspector determines that the operator has corrected the problem and is in compliance with the provisions of this Article, the Director may so inform the operator.

(3) If the Director determines that the operator failed to make the necessary changes in order to come into compliance with the provisions of this Article, the Director may issue a notice of violation.

(b) The Director may not suspend or revoke a permit issued pursuant to this Article, impose an administrative penalty, or take other enforcement action against a medical cannabis dispensary until the Director has issued a notice of violation and provided the operator an opportunity to be heard and respond as provided in Section 3316.

(c) If the Director concludes that announced inspections are inadequate to ascertain compliance with this Article (based on public complaints or other relevant circumstances), the Director may use other appropriate means to inspect the areas of the establishment to which patrons have access. If such additional inspection shows noncompliance, the Director may issue either a notice of noncompliance or a notice of violation, as the Director deems appropriate.

(d) Every person to whom a permit shall have been granted pursuant to this Article shall post a sign in a conspicuous place in the medical cannabis dispensary. The sign shall state that it is unlawful to refuse to permit an inspection by the Department of Public Health, or any City peace, fire, planning, or building official or inspector, conducted during the hours the establishment is open to the public and at all other reasonable times, of the areas of the establishment to which patrons have access.

(e) Nothing in this Section shall limit or restrict the authority of a Police Officer to enter premises licensed or permitted under this Article (i) pursuant to a search warrant signed by a magistrate and issued upon a showing of probable cause to believe that a crime has been committed or attempted, (ii) without a warrant in the case of an emergency or other exigent circumstances, or (iii) as part of any other lawful entry in connection with a criminal investigation or enforcement action.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3314. VIOLATIONS AND PENALTIES.

(a) Any dispensary, dispensary operator or dispensary manager who violates any provision of this Article or any rule or regulation adopted pursuant to this Article may, after being provided notice and an opportunity to be heard, be subject to an administrative penalty not to exceed \$1,000 for the first violation of a provision or regulation in a 12-month period, \$2,500 for the second violation of the same provision or regulation in a 12-month period; and \$5, 000 for the third and subsequent violations of the same provision or regulation in a 12-month period.

(b) The Director may not impose an administrative penalty or take other enforcement action under this Article against a medical cannabis dispensary until the Director has issued a notice of violation and provided the operator an opportunity to be heard and respond as provided in Section 3316.

(c) Nothing herein shall prohibit the District Attorney from exercising the sole discretion vested in that officer by law to charge an operator, employee, or any other person associated with a medical cannabis dispensary with violating this or any other local or State law.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3315. REVOCATION AND SUSPENSION OF PERMIT.

(a) Any permit issued for a medical cannabis dispensary may be revoked, or suspended for up to 30 days, by the Director if the Director determines that:

(1) the manager, operator or any employee has violated any provision of this Article or any regulation issued pursuant to this Article;

(2) the permittee has engaged in any conduct in connection with the operation of the medical cannabis dispensary that violates any State or local laws, or any employee of the permittee has engaged in any conduct that violates any State or local laws at permittee's medical cannabis dispensary, and the permittee had or should have had actual or constructive knowledge by due diligence that the illegal conduct was occurring;

(3) the permittee has engaged in any material misrepresentation when applying for a permit;

(4) the medical cannabis dispensary is being managed, conducted, or maintained without regard for the public health or the health of patrons;

(5) the manager, operator or any employee has refused to allow any duly authorized City official to inspect the premises or the operations of the medical cannabis dispensary;

(6) based on a determination by another City department, including the Department of Building Inspections, the Fire Department, the Police Department, and the Planning Department, that the medical cannabis dispensary is not in compliance with the laws under the jurisdiction of the Department.

(b) The Director may not suspend or revoke a permit issued pursuant to this Article or take other enforcement action against a medical cannabis dispensary until the Director has issued a notice of violation and provided the operator an opportunity to be heard and respond as provided in Section 3316.

(c) Notwithstanding paragraph (b), the Director may suspend summarily any medical cannabis dispensary permit issued under this Article pending a noticed hearing on revocation or suspension when in the opinion of the Director the public health or safety requires such summary suspension. Any affected permittee shall be given notice of such

summary suspension in writing delivered to said permittee in person or by registered letter.

(d) If a permit is revoked no application for a medical cannabis dispensary may be submitted by the same person for three years.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3316. NOTICE AND HEARING FOR ADMINISTRATIVE PENALTY AND/OR REVOCATION OR SUSPENSION.

(a) If the Director determines that a medical cannabis dispensary is operating in violation of this Article and/or the rules and regulations adopted pursuant to this Article, he or she shall issue a notice of violation to the operator of the medical cannabis dispensary.

(b) The notice of violation shall include a copy of this Section and the rules and regulations adopted pursuant to this Article regarding the conduct of hearings concerning the denial, suspension or revocation of permits and the imposition of administrative penalties on medical cannabis dispensaries. The notice of violation shall include a statement of any informal attempts by the Director to obtain compliance with the provisions of this Article pursuant to Section 3313(a). The notice of violation shall inform the operator that:

(1) The Director has made an initial determination that the medical cannabis dispensary is operating in violation of this Article and/or the rules and regulations adopted pursuant to this Article; and

(2) The alleged acts or failures to act that constitute the basis for the Director's initial determination; and

(3) That the Director intends to take enforcement action against the operator, and the nature of that action including the administrative penalty to be imposed, if any, and/or the suspension or revocation of the operator's permit; and

(4) That the operator has the right to request a hearing before the Director within fifteen (15) days of receipt of the notice of violation in order to allow the operator an opportunity to show that the medical cannabis dispensary is operating in compliance with this Article and/or the rules and regulations adopted pursuant to this Article.

(c) If no request for a hearing is filed with the Director within the appropriate period, the initial determination shall be deemed final and shall be effective fifteen (15) days after the notice of initial determination was served on the alleged violator. The Director shall issue an Order imposing the enforcement action and serve it upon the party served with the notice of initial determination. Payment of any administrative penalty is due within 30 days of service of the Director's Order. Any administrative penalty assessed and received in an action brought under this Article shall be paid to the Treasurer of the City and County of San Francisco. The alleged violator against whom an administrative penalty is imposed also shall be liable for the costs and attorney's fees incurred by the City in bringing any civil action to enforce the provisions of this Section, including obtaining a court order requiring payment of the administrative penalty.

