

FILE NO. 080232

ORDINANCE NO. 90-08

1 [Planning Code and Health Code—Deadline Extension for Medical Cannabis Dispensary
2 Permitting.]

3 **Ordinance amending the San Francisco Planning Code by amending Sections 209.3,
4 217, 790.141, and 890.133 to extend the time period for certain medical cannabis
5 dispensaries to obtain a permit from March 1, 2008 to January 21, 2009; and making
6 findings, including General Plan, Planning Code Section 101.1(b) and environmental
7 findings.**

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

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

14 Section 1. Findings.

15 A. On April 3, 2008 at a duly noticed public hearing, the Planning Commission in
16 Resolution No. 17577 found that the proposed Planning Code amendments contained in this
17 ordinance were consistent with the City's General Plan and with Planning Code Section
18 101.1(b). A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File
19 No. 080232 and is incorporated herein by reference. The Board finds that the proposed
20 Planning Code amendments contained in this ordinance are consistent with the City's General
21 Plan and with Planning Code Section 101.1(b) for the reasons set forth in said Resolution.

22 B. Pursuant to Planning Code Section 302, the Board finds that the proposed
23 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
24 Planning Commission Resolution No. 17577 which reasons are incorporated herein by
25 reference as though fully set forth.

Supervisor Daly
BOARD OF SUPERVISORS

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C. The Planning Department has determined that the actions contemplated in this Ordinance are in compliance with the California Environmental Quality Act (California Public Resources Code section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 080232 and is incorporated herein by reference.

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

SEC. 209.3. INSTITUTIONS.

RH-1 (D)	R H-1	RH-1 (S)	R H-2	R H-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	SEC. 209.3. INSTITUTIONS.
P	P	P	P	P	P	P	P	P	P	P	P	P	(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.
													(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

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													structure which remains 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	(d) Social service or philanthropic facility providing assistance of a charitable or public service nature and not of a profit making 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 209.9(d).)
C	C	C	C	C	C	C	C	C	C	C	C	C	(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) 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

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													Districts, see also Section 209.9(d.)
C	C	C	C	C	C	C	C	C	C	C	C	C	(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 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 a recreation building as defined in Section 209.4(a) of this Code that primarily serves persons under 18 years of age,

obtain a permit on or before ~~March 1, 2008~~ January 21, 2009, or must cease operations on ~~March 1, 2008~~ January 21, 2009, or upon denial of a permit application if it occurs before ~~March 1, 2008~~ January 21, 2009. 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 that began operation after April 1, 2005, and any dispensary that failed to file a permit application with the Department of Public Health as provided in San Francisco Health Code section 3304 on or before July 1, 2007, and have has failed to file a completed applications, including a California Environmental Quality Act categorical exemption application and a discretionary review application, with the Planning Department by August 15, 2007; or any dispensary that is located within an RH (Residential House) or RM (Residential Mixed) zoning district, 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.

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1 Section 3. The San Francisco Planning Code is hereby amended by amending Section
 2 217 to read as follows:

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 4 **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 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.

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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.
P	P	P	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 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

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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 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 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 that have made a written request for notification regarding specific 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; (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

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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, that they were in operation as of April 1, 2005 and have remained in continuous operation since then, and that they have filed an application for a medical cannabis dispensary permit as provided in San Francisco Health Code section 3304 on or before July 1, 2007 must obtain a final permit on or before ~~March 1, 2008~~ January 21, 2009, or must cease operations on ~~March 1, 2008~~ January 21, 2009, or upon denial of a permit application if it occurs before ~~March 1, 2008~~ January 21, 2009. 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 must obtain a permit on or before ~~March 1, 2008~~ January 21, 2009, or must cease operations on ~~March 1, 2008~~ January 21, 2009, or upon denial of a permit application if it occurs before ~~March 1, 2008~~ January 21, 2009. 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 that began operation after April 1, 2005, and any dispensary that failed to file a permit application with the Department of Public Health as provided in San Francisco Health Code section 3304 on or before July 1, 2007, and have has failed to file a completed applications, including a California Environmental Quality Act categorical exemption application and a discretionary review application, with the Planning Department by August 15, 2007; or any dispensary that is located within an RH (Residential House) or RM (Residential Mixed)

zoning district, 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.

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

SEC. 790.141. MEDICAL CANNABIS DISPENSARY.

A medical cannabis dispensary shall be 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 facility that primarily serves persons under 18 years of age, or a recreation building as defined in Section 790.50(a) 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 1000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community facility that primarily serves persons under 18 years of age or a recreation building as defined in Section 790.50(f) of this Code that primarily serves persons under 18 years of age;

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

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

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

9 (f) upon acceptance of a complete application for a building permit for a medical
10 cannabis dispensary the Planning Department shall cause a notice to be posted on the
11 proposed site and shall cause written notice to be sent via U.S. Mail to all owners and
12 occupants of properties within 300 feet of the subject lot in the same Assessor's Block and on
13 the block face across from the subject lot as well as to all individuals or groups that have
14 made a written request for notification regarding specific properties, areas or medical
15 cannabis dispensaries;

