

1 [Allowing certain medical cannabis dispensaries in Residential-House or Residential-Mixed
2 districts to remain open during the 18-month application period and other amendments.]

3 **Ordinance amending the San Francisco Planning Code by amending Sections 209.3,**
4 **217, 790.141, and 890.133 to allow certain medical cannabis dispensaries in**
5 **Residential-House or Residential-Mixed districts to remain open during the 18-month**
6 **grace period provided for obtaining a permit, to define “community facility” and**
7 **“recreation building” as those that primarily serve persons under 18 years of age, and**
8 **to provide certain notice to both owners and occupants within 450 300 feet of a**
9 **proposed medical cannabis dispensary; amending the San Francisco Health Code by**
10 **amending Sections 3303, 3304, 3305, 3306, 3307 and 3312 to amend the permitting**
11 **process for medical cannabis dispensaries to conform to the California Fire Code, to**
12 **eliminate the need for an employment background check, to provide for a provisional**
13 **permit to be issued after a hearing but before construction work is performed, to**
14 **provide for referral of permit applications to the Department of Building Inspection, and**
15 **to require employees to wash hands and use sanitary utensils when handling**
16 **cannabis; and making environmental findings and findings of consistency with the**
17 **priority planning policies of Planning Code Section 101.1 and the General Plan.**

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

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

24 Section 1. Findings. The Board of Supervisors of the City and County of San
25 Francisco hereby finds and determines that:

1 (a) On June 22, 2006, at a duly noticed public hearing, the Planning Commission in
2 ~~Motion~~ ^{Resolution} No. 17270 found that the proposed Planning Code amendments were
3 consistent with the City's General Plan and with Planning Code Section 101.1(b). In addition,
4 ~~the~~ Planning Commission, in Resolution No. 17270, recommended that the Board
5 of Supervisors adopt the Planning Code amendments. In addition, the Board finds that the
6 proposed Planning Code amendments are consistent with the General Plan for the reasons
7 set forth in the above referenced Resolution and in Planning Commission Resolution No.
8 17103, which can be found in Board File No. 051250. Copies of said Resolutions and Motion
9 are on file with the Clerk of the Board of Supervisors in File Nos. 060032 and 051250
10 and are incorporated herein by reference. The Board finds that the proposed Planning Code
11 amendments are consistent with the City's General Plan and with Planning Code Section
12 101.1(b) for the reasons set forth in said Resolutions and Motion.

13 (b) Pursuant to Planning Code Section 302, the Board finds that the proposed zoning
14 reclassification and map amendment will serve the public necessity, convenience and welfare
15 for the reasons set forth in Planning Commission Resolution No. 17270 and
16 Planning Commission Resolution No. 17103 and presented at the public testimony before this
17 Board at the Land Use Committee hearing, all of which reasons are incorporated herein by
18 reference as though fully set forth.

19 (c) Environmental Findings. The Planning Department has determined that the actions
20 contemplated in this Ordinance are exempt from the California Environmental Quality Act
21 (California Public Resources Code section 21000 et seq.). Said determination is on file with
22 the Clerk of the Board of Supervisors in File No. 060032 and is incorporated herein
23 by reference.

1 Section 2. The San Francisco Planning Code is hereby amended by amending Section
 2 209.3 to read as follows:

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 4 SEC. 209.3. INSTITUTIONS.

RH- 1 (D)	RH- 1	RH- 1 (S)	RH- 2	RH- 3	R M- 1	R M- 2	R M- 3	R M- 4	R C- 1	R C- 2	R C- 3	R C- 4	
C	C	C	C	C	C	C	C	C	C	C	C	C	(a) Hospital, medical center or other medical institution which includes facilities for inpatient care and may also include medical offices, clinics, laboratories, and employee or student dormitories and other housing, operated by and affiliated with the institution, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans.
P	P	P	P	P	P	P	P	P	P	P	P	P	(b) Residential care facility providing lodging, board and care for a period of 24 hours or more to six or fewer persons in need of specialized aid by personnel licensed by the State of California. Such facility shall display nothing on or near the facility which gives an outward indication of the nature of the occupancy except for a sign as permitted by Article 6 of this Code, shall not provide outpatient services and shall be located in a structure which remains