(d) If the alleged violator files a timely request for a hearing, within fifteen (15) days of receipt of the request, the Director shall notify the requestor of the date, time, and place of the hearing. The Director shall make available all documentary evidence against the medical cannabis dispensary no later than fifteen (15) days prior to the hearing. Such hearing shall be held no later than forty-five (45) days after the Director receives the request, unless time is extended by mutual agreement of the affected parties.

(e) At the hearing, the medical cannabis dispensary shall be provided an opportunity to refute all evidence against it. The Director shall conduct the hearing. The hearing shall be conducted pursuant to rules and regulations adopted by the Director.

(f) Within twenty (20) days of the conclusion of the hearing, the Director shall serve written notice of the Director's decision on the alleged violation. If the Director's decision is that the alleged violator must pay an administrative penalty, the notice of decision shall state that the recipient has ten (10) days in which to pay the penalty. Any administrative penalty assessed and received in an action brought under this Article shall be paid to the Treasurer of the City. The alleged violator against whom an administrative penalty is imposed also shall be liable for the costs and attorney's fees incurred by the City in bringing any civil action to enforce the provisions of this Section, including obtaining a court order requiring payment of the administrative penalty.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3317. APPEALS TO BOARD OF APPEALS.

(a) Right of Appeal. The final decision of the Director to grant, deny, suspend, or revoke a permit, or to impose administrative sanctions, as provided in this Article, may be appealed to the Board of Appeals in the manner prescribed in Article 1 of the San Francisco Business and Tax Relations Code. An appeal shall stay the action of the Director.

(b) Hearing. The procedure and requirements governing an appeal to the Board of Appeals shall be as specified in Article 1 of the San Francisco Business and Tax Regulations Code.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3318. BUSINESS LICENSE AND BUSINESS REGISTRATION CERTIFICATE.

(a) Every medical cannabis dispensary shall be required to obtain a business license from the City in compliance with Article 2 of the Business and Tax Regulations Code.

(b) Every medical cannabis dispensary shall be required to obtain a business registration certificate from the City in compliance with Article 12 of the Business and Tax Regulations Code.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3319. DISCLAIMERS AND LIABILITY.

By regulating medical cannabis dispensaries, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. To the fullest extent permitted by law, the City shall assume no liability whatsoever, and expressly does not waive sovereign immunity, with respect to the permitting and licensing provisions of this Article, or for the activities of any medical cannabis dispensary. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Article shall not become a personal liability of any public officer or employee of the City. This Article (the "Medical Cannabis Act") does not authorize the violation of state or federal law.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3320. SEVERABILITY.

If any provision of this Article or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Article, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Article are severable.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SEC. 3321. ANNUAL REPORT BY DIRECTOR.

(a) Once a year, commencing in January 2007, the Director shall make a report to the Board of Supervisors that:

(1) sets forth the number and location of medical cannabis dispensaries currently permitted and operating in the City;

(2) sets forth an estimate of the number of medical cannabis patients currently active in the City;

(3) provides an analysis of the adequacy of the currently permitted and operating medical cannabis dispensaries in the City in meeting the medical needs of patients;

(4) provides a summary of the past year's violations of this Article and penalties assessed.

(b) Upon receipt of this Report, the Board of Supervisors shall hold a hearing to consider whether any changes to City law, including but not limited to amendments to the Health Code or Planning Code, are warranted.

(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MARCH 16, 2011

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: Vice President Michael Garcia, Commissioner Frank Fung, Commissioner Chris Hwang and Commissioner Tanya Peterson.

Francesca Gessner, Deputy City Attorney, Office of the City Attorney (OCA); Scott Sanchez, Zoning Administrator (ZA); Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); Tom Venizelos, Senior Building Inspector, (DBI); Dan Sider, Senior Planner, Planning Department (PD); Carla Short, Urban Forester, Department of Public Works, Bureau of Urban Forestry (DPW BUF); John Kwong, Permit Manager, Department of Public Works, Bureau of Street Use and Mapping (DPW, BSM); Cynthia Goldstein, Executive Director; Xiomara Velez, Legal Process Clerk.

ABSENT: President Kendall Goh.

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Laurence Kornfield announced that he will be leaving the Department of Building Inspection to take a position with the Office of the City Administrator, overseeing the City's earthquake hazard reduction program. He thanked the Board for the opportunity to participate in its work and expressed how meaningful it has been to him. Vice President Garcia, Commissioners Peterson, Hwang and Fung all expressed their appreciation for his contribution to the work of the Board over several decades and wished him well on his new endeavors.

(2) **COMMISSIONER COMMENTS & QUESTIONS:**

SPEAKERS: None.

(3) **ADOPTION OF MINUTES:**

Discussion and possible adoption of the March 09, 2011 minutes.

ACTION: Upon motion by Vice President Garcia, the Board voted 4-0-1 (President Goh absent) to adopt the March 9, 2011 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

(4) **ADDENDUM ITEMS:**

(4a) **ADOPTION OF FINDINGS:**

Subject property at 1400 Grant Avenue aka 468 Green Street. Appeal No. 10-097, Crown Fortune Properties vs. Zoning Administrator, decided January 19, 2011. At that time, the Board voted 5-0 to grant the appeal and overrule the Zoning Administrator with the adoption of findings at a later time. Subject Action: Notice of Violation and Penalty dated Aug. 17, 2010, addressed to PGB LLC and Crown Fortune Properties, regarding the business professional service use located at the subject property, in violation of the Planning Code.

ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (President Goh absent) to adopt the findings.

SPEAKERS: None.

PUBLIC COMMENT: None.

(4b) **JURISDICTION REQUESTS:**

Subject property at 1338 Filbert Street. Letter from Susan Brandt-Hawley, attorney for Jerry DeMartini, requestor, asking that the Board allow the filing of appeals against BPA Nos. 2008/10/27/5223, 2010/09/27/1690, and 2010/09/27/1691, which were all issued on Jan. 31, 2011, and all were determined to be issued pursuant to a Conditional Use (CU) authorization and thus un-appealable under the City Charter. Permit Holders: Dominique Lahaussais and David Low. Project, 1st permit: parking garage only; two duplexes above under separate permit. Project, 2nd permit: renovation and remodel of two existing landmark cottages and an artist studio. Project,

3rd permit: renovation and remodel of two existing landmark cottages. **NOTE: Public hearing held on March 9, 2010; matter continued to allow for the submittal of additional evidence.**

ACTION: Upon motion by Vice President Garcia, the Board voted 4-0-1 (President Goh absent) to deny the jurisdiction requests.

