Los Angeles Medical Marijuana Dispensary Initiative 1
INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

Committee of proponents, who are registered voters of the City of Los Angeles, sponsoring the petition:

Freddie J. Metcalf        William Rusbosin       Norma A. Schaffer       Linda Leek       Gary Carver

As required by the Charter, the City Attorney has prepared the following official petition title and official petition summary of the primary provisions of this initiative ordinance measure to be adopted by the City Council or submitted directly to the voters.

MEDICAL MARIJUANA COLLECTIVES. INITIATIVE ORDINANCE.

This ordinance regulates associations of six or more qualified patients and/or primary caregivers who cultivate, process, distribute, deliver, or give away marijuana to an unlimited number of members for medical purposes (MMCs). The ordinance exempts from the regulation, among others, associations of five or fewer qualified patients and/or primary caregivers who process or cultivate medical marijuana on-site for themselves, their qualified patients, or for MMGs. The ordinance prohibits MMGs, but provides limited immunity from enforcement of the ordinance for all MMGs that: operated as of September 14, 2007; timely registered with the City; have not ceased operations for 90 days except to relocate or in response to federal action; provide no ingress/egress from adjacent residential zoned lots; pass annual LAPD background checks; and after 300 days maintain a certain distance from schools, parks, and other designated places. The ordinance establishes operating standards, enforceable as infractions. If the City adopts permit regulations for MMGs, the ordinance requires the City to issue permits to all MMGs immunized by this ordinance.

TEXT OF THE PROPOSED MEASURE:

THE MEDICAL MARIJUANA REGULATION AND CONTROL ACT

The people of the City of Los Angeles do ordain as follows:

Section 1. TITLE.

This ordinance shall be known and may be cited as the Medical Marijuana Regulation and Control Act.

Section 2. FINDINGS AND DECLARATIONS.

The people of the City of Los Angeles hereby find and declare that:

A. In 1996, California voters approved Proposition 215 (The Compassionate Use Act), which legalized the use of cannabis for medical purposes and allows persons to grow or possess cannabis based on the recommendation of a licensed physician.

B. The State enacted supplemental medical cannabis legislation, Senate Bill 420, which was intended to clarify the application and scope of the Compassionate Use Act and enhance the access of qualified patients and primary caregivers to medical cannabis through collective, cooperative cultivation projects.

C. As medical cannabis dispensaries continue to proliferate, so do citizen complaints and the risks these dispensaries pose to our communities. Across the state, law enforcement agencies have identified cannabis dispensaries as hubs for illegal activity that abuse medical cannabis laws and operate without regard to regulations, including wage and hour protections and workplace health and safety laws.

D. Some medical cannabis dispensaries have been known to operate and advertise in and or close to schools, unlawfully sell cannabis for profit that is later resold in communities, lack the medical expertise to be able to properly dispense cannabis, and sell cannabis to individuals without any legal medical documentation. At the
same time, there are a number of long-standing medical marijuana collectives that assiduously adhere to State law.

E. There are conflicting reports as to whether medical marijuana collectives increase crime. The Los Angeles Police Department (LAPD) has reported anecdotally that, as the number of cannabis dispensaries and commercial growing operations continues to proliferate, the City and its neighborhoods have experienced an increase in crime and the negative secondary harms associated with unregulated cannabis businesses. Conversely, academic institutions like the University of California Los Angeles have determined that there is no observed association between medical marijuana collectives and either violent or property crimes.

F. In January 2010, the City established a comprehensive regulatory framework to balance the unregulated proliferation of medical cannabis businesses, access by seriously ill patients to medical cannabis, and public safety, by adopting the Medical Marijuana Ordinance (MMO), adding Article 5.1, Chapter IV, of the LAMC, subsequently amended by ordinances including, in 2011, Temporary Urgency Ordinance No. 181530 (the TUO).

G. The City’s regulatory efforts were the subject of numerous lawsuits filed by both the City of Los Angeles and the medical marijuana collectives. These lawsuits have been, and continue to be, an unproductive use of the City’s resources.

H. The City seeks to address the continued proliferation of medical cannabis businesses that have previously argued to the courts, contrary to the City’s laws, that all medical cannabis businesses, including those selling from storefront shops to all persons with recommendations, may open, close, reopen, and operate at will in perpetuity, with vested rights and without any regulation, in the City.

I. In County of Los Angeles v. Alternative Medicinal Cannabis Collective et al., the Court of Appeal, Second District, ruled that a ban on cannabis collectives is not consistent with the Medical Marijuana Program Act (MMPA). In striking down the Los Angeles County ban, the Court of Appeal held that a ban would frustrate the MMPA’s goals of enhancing access through collective and cooperative cultivation projections and ensuring that all seriously ill Californians have the right to use and obtain cannabis for medical purposes. This case has been granted review by the California Supreme Court.

J. In 420 Caregivers, LLC et al. v. City of Los Angeles, Division 8 of the Court of Appeal, Second District, reversed in full a preliminary injunction against the enforcement of the City of Los Angeles MMO which limited the number and location of medical cannabis dispensaries within its borders. The Second District disagreed that the ordinance violated federal equal protection rights, concluding that “grandfather provisions,” such as the one at issue, had been upheld in other courts. Since then however, the Supreme Court has granted review of the case. This act has called into questions the rulings made at the appellate level.

K. On August 6, 2012, an ordinance (Ordinance No. 182190) repealing and replacing Article 5.1 of Chapter IV of the Los Angeles Municipal Code, in response to recent appellate court decisions, by prohibiting medical cannabis businesses, while preserving the limited state law medical cannabis criminal immunities, until such time as the California Supreme Court rules regarding what cities can and cannot regulate and the City enacts new medical cannabis legislation consistent with that judicial guidance, was signed by the Mayor.

L. On September 17, 2012 the Los Angeles City Clerk sent the Los Angeles City Council a “Certification of Sufficiency” of a Referendum Petition to Repeal Ordinance No. 182190. The Referendum Petition entitled Referendum Against Ordinance No. 182190 Passed by the City Council, containing 49,021 pre-verified signatures, was filed with the Office of the City Clerk on August 30, 2012. After random sampling of five percent of signatures, the Clerk deemed that 110 percent or more of the required signatures were valid, satisfying the threshold to declare the petition sufficient. The Certification of the referendum negates the implementation of the ordinance and creates a legislative vacuum in which the medical cannabis businesses continue to operate virtually unchecked.

M. The City of Los Angeles has a compelling interest in ensuring that cannabis is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which medical cannabis collectives operate, and in providing compassionate access to medical cannabis to its seriously ill residents.
Section 3. AMENDMENT OF ARTICLE 5.1 OF CHAPTER IV OF THE LOS ANGELES MUNICIPAL CODE

Article 5.1 of Chapter IV of the Los Angeles Municipal Code is hereby amended to read as follows:

SEC. 45.19.6. PURPOSES AND INTENT.

The City of Los Angeles has a compelling interest in ensuring that medical marijuana is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and collectives, in preserving the peace and quiet of the neighborhoods in which medical marijuana collectives operate, and in providing compassionate access to medical marijuana to its seriously ill residents.