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													residential in character. Such facilities shall include but not necessarily be limited to a board and care home, family care home, long-term nursery, orphanage, rest home or home for the treatment of addictive, contagious or other diseases or psychological disorders.
C	C	C	C	C	C	C	C	C	C	C	C	C	(c) Residential care facility meeting all applicable requirements of Subsection 209.3 (b) above but providing lodging, board and care as specified therein to seven or more persons.
									C	C	C	C	(d) Social service or philanthropic facility providing assistance of a charitable or public service nature and not of a profitmaking or commercial nature. (With respect to RC Districts, see also Section 209.9(d).)
P	P	P	P	P	P	P	P	P	P	P	P	P	(e) Child-care facility providing less than 24-hour care for 12 or fewer children by licensed personnel and meeting the open-space and other requirements of the State of California and other authorities.
C	C	C	C	C	C	C	C	C	C	C	C	C	(f) Child-care facility providing less than 24-hour care for 13 or more children by licensed personnel and meeting the open-space and other requirements of the State of California and other authorities. (With respect to RC Districts, see also Section

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C	C	C	C	C	C	C	C	C	C	C	C	C	209.9(d.)
													(g) Elementary school, either public or private. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution. (With respect to RC Districts, see also Section 209.9(d).)
C	C	C	C	C	C	C	C	C	C	C	C	C	(h) Secondary school, either public or private, other than a school having industrial arts as its primary course of study. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution. (With respect to RC Districts, see also Section 209.9(d).)
													(i) Post secondary educational institution for the purposes of academic, professional, business or fine arts education, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution. Such institution shall not have industrial arts as its primary course of study.
C	C	C	C	C	C	C	C	C	C	C	C	C	(j) Church or other religious institution which has a tax-exempt status as a religious institution granted by the

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																					United States Government, and which institution is used primarily for collective worship or ritual or observance of common religious beliefs. Such institution may include, on the same lot, the housing of persons who engage in supportive activity for the institution. (With respect to RC Districts, see also Section 209.9(d).)
										P	P	P	P								(k) Medical cannabis dispensary as defined by Section 3301(f) of the San Francisco Health Code provided that: (a) the medical cannabis dispensary has applied for a permit from the Department of Public Health pursuant to Section 3304 of the San Francisco Health Code; (b) if medical cannabis is smoked on the premises, the parcel containing the medical cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or <u>a</u> recreation buildings as defined in Section 209.4(a) of this Code <i>that primarily serves persons under 18 years of age,</i> unless not required by State law, and, regardless of whether medical cannabis is smoked on the premises, if the dispensary was not in operation as of April 1, 2005,

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as defined in subsection (i), it is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a recreation buildings as defined in Section 209.4(a) of this Code that primarily serves person under 18 years of age; (c) if medical cannabis is smoked on the premises the dispensary shall provide adequate ventilation within the structure such that doors and/or windows are not left open for such purposes resulting in odor emission from the premises; (d) regardless of whether medical cannabis is smoked on the premises the parcel containing the medical cannabis dispensary is not located on the same parcel as a facility providing substance abuse services that is licensed or certified by the state of California or funded by the Department of Public Health; (e) no alcohol is sold or distributed on the premises for on or off-site consumption; (f) upon acceptance of a complete application for a building permit for a medical cannabis dispensary the Planning Department shall cause a notice to be posted and mailed pursuant to the requirements of Section

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312(d)(2) of this Code on the proposed site and shall cause written notice to be sent via U.S. Mail to all owners and occupants of properties within 300 feet of the subject lot in the same Assessor's Block and on the block face across from the subject lot as well as to all individuals or groups ~~which~~ *that* have made a written request for notification of regarding specific ~~properties, areas of~~ medical cannabis dispensaries; (g) all building permit applications shall be held for a period of 30 calendar days from the date of the mailed notice to allow review by residents, occupants, owners of neighborhood properties and neighborhood groups; ~~and~~ (h) after this 30 day period, the Planning Commission shall schedule a hearing to consider whether to exercise its discretionary review powers over the building permit application for a medical cannabis dispensary. The scheduling and the mailed notice for this hearing shall be processed in accordance with Section 312(e) of this code; (i) Medical cannabis dispensaries that can demonstrate to the Planning Department, based on any criteria it may develop, they

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were in operation as of April 1, 2005 and have remained in continuous operation since then, have 18 months from the effective date of this legislation to obtain a permit or must cease operations at the end of that 18 month period, or upon denial of a permit application if it occurs before the end of that 18 month period. Medical cannabis dispensaries that were in operation as of April 1, 2005, and were not in continuous operation since then, but can demonstrate to the Planning Department, based on any criteria it may develop, that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, also have 18 months from the effective date of this legislation to obtain a permit or must cease operations at the end of that 18 month period, or upon denial of a permit application if it occurs before the end of that 18 month period. Notwithstanding the foregoing, in no case shall a dispensary that had or has a suspended or revoked permit be considered to be in continuous operation. Any dispensary *operating in a Residential House or Residential Mixed district of the*

City or which that began operation after April 1, 2005, must immediately cease operations; (j) any permit issued for a medical cannabis dispensary shall contain the following statement in bold-face type: "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." For purposes of this Section and Sections 217, 790.141, and 890.133, the terms "primarily serves" shall mean regular, continuing, and verifiable programs for persons under 18 years of age.