SPEAKERS: Susan Brandt-Hawley, attorney for requestor; Andrew Junius, attorney for permit holder; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(4c) **REHEARING REQUESTS:**

Subject property at 2139 Taraval Street. Letter from Derek St. Pierre, attorney for Greg Schoepp, permit holder, requesting rehearing of Appeal Nos. 10-105/106. On Nov. 17, 2010, the Board voted 4-0-1 to revoke the subject permit, and on Feb. 09, 2011, the Board voted 5-0 to adopt findings with amendments. Appellants: Canaan Tutoring Center Service, and Chinese GospelChurch. Project: new medical cannabis dispensary (MCD) in former chiropractor's office; minor interior alterations; BPA No. 2009/12/03/2572.

ACTION: Upon motion by Vice President Garcia, the Board voted 3-1-1 (Commissioner Hwang dissent and President Goh absent) to deny the rehearing requests.

SPEAKERS: Derek St. Pierre, attorney for requestor; Ross Moody, agent for appellant Canaan Tutoring Center Service; Scott Sanchez, ZA.

PUBLIC COMMENT: Maureen Burns, Elliott Wright, Shane Gibson, Stacia Scott, Floyd Rowrey, Kevin Johnson, Kathy Valaez, Lisa Cooper, Fred Martin, Edward Breslin, Thomas Hobby, Archie Hinkle, Jon Martinelli, Kerrigan Logan, Brent Saupe, Ivan Foxx, Michelle Amos, Steven Crane, Christine Moyer, Paul Hansbury, Jeffrey Dupuis, Henry J.W., Michael Goldman, Theresa Cooper, Gregory Ledbetter, Timothy Joseph Hawkins, Denise Dorey, Cora Glenn, Jae Sohn and Shona Gocheneau spoke in support of the requestor.

Nancy Wuerfel spoke in support of the appellant.

Cammy Blackstone, appearing on behalf of Supervisor Carmen Chu, answered Commissioner questions.

(4d) **REHEARING REQUEST:**

Subject property at 3175 – 24th Street. Letter from Jana Farrell, agent for Virginia Ramos, appellant, requesting rehearing of Appeal No. 10-136, decided Feb. 09, 2011. At that time, the Board voted 2-3 to grant the appeal, overturn the department, with adoption of findings at a later time. Four votes being required to overturn or modify any departmental action under the City Charter, the departmental action to issue the subject permit was upheld. Requestor of Permit: CBS Outdoor Inc.. Project: voluntary removal of 6' X 12' freestanding advertising sign; property owner consent attached; BPA No. 2009/11/12/1004.

ACTION: Upon motion by Commissioner Peterson, the Board voted 4-0-1 (President Goh absent) to grant the rehearing request and to rehear this matter on April 20, 2011, with additional briefing and testimony per the Board's Rules.

SPEAKERS: Jana Farrell, agent for requestor; Anthony Leones, attorney for CBS Outdoor Inc.; Dan Sider, PD.

PUBLIC COMMENT: None.

(4e) **REHEARING REQUESTS:**

Subject property at 1468 Folsom Street. Letter from Sean Marciniak, attorney for CBS Outdoor Inc., appellant, and a letter from Guerrero Espinoza, agent for Bay Community Housing LP, permit holder, requesting rehearing of Appeal No. 10-132, decided Feb. 09, 2011. At that time, the Board voted 3-2 to uphold the permit on the basis that it complies with the Code, and the City did not err in issuing said permit. Project: removal of 14' X 23' general advertising wall sign per DCP NOV; BPA No. 2010/10/13/2815.

ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (President Goh absent) to continue this matter to April 6, 2011 to allow time for CBS Outdoor Inc. to provide the Board with copies of its contract with the property owner or the property owner's predecessor.

SPEAKERS: Anthony Leones, attorney for requestor CBS Outdoor Inc.; Guerrero Espinoza, agent for requestor Bay Community Housing LP; Dan Sider, PD; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(4f) **JURISDICTION REQUEST:**

Subject property at 3206 Jackson Street. Letter from George Chan, requestor, asking that the Board take jurisdiction of BPA No. 2010/10/06/2397, which was issued on Jan. 04, 2011. The appeal period ended on Jan. 19, 2011, and the Jurisdiction Request was received at the Board office on Feb. 28,

2011. Permit Holders: Renu Agrawal and David Weber. Project: replace front/rear shingles with stucco; replace windows and modify openings; widen garage door; modify entry stairs; new deck railings; replace sliding glass doors and modify opening; infill deck area and foyer; add bedroom; relocate legal bathroom; remodel kitchen; relocate powder room; remodel master and staircase; add flat skylite.

WITHDRAWN.

(5) APPEAL NO. 11-003

<p>MISSION DOLORES CITIZENS FOR HEALTHY TREES, Appellant(s)</p> <p style="text-align: center;">vs.</p> <p>DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent</p> <p>Requestor of Permit: HOUSING AUTHORITY</p>	<p>1855 – 15th Street. Appealing the denial on Jan. 03, 2011, of Tree Removal Permit (four trees). ORDER NO. 179,025. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Hwang, the Board voted 4-0-1 (President Goh absent) to deny the appeal and uphold the department.

SPEAKERS: Clair Bright, agent for appellant; Marie Swanson, agent for permit holder; Carla Short, DPW BUF.

PUBLIC COMMENT: David Scott and Richard Fong spoke in support of the department. Paul Hastings spoke in support of the appellant.

(6) APPEAL NO. 11-004

<p>JEFF & NICOLE COOPER, Appellant(s)</p> <p style="text-align: center;">vs.</p> <p>DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent</p>	<p>156 – 27th Avenue. Protesting the issuance on Sept. 08, 2010, to NextG Network Inc., Wireless Box Permit. PERMIT NO. 10WR-0021. JURISDICTION GRANTED JAN. 12, 2011. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Vice President Garcia, the Board voted 4-0-1 (President Goh absent) to grant the appeal and revoke the permit with the adoption of findings at a later time.

SPEAKERS: Jeff Cooper, appellant; Natasha Ernst, attorney for permit holder; John Kwong, DPW BSM; Scott Sanchez, ZA.

PUBLIC COMMENT: Doug Loranger, Gay Outlaw, David Tornheim, Alex Wong and Lisa Klinck-Shea spoke in support of the appellants.