SEC. 45.19.6.1. DEFINITIONS.

A. The following words or phrases, when used in this Article, shall be construed as defined below. Words and phrases not defined here shall be construed as defined in Section 11.01 and 12.03 of this Code.

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

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

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

“Medical marijuana collective” means either of the following:

(1) An association of six (6) or more qualified patients, persons with identification cards, or primary caregivers, who gather in a location collectively or cooperatively to cultivate, process, distribute, deliver or give away marijuana to its members for medical purposes, in strict accordance with California Health and Safety Code Sections 11362.5 et seq.

(2) Any vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, or give away marijuana to qualified patients, persons with an identification card, or primary caregivers.

(3) Notwithstanding Subparagraphs 1 and 2 above, “medical marijuana collective” shall not include any of the following, which shall not be subject to enforcement for violation of this Article:

(a) An association of five (5) or fewer qualified patients, persons with an identification card, and/or primary caregivers who process or collectively or cooperatively cultivate marijuana on-site for their own personal medical use, for a medical marijuana collective or, with respect to the primary caregivers, for the personal medical use of the qualified patients or persons with an identification card who have designated the individual as a primary caregiver, in accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.;

(b) Any location during only that time reasonably required for a primary caregiver to distribute, deliver, or give away marijuana to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, for the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.5 and 11362.7 et seq.;

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

(d) Any vehicle during only that time reasonably required for its use by: (i) a qualified patient or person with an identification card to transport marijuana for his or her personal medical use, or (ii) a primary caregiver to transport, distribute, deliver, or give away marijuana to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, for the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.765.

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

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

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

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

SEC. 45.19.6.2. PROHIBITED ACTIVITIES.

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

B. The prohibition in subsection A, above, includes renting, leasing, or otherwise permitting a medical marijuana collective to occupy or use a location, vehicle, or other mode of transportation.

SEC. 45.19.6.3. LIMITED IMMUNITY.

The use of any building, structure, location, premises or land for a medical marijuana collective is not currently listed in the Los Angeles Municipal Code as a permitted use in any zone. Further, for so long as this ordinance remains in effect, the Zoning Administrator shall not have the authority to determine that the use of any building, structure, location, premises or land as a medical marijuana collective may be permitted in any zone.

Notwithstanding the activities prohibited by this article, and notwithstanding that medical marijuana collective is not and shall not become a permitted use in the City for so long as this article remains in effect, a medical marijuana collective shall not be subject to the remedies set forth in Los Angeles Municipal Code Section 11.00 solely on the basis of: (1) an activity prohibited by Section 45.19.6.2; and (2) the fact that medical marijuana collective is not a permitted use in the City, provided however that, as authorized by California Health and Safety Code Section 11362.83, this limited immunity is available and may be asserted as an affirmative defense only so long as this article remains in effect and only by a medical marijuana collective that does not violate any of the restrictions contained in this section:
A. Every medical marijuana collective is prohibited that was not operating in the City as of September 14, 2007, as evidenced by a collective tax registration or tax exemption certificate issued by the City on or before that date.

B. Every medical marijuana collective is prohibited that did not timely register with the City of Los Angeles under two of the three of the following registrations:

1. Interim Control Ordinance (ICO) No. 179027 Registration;
2. Notice of Intent to Register (NOIR) under Ordinance Nos. 181069 and 181157 in June 2010;

In the event any of these registration events is deemed unenforceable, then the validity of the other registration events in this subsection shall remain in full force and effect. In the event two of the registration events are deemed unenforceable, the number of registrations required under this subsection shall be reduced to one. For purposes of this subsection, registration under Interim Control Ordinance No. 179027 shall not include the filing of a “hardship application” unless such application was granted by the City Council.

C. Every medical marijuana collective is prohibited that ceased or ceases operation in the City for 90 continuous days. For purposes of this subsection, a medical marijuana collective shall not have ceased operations during the time period it reasonably takes to move to a new location, or if it ceased operating in response to a warning letter from the Federal government or any of its agencies, including the Drug Enforcement Agency or Department of Justice.

D. Every medical marijuana collective is prohibited that provides public ingress or egress to its building on any side of the location that abuts, is across an alley or walkway from, or has a common corner with a residential zoned lot. For purposes of this subsection, the term residential zoned lot shall not include mixed use buildings in commercial or industrial zones;

E. Every medical marijuana collective is prohibited whose operators, managers, and employees do not successfully pass an annual LAPD LiveScan background check by January 31 of each year. A failed LAPD LiveScan is any LiveScan that includes any felony conviction within the past ten years and/or current parole or probation for the sale or distribution of a controlled substance.

F. Every medical marijuana collective is prohibited that is located within a 1,000-foot radius of a school or a 600-foot radius of a public park, public library, licensed child care facility, youth center, substance abuse rehabilitation center, or religious institution with a current and valid Certificate of Occupancy as a Church or House of Worship. The distance specified in this paragraph shall be the horizontal distance measured in a straight line from the property line of the school, public park, public library, licensed child care facility, youth center, or substance abuse rehabilitation center, to the closest property line of the lot on which the medical marijuana collective is located without regard to intervening structures. The distance requirements set forth in this subsection shall not apply to: (i) those licensed health care facilities identified in California Health and Safety Code Section 11362.7(d)(1); (ii) a medical marijuana collective that violates the distance requirements because a sensitive use locates within the 1000-foot radius or 600-foot radius of the medical marijuana collective after the date on which the City issued a City collective tax registration or tax exemption certificate to the medical marijuana collective for its location. This subsection shall become effective 300 days after the adoption of this Ordinance.

The limited immunity provided by this section shall not be asserted as an affirmative defense by any medical marijuana collective that violates any City law except as expressly immunized by this article.

SEC. 45.19.6.4. ADDITIONAL RESTRICTIONS.

The violation of any subsection herein shall constitute an infraction.
A. Every medical marijuana collective is prohibited from operating between the hours of 8 PM and 10 AM. These hours may be amended by the City Council to increase the allowable operating hours;

B. Every medical marijuana collective is prohibited where marijuana and/or alcohol are consumed by the medical marijuana collective at its premises or where alcoholic beverages are dispensed by the medical marijuana collective on the premises;

C. Every medical marijuana collective is prohibited that allows a minor unaccompanied by a parent or legal guardian to enter its premises;

D. Every medical marijuana collective is prohibited where marijuana is visible from the exterior of the premises;

E. Every medical marijuana collective is prohibited that has any exterior sign for the medical marijuana collective on the premises larger than 14 square feet;

F. Every medical marijuana collective is prohibited that has any exterior sign for the medical marijuana collective that is internally or externally lit between the hours of 8PM and 10AM;

G. Every medical marijuana collective is prohibited that does not have a posted legible indoor sign in a conspicuous location with the following warnings:
   i. That the diversion of marijuana for non-medical purposes is a violation of State law;
   ii. That the use of medical marijuana may impair a person’s ability to drive a motor vehicle or operate machinery; and
   iii. That loitering on and around the dispensary site is prohibited by California Penal Code Section 647(e).