Section 3. The San Francisco Planning Code is hereby amended by amending Section 217 to read as follows:

SEC. 217. INSTITUTIONS.

C-1	C-2	C-3-O	C-3-R	C-3-G	C-3-S	C-M	M-1	M-2	
C	C	C	C	C	C	C	C		(a) Hospital, medical center or other medical institution which includes facilities for inpatient care and may also include medical offices, clinics, laboratories, and employee or student dormitories and other housing, operated by and affiliated with the institution, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans.
P	P	P	P	P	C	P	P		(b) Residential care facility providing lodging, board and care for a period of 24 hours or more to persons in need of specialized aid by personnel licensed by the State of California. Such facilities shall include but not necessarily be

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									limited to a board and care home, family care home, long-term nursery, orphanage, rest home or home for the treatment of addictive, contagious or other diseases or psychological disorders.
P	P	P	P	P	P	P	P	P	(c) Clinic primarily providing outpatient care in medical, psychiatric or other healing arts and not a part of a medical institution as specified in Subsection 217(a) above.
P	P	P	P	P	P	P	P	P	(d) Social service or philanthropic facility providing assistance of a charitable or public service nature.
P	P	P	P	P	C	P	P		(e) Child-care facility providing less than 24-hour care for children by licensed personnel and meeting the open-space and other requirements of the State of California and other authorities.
P	P	P	P	P	P	P	P		(f) Elementary school, either public or private. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution.
P	P	P	P	P	P	P	P		(g) Secondary school, either public or private, other than a school having industrial arts as its primary course of study. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution.
P	P	P	P	P	P	P	P		(h) Postsecondary educational institution for the purposes of academic, professional, business or fine-arts education, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution. Such institution shall not have industrial arts as its primary course of study.
					P	P	P	P	(i) Secondary or postsecondary educational institution, other than as specified in Subsection 217(g) and (h) above.
P	P	P	P	P	P	P	P	P	(j) Church or other religious institution. Such institution may include, on the same lot, the housing of persons who engage in supportive

activity for the institution.

(k) Medical cannabis dispensary as defined by Section 3301(f) of the San Francisco Health Code provided that: (a) the medical cannabis dispensary has applied for a permit from the Department of Public Health pursuant to Section 3304 of the San Francisco Health Code; (b) if medical cannabis is smoked on the premises, the parcel containing the medical cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community clubhouse that primarily serves persons under 18 years of age, or neighborhood center as defined in Section 221(e) of this Code that primarily serves persons under 18 years of age, unless not required by State law, and, regardless of whether medical cannabis is smoked on the premises, if the dispensary was not in operation as of April 1, 2005, as defined in subsection (i), it is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community clubhouse that primarily serves persons under 18 years of age, or a recreation buildings neighborhood center as defined in Section 221(e) of this Code that primarily serves persons under 18 years of age; (c) if medical cannabis is smoked on the premises the dispensary shall provide adequate ventilation within the structure such that doors and/or windows are not left open for such purposes resulting in odor emission from the premises; (d) regardless of whether medical cannabis is smoked on the premises the parcel containing the medical cannabis dispensary is not located on the same parcel as a facility providing substance abuse services that is licensed or certified by the state of California or funded by the Department of Public Health; (e) no alcohol is sold or distributed on the premises for on or off-site consumption; (f) upon acceptance of a complete application for a

building permit for a medical cannabis dispensary the Planning Department shall cause a notice to be posted and mailed pursuant to the requirements of Section 312(d)(2) of this Code on the proposed site and shall cause written notice to be sent via U.S. Mail to all owners and occupants of properties within 300 feet of the subject lot in the same Assessor's Block and on the block face across from the subject lot as well as to all individuals or groups ~~which~~ that have made a written request for notification ~~of~~ regarding specific ~~properties, areas or~~ medical cannabis dispensaries; (g) all building permit applications shall be held for a period of 30 calendar days from the date of the mailed notice to allow review by residents, occupants, owners of neighborhood properties and neighborhood groups; ~~and~~ (h) after this 30 day period, the Planning Commission shall schedule a hearing to consider whether to exercise its discretionary review powers over the building permit application for a medical cannabis dispensary. The scheduling and the mailed notice for this hearing shall be processed in accordance with Section 312(e) of this code; (i) Medical cannabis dispensaries that can demonstrate to the Planning Department, based on any criteria it may develop, they were in operation as of April 1, 2005 and have remained in continuous operation since then, have 18 months from the effective date of this legislation to obtain a permit or must cease operations at the end of that 18 month period, or upon denial of a permit application if it occurs before the end of that 18 month period. Medical cannabis dispensaries that were in operation as of April 1, 2005, and were not in continuous operation since then, but can demonstrate to the Planning Department, based on any criteria it may develop, that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, also have 18 months from the effective date