(7) APPEAL NO. 11-005

DAVID TORNHEIM, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	36 Ashbury Street. Protesting the issuance on Oct. 26, 2010, to NextG Network Inc., Wireless Box Permit. PERMIT NO. 10WR-0116. JURISDICTION GRANTED JAN. 12, 2011. FOR HEARING TODAY.
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ACTION: Upon motion by Vice President Garcia, the Board voted 3-1-1 (Commissioner Hwang dissented and President Goh absent) to deny the appeal and uphold the department.

SPEAKERS: David Tornheim, appellant; Natasha Ernst, attorney for permit holder; John Kwong, DPW BSM; Scott Sanchez, ZA.

PUBLIC COMMENT: Joseph Semprevio, Linda Yacobucci, Doug Loranger, Jeff Cooper, Alex Wong and Wendy Robinson spoke in support of the appellant.

ITEMS (8A), (8B) AND (8C) SHALL BE HEARD TOGETHER:

(8A) APPEAL NO. 11-007

NANCY WUERFEL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2514 – 23 rd Avenue. Protesting the issuance on Jan. 20, 2011, to Mary Galvin, Permit to Alter a Building (comply with NOV's; replace skylights; new gutters and downspouts; replace broken windows; replace rear patio doors; misc. siding repair; mold remediation at basement level; removal of sheetrock). APPLICATION NO. 2011/01/20/8698. FOR HEARING TODAY.
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(8B) APPEAL NO. 11-008

NANCY WUERFEL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2514 – 23 rd Avenue. Protesting the issuance on Jan. 20, 2011, to Mary Galvin, Permit to Alter a Building (re-roofing of existing roof areas less dormer). APPLICATION NO. 2011/01/20/8701. FOR HEARING TODAY.
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(8C) APPEAL NO. 11-020

NANCY WUERFEL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2514 – 23 rd Avenue. Protesting the issuance on Feb. 09, 2011, to Mary Galvin, Plumbing Permit (replace shower and sink of the same kind). APPLICATION NO. PP2011/02/09/927. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Hwang, the Board voted 4-0-1 (President Goh absent) to deny the three appeals and uphold the three permits on the basis that the permits are to respond to Notices of Violation (NOVs).

SPEAKERS: Nancy Wuerfel, appellant; Mary Galvin, permit holder; Tom Venizelos, DBI.

PUBLIC COMMENT: Joe O'Donoghue and Sherrie Matza spoke in support of the permit holder; Linda Yacobucci spoke in support of the appellant.

ITEMS (9A) AND (9B) SHALL BE HEARD TOGETHER:

(9A) APPEAL NO. 11-010

DEAN PRESTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	401 Divisadero Street. Protesting the issuance on Jan. 10, 2011, to John Brennan, Permit to Alter a Building (Chase Bank; install 8 awnings; signs under separate permit). APPLICATION NO. 2010/12/29/7555. FOR HEARING TODAY.
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(9B) APPEAL NO. 11-011

DEAN PRESTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	401 Divisadero Street. Protesting the issuance on Jan. 10, 2011, to John Brennan, Permit to Alter a Building (Chase Bank; revision to BPA No. 2010/10/18/3214; includes window and brick wainscoting modifications; revised floor heights and associated ramp; revised entry and structural revisions for door and ATM openings). APPLICATION NO. 2011/01/07/8051. FOR HEARING TODAY.
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ACTION on Appeal No. 11-010: Upon motion by Vice President Garcia, the Board voted 3-1-1 (Commissioner Hwang dissented and President Goh absent) to deny the appeal and uphold the department.

ACTION on Appeal No. 11-011: Upon motion by Vice President Garcia, the Board voted 3-1-1 (Commissioner Hwang dissented and President Goh absent) to grant the appeal and condition the permit so that it be revised to reflect the changes in Addendum #2 (date 1/27/11) provided that this revision does not cause the overall square footage to exceed 3,999 square feet. Lacking the four votes needed to pass, the motion failed. Upon further motion by Vice President Garcia, the Board voted 4-0-1 (President Goh absent) to continue this item to March 23, 2011 to allow President Goh to participate in the vote.

SPEAKERS: Dean Preston, appellant; Christine Griffith, attorney for permit holder; John Pollard, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: Jonah Horowitz, Sherrie Matza, Joseph Kasarda, Michael Musleh, Joe O'Donoghue, John Kerley, Patrick Kerley, Dan Kerley, Gerry

Agosta, Fergis O' Sullivan, Peter Pratt and Kathleen Crichton spoke in support of the permit holder.

David Tornheim, Sommer Peterson, Dan Nguyen-Tan, Amy Weiss, Mark Gaffney, Quentin Mecke, Gus Hernandez, Richard Kay, Ilyse Magy, Chris Jones, Hallie Albert, Remy Nelson and Julian Davis spoke in support of the appellant.

ADJOURNMENT.

There being no further business, Vice President Garcia adjourned the meeting at 12:40 a.m.



Medical Cannabis Dispensary (MCD) Regulations for Preparation of Edible Cannabis Products

1. No edible cannabis products **requiring** refrigeration or hot-holding shall be manufactured for sale or distribution at an MCD, due to the potential for food-borne illness. Exemptions may be granted by the San Francisco Department of Public Health on a case-by-case basis. For such exempted edible cannabis products, DPH may require a HACCP (Hazard Analysis and Critical Control Points) plan before approving the distribution of such medical cannabis products at MCDs. Such products requiring a HACCP plan may include ice cream and other dairy products.
2. Baked medicinal products (i.e. brownies, bars, cookies, cakes), tinctures and other non-refrigerated type items are acceptable for manufacture and sale at MCDs.
3. *(Items noted in this section are advisory only, as DPH does not intend to regulate edible cannabis production occurring in one's home.)* Preparation may be completed in a home-type kitchen equipped with a sink available for hand washing (this sink may be a dishwasher sink), liquid soap, and paper towels. No other food preparation should take place during the production of edible cannabis products, in order to avoid cross-contamination. During preparation, children and pets should not be in the kitchen/preparation area. Clean and sanitize all utensils, equipment, and food contact surfaces before and after preparation. Equipment and food contact surfaces should be in good, cleanable condition. Ingredient storage areas should be kept clean and vermin-free.
4. All items shall be individually wrapped at the original point of preparation. Labeling must include a warning if nuts or other known allergens are used, and must include the total weight (in ounces or grams) of cannabis in the package. A warning that the item is a medication and not a food must be distinctly and clearly legible on the front of the package. The package label must have a warning clearly legible emphasizing that the product is to be kept away from children. The label must also state that the product contains medical cannabis, and must specify the date of manufacture.
5. Packaging that makes the product attractive to children or imitates candy is not allowed. Any edible cannabis product that is made to resemble a typical food product (i.e. brownie, cake) must be in a properly labeled opaque (non see-through) package before it leaves the dispensary. Deliveries must be in properly labeled opaque packages when delivered to the patient.