H. Every medical marijuana collective is prohibited that illuminates the exterior of its premises during closure hours set forth in Section A. herein, except for such lighting that is reasonably utilized for the security of the premises;

I. Every medical marijuana collective is prohibited that does not have a closed circuit security camera system that records the exterior activities of the premises 24 hours a day;

J. Every medical marijuana collective is prohibited that does not have on its premises a security guard with a valid security guard license issued by the California Department of Consumer Affairs Bureau of Security and Investigative Services.

K. Every medical marijuana collective is prohibited that allows noxious or offensive odors to emanate from its location.

SEC. 45.19.6.5. FUTURE LEGAL DEVELOPMENTS.

The issue of whether a municipality may affirmatively regulate medical marijuana collectives is an unsettled question of law. If in the future the California State Legislature or the California Supreme Court holds that a municipality may affirmatively regulate medical marijuana collectives through the use of affirmative permits or licenses, the City Council may amend this ordinance to allow for such permits or licenses, subject to the limitation that each and every medical marijuana collective entitled to claim the Limited Immunity under this Ordinance at the time of such amendment shall be issued a permit or license.
Section 4. SEVERABILITY

If any provision or portion of a provision, section, and subsection or the application thereof of this Ordinance is found to be unconstitutional, unenforceable, or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Ordinance which can be implemented without the invalid provisions, and, to this end, the provisions of this Ordinance are declared to be severable.

Section 5. COMPETING MEASURES.

In the event that this measure and another measure or measures relating to the same subject matter appear on the same City-wide ballot, the provisions of the other measure or measures shall be deemed in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes than the other measure or measures, the provisions of this measure shall prevail over conflicting provisions in any other measure, and the conflicting provisions of the other measure or measures shall be null and void.

Section 6. LIBERAL CONSTRUCTION

The provisions of this Act shall be liberally construed to effectuate its purposes.

Section 7. EFFECTIVE DATE

This Act shall be effective upon its passage.
Los Angeles Medical Marijuana Dispensary Initiative 2
INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

Committee of proponents, who are registered voters of the City of Los Angeles, sponsoring the petition:

Paul Scott    Barbara Andrews    Robert Kerns    Dang Le    James Rephann

As required by the Charter, the City Attorney has prepared the following official petition title and official petition summary of the primary provisions of this initiative ordinance measure to be adopted by the City Council or submitted directly to the voters.

REGULATION OF MEDICAL MARIJUANA FOR SAFE NEIGHBORHOODS AND SAFE ACCESS

[Insert official petition summary prepared by City Attorney here.]

TEXT OF PROPOSED MEASURE:

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 1.

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

Sec. 21.50. TAXATION OF MEDICAL MARIJUANA COLLECTIVES.

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

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

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

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

(i) Membership dues;

(ii) The value of in-kind contributions;

(iii) Reimbursements provided by members, regardless of form;

and

(iv) Anything else of value obtained by a medical marijuana collective.

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

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

SECTION 2.

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

ARTICLE 5.1

MEDICAL MARIJUANA

SEC. 45.19.6. PURPOSES AND INTENT.

It is the purpose and intent of this article to regulate medical marijuana collectives in order to
ensure the health, safety and welfare of the residents of the City of Los Angeles. The regulations
in this article, in compliance with the Compassionate Use Act, the Medical Marijuana Program
Act, and the California Health and Safety Code do not interfere with a qualified patient's right to
use medical marijuana as authorized under California law, nor do they criminalize the possession
or cultivation of medical marijuana by specifically defined classifications of persons, as
authorized under California law.

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

SEC. 45.19.6.1. DEFINITIONS.

A. The following phrases words, when used in this section, shall be construed as defined
below. Words and phrases not defined here shall be construed as defined in Sections 11.01,
12.03, 45.19.5, 45.21 for "youth center" only, and 56.45 of this Code.

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

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

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

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

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

“Medical marijuana collective” means the following: an unincorporated or incorporated entity or association of qualified patients and/or primary caregivers and/or persons with identification cards, who provide money and in-kind contributions, reimbursements, and reasonable compensation towards the aforementioned entity’s actual expenses for activities including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, providing and/or retail sales of medical marijuana. A medical marijuana collective may provide medical marijuana, products, services and assistance to qualified patients, persons with a medical marijuana identification card (as set forth in the MMPA), or the primary caregiver of such persons. Medical marijuana collectives may assist with the acquisition of skills necessary to cultivate or provide marijuana for medical purposes in compliance with State Law. A medical marijuana collective includes any facility, building, structure or location, whether permanent, or temporary, where marijuana is made available, sold, given, distributed, or otherwise provided in accordance with Health and Safety Code section 11362.5 et seq. A medical marijuana collective includes medical marijuana “cooperatives” and “collectives” that are established as not for profit entities.

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

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

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

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

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

"Reasonable compensation" means compensation commensurate with reasonable wages and benefits paid to employees of IRS-qualified non-profit organizations who have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked. The payment of a bonus shall not be considered "reasonable compensation."

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

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

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

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

"Hospice"; "Identification card";

"Person with an identification card"; "Primary caregiver"; and

"Qualified patient".

SEC. 45.19.6.2. MEDICAL MARIJUANA COLLECTIVES PROHIBITED.

A. It shall be unlawful to own, establish, operate, use, or permit the establishment or operation of a medical marijuana collective, or to participate as an employee, contractor, agent, volunteer, or in any manner or capacity other than as provided in this article 5.1.
B. The general prohibition contained in this section shall include renting, leasing, or otherwise permitting a medical marijuana collective to occupy or use a location, vehicle, or other mode of transportation.

SEC. 45.19.6.3. LIMITED IMMUNITY.

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

A. REGISTRATION.

1. Registration Required. No medical marijuana collective shall be subject to the limited immunity and operational requirements provisions of this article until it has filed an intent to register form in accordance with the provisions of this article, has paid all applicable registration fees, and its registration has been accepted as complete by the City Clerk. Notwithstanding the above, medical marijuana collectives that register pursuant to priority registration provisions in Section 45.19.6.3 A.3 may operate during the registration process until such a time as their registration is denied or accepted by the City Clerk but for no longer than 6 months after the medical marijuana collective first filed its “intent to register form.” No other medical marijuana collective may operate under the priority registration exception unless it submitted an “intent to register form” in accordance with this section.

2. Registration.

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

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

iii. No later than 270 days after the completion of the second priority registration period the City Clerk shall allow the registration of additional medical marijuana collectives in the City subject to the conditions of this article and subject to the registration requirements detailed in Section 45.19.6.5.
3. Priority Registration.