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1 of this legislation to obtain a permit or must cease
2 operations at the end of that 18 month period, or
3 upon denial of a permit application if it occurs
4 before the end of that 18 month period.
5 Notwithstanding the foregoing, in no case shall a
6 dispensary that had or has a suspended or
7 revoked permit be considered to be in continuous
8 operation. Any dispensary *operating in a*
9 *Residential House or Residential Mixed district of the*
10 *City or which that* began operation after April 1,
11 2005, must immediately cease operations; (j) any
12 permit issued for a medical cannabis dispensary
13 shall contain the following statement in bold-face
14 type: "Issuance of this permit by the City and
15 County of San Francisco is not intended to and
16 does not authorize the violation of State or
17 Federal law.

11 Section 4. The San Francisco Planning Code is hereby amended by amending Section
12 790.141 to read as follows:

13 SEC. 790.141. MEDICAL CANNABIS DISPENSARY.

14 A medical cannabis dispensary shall be as defined by section 3301(f) of the San
15 Francisco Health Code provided that:

16 (a) the medical cannabis dispensary has applied for a permit from the Department of
17 Public Health pursuant to Section 3304 of the San Francisco Health Code;

18 (b) if medical cannabis is smoked on the premises, the parcel containing the medical
19 cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds
20 of an elementary or secondary school, public or private, or a community facility *that primarily*
21 *serves persons under 18 years of age, or a* recreation building as defined in Section 790.50(a) of
22 this Code *that primarily serves persons under 18 years of age*, unless not required by State law,
23 and, regardless of whether medical cannabis is smoked on the premises, if the dispensary
24 was not in operation as of April 1, 2005, as defined in subsection (i), it is located not less than
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1 1000 feet from the parcel containing the grounds of an elementary or secondary school, public
2 or private, or a community facility that primarily serves persons under 18 years of age or a recreation
3 buildings as defined in Section 790.50(f) of this Code that primarily serves persons under 18 years
4 of age;

5 (c) if medical cannabis is smoked on the premises the dispensary shall provide
6 adequate ventilation within the structure such that doors and/or windows are not left open for
7 such purposes resulting in odor emission from the premises;

8 (d) regardless of whether medical cannabis is smoked on the premises the parcel
9 containing the medical cannabis dispensary is not located on the same parcel as a facility
10 providing substance abuse services that is licensed or certified by the State of California or
11 funded by the Department of Public Health;

12 (e) no alcohol is sold or distributed on the premises for on or off-site consumption;

13 (f) upon acceptance of a complete application for a building permit for a medical
14 cannabis dispensary the Planning Department shall cause a notice to be posted ~~and mailed~~
15 ~~pursuant to the requirements of Section 312(d)(2) of this Code~~ on the proposed site and shall
16 cause written notice to be sent via U S. Mail to all owners and occupants of properties within
17 300 feet of the subject lot in the same Assessor's Block and on the block face across from the
18 subject lot as well as to all individuals or groups ~~which that~~ have made a written request for
19 notification ~~of~~ regarding specific properties, areas or medical cannabis dispensaries;

20 (g) all building permit applications shall be held for a period of 30 calendar days from
21 the date of the mailed notice to allow review by residents, occupants, owners of neighborhood
22 properties and neighborhood groups; ~~and~~

23 (h) after this 30 day period, the Planning Commission shall schedule a hearing to
24 consider whether to exercise its discretionary review powers over the building permit
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1 application for a medical cannabis dispensary. The scheduling and the mailed notice for this
2 hearing shall be processed in accordance with Section 312(e) of this Code;