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

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

23 (i) Medical cannabis dispensaries that can demonstrate to the Planning
24 Department, based on any criteria it may develop, that they were in operation as of April 1,
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1 2005 and have remained in continuous operation since then, and that they have filed an
2 application for a medical cannabis dispensary permit as provided in San Francisco Health
3 Code section 3304 on or before July 1, 2007, must obtain a final permit on or before March 1,
4 2008, or must cease operations on ~~March 1, 2008~~ January 21, 2009, or upon denial of a permit
5 application if it occurs before ~~March 1, 2008~~ January 21, 2009. Medical cannabis dispensaries
6 that were in operation as of April 1, 2005, and were not in continuous operation since then,
7 but can demonstrate to the Planning Department, based on any criteria it may develop, that
8 the reason for their lack of continuous operation was not closure due to an actual violation of
9 federal, state or local law, also must obtain a permit on or before ~~March 1, 2008~~ January 21,
10 2009, or must cease operations on ~~March 1, 2008~~ January 21, 2009, or upon denial of a permit
11 application if it occurs before ~~March 1, 2008~~ January 21, 2009. Notwithstanding the foregoing, in
12 no case shall a dispensary that had or has a suspended or revoked permit be considered to
13 be in continuous operation. Any dispensary that began operation after April 1, 2005, and any
14 dispensary that failed to file a permit application with the Department of Public Health as
15 provided in San Francisco Health Code section 3304 on or before July 1, 2007, and have has
16 failed to file a completed applications, including a California Environmental Quality Act
17 categorical exemption application and a discretionary review application, with the Planning
18 Department by August 15, 2007; or any dispensary that is located within an RH (Residential
19 House) or RM (Residential Mixed) zoning district, must immediately cease operations;

20 (j) any permit issued for a medical cannabis dispensary shall contain the following
21 statement in boldface type: "Issuance of this permit by the City and County of San Francisco
22 is not intended to and does not authorize the violation of State or Federal law."
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1 Section 5. The San Francisco Planning Code is hereby amended by amending Section
2 890.133 to read as follows:

3 **SEC. 890.133. MEDICAL CANNABIS DISPENSARY.**

4 A medical cannabis dispensary shall be as defined by Section 3301(f) of the San
5 Francisco Health Code provided that.

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

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

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

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

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

4 (f) upon acceptance of a complete application for a building permit for a medical
5 cannabis dispensary the Planning Department shall cause a notice to be posted on the
6 proposed site and shall cause written notice to be sent via U.S. Mail to all owners and
7 occupants of properties within 300 feet of the subject lot in the same Assessor's Block and on
8 the block face across from the subject lot as well as to all individuals or groups that have
9 made a written request for notification regarding specific properties, areas or medical
10 cannabis dispensaries;

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

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

18 (i) medical cannabis dispensaries that can demonstrate to the Planning
19 Department, based on any criteria it may develop, that they were in operation as of April 1,
20 2005 and have remained in continuous operation since then, and that they have filed an
21 application for a medical cannabis dispensary permit as provided in San Francisco Health
22 Code section 3304 on or before July 1, 2007, must obtain a final permit on or before ~~March 1,~~
23 2008 January 21, 2009, or must cease operations on ~~March 1, 2008 January 21, 2009, or upon
24 denial of a permit application if it occurs before ~~March 1, 2008 January 21, 2009. Medical
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1 cannabis dispensaries that were in operation as of April 1, 2005, and were not in continuous
2 operation since then, but can demonstrate to the Planning Department, based on any criteria
3 it may develop, that the reason for their lack of continuous operation was not closure due to
4 an actual violation of federal, state or local law, also must obtain a permit on or before *March*
5 ~~*1, 2008 January 21, 2009*~~, or must cease operations on *March 1, 2008 January 21, 2009*, or upon
6 denial of a permit application if it occurs before *March 1, 2008 January 21, 2009*.

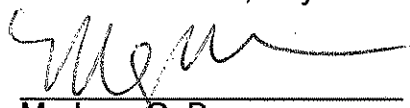
7 Notwithstanding the foregoing, in no case shall a dispensary that had or has a suspended or
8 revoked permit be considered to be in continuous operation. Any dispensary that began
9 operation after April 1, 2005, and any dispensary that failed to file a permit application with the
10 Department of Public Health as provided in San Francisco Health Code section 3304 on or
11 before July 1, 2007, and ~~have~~ has failed to file a completed applications, including a California
12 Environmental Quality Act categorical exemption application and a discretionary review
13 application, with the Planning Department by August 15, 2007; or any dispensary that is
14 located within an RH (Residential House) or RM (Residential Mixed) zoning district, must
15 immediately cease operations;

16 (j) any permit issued for a medical cannabis dispensary shall contain the following
17 statement in bold-face type: "Issuance of this permit by the City and County of San Francisco
18 is not intended to and does not authorize the violation of State or Federal law."
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20 Section 6. On January 22, 2009, Sections 209.3(k)(i), 217(k)(i), 790.141(i), and
21 890.133(i) of the San Francisco Planning Code shall expire by operation of law. Thereafter,
22 the City Attorney shall cause Sections 209.3(k)(i), 217(k)(i), 790.141(i), and 890.133(i) of the
23 San Francisco Planning Code to be removed from future editions of the published Code. This
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1 Section 6 supercedes and replaces Section 4 of Ordinance No. 225-07, on file with the Clerk
2 of the Board of Supervisors in File No. 070667.

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

6 By: 
7 Marlena G. Byrne
8 Deputy City Attorney
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City and County of San Francisco

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

Tails

Ordinance

File Number: 080232

Date Passed:

Ordinance amending the San Francisco Planning Code by amending Sections 209.3, 217, 790.141, and 890.133 to extend the time period for certain Medical Cannabis Dispensaries to obtain a permit from March 1, 2008 to January 21, 2009; and making findings, including General Plan, Planning Code Section 101.1(b) and environmental findings.

May 6, 2008 Board of Supervisors — PASSED ON FIRST READING

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

Noes: 1 - Elsbernd

May 13, 2008 Board of Supervisors — FINALLY PASSED

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

Noes: 1 - Elsbernd

File No. 080232

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on May 13, 2008 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo

Angela Calvillo
Clerk of the Board

5-21-08

Date Approved

[Signature]
Mayor Gavin Newsom