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

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

4. Priority Order.

i. All medical marijuana collectives that meet the applicable requirements provided in Subsection A(1), (2) or (3), above, and that notify the City Clerk of their intention to register under this article at an identified location shall be eligible to be registered pursuant to this article. Priority order shall be applied to each registration group under Section 45.19.6.3 A.3(i) and 45.19.6.3 A.3(ii) separately. At no time shall the registrants provided priority in Section 45.19.6.3. A.3(ii) have registration priority over those registrants provided priority under Section 45.19.6.3 A.3(i). The City Clerk shall provide registration priority to medical marijuana collectives who operated in the City longer. In order to determine the length a medical marijuana collective has operated in the City, the City Clerk shall use the earliest issue date appearing on any required City Tax Registration Certificate provided by the registrants during the medical marijuana collective’s registration to determine the priority order in which the City Clerk will complete registration of medical marijuana collectives.

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

5. General Registration.

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

ii. Every medical marijuana collective that: (1) possesses a valid City of Los Angeles Tax Registration Certificate designation L050; (2) possesses a valid City of Los Angeles Tax Registration Certificate designation L044; (3) possesses a valid City of Los Angeles Tax Registration designation L049; (4) possesses a valid State Board of Equalization sellers permit for the sale of medical marijuana; (5) pays the required registration fee as determined by the City Clerk; (6) provides the name, phone number, and e-mail address of each manager
6. Modification of Intent to Register Form and Registration.

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

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

B. OPERATIONAL REQUIREMENTS.

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

1. The medical marijuana collective possesses valid Business Tax Registration Certificates with Designation L050, L044 and L049;

2. The medical marijuana collective possesses a valid and current State Board of Equalization seller’s permit;

3. The medical marijuana collective maintains proper documentation and registration of its employees pursuant to the requirements of the State Employment Development Department;

4. The medical marijuana collective shall make available to the City Clerk the names of each person who dispenses marijuana at the medical marijuana collective together with a Live Scan background check of each such person, and shall only allow those persons whose names are submitted to the City Clerk to dispense medical marijuana;

5. The medical marijuana collective shall not be located within:
i. a 1000-foot radius of a “school” as defined under Health and Safety Code § 11362.768 (h);

ii. a 500-foot radius of a public park, public library, licensed child care facility, youth center, substance abuse rehabilitation center, religious institution and any other registered medical marijuana collectives;

iii. The distances specified in this paragraph shall be the horizontal distance measured in a straight line from the property line of the school, public park, public library, religious institution, licensed child care facility, youth center, substance abuse rehabilitation center, or other medical marijuana collective(s), to the closest property line of the lot on which the medical marijuana collective is located without regard to intervening structures;

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

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

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

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

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

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

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

12. The medical marijuana collective shall not illuminate the interior of its premises during closure hours by lighting that is substantially visible from the exterior of the premises, except such lighting that is utilized for the security of the premises;
13. The medical marijuana collective shall bar ingress or egress to its premises on any side of its location that abuts or is across a street, alley or walk from, or has a common corner, with a residential use of land, except that an exit door required by this Code may be maintained for emergency egress only and must be locked from the exterior at all times.

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

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

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

17. The medical marijuana collective shall not allow any persons to inhale, smoke, eat, ingest, or otherwise consume marijuana at the location, in the parking areas of the location, or in those areas restricted under the provisions of California Health and Safety Code section 11362.79. This prohibition shall not apply to a qualified patient's use of marijuana for his or her own medical needs if the qualified patient's permanent legal residence is at the medical marijuana collective's location, nor shall this prohibition limit or conflict with the exceptions provided in local and state law that permit smoking in designated areas within licensed residential medical and elder care facilities;

18. The medical marijuana collective shall utilize the Live Scan background check system as set forth in this article prior to employing any manager, volunteer, or employee. The medical marijuana collectives' managers must be registered members of the medical marijuana collective. A medical marijuana collective shall not knowingly employ any manager who has been convicted of a felony within the previous 10 years, or be currently on parole or probation for the sale or distribution of a controlled substance. Any person who does not qualify under this section shall not be engaged directly or indirectly in the management of the medical marijuana collective and, further, shall not manage, or benefit from the receipts and expenses of the medical marijuana collective. Verification of all Live Scan applications received by a medical marijuana collective shall be processed and received by the Los Angeles Police Department in accordance with California Department of Justice guidelines;
19. The medical marijuana collective shall not engage in, participate in, or otherwise engage in the manufacture of concentrated cannabis in violation of California Health and Safety Code section 11379.6.

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

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

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

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

24. The medical marijuana collective location shall be monitored at all times by web-based closed-circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow for the reasonable identification of any individual committing a crime anywhere on or adjacent to the location. The recordings shall be maintained for a period of not less than 90 days.

25. Exterior doors to the medical marijuana collective shall remain locked from the outside to prevent unauthorized ingress to the premises of the medical marijuana collective. Ingress shall be allowed by means of a remote release operated from within the premises of the medical marijuana collective. In all cases, doors shall remain operable from the inside to allow egress without the use of a key or special knowledge. If installed, access controlled egress doors shall comply with Section 1008.1.3.4 of the California Building Code.

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

27. A sign shall be posted at the entrance to the medical marijuana collective containing the name and functioning telephone number of a 24-hour on-call manager who shall receive, log, and respond to complaints and other inquiries on behalf of the medical marijuana collective.
28. The medical marijuana collective shall provide parking at a ratio of one parking space per 300 square feet of floor area. For purposes of applying the parking ratio, the floor area of the medical marijuana collective will only include those areas dedicated to the packaging and dispensing of marijuana;

29. No later than March 15 of every year, each medical marijuana collective shall file with the City Controller an audit of its operations of the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The audit shall include, without limitation, a discussion, analysis, and verification of each of the records required to be maintained pursuant to Section 45.19.6.4 of this Article; and

30. The medical marijuana collective shall analyze a representative sample of dried medical marijuana and a representative sample of edible marijuana using a liquid chromatography/mass spectrometry/mass spectrometry method of analysis for pesticides and any other regulated contaminants, pursuant to established local, state, or federal regulatory or statutory standards at levels of sensitivity established for the food and drug supply, before providing the medical marijuana to its members. Any medical marijuana from which the representative sample analysis tests positive for a pesticide or other contaminant at a level which exceeds the local, state, or federal regulatory or statutory standard for the food and drug supply shall not be provided to members and shall be destroyed forthwith. Any medical marijuana provided to members shall be properly labeled in strict compliance with state and local laws.

SEC. 45.19.6.4. VIOLATION AND ENFORCEMENT.

Each violation of this article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by Section [11.00] of this Code. Additionally, as a nuisance per se, any violation of this article shall be subject to legally authorized remedies, including procedures for injunctive relief, as well as procedures to revoke the medical marijuana collective's registration, certificate of occupancy for the business's location, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney's fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the medical marijuana collective and persons related or associated with such medical marijuana collective. Notwithstanding an initial verification of compliance by the medical marijuana collective with the registration requirements set forth in Section 45.19.6.2 of this article prior to the filing of the registration form, any medical marijuana collective later found to be in violation at any time of any of the registration requirements shall be subject to the enforcement provisions provided in this section.
SEC. 45.19.6.5. SEVERABILITY

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

SECTION 3.

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

SECTION 4.

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

SECTION 5.