3 (i) Medical cannabis dispensaries that can demonstrate to the Planning Department,
4 based on any criteria it may develop, they were in operation as of April 1, 2005 and have
5 remained in continuous operation since then, have 18 months from the effective date of this
6 legislation to obtain a permit or must cease operations at the end of that 18 month period, or
7 upon denial of a permit application if it occurs before the end of that 18 month period. Medical
8 cannabis dispensaries that were in operation as of April 1, 2005, and were not in continuous
9 operation since then, but can demonstrate to the Planning Department, based on any criteria
10 it may develop, that the reason for their lack of continuous operation was not closure due to
11 an actual violation of federal, state or local law, also have 18 months from the effective date of
12 this legislation to obtain a permit or must cease operations at the end of that 18 month period,
13 or upon denial of a permit application if it occurs before the end of that 18 month period.
14 Notwithstanding the foregoing, in no case shall a dispensary that had or has a suspended or
15 revoked permit be considered to be in continuous operation. Any dispensary *operating in a*
16 *Residential House or Residential Mixed district of the City or which that* began operation after April
17 1, 2005, must immediately cease operations;

18 (j) any permit issued for a medical cannabis dispensary shall contain the following
19 statement in boldface type: "Issuance of this permit by the City and County of San Francisco
20 is not intended to and does not authorize the violation of State or Federal law."

21 Section 5. The San Francisco Planning Code is hereby amended by amending Section
22 890.133 to read as follows:

23 SEC. 890.133. MEDICAL CANNABIS DISPENSARY.
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1 A medical cannabis dispensary shall be as defined by Section 3301(f) of the San
2 Francisco Health Code provided that.

3 (a) the medical cannabis dispensary has applied for a permit from the Department of
4 Public Health pursuant to Section 3304 of the San Francisco Health. Code;

5 (b) if medical cannabis is smoked on the premises, the parcel containing the medical
6 cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds
7 of an elementary or secondary school, public or private, or a community facility that primarily
8 serves persons under 18 years of age, or a recreation building as defined in Section 890.50(a) of
9 this Code that primarily serves persons under 18 years of age, unless not required by State law,
10 and, regardless of whether medical cannabis is smoked on the premises, if the dispensary
11 was not in operation as of April 1, 2005, as defined in subsection(i), it is located not less than
12 1,000 feet from the parcel containing the grounds of an elementary or secondary school,
13 public or private, or a community facility that primarily serves persons under 18 years of age, or a
14 recreation buildings as defined in Section 890.50(a) of this Code that primarily serves persons
15 under 18 years of age;

16 (c) if medical cannabis is smoked on the premises the dispensary shall provide
17 adequate ventilation within the structure such that doors and/or windows are not left open for
18 such purposes resulting in odor emission from the premises;

19 (d) regardless of whether medical cannabis is smoked on the premises the parcel
20 containing the medical cannabis dispensary is not located on the same parcel as a facility
21 providing substance abuse services that is licensed or certified by the State of California or
22 funded by the Department of Public Health;

23 (e) no alcohol is sold or distributed on the premises for on or off-site consumption;
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1 (f) upon acceptance of a complete application for a building permit for a medical
2 cannabis dispensary the Planning Department shall cause a notice to be posted and mailed
3 pursuant to the requirements of Section 312(d)(2) of this Code on the proposed site and shall
4 cause written notice to be sent via U.S. Mail to all owners and occupants of properties within
5 300 feet of the subject lot in the same Assessor's Block and on the block face across from the
6 subject lot as well as to all individuals or groups ~~which that~~ have made a written request for
7 notification ~~of regarding specific properties, areas or~~ medical cannabis dispensaries;

8 (g) all building permit applications shall be held for a period of 30 calendar days from
9 the date of the mailed notice to allow review by residents, occupants, owners of neighborhood
10 properties and neighborhood groups; ~~and~~

11 (h) after this 30 day period, the Planning Commission shall schedule a hearing to
12 consider whether to exercise its discretionary review powers over the building permit
13 application for a medical cannabis dispensary. The scheduling and the mailed notice for this
14 hearing shall be processed in accordance with Section 312(e) of this Code;

15 (i) Medical cannabis dispensaries that can demonstrate to the Planning Department,
16 based on any criteria it may develop, they were in operation as of April 1, 2005 and have
17 remained in continuous operation since then, have 18 months from the effective date of this
18 legislation to obtain a permit or must cease operations at the end of that 18 month period, or
19 upon denial of a permit application if it occurs before the end of that 18 month period. Medical
20 cannabis dispensaries that were in operation as of April 1, 2005, and were not in continuous
21 operation since then, but can demonstrate to the Planning Department, based on any criteria
22 it may develop, that the reason for their lack of continuous operation was not closure due to
23 an actual violation of federal, state or local law, also have 18 months from the effective date of
24 this legislation to obtain a permit or must cease operations at the end of that 18 month period,
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1 or upon denial of a permit application if it occurs before the end of that 18 month period.
2 Notwithstanding the foregoing, in no case shall a dispensary that had or has a suspended or
3 revoked permit be considered to be in continuous operation. Any dispensary *operating in a*
4 *Residential House or Residential Mixed district of the City or which that* began operation after April
5 1, 2005, must immediately cease operations.

