

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

**CITY OF OAKLAND**  
**SUPPLEMENTAL AGENDA REPORT**

TO: 2011 Office of the City Administrator  
ATTN: P. Lamont Ewell, Interim City Administrator  
FROM: Arturo M. Sanchez, Assistant to the City Administrator  
DATE: July 19, 2011

Re: 1) ALTERNATIVE RECOMMENDATION RE: ORDINANCES AMENDING TITLE 5 OF THE OAKLAND MUNICIPAL CODE, ENTITLED BUSINESS LICENSES AND REGULATIONS, TO AMEND OAKLAND MUNICIPAL CODE CHAPTER 5.80 "MEDICAL CANNABIS DISPENSARY PERMITS" & CHAPTER 5.81 "CULTIVATION OF MEDICAL CANNABIS"

2) AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NUMBER 13024 C.M.S., AS AMENDED) TO MODIFY AND ESTABLISH MEDICAL CANNABIS DISPENSARY PERMIT APPLICATION FEE(S) AND AN ANNUAL REGULATORY FEE FOR A MEDICAL CANNABIS DISPENSARY PERMIT

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## SUMMARY

On July 12, 2011 the Public Safety Committee moved to:

- Accept the Alternate staff report and recommendation;
- Adopt the proposed amendments, including those recommended by Meyers Nave attorney to Oakland Municipal Code Chapters 5.80 and adopt a Master Fee Schedule (MFS) amendment to make the permits cost recovering;
- Forward the Draft RFPA for Dispensaries to Council for review and discussion;
- Forward and adopt the Administrative Regulations And Performance Standards For Oakland Medical Cannabis Dispensaries; and
- Direct staff to return in the fall to further discuss the cultivation ordinance; with an appropriate regulatory framework; and additional fee structure amendments as necessary to make the program cost recovering in nature.

In addition to the above items the Committee provided several amendments to clarify language in the regulations. Changes made to the attached documents include the following:

- Reemphasized that Dispensaries must pay the Cannabis Tax required pursuant to Section 5.04.480 of the Oakland Municipal Code;
- Clarified that edible marijuana products must be kept and displayed separate from non-edible marijuana products;

Item: \_\_\_\_\_  
Oakland City Council  
July 19, 2011

- Exempted misdemeanor marijuana offenses from the list of convictions that prevent a person from being employed by a marijuana Dispensary;
- Revised signage requirements to eliminate duplicative provisions; and
- Added additional language reemphasizing the City Administrator's ability to audit financial documents and records of a Dispensary.

### **COST RECOVERY PROGRAM**

As noted in previous reports current staffing levels are not sufficient to provide the level of oversight this industry requires. In order to address this deficiency, the City Council had previously considered an application fee of \$5,000 and an annual regulatory permit fee of \$60,000. At this juncture staff has completed an assessment of the number and types of positions that are necessary to appropriately and adequately monitor the medical cannabis industry. As a result of this assessment, staff has determined that the application fee of \$5,000 and an annual regulatory permit fee of \$60,000 are not sufficient for a cost-recovery program.

Staff has prepared a proposal for the personnel required to sufficiently regulate the medical cannabis facilities. Attached please find cost analysis worksheets accounting for staff time, actual positions, and all associated costs incurred by the City for maintaining such positions. The worksheets provide an overview of all required staff time from the RFPA process all the way through the annual regulation that the industry requires. In light of these calculations staff has prepared an alternate MFS ordinance that provides for the appropriate level of fees to make this a cost recovering program. Staff recommends approving the alternate fee structure and MFS amendment. Absent fees of this level the city will have an unfunded and insufficiently staffed program that will not be able to provide the appropriate oversight.

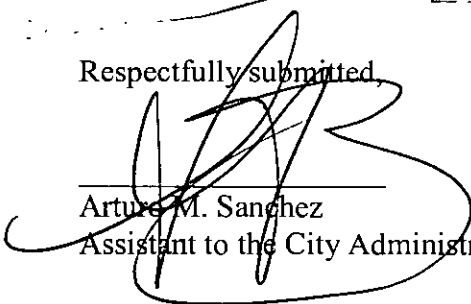
The alternate proposal has a fee structure of \$5,482 for the RFPA process; \$1,988 Permit Renewal Application Fee; Annual Permit Fee of \$169,600 (commencing in 2012); and a FY 2011-2012 Permit Fee of \$133,554.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that the City Council:


1. Accept the staff report and recommendation;
2. Adopt the proposed amendments to Oakland Municipal Code Chapters 5.80 and adopt alternate cost recovering MFS amendment & the Administrative Regulations And Performance Standards For Oakland Medical Cannabis Dispensaries; and
3. Review and provide direction on Draft RFPA for Dispensaries.
4. Direct staff to return in the fall to further discuss the cultivation ordinance, with an appropriate regulatory framework and additional fee structure amendments as necessary to make program cost recovering in nature.