City and County of San Francisco
DEPARTMENT OF PUBLIC HEALTH

Edwin Lee, *Mayor*
Barbara Garcia, MPA
Director of Public Health

OCCUPATIONAL & ENVIRONMENTAL HEALTH

Rajiv Bhatia, M.D.
Director, Environ. Health

6. Individuals conducting the manufacturing or sale of products shall thoroughly wash their hands before commencing production and before handling the finished product. Gloves must be worn when packaging edible cannabis products.
7. In order to reduce the likelihood of foodborne disease transmission, individuals who are suffering from symptoms associated with acute gastrointestinal illness or are known to be infected with a communicable disease that is transmissible through foodstuffs are prohibited from preparing edible cannabis products until they are free of that illness or disease, or are incapable of transmitting the illness or disease through foodstuffs. Anyone who has sores or cuts on their hands must use gloves when preparing and handling edible cannabis products.
8. Edible cannabis products for sale or distribution at an MCD must have been prepared by a member of that MCD. No non-member edible cannabis products are allowed for sale or distribution at an MCD.
9. A patient/caregiver who produces edible cannabis products that are sold at **more than one** MCD in San Francisco must become a State certified food handler. If more than one person is involved in producing edible cannabis products at one home or facility, only one person needs to be certified. The valid certificate number of the member who has prepared the edible cannabis product must be on record at the MCD where the product is sold or distributed, and a copy of the certificate kept either on-site, or made available during inspections if kept off-site.

**Medical Cannabis
Dispensary Inspection
Program**

**1390 Market Street, Suite 210
San Francisco CA, 94102**

***Phone(415)252-3841
fax (415) 252-3910***

* ADDENDUM ADDED MAY 4, 2011

In light of recent observations during routine inspections at San Francisco Medical Cannabis Dispensaries (MCDs), the Dept of Public Health has established the following policies that expand and clarify existing regulations regarding edible medical cannabis products. These policies specifically seek to clarify what is meant by prohibiting packaging that is attractive to children, as required in MCD Regulations for Preparation of Edible Cannabis Products, item 5.

- A. Photos or images of food are not allowed on edible medical cannabis product labels.
- B. If the edible medical cannabis product is identified on the label using a common food name (i.e. Brownie, Honey, Chocolate, Chocolate Chip Cookie, or Green Tea), the phrase "MEDICAL CANNABIS" must be written before the common food name. This phrase must be as easy to read as the common food name (i.e. same font size).
- C. Only generic food names may be used to describe the product. As an example, using "Snickerdoodle" to describe a cinnamon cookie is prohibited.

As you know, only *medical* cannabis is allowed to be distributed at MCDs in San Francisco. With this in mind, this new policy seeks to make it clear that the edible cannabis products you distribute are solely for medical cannabis patients, and the marketing of these products should **NOT** be a factor in the labeling of the products.

DPH realizes that this will cause a change in the labeling for most edible cannabis products currently distributed at MCDs in San Francisco. For this reason, we are allowing a 60 day transition to the new requirements. In the meantime, currently available edible medical cannabis products may continue to be distributed with their current labels if the package includes "MEDICAL CANNABIS" before the common food name, either pre-printed, or on a sticker. In addition, all such products must also state, as is now required, the following information:

- 1. Manufacture date
- 2. The statement "Keep Out Of Reach Of Children"
- 3. The statement "For Medical Use Only"
- 4. Net weight of cannabis in package

Thank you for your cooperation in this matter. If you have any questions, please contact Larry Kessler at 415-252-3841.

Sincerely yours,



Richard Lee, Director of Environmental Health Regulatory Programs
Department of Public Health, Environmental Health Services

SAN FRANCISCO MEDICAL CANNABIS TASK FORCE RECOMMENDATIONS FOR CULTIVATION BEST PRACTICES IN HOME GARDENS

WELCOME TO MEDICAL CANNABIS CULTIVATION IN SAN FRANCISCO

The San Francisco Medical Cannabis Task Force has drafted this set of best practices and recommendations for the safe cultivation of medical cannabis in home gardens. We have strived to create an approachable, yet comprehensive set of standards, that San Francisco residents can use as a resource in their medical cannabis cultivation endeavors. We have also attempted to avoid imposing any further limitations on a patient's rights to cultivate medicinal cannabis, while offering best practices suggestions in compliance with San Francisco Regulations, California State Law and the California Attorney General's Guidelines.

Disclaimer: Please be aware that compliance with these recommendations does not guarantee protection from Federal, State or Local law enforcement or inspection agents. This document does not contain legal advice and you are highly encouraged to seek independent legal counsel. This document has not been officially endorsed or adopted by the City and County of San Francisco or its legislative policymakers.

GENERAL BEST PRACTICES

Maintain and post valid recommendation(s) for medical cannabis for you and any others working in the garden. Medical cannabis documentation should be posted in a visible place inside the structure near the entry to the garden site. Documents should be posted so as to give notice to law enforcement of the clear intent to cultivate medical cannabis. Supporting documents can include:

- State ID card and/ or valid California Medical Cannabis Recommendation
- Cooperative/ Collective Membership Agreements
- Contact information for legal representatives
- Cultivation Agreement if cultivating for a Cooperative/ Collective
- California Attorney General Guidelines on Medical Cannabis

Article 33 of the SF Health Code (Medical Cannabis Act) authorizes a patient to cultivate up to 24 plants or 25 square feet of canopy space; Patients may possess up to 8 ounces of dried flowers.

Obtain sound legal counsel prior to starting a medical cannabis garden (talk with an attorney with a background in Medical Cannabis).

Focus your cultivation efforts on quality rather than quantity.

Strive to continually educate yourself by learning about cultivation techniques, cannabis history, laws, scientific research, etc.

Remember, there is safety in numbers. San Francisco is proud to host a large community of medical cannabis activists and advocates. Join a local advocacy organization and support medical cannabis rights.

BUILDING, ELECTRICAL, CONSTRUCTION - BEST PRACTICES

All garden site modifications should comply with San Francisco Planning, Building, Plumbing, Mechanical, and Electrical codes. When in doubt, consult an expert. City issued permits requires landlord notification.