6 (j) any permit issued for a medical cannabis dispensary shall contain the following
7 statement in bold-face type: "Issuance of this permit by the City and County of San Francisco
8 is not intended to and does not authorize the violation of State or Federal law."

9 Section 6. The San Francisco Health Code is hereby amended by amending Section
10 3303 to read as follows:

11 SEC. 3303. PERMIT REQUIRED FOR MEDICAL CANNABIS DISPENSARY.

12 Except for research facilities, it is unlawful to operate or maintain, or to participate
13 therein, or to cause or to permit to be operated or maintained, any medical cannabis
14 dispensary without first obtaining a final permit pursuant to this Article. It is unlawful to operate
15 or maintain, or to participate therein, or to cause or to permit to be operated or maintained, any
16 medical cannabis dispensary with a provisional permit issued pursuant to this Article.

17 Section 7. The San Francisco Health Code is hereby amended by amending Section
18 3304 to read as follows:

19 SEC. 3304. APPLICATION FOR MEDICAL CANNABIS DISPENSARY PERMIT.

20 (a) Every applicant for a medical cannabis dispensary permit shall file an application
21 with the Director upon a form provided by the Director and pay a non-refundable permit
22 application fee of \$6691.00 to cover the costs to all City departments of investigating and
23 processing the application and any applicable surcharges, exclusive of filing fees for appeals
24 before the Board of Appeals. Beginning with fiscal year 2006-2007, the application fee may
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1 be adjusted each year, without further action by the Board of Supervisors, to reflect changes
2 in the relevant Consumer Price Index, as determined by the Controller. No later than April
3 15th of each year, the Health Department shall, in collaboration with the Tax Collector's
4 Office, submit the application fee to the Controller, who shall apply the price index adjustment
5 to produce a new application fee for the following year. No later than May 15th of each year,
6 the Controller shall file a report with the Board of Supervisors reporting the new application
7 fee and certifying that: (a) the application fee produces sufficient revenue to support the costs
8 of providing the services for which the annual fee is being charged and (b) the application fee
9 does not produce revenue that exceeds the costs of providing the services for which the
10 application fee is charged. Notwithstanding the procedures set forth in this Section, the Board
11 of Supervisors, in its discretion, may modify the application fee by ordinance at any time.

12 (b) The permit application form shall provide clear notice to applicants that the
13 California Fire Code includes a requirement, among others that may apply, that an
14 establishment obtain a place of assembly permit if it will accommodate ~~100~~50 or more persons
15 based on its square footage.

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

18 (1) The proposed location of the medical cannabis dispensary;

19 (2) The name and residence address of each person applying for the permit and
20 any other person who will be engaged in the management of the medical cannabis
21 dispensary;

22 (3) A unique identifying number from at least one government-issued form of
23 identification, such as a social security card, a state driver's license or identification card, or a
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1 passport for of each person applying for the permit and any other person who will be engaged
2 in the management of the medical cannabis dispensary;

3 (4) Written evidence that each person applying for the permit and any other person
4 who will be engaged in the management of the medical cannabis dispensary is at least 18
5 years of age;

6 (5) All felony convictions of each person applying for the permit and any other
7 person who will be engaged in the management of the medical cannabis dispensary;

8 (6) Whether cultivation of medical cannabis shall occur on the premises of the
9 medical cannabis dispensary;

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

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

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

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

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

4 (g) Each person applying for the permit and any other person who will be engaged
5 in the management of the medical cannabis dispensary shall submit with the permit
6 application a signed waiver authorizing the San Francisco Police Department to perform a
7 thorough and complete criminal *and employment* background check. The waiver shall state
8 that it does not authorize the San Francisco Police Department to disclose the results of the
9 criminal *and employment* background check to any department, agency or entity not affiliated
10 with the City and County of San Francisco.

11 Section 8. The San Francisco Health Code is hereby amended by amending Section
12 3305 to read as follows:

13 SEC. 3305. REFERRAL TO OTHER DEPARTMENTS.

14 (a) Upon receiving a completed medical cannabis dispensary permit application and
15 permit application fee, the Director shall immediately refer the permit application to the City's
16 Planning Department, Department of Building Inspection, Police Department and Fire
17 Department.