Respectfully submitted,



Arturo M. Sanchez  
Assistant to the City Administrator

APPROVED AND FORWARDED TO  
THE OAKLAND CITY COUNCIL:



Office of the City Administrator

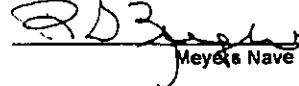
# **PROPOSED ORDINANCE**

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OFFICE OF THE CITY CLERK  
OAKLAND

2011 JUL 14 PM 6:34

**REVISED**

APPROVED AS TO FORM AND CALIFORNIA LEGALITY

  
Meyere Nave Special Counsel

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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### AN ORDINANCE AMENDING CHAPTER 5.80 OF THE OAKLAND MUNICIPAL CODE PERTAINING TO MEDICAL CANNABIS DISPENSARY PERMITS

Now therefore, the Oakland City Council does hereby ordain:

Section I. Amendment to Chapter 5.80

Oakland Municipal Code Chapter 5.80 is hereby amended to read as follows:

5.80.010 - Definitions.

The following words or phrases, whenever used in this chapter, shall be given the following definitions:

A. "Attorney General Guidelines" shall mean the California Attorney General Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use," issued by the Attorney General's Office in August 2008, as amended from time to time, which sets regulations intended to ensure the security and non-diversion of marijuana grown for medical use by qualified patients or primary caregivers.

B. "Cannabis" or "Marijuana" shall have the same definition as Health and Safety Code § 11018, as amended from time to time, which defines "cannabis" as all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant are incapable of germination.

C. "Cannabis dispensary" or "Dispensary" shall mean a collective or cooperative that distributes, dispenses, stores, exchanges, processes, delivers, makes available, transmits and/or gives away marijuana in the City for medicinal purposes to four (4) or more qualified patients and/or primary caregivers pursuant to California Health and Safety Code Sections 11362.5, 11362.7 et seq.

D. "City Administrator" means the City Administrator of the City of Oakland or his/her designee.

E. "Collective" means any association, affiliation, or establishment jointly owned and operated by its members that facilitates the collaborative efforts of qualified patients and primary caregivers, as described in the Attorney General Guidelines.

F. "Medical Marijuana" means marijuana authorized in strict compliance with Health & Safety Code §§ 11362.5, 11362.7 et seq., as such sections may be amended from time to time.

G. "Parcel of Land" means one piece of real property as identified by the county assessor's parcel number (APN) that is one contiguous parcel of real property, which is used to identify real property, its boundaries, and all the rights contained therein.

H. "Primary caregiver" shall have the same definition as California Health and Safety Code Section 11362.7, and as may be amended, and which defines "Primary Caregiver" as an individual designated by a qualified patient or by a person with an identification card who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

1. In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the California Health and Safety Code; a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the California Health and Safety Code; a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2 of the California Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the California Health and Safety Code; a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the California Health and Safety Code; the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.
2. An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

3. An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

I. "Qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 *et seq.*, and as may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5. For purposes of this ordinance, qualified patient shall include a person with an identification card, as that term is defined by California Health and Safety Code Section 11362.7 *et seq.*

J. "Serious medical condition" shall have the same definition as California Health and Safety Code Section 11362.7 *et seq.*, and as may be amended, and which means all of the following medical conditions:

1. Acquired immune deficiency syndrome (AIDS);
2. Anorexia;
3. Arthritis;
4. Cachexia;
5. Cancer;
6. Chronic pain;
7. Glaucoma;
8. Migraine;
9. Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis;
10. Seizures, including, but not limited to, seizures associated with epilepsy;
11. Severe nausea;
12. Any other chronic or persistent medical symptom that either:
  - a. Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).
  - b. If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

K. "Written documentation" shall have the same definition as California Health and Safety Code Section 11362.7 *et seq.*, and as may be amended, and which defines "written documentation" as accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of California Health and Safety Code Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.

5.80.020 – Business Permit required and Application for Permit.

- A. Except for hospitals, research facilities, or an entity authorized pursuant to OMC Section 8.46.030, it is unlawful for any owner, operator, or association to own, conduct, operate or maintain, or to participate therein, or to cause or to allow to be conducted, operated, or maintained, any dispensary in the city of Oakland unless there exists a valid Business Permit in compliance with the provisions of Chapter 5.02 and a permit issued under this Chapter.
- B. This Chapter, and the requirement to obtain a Business Permit, does not apply to the individual possession or cultivation of medical marijuana for personal use, nor does this Chapter apply to the usage, distribution, cultivation or