Stealing power and/ or ‘jumping the box’ is illegal and dangerous.

In any garden where HID lighting is in use, it is recommended that the nursery have a fire notification system such as a smoke alarm, 3rd party fire monitoring service, internet monitoring and/ or cell phone notification system.

Though very few gardens ever experience a fire, there should always be a fire suppression system in place, such as wall-mounted fire extinguishers, ceiling mounted fire extinguishers and/ or sprinkler systems. The garden operator should be familiar with its usage. All equipment should be tested and serviced according to manufacturer recommendations.

By checking the pressure gauge or by weighing the fire extinguisher, a full charge must be confirmed every six months. If a fire extinguisher is even partially discharged, it must be refilled by a qualified technician prior to being put into service again. Every five years a fire extinguisher must be emptied, pressure tested, and refilled.

When using existing wiring, all electrical systems should be inspected by a licensed electrician for safety. If old, existing electrical system is deemed inadequate by a licensed electrician, then a dedicated circuit for the garden should be installed by a licensed electrician.

Continuous electrical load should not exceed 80% of the rated service. The combined load of all devices, cultivation related and otherwise, must not exceed the electrical capacity of the main panel and grounding system. For a 100 Amp service, no more than 80 Amps (or 80%) should be used continuously. No more than (1) 1000W lamp, **or** (2) 600W lamps, **or** (3) 400W lamps may be loaded onto a household 120V, 20-amp circuit. It is recommended that you dedicate a 220v circuit for all lamps.

Continuous current draw reduces wire ampacity and can create electrical failure. A twenty-amp circuit will only support 16 amps of continuous current draw. Auxiliary equipment needs to be placed on a separate circuit, allowing over current conditions from malfunctioning or aging ballasts to be tolerated without hazard to the individual or property.

Most manufacturers' instructions require that a glass lens be installed in fixtures outfitted with a metal halide bulb. Metal halide bulbs require a significantly higher pressure in the arc tube. As a metal halide ages the integrity of the glass tube is compromised, eventually resulting in rupture, delivering hot glass projectiles to the area under the lamp. A glass lens will assist in containing the debris, virtually eliminating the risk of fire. It is recommended that you follow all manufacturers suggested use of protective glass when using metal halide bulbs due to their failure rate and potential hazards caused when they fail. Metal Halide bulbs should be replaced at the manufacturers' suggested bulb life expiration to reduce the likelihood of bulb rupture.

The use of aquarium reservoir heaters is not recommended as they may create a fire hazard. Please use caution. Aquarium water heaters run a high risk of hazard if not used properly. They must be submerged in water at all times. With varying water levels in the reservoir during cleaning, feeding or heavy water consumption, caution must be used at all times.

All electrical devices within six feet of a water reservoir must be plugged into a GFCI (Ground Fault Circuit Interrupter) receptacle. This will help protect the user from severe electrical shock. Never place any part of your body into a reservoir that has an electrical device (e.g. pump) or cord in direct contact with the solution. Each of the above lighting combinations should be controlled by a timer with a minimum rating of 15 amps **inductive** or **ballast** load. Timers are commonly rated for 15 amp **resistive** loads, which will **not** permit safe operation of HID lamps. To emphasize, only inductive or ballast rated timers are acceptable.

Ballast servicing should only be conducted by a licensed electrician and/ or a certified technician Improper AC cord choice or internal wiring can result in electrical failure as well as possibly void your warranty. It is recommended that you use the proper UL listed cord for your ballast.

All construction efforts should strive to avoid the accumulation of water, waste, debris or mold. Adequate drainage and ventilation is essential.

Egress should not be blocked; windows and entries should not be boarded over with rigid construction materials.

This is hazardous to fire fighting personnel, emergency responders and inhabitants.

Reservoirs should not exceed the weight capacity for any floor. The fill source for any reservoir should have an automatic shut off system. Maintaining a reservoir on a second story is highly inadvisable.

Water weighs 8.34 pounds per gallon. A full one hundred gallon reservoir weighs more than 800 pounds, about one half the weight of an automobile.

If you plan on using generators, please be aware that most generators require permits to use in San Francisco.

Noise, exhaust, ventilation and fuel storage are all potential issues in their use.

CULTIVATION BEST PRACTICES

Gardens should post Material Safety Data Sheets [MSDS] on site for easy assessment by staff and emergency responders. MSDS sheets list all ingredients, components [organic or otherwise], including pesticides and safety procedures for accidental exposure.

Gardens should be vented so as not to pressurize, resulting in contamination of household air quality. External ventilation ports should be treated with carbon filters or ozone so as to prevent emission of odor, dust, soot, or any other debris that might disturb neighbors or contaminate household air quality.

A monitored alarm security system and surveillance system are strongly encouraged. Construction of vents and penetrations in the building should be consistent with the character of the neighborhood.

If running a closed system, a dehumidifier must be properly rated and drained of waste. At no time should there be stockpiling of debris/materials impeding on entries/exits so as to jeopardize the safety of inhabitants or emergency responders.

All pesticides, fungicides, and dangerous chemicals should be stored in a locked container and kept inaccessible to children and pets.

Following manufacturers' use and storage recommendations prevents accidents. Liquid and solid waste products should be disposed of in accordance with city and state law. Nutrient runoff/waste should never be directed into any storm drain system.

Certain pesticides, fertilizers, and solid wastes can have negative impacts on the environment and human health when not disposed of properly. Up to 30 HID and/or fluorescent bulbs are accepted at Recology SF (Tunnel Ave Disposal Facility) free of charge.

NEIGHBORHOOD CODES OF CONDUCT - BEST PRACTICES

Traffic and usage in, out and around your garden should be consistent with the neighborhood. No loading or unloading during off hours in residential areas. Traffic to and from the garden should be kept to a minimum.

Loud power tools should only be used from 8 a.m. to 5 p.m. San Francisco has a 24-hour ordinance that prohibits excessive noise at **any** hour of the day. Low frequency vibrations emanating from fans, pumps, air stones, HVAC equipment, and other devices should be equipped with vibration absorbing controls such as rubber mounting pads and/or

insulation so as to prevent noise from disturbing your neighbor. Low frequency vibrations are easily transmitted long distances through the frames of adjacent houses.