18 (b) Said departments shall inspect the premises proposed to be operated as a
19 medical cannabis dispensary and confirm the information provided in the application and shall
20 make separate written recommendations to the Director concerning compliance with the
21 codes that they administer. Specifically, the Police Department shall perform a thorough and
22 complete criminal *and employment* background check on each person applying for the permit
23 and any other person who will be engaged in the management of the medical cannabis
24 dispensary. ~~The Police Department shall approve the security measures for the medical cannabis~~
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1 ~~dispensary, including lighting and alarms, to insure the safety of persons and to protect the premises~~
2 ~~from theft.~~ Departments' written approval, rejection and/or recommendations regarding the
3 permit shall be delivered to the Director. If the any department rejects the permit, it shall
4 inform the Director of the reasons for the rejection and the measures the permit applicant can
5 take to cure the rejection. The Director shall inform the permit applicant that the application is
6 denied based on rejection by a department, the reasons for the departmental rejection,
7 measures the permit applicant can take to cure the departmental rejection, and that the denial
8 is appealable pursuant to Section 3317 of this Article.

9 Section 9. The San Francisco Health Code is hereby amended by amending Section
10 3306 to read as follows:

11 SEC. 3306. NOTICE OF HEARING ON PERMIT APPLICATION.

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

17 (b) No fewer than 10 days before the date of the hearing, the permit applicant shall
18 cause to be posted a notice of such hearing in a conspicuous place on the property at which
19 the proposed medical cannabis dispensary is to be operated. The applicant shall comply with
20 any requirements regarding the size and type of notice specified by the Director. The
21 applicant shall maintain the notice as posted the required number of days.

22 Section 10. The San Francisco Health Code is hereby amended by amending Section
23 3307 to read as follows:

24 SEC. 3307. ISSUANCE OF MEDICAL CANNABIS DISPENSARY PERMIT.
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1 (a) Within 14 days following a hearing, the Director shall either issue thea provisional
2 permit or mail a written statement of his or her reasons for denial thereof to the applicant.

3 (b) In recommending the granting or denying of sueha provisional permit and in
4 granting or denying the same, the Director shall give particular consideration to the capacity,
5 capitalization, complaint history of the applicant and any other factors that in their discretion
6 he or she deems necessary to the peace and order and welfare of the public.

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

9 (1) That the applicant has provided materially false documents or testimony; or

10 (2) That the applicant has not complied fully with the provisions of this Article; or

11 (3) That the operation as proposed by the applicant, if permitted, would not have
12 complied with all applicable laws, including, but not limited to, the Building, Planning, Housing,
13 Police, Fire, and Health Codes of the City, including the provisions of this Article and
14 regulations issued by the Director pursuant to this Article; or

15 (4) That the permit applicant or any other person who will be engaged in the
16 management of the medical cannabis dispensary has been convicted of a violent felony within
17 State of California or a crime that would have constituted a violent felony if committed within
18 the State off California. However, the Director may issue a medical cannabis dispensary
19 provisional permit to any individual convicted of such a crime if the Director finds that the
20 conviction occurred at least five years prior to the date of the permit application or more than
21 three years have passed from the date of the termination of a penalty for such conviction to
22 the date of the permit application and, that no subsequent felony convictions of any nature
23 have occurred; or

1 (5) That a permit for the operation of a medical cannabis dispensary, which permit
2 had been issued to the applicant or to any other person who will be engaged in the
3 management of the medical cannabis dispensary, has been revoked, unless more than five
4 years have passed from the date of the revocation to the date of the application; or

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

9 (d) Applicants with provisional permits shall secure a Certificate of Final Completion and
10 Occupancy as defined in San Francisco Building Code Section 307 and present it to the Director. After
11 the applicant has secured a Certificate of Final Completion and Occupancy, the Police Department
12 shall review the security measures for the medical cannabis dispensary, including lighting and alarms,
13 to insure ensure the safety of persons and to protect the premises from theft. The Police Department
14 shall deliver to the Director its written approval or rejection of the security measures for the medical
15 cannabis dispensary. If the Police Department rejects the security measures, it shall inform the
16 Director of the reasons for the rejection and the measures the permit applicant can take to cure the
17 rejection. The Director shall inform the permit applicant that the application is denied based on
18 rejection by a department, the reasons for the departmental rejection, measures the permit applicant
19 can take to cure the departmental rejection, and that the denial is appealable pursuant to Section 3317
20 of this Article. If the Police Department approves the security measures for the medical cannabis
21 dispensary, and an applicant with a provisional permit has presented a Certificate of Final Completion
22 and Occupancy to the Director, the Director shall issue the applicant a final permit.