Amendment and Repeal. The provisions of the Los Angeles Municipal Code added by, amended by, or contained in this initiative measure may be amended to further its purposes by ordinance passed by a majority vote of the Council and approved by the Mayor. The provisions of the Los Angeles Municipal Code added by, amended by, or contained in this initiative measure shall not be repealed, except by an ordinance adopted either by petition or by the Council at its own instance and adopted by a vote of the electors, or by an amendment of the Charter superseding the aforementioned provisions.
Los Angeles Medical Marijuana Dispensary Koretz Draft Ordinance
(for reference only)
DATE: DEC 11 2012

Planning and Land Use Management Committee
Council of the City of Los Angeles
City Hall, Room 395
Los Angeles, CA 90012

ATTN: Sharon Gin, Legislative Assistant

Council File Nos. 08-0923 and 11-1737
Environmental Case No. 2012-3200-CE

Transmitted herewith is a proposed ordinance replacing Article 5.1 of Chapter IV of the Los Angeles Municipal Code.

At its meeting on November 29, 2012, the City Planning Commission took the following actions:

1. Adopted the Report prepared by the Office of the City Attorney entitled “Proposed Ordinance Replacing Article 5.1 of Chapter IV of the Los Angeles Municipal Code To: (A) Prohibit Medical Marijuana Businesses, and (B) Grant a Limited Immunity From Enforcement To Medical Marijuana Businesses That Do Not Violate Specified Restrictions” (City Attorney Report) as the report of the City Planning Commission (CPC) on the subject, with the following two (2) technical corrections to the proposed ordinance attached as Exhibit 1 to the City Attorney Report: (i) The words “in response” in the fifth line of Section 45.19.6.3, paragraphs D, page 9 of the proposed ordinance are stricken and replaced with the word “subsequent”; and (ii) the words “any portion of” are inserted between the words “illuminates” and “its” in the first line of Section 45.19.6.3, paragraphs K, page 10 of the proposed ordinance. The corrected ordinance is attached hereto and referred to hereafter as the “Ordinance”.

2. Recommended that the City Council determine that the Ordinance is exempt under the California Environmental Quality Act for the reasons set forth in the CEQA Narrative and draft Notice of Exemption (Categorical Exemption No. ENV-2012-3200-CE), attached as Exhibits 2 and 3, respectively, to the City Attorney Report.

3. Recommended that the City Council direct that the Department of City Planning file the final Notice of Exemption with the County Clerk immediately after the Ordinance is approved and passed in final by the City Council.

4. Adopted the Findings and Recommendation Pursuant To City Charter § 556 and §558(b)(2) attached as Exhibit 4, to the City Attorney Report.

5. Recommended adoption of the Ordinance.
6. Granted City Attorney authority to make further technical corrections to the Ordinance in response to verbal and written comments received by the City Planning Commission at the public hearing on November 29, 2012, consistent with the CPC action.

RECOMMENDATIONS TO THE CITY COUNCIL:

1. ADOPT the Ordinance.

2. Adopt the Findings and Recommendation Pursuant To City Charter § 556 and §558(b)(2) attached as Exhibit 4, to the City Attorney Report.

3. DETERMINE that the Ordinance is exempt under the California Environmental Quality Act for the reasons set forth in the CEQA Narrative and draft Notice of Exemption attached as Exhibits 2 and 3, respectively, to the City Attorney Report.

4. DIRECT that the Department of City Planning file the Notice of Exemption with the County Clerk immediately after the Ordinance is approved and passed in final by the City Council.

Fiscal Impact Statement: There is no general Fund impact as administrative costs are recovered through fees.

This action was taken by the following vote:

Moved: Perlman
Seconded: Hovagimian
Ayes: Freer, Lessin, Roschen
Absent: Burton, Cardoso, Romero
Vacant: One

Vote: 5 - 0

James K. Williams, Commission Executive Assistant II
City Planning Commission

Attachments:
1 – City Attorney Report
2 – Proposed Ordinance (as modified by the City Planning Commission)

Associate Zoning Administrator: Charles Rausch
Planning Assistant: Deborah Kahen

Cc: Jane Usher, Special Assistant City Attorney
    Steven Blau, Adrienne Khorasanee, Deputy City Attorneys, Land Use Division
ORDINANCE NO. ________________

An ordinance replacing Article 5.1 of Chapter IV of the Los Angeles Municipal Code. The ordinance: (a) prohibits medical marijuana businesses, and (b) grants a limited immunity from enforcement to medical marijuana businesses that do not violate specified restrictions, consistent with the comments, objections and proposals presented by the medical marijuana community regarding repeal by the Los Angeles City Council of Ordinance 182190, known as the Gentle Ban, in response to a referendary petition, until such time as the California Supreme Court rules regarding what cities can and cannot regulate and the City enacts new medical marijuana legislation consistent with that judicial guidance.

WHEREAS, the Compassionate Use Act (CUA), adopted by the voters in 1996, and the Medical Marijuana Program Act (MMPA), enacted by the State Legislature in 2003, provided California’s qualified patients and their primary caregivers with limited immunities to specified criminal prosecutions under state law for purposes including to ensure that qualified patients and their primary caregivers who obtain and use marijuana for medical purposes are not subject to state criminal prosecution;

WHEREAS, commencing in 2007, according to local media reports and neighborhood sightings and complaints, more than 850 medical marijuana businesses opened, closed and reopened storefront shops and commercial growing operations in the City without any land use approval under the Los Angeles Municipal Code (LAMC or Code) and, since that time, an unknown number of these businesses continue to open, close, and reopen in Los Angeles, with no regulatory authorization from the City;

WHEREAS, the Los Angeles Police Department (LAPD) has reported that, as the number of marijuana dispensaries and commercial growing operations continue to proliferate without legal oversight, the City and its neighborhoods have experienced an increase in crime and the negative secondary harms associated with unregulated marijuana businesses, including but not limited to, murders, robberies, the distribution of tainted marijuana, and the diversion of marijuana for non-medical and recreational uses;

WHEREAS, in August 2007, the City enacted an Interim Control Ordinance 179027 (the ICO) to prohibit medical marijuana businesses in the City and to exempt from that prohibition, until the City’s adoption of comprehensive medical marijuana regulations, certain existing medical marijuana facilities that timely registered with the City Clerk;

WHEREAS, in January 2010, the City established a comprehensive regulatory framework to balance the unregulated proliferation of medical marijuana businesses, access by seriously ill patients to medical marijuana, and public safety, by adopting Medical Marijuana Ordinance 181069 (MMO), adding Article 5.1, Chapter IV, of the LAMC, subsequently amended by ordinances including, in 2011, Temporary Urgency Ordinance 181530 (TUO);
WHEREAS, the City’s efforts to foster compassionate patient access to medical marijuana, which capped the number of dispensaries through priority registration opportunities for earlier existing collectives, a drawing, and mandatory geographic dispersal, resulted in an explosion of lawsuits by medical marijuana businesses challenging the validity of the MMO and TUO. These related actions were deemed complex and are assigned to Department 309 of the Los Angeles Superior Court. *MJ Collectives Litigation: Americans for Safe Access et al. v. City of Los Angeles, et al*, Los Angeles Superior Court, Lead Case No. BC433942 (and all related actions). These lawsuits have been accompanied by the continued opening and operation of unpermitted businesses, recurrent neighborhood complaints regarding crime and negative secondary effects, and an inappropriate and overly excessive drain upon civic legal and law enforcement resources;