There should be no signs of cultivation from the public right of way, such as cannabis plants in plain sight, light shining out of windows, excessive equipment noise (See SF General Plan; noise standard), waste water spillage, odor, garden debris, or waste. Indoor gardens should be separated from living space by a lockable entry system. Access to exterior gardens should be separated by a fence and gate or other lockable mechanism that would protect children from accidental exposure that could lead to ingestion of mature cannabis flowers or resins.

In conclusion, enjoy yourself and please help minimize the impact on your community by applying good common sense to your actions. By following the recommendations listed above you can show respect for the medical cannabis community, your neighbors and the public servants who protect the citizens of San Francisco every day.



Special Notice

STATE BOARD
OF EQUALIZATION

Information on Sales Tax and Registration for Medical Marijuana Sellers

450 N Street
Sacramento
California 95814

BOARD MEMBERS

BETTY T. YEE
First District
San Francisco

BILL LEONARD
Second District
Ontario/Sacramento

MICHELLE STEEL
Third District
Rolling Hills Estates

JUDY CHU
Fourth District
Los Angeles

JOHN CHIANG
State Controller

EXECUTIVE DIRECTOR
RAMON J. HIRSIG

Board website and
Member contact
Information:
www.boe.ca.gov

Taxpayers' Rights
Advocate
888-324-2798

Information Center
800-400-7115
TDD/TTY: 800-735-2929

1. What is the Board of Equalization's (BOE) policy regarding sales of medical marijuana?

The sale of medical marijuana has always been considered taxable. However, prior to October 2005, the Board did not issue seller's permits to sellers of property that may be considered illegal.

2. Is this a change of policy?

In October 2005, after meeting with taxpayers, businesses, and advocacy groups, the Board directed staff to issue seller's permits regardless of the fact that the property being sold may be illegal, or because the applicant for the permit did not indicate what products it sold. This new policy was effective immediately.

3. What does the amended BOE policy say?

BOE policy regarding the issuance of a seller's permit was amended to provide that a seller's permit shall be issued to anyone requesting a permit to sell tangible personal property, the sale of which would be subject to sales tax if sold at retail. Previously, the Board would not issue a seller's permit when sales consisted only of medical marijuana.

4. Who is expected to comply with the BOE policy by applying for a seller's permit?

Anyone selling tangible personal property in California, the sale of which would be subject to sales tax if sold at retail, is required to hold a seller's permit and report and pay the taxes due on their sales.

5. Over-the-counter medications are subject to sales tax, but prescribed medications are not. Where does medical marijuana, "recommended" by a physician, fit in?

The sale of tangible personal property in California is generally subject to tax unless the sale qualifies for a specific exemption or exclusion. Sales and Use Tax Regulation 1591, *Medicines and Medical Devices*, explains when the sale or use of property meeting the definition of "medicine" qualifies for exemption from tax.

Generally, for an item's sale or use to qualify for an exemption from tax under Regulation 1591, the item must qualify as a medicine *and* the sale or use of the item must meet specific conditions. Regulation 1591 defines a medicine, in part, as any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and which is commonly recognized as a substance or preparation intended for that use. A medicine is also defined as any drug or any biologic, when such are approved by the U.S. Food and Drug Administration to diagnose, cure, mitigate, treat, or prevent any disease, illness, or medical condition regardless of ultimate use.

In order to be exempt, a medicine must qualify under the definition, and it must be either (1) prescribed for treatment by medical professional authorized to prescribe medicines and dispensed by a pharmacy; (2) furnished by a physician to his or her own patients; or (3) furnished by a licensed health facility on a physician's order. (There are some other specific circumstances not addressed here such as being

furnished by a state-run medical facility or a pharmaceutical company without charge for medical research.)

Generally, all of these requirements must be fulfilled in accordance with state and federal law.

6. Many medical marijuana dispensing collectives consider themselves to be health care facilities. Are they exempt from applying for a seller's permit and paying sales tax for this reason?

Regulation 1591 exempts the sale or use of medicines furnished by qualifying health care facilities. (See response to Question 5, above, regarding the requirements to qualify as an exempt medicine.) State law defines a qualifying "health facility" as either a facility licensed under state law to provide 24-hour inpatient care or a state-licensed clinic.

7. If I don't make any profit whatsoever from providing medical marijuana, do I still need to apply for a seller's permit?

Yes. Not making a profit does not relieve a seller of his or her sales tax liability. However, whether or not you make a profit, like other retailers making taxable sales, you can ask your customers to reimburse you for the sales taxes due on your sales, if you fulfill the requirements explained in Regulation 1700, *Reimbursement for Sales Tax*.

As discussed in the response to Question 10, the Board may enter into a payment plan with a seller when the seller has difficulty meeting its tax liabilities. The Board has an Offers in Compromise Program that provides a payment alternative for individuals and businesses who have closed out their accounts.

8. Is there a way to apply for a seller's permit without divulging the product being sold?

Yes. The Board will issue a seller's permit to an applicant who does not indicate the products being sold. The applicant, however, will be asked to sign a waiver acknowledging that his or her application is incomplete, which may result in the applicant not being provided with complete information regarding obligations as a holder of a seller's permit, or notified of future requirements by the Board related to the products sold. Applicants who do not wish to indicate the type of products they are selling should leave the line, "What items do you sell?" blank and discuss the issue with a Board representative regarding the incomplete application.

9. If I have been providing medical marijuana for some time, but have never applied for a seller's permit, will I owe any back taxes?

Yes. As with any other seller who has operated without a permit, or who has failed to timely file and pay the taxes due, back taxes are owed on any taxable sales made, but not reported and paid. Generally, penalty and interest will also be due.

When you apply for a seller's permit and your application is processed, Board staff will provide sales and use tax returns from prior periods for you to report your sales of medical marijuana and any other products you may have sold, but did not report. You will need to use these returns to self-report all your sales beginning with the month you first started selling taxable products.

Once you have filed all your back returns, you will receive a current return for each reporting period in which you make sales. You will continue to receive a return until such time as you stop making sales and have notified the Board of the discontinuance of your business.

The Board, however, may grant relief from penalty charges if it is determined that a person's failure to file a timely return or payment was due to reasonable cause and circumstances beyond the person's control. If a seller wishes to file for such relief, he or she must file a statement with the Board stating, under penalty of perjury, the facts that apply. Sellers may use form BOE-735, *Request for Relief from Penalty*, available on the Board's website.

A seller who cannot pay a liability in full may be eligible for an installment payment agreement. Sellers in need of this type of plan should contact their local Board office, as eligibility is determined on a case-by-case basis.