23 (d)(e) The Director shall notify the Police Department of all approved permit
24 applications.
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1 ~~(e)(f)~~ The final permit shall contain the following language: "Issuance of this permit by
2 the City and County of San Francisco is not intended to and does not authorize the violation of
3 State or Federal law."

4 Section 11. The San Francisco Health Code is hereby amended by amending Section
5 3312 to read as follows:

6 SEC. 3312. RULES AND REGULATIONS.

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

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

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

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

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

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

22 (5) A description of the size and type of sign posted near the entrances and exits of
23 medical cannabis dispensaries providing notice that no medical cannabis shall be smoked,
24 ingested or otherwise consumed in the public right of way within fifty (50) feet of a medical
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1 cannabis dispensary and that any person violating this policy shall be deemed guilty of an
2 infraction and upon the conviction thereof shall be punished by a fine of \$100.


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

10 Section 12. Promotion of the General Welfare. By regulating medical cannabis
11 dispensaries, the City and County of San Francisco is assuming an undertaking only to
12 promote the general welfare. It is not assuming, nor is it imposing on its officers and
13 employees, an obligation for breach of which it is liable in money damages to any person who
14 claims that such breach proximately caused injury. To the fullest extent permitted by law, the
15 City shall assume no liability whatsoever, and expressly does not waive sovereign immunity,
16 with respect to the permitting and licensing provisions of this Article, or for the activities of any
17 medical cannabis dispensary. To the fullest extent permitted by law, any actions taken by a
18 public officer or employee under the provisions of this Article shall not become a personal
19 liability of any public officer or employee of the City. This ordinance does not authorize the
20 violation of state or federal law.

21 Section 13. Severability. If any provision of this ordinance or the application thereof to
22 any person or circumstances is held invalid or unconstitutional, such invalidity or
23 unconstitutionality shall not affect other provisions or applications of this ordinance which that
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1 can be given effect without the invalid or unconstitutional provision or application. To this end,
2 the provisions of this ordinance shall be deemed severable.

3
4 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

5 By: 
6 Marlena G. Byrnie
7 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: 060032

Date Passed:

Ordinance amending the San Francisco Planning Code by amending Sections 209.3, 217, 790.141, and 890.133 to allow certain medical cannabis dispensaries in Residential-House or Residential-Mixed districts to remain open during the 18-month grace period provided for obtaining a permit, to define "community facility" and "recreation building" as those that primarily serve persons under 18 years of age, and to provide certain notice to both owners and occupants within 300 feet of a proposed medical cannabis dispensary; amending the San Francisco Health Code by amending Sections 3303, 3304, 3305, 3306, 3307 and 3312 to amend the permitting process for medical cannabis dispensaries to conform to the California Fire Code, to eliminate the need for an employment background check, to provide for a provisional permit to be issued after a hearing but before construction work is performed, to provide for referral of permit applications to the Department of Building Inspection, and to require employees to wash hands and use sanitary utensils when handling cannabis; and making environmental findings and findings of consistency with the priority planning policies of Planning Code Section 101.1 and the General Plan.

August 8, 2006 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

Absent: 1 - Ma

August 8, 2006 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 9 - Alioto-Pier, Ammiano, Daly, Dufty, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

Noes: 1 - Elsbernd

Absent: 1 - Ma

August 15, 2006 Board of Supervisors — FINALLY PASSED

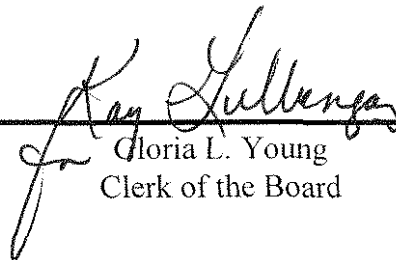
Ayes: 9 - Ammiano, Daly, Dufty, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

Noes: 1 - Elsbernd

Excused: 1 - Alioto-Pier

File No. 060032

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on August 15, 2006 by the Board of Supervisors of the City and County of San Francisco.

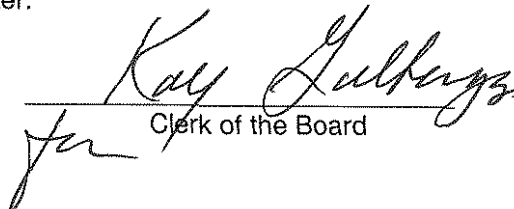

Gloria L. Young
Clerk of the Board

Date Approved

Mayor Gavin Newsom

Date: August 25, 2006

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.


Clerk of the Board

File No.
060032