WHEREAS, on October 4, 2011, the Second Appellate District of the California Court of Appeal, whose decisions bind the City of Los Angeles, ruled in the case of *Pack v. Superior Court*, 199 Cal.App.4th 1070 (2011) (Pack), that significant provisions of the medical marijuana ordinance of the City of Long Beach, which was modeled after Article 5.1, Chapter IV of the LAMC, are preempted by the federal Controlled Substances Act (CSA) [21 U.S.C. Section 801, et seq.], which bans marijuana for all purposes;

WHEREAS, the Pack court held, as more particularly stated in the opinion, that while cities may enact prohibitions that restrict and limit medical marijuana businesses, cities are preempted under the CSA from enacting affirmative regulations that permit or authorize medical marijuana businesses and marijuana related activities, and further raised the specter of violation of federal law through the actions of individual city officials, 199 Cal.App.4th1070, 1091, fn. 27;

WHEREAS, although the Los Angeles Superior Court issued a narrow preliminary injunction against pieces of the MMO in December 2010, on October 14, 2011, it: (1) denied numerous motions to enjoin the MMO, as amended; (2) declined to address the impact of federal preemption on the City’s medical marijuana regulations in light of Pack until that case becomes final or until “our Supreme Court decides to weigh in on the federal preemption issue” and because federal preemption had not been raised in those cases; and (3) observed that Pack could have a profound impact on the TUO “which bears more than a passing resemblance to the Long Beach medical marijuana ordinance”;

WHEREAS, given the similarities between the ordinance at issue in Pack and the City’s MMO and to avoid any possibility of violating federal law, the City discontinued implementing the MMO, as amended;

WHEREAS, in December 2011, California Attorney General Kamala Harris abandoned her effort to revise the medical marijuana guidelines of the Attorney General and advised the State Legislature that in the opinion of the Attorney General, new legislation is required in order to resolve questions of law regarding medical marijuana
that are not answered by existing law. The Attorney General specifically called for legislation on the contours of collective and cooperative cultivation, and on the definition and rules for dispensaries;

WHEREAS, in January 2012, the California Supreme Court granted review of Pack, declined to enjoin a ban of medical marijuana business proposed for the City of Long Beach, and subsequently dismissed its review in August 2012 as abandoned and moot, thereby not addressing the substantive question of federal preemption of local regulations, and has also granted review of City of Riverside v. Inland Empire Patient’s Health & Wellness Center, 200 Cal.App.4th 885 (4th Dist., 2011) and People v. G3 Holistic, 2011 Cal.App. Unpub. LEXIS 8634, both recognizing that cities may properly ban medical marijuana businesses consistent with the CUA and MMPA;

WHEREAS, additional appellate rulings concerning medical marijuana were issued in February 2012, including by the Second Appellate District of the California Court of Appeal in the case of People v. Colvin, 203 Cal.App.4th 1029 (2012), and by the Fourth Appellate District of the California Court of Appeal in the case of City of Lake Forest v. Evergreen Holistic Collective, 203 Cal.App.4th 1413 (2012), and whereas the Evergreen Holistic case decision has been accepted for review by the California Supreme Court with further action deferred pending consideration and disposition of related issues in the Inland Empire case;

WHEREAS, an additional appellate ruling concerning medical marijuana was issued in March 2012, by the Second Appellate District of the California Court of Appeal in the case of People ex rel. Trutanich v. Joseph, 204 Cal.App.4th 1512 (2012) which held that that neither section 11362.775 nor section 11362.765 of the MMPA immunizes marijuana sales activity. “Section 11362.775 protects group activity ‘to cultivate marijuana for medical purposes.’ It does not cover dispensing or selling marijuana. Section 11362.765 allows reasonable compensation for services provided to a qualified patient or person authorized to use marijuana, but such compensation may be given only to a ‘primary caregiver.’” Joseph at 1523;

WHEREAS, in July 2012, the Second District Court of Appeal reversed the preliminary injunction order issued against the MMO in the case now renamed from its original filing to 420 Caregivers, LLC v. City of Los Angeles, 207 Cal. App. 4th 703 (2nd Dist., 2012), which held, among other things, that (a) the provisions of the MMO were lawful that limited medical marijuana collectives in the City to only those approximately 180 that had timely registered with the City under the ICO, and (b) the MMO sunset by its own terms on June 6, 2012, and that as of that date only collectives of three or fewer members are allowed to operate in the City, and whereas portions of this decision have been accepted for deferred review by the California Supreme Court;

WHEREAS, having made a confidential settlement proposal that was rejected by the dispensary litigants, the City thereafter sought in August 2012 to address the continued proliferation of unregulated and unauthorized medical marijuana businesses in the City by enacting Ordinance 182190 (Gentle Ban) to prohibit medical marijuana
businesses, with limited exceptions that include dwelling units used by three or fewer qualified persons to process or collectively and cooperatively cultivate medical marijuana; and hospices and licensed clinics, care facilities and home health agencies entitled to the state law qualified immunities;

WHEREAS, the City Clerk presented a referendary petition to the City Council regarding the Gentle Ban Ordinance on September 17, 2012, and the City Charter authorizes the Council to respond to the referendary petition by repealing the Gentle Ban Ordinance within twenty days of its presentation;

WHEREAS, in connection with consideration by the City Council of the referendary petition, members and representatives of the medical marijuana community submitted comments and objections to the Gentle Ban and alternative proposed regulations to restrict medical marijuana businesses;

WHEREAS, the comments, objections and proposals include, among others, limitations upon the number of medical marijuana businesses rather than a ban; prohibitions that restrict rather than affirmative regulations that permit or authorize such businesses; prohibitions upon operating within certain distances of sensitive uses; prohibitions upon hours of operation, unaccompanied minors, marijuana visible form the exterior, lighting, and signage; criminal background checks; requiring transparent operations; requiring testing of marijuana for mold and contaminants; and restrictions related to security.