10. Is there a deadline by which I must apply for a seller's permit?

All California sellers of tangible personal property the sale of which would be subject to tax if sold at retail are required to hold seller's permits. A seller's permit should be obtained prior to making sales of tangible personal property. If you are currently making sales of medical marijuana and you do not hold a seller's permit, you should obtain one as soon as possible. Sellers have a continuing obligation to hold a seller's permit until such time they stop making sales of products that are subject to tax when sold at retail.

11. Where will the money go that is collected from sellers paying this sales tax?

Sales tax provides revenues to the state's General Fund as well as to cities, counties, and other local jurisdictions where the sale was made.

12. Are these tax revenues tied to any specific programs in the state budget?

No. The tax from the sales of medical marijuana is treated the same as the tax received from the sale of all tangible personal property.

13. Does registering for a permit make my sales of medical marijuana any more lawful than they are currently?

Registering for a seller's permit brings sellers into compliance with the Sales and Use Tax Law, but holding a seller's permit does not allow sales that are otherwise unlawful by state or federal law. The Compassionate Use Act of 1996 decriminalized the cultivation and use of marijuana by certain persons on the recommendation of a physician. California's Medical Marijuana Program Act also exempted qualifying patients and primary caregivers from criminal sanctions for certain other activities involving marijuana. Apart from any provisions of state law, the sale of marijuana remains illegal under federal law.

14. Where can I find more information?

Sellers are encouraged to use any of the resources listed below to obtain answers to their questions. They may:

- Call our Information Center at 800-400-7115.
 - Request copies of the laws and regulations that apply to their business.
 - Write to the Board for advice. Note: For a taxpayer's protection, it is best to get the advice in writing. Taxpayers may be relieved of tax, penalty, and interest charges that are due on a transaction if the Board determines that the person reasonably relied on written advice from the Board regarding the transaction. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.
 - Attend a basic class on how to report sales and use taxes. A listing of these classes is available on the Board's website at www.boe.ca.gov/sutax/tpsched.htm. This page also includes a link to an on-line tutorial for Sales and Use Tax.
 - Contact a local Board office and talk to a staff member.
-

Some patients in San Francisco grow their own cannabis collectively. Currently only 9 patients or less can collectively grow together without obtaining an MCD permit. Low-income patients are often excluded from collective gardens because they are unable to contribute what it takes to pay the bills with only 9 members. The following rough draft is a proposed solution to allow more than 9 patients to collectively grow together without increasing the size of the currently allowable garden. Numerous disincentives have been included to discourage those intending to grow for other than self-consumption purposes, or use this as a “loophole”.

Definition: 3301(e)

e: A nondispensing collective garden for self-consumption (NDSC) means any number of patients sharing the work and the expenses to grow their own medicine for their own personal use with an aggregated total plant count at any given time not to exceed 216 in one designated garden and in alignment with current AG guidelines concerning compliant collective/cooperatives.

This type of collective garden is not permitted to grow cannabis for anything other than self-consumption. The following are some of the requirements a garden should adhere to to qualify as a self-consumption garden:

All expenses shall be paid directly from patients to providers (i.e. PG&E, grow store, landlord etc.) by check, money order, or credit card, no cash payments. No markup on actual costs. Accurate records indicating compliance must be made available to health inspector on request.

All self-consumption garden sites must be made available for inspection by the health department.

All self-consumption gardens shall have onsite each involved patients name and affidavit stating their agreement to comply with requirements qualifying their site as a self-consumption garden.

No cashbox, cash register, or any equipment associated with retail sales is permitted onsite
No packaging indicative of retail sales will be stored on site (i.e. baggies, jars, containers etc.)

All work is to be done by contributing members.

No employees, or paid work: all members are co-contributors of finances and labor.

All decisions concerning the operation of the garden are to be made by a board of directors consisting of at least 10% of membership or three persons whichever is more

No uninvolved “funders” who do not work in the garden to grow their own will be permitted
Only active collective members shall be permitted on the garden premises, no visitors

No live plants shall leave the garden site: a plant arrives alive it leaves dead- No finished medicine to be stored at garden site (these to help alleviate diversion by theft)

No vending of excess cannabis to dispensing collectives or other patients
No sharing of medicine grown per non-diversion guidelines.

Providing cannabis to any patient (s) other than those involved in the grow for free or otherwise is prohibited except: Any excess cannabis produced that is not able to be consumed by participating members must be donated at no cost or fee to a caregiver community center program that has no retail sales and can lawfully give away free cannabis.

Any individual collective garden member found violating the requirements for qualification may be terminated from membership by board of directors or will be given a notice of violation from the health department and must make corrections within 7 days of the notice of violation and will not be allowed access to the garden until correction is made.

Any collective garden found violating the requirements for qualification will be given a notice of violation from the health department and must make corrections within 30 days of inspection date or face further penalties. If found violating the requirements more than four times, the health department may disqualify the collective. Health inspectors may notify appropriate departments of any apparent building, fire, or other code violations.

[Insert City Agency Name]
Address: [Insert Address]
Phone Number: [Insert Phone #]

Medical Cannabis Collective Registration

Applications require that every collective member submit an original medical cannabis recommendation or a California state issued ID card when filing. Registration is valid for a period of 12 months.

Please complete the form below and return it to the San Francisco [Agency Name] in the envelope provided or mail to: [Agency Name], [Agency Address]

Collective Name: _____

Mailing Address: _____ **San Francisco, CA 941**_____

Number of Senior/Disabled/Low-Income Members: _____

Total number of collective members (not exceeding 9): _____

For Staff Use Only:

Collective ID#: _____

Filed and Approved Date: _____

SAN FRANCISCO [Agency Name]
Address: [Agency Address]
Phone Number: [Agency Phone Number]

San Francisco Medical Cannabis Collective Agreement

We, the patients of the _____ Collective, hereby agree to abide by the standards of San Francisco’s Medical Cannabis Act (Article 33), Proposition 215, and California Senate Bill 420. Doctor’s recommendations will be kept current at all times and, if applicable, the provisions of the Nursery Safety Guidelines will be observed.

Collective Membership List

Name Or State Card Number:	Recommendation or State Card Expires on:	Doctor’s Recommendation or State Card Verification:	Senior Citizen over 65 / Disabled / Low Income Status Verification:

Staff Use Only:

Collective ID#: _____

Filed and Approved Date: _____

**Notice to law enforcement officers: for verification purposes,
please call [Agency Phone Number].**