WHEREAS, in response to the comments, objections and proposals, the City Council adopted Ordinance 182286 on October 9, 2012 repealing the Gentle Ban Ordinance;

WHEREAS, an appellate ruling issued on October 24, 2012 by the Fourth Appellate District of the California Court of Appeal in the case of People v. Jackson, 2012 Cal. App. LEXIS 1106, regarding the scope of immunities available under the MMPA regarding profits and sales by medical marijuana collectives, and it is currently unknown whether the California Supreme Court will grant review in this matter;

WHEREAS, on November 5, 2011, Department 311 of the Los Angeles Superior Court, in related actions filed by the People of the State of California and entitled People v. Cahuenga’s The Spot LLC, et al., Los Angeles Superior Court Lead Case No. BC460794 (and all related cases), granted motions for preliminary injunction by the People against numerous medical marijuana dispensaries which opened in the City in violation of the City’s Zoning Code, which does not include medical marijuana as an enumerated use, and without following the required procedures to obtain a Zoning Administrator Interpretation (ZAI) under LAMC §12.21(A)(1) or Variance (Variance) under LAMC §12.27 for such a use;
WHEREAS, despite the likelihood that medical marijuana businesses will institute further legal challenges and referendum proceedings or initiatives to prevent the City from regulating medical marijuana, the City wishes to address the continued proliferation of unauthorized medical marijuana businesses in the City by granting a limited immunity from enforcement of its prohibition on medical marijuana businesses under Los Angeles Municipal Code Section 11.00 (l) to those medical marijuana businesses that do not violate the restrictions set forth in this ordinance, until such time as the California Supreme Court rules regarding what cities can and cannot regulate and the City enacts new medical marijuana legislation consistent with that judicial guidance; and

WHEREAS, this new ordinance is intended to differ from the Gentle Ban by immunizing from the ban and from certain enforcement mechanisms those medical marijuana businesses that properly and timely registered with the City under the ICO and the MMO, as amended by the TUO, and that also abide by operating restrictions necessary for public safety, consistent with the comments, objections and proposals presented by members and representatives of the medical marijuana community in connection with the City’s repeal of the Gentle Ban, until such time as the California Supreme Court rules regarding what cities can and cannot regulate and the City enacts new medical marijuana legislation consistent with that judicial guidance.

NOW, THEREFORE,

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

Section 1. Article 5.1 of Chapter IV of the Los Angeles Municipal Code is replaced in its entirety to read as follows:

ARTICLE 5.1

MEDICAL MARIJUANA

SEC. 45.19.6. PURPOSES AND INTENT.

The purpose of this Article is to enact a materially new ordinance that (a) prohibits medical marijuana businesses, but (b) grants a limited immunity from the enforcement of its prohibition to those medical marijuana businesses that do not violate the restrictions set forth in this ordinance, consistent with comments, objections and proposals presented by members and representatives of the medical marijuana community in connection with the City’s repeal of the Gentle Ban, until such time as the California Supreme Court rules regarding what cities can and cannot regulate and the City enacts new medical marijuana legislation consistent with that judicial guidance.

It is also the purpose of this Article to stem the negative impacts and secondary effects associated with the ongoing medical marijuana businesses in the City, including
but not limited to the extraordinary and unsustainable demands that have been placed upon scarce City policing, legal, policy, and administrative resources; neighborhood disruption, increased transient visitors, and intimidation; the exposure of school-age children and other sensitive residents to medical marijuana; drug sales to both minors and adults; fraud in issuing, obtaining or using medical marijuana recommendations; and murders, robberies, burglaries, assaults, and other violent crimes.

This Article is not intended to conflict with federal or state law, nor is this Article intended to answer or invite litigation over the unresolved legal questions posed by the California Attorney General or by case law regarding the scope and application of state law. It is the intention of the City Council that this Article be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

SEC. 45.19.6.1. DEFINITIONS.

A. The following words or phrases, when used in this Article, shall be construed as defined below. Words and phrases not defined here shall be construed as defined in Section 11.01, 12.03 and 45.19.5 of this Code.

“Alcoholism Or Drug Abuse Recovery Or Treatment Facility” shall be construed consistent with Section 11834.02 of the Health and Safety Code, as any premises, place or building licensed by the State of California “that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug or alcohol and drug misuse or abuse, and who need alcohol and drug recovery treatment or detoxification services.”

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

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

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

“Medical marijuana business” means either of the following:

1. Any location where marijuana is cultivated, processed, distributed, delivered, or given away to a qualified patient, a person with an identification card, or a primary caregiver.
(2) Any vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, or give away marijuana to a qualified patient, a person with an identification card, or a primary caregiver.

(3) Notwithstanding Subparagraphs 1 and 2 above, "medical marijuana business" shall not include any of the following:

   (a) Any dwelling unit where a maximum of three (3) or fewer qualified patients, persons with an identification card, and/or primary caregivers process or associate to collectively or cooperatively cultivate marijuana on-site, with respect to qualified patients and persons with an identification card for their own personal medical use, and with respect to the primary caregivers for the personal medical use of the qualified patients or persons with an identification card who have designated the individual as a primary caregiver, in accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.;

   (b) Any location during only that time reasonably required for a primary caregiver to distribute, deliver, or give away marijuana to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, for the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.5 and 11362.7 et seq.;

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

   (d) Any vehicle during only that time reasonably required for its use by: (i) a qualified patient or person with an identification card to transport marijuana for his or her personal medical use, or (ii) a primary caregiver to transport, distribute, deliver, or give away marijuana to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, for the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.765.
“Structure” means anything constructed or erected which is supported directly or indirectly on the earth, but not including any vehicle.

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

“Youth Center” means any designated indoor, public, private or parochial facility, other than a private residence or a multiple dwelling unit, which contains programs which provide, on a regular basis, activities or services for persons who have not yet reached the age of 18 years, including, but not limited to, community-based programs, after-school programs, weekend programs, violence prevention programs, leadership development programs, vocational programs, substance abuse prevention programs, individual or group counseling, remedial, tutorial or other educational assistance or enrichment, music, art, dance and other recreational or cultural activities, physical fitness activities and sports programs.

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

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

SEC. 45.19.6.2. PROHIBITED ACTIVITIES.

A. It is unlawful to own, establish, operate, use, or permit the establishment or operation of a medical marijuana business, or to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity in any medical marijuana business.

B. The prohibition in Subsection A, above, includes renting, leasing, or otherwise permitting a medical marijuana business to occupy or use a location, vehicle, or other mode of transportation.

SEC. 45.19.6.3. LIMITED IMMUNITY.

Notwithstanding the activities prohibited by this Article, and notwithstanding that medical marijuana business is not and shall not become a permitted use in the City for so long as this Article remains in effect, a medical marijuana business shall not be subject to the remedies set forth in Los Angeles Municipal Code Sections 11.00 or 12.27.1 solely on the basis of: (1) an activity prohibited by Section 45.19.6.2; and (2) the
fact that medical marijuana business is not a permitted use in the City, provided however that, as authorized by California Health and Safety Code Section 11362.83, this limited immunity is available and may be asserted as an affirmative defense only so long as the entirety of this Section 45.19.6.3 remains in effect and only by a medical marijuana business that does not violate any of the following additional medical marijuana business restrictions:

A. Every medical marijuana business is prohibited that was not operating in the City as a medical marijuana business of September 14, 2007, as evidenced by a business tax registration or tax exemption certificate issued by the City on or before November 13, 2007;

B. Every medical marijuana business is prohibited that did not timely register with the City Clerk under the City’s Interim Control Ordinance 179027;

C. Every medical marijuana business is prohibited that did not timely apply to the City for registration in February 2011 in accordance with the City’s MMO, as amended by the TUO;

D. Every medical marijuana business is prohibited that ceased or ceases operation in the City at the location set forth in its original or any amended business tax registration or tax exemption certificate issued by the City, as evidenced by a self-report to the City of closure, report of the Los Angeles Police Department or other law enforcement agency of closure subsequent to a law enforcement action, written settlement agreement, or court order;

E. Every medical marijuana business is prohibited that failed to obtain in 2011, and to thereafter renew before each annual renewal deadline, a City business tax registration for taxation as a medical marijuana collective;

F. Every medical marijuana business is prohibited that has an unpaid tax obligation to the City that: (i) was or is referred by the City to its collection unit or to an outside collection entity; and (ii) is not paid in full, including any assessed fines, penalties, interest or other costs, prior to the commencement of the following tax year. The payment of amounts due pursuant to a collection referral shall not revive a medical marijuana business that ceased or ceases operations;

G. Every medical marijuana business is prohibited that remains open and/or operating between the hours of 8 PM and 10 AM;

H. Every medical marijuana business is prohibited where marijuana and/or alcohol are consumed at the premises or in the parking area of the location;

I. Every medical marijuana business is prohibited that allows a minor unaccompanied by a parent or legal guardian to enter its premises;
J. Every medical marijuana business is prohibited where marijuana is visible from the exterior of the premises;

K. Every medical marijuana business is prohibited that illuminates any portion of its premises during closure hours by lighting that is visible from the exterior of the premises, except such lighting as is reasonably utilized for the security of the premises;

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

M. Every medical marijuana business is prohibited whose managers, volunteers, and employees do not successfully pass an annual LAPD LiveScan background check by January 31 of each year. A failed LAPD LiveScan is any LiveScan that includes any felony conviction within the past ten years and/or current parole or probation for the sale or distribution of a controlled substance;

N. Every medical marijuana business is prohibited whose managers, volunteers, employees or members are also managers, volunteers, employees or members at the same time of another medical marijuana business in the City, provided that nothing in this provision shall prevent a medical marijuana business from providing a non-member with medical marijuana in the event of a physician-documented medical emergency; and

O. Every medical marijuana business is prohibited that is located within a 1,000-foot radius of a school, public park, public library, religious institution, child care facility, youth center, alcoholism or drug abuse recovery or treatment facility, or other medical marijuana business. The distance specified in this paragraph shall be the horizontal distance measured in a straight line from the property line of the school, public park, public library, religious institution, licensed child care facility, youth center, substance abuse rehabilitation center, or other medical marijuana business, to the closest property line of the lot on which the medical marijuana business is located without regard to intervening structures. In the event that two or more medical marijuana businesses are located within a 1,000-foot radius of one another, only the medical marijuana business with the earliest issuance date on a City business tax registration or tax exemption certificate for its operation at the location may assert the limited immunity provided by this Article. The distance requirements set forth in this subsection shall not apply to: (i) those licensed health care and other facilities identified in California Health and Safety Code Section 11362.7(d)(1); (ii) a medical marijuana business that is otherwise entitled to assert the limited immunity provided by this Article if it moves within ninety (90) days after the effective date of this Article to a location that does not violate the distance requirements; and (iii) a medical marijuana business that violates the distance requirements because a sensitive use located within the 1000-foot radius of
the medical marijuana business after the date on which the City issued a City business
tax registration or tax exemption certificate to the medical marijuana business for its
location.

The limited immunity provided by this Section shall not be available to and shall
not be asserted as an affirmative defense to any violation of law except as expressly set
forth in this Article. Further, nothing contained in this limited immunity is intended to
provide or shall be asserted as a defense to a claim for violation of law brought by any
county, state, or federal governmental authority. Finally, the limited immunity provided
by this Section shall be available and may be asserted only so long as each and every
subsection and clause of this Section 45.19.6.3 remains valid, effective and operative.

SEC. 45.19.6.4. NO AUTHORITY TO PERMIT USE IN ANY ZONE.

The use of any building, structure, location, premises or land for a medical
marijuana business is not currently enumerated in the Los Angeles Municipal Code as a
permitted use in any zone, nor is the use set forth on the Official Use List of the City as
determined and maintained by the Zoning Administrator. So long as this Article remains
in effect, the Zoning Administrator shall not have the authority to determine that the use
of any building, structure, location, premises or land as a medical marijuana business
may be permitted in any zone; to add medical marijuana business to the Official Use
List of the City; or to grant any variance authorizing any medical marijuana business.

SEC. 45.19.6.5. NO VESTED OR NONCONFORMING RIGHTS.

This Article prohibits medical marijuana businesses. Neither this Article, nor any
other provision of this Code or action, failure to act, statement, representation,
certificate, approval, or permit issued by the City or its departments, or their respective
representatives, agents, employees, attorneys or assigns, shall create, confer, or
convey any vested or nonconforming right or benefit regarding any medical marijuana
business. Any immunity or benefit conferred by this ordinance shall expire permanently
and in full on the effective date of the City Council's enactment of new medical
marijuana legislation after the issuance of guidance by the California Supreme Court
guidance, or otherwise upon repeal of this ordinance.

SEC. 45.19.6.6. DUE PROCESS AND ENFORCEMENT.

All existing medical marijuana businesses must immediately cease operation;
except that any medical marijuana business that that does not violate any of the medical
marijuana business restrictions described in Section 45.19.6.3, Limited Immunity, may
continue to operate but only so long as each and every subsection and clause of
Section 45.19.6.3 remains valid, effective and operative.

As has always been the law in the City, any enforcement action by the City for
failure to comply with this Article shall be accompanied by due process. Every violation
of this Article and each day that a violation of this Article occurs shall constitute a
separate violation and shall be subject to all criminal and civil remedies and enforcement measures authorized by Sections 11.00 and 12.27.1 of this Code. In any enforcement proceeding pursuant to Section 12.27.1, the notice required by Subsection C.1 of Section 12.27.1 shall be provided only to the owner and lessee of the medical marijuana business, and shall not also be provided to other property owners within a 500-foot radius.

In the event a court of competent jurisdiction preliminarily or permanently enjoins, or holds to be unconstitutional or otherwise invalid, any enforcement remedy provided for in this Section 45.19.6.7, then the remainder of the enforcement remedies provided for by this Section shall remain in full force and effect.

SEC. 45.19.6.7. LIMITED SEVERABILITY.

If any provision or clause of Section 45.19.6.3 of this Article is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall invalidate every other provision, clause and application of Section 45.19.6.3 of this Article, and to this end the provisions and clauses of Section 45.19.6.3 of this Article are declared to be inseverable.

Except for the inseverability of the provisions, clauses and applications of Section 45.19.6.3, as set forth hereinabove, if any other provision or clause of this Article, or the application of such other provision or clause to any person or circumstance, is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect those provisions, clauses or applications of this Article which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of this Article other than Section 45.19.6.3 are declared to be severable.
Section 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of ____________________________

JUNE LAGMAY, City Clerk

Approved ____________________________

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By ____________________________

JANE USHER
Special Assistant City Attorney

Date ____________________________

File No. ____________________________

Pursuant to Charter Section 559, I approve this ordinance on behalf of the City Planning Commission and recommend that it be adopted . . . . . .

See attached report.

________________________
Michael LoGrande
Director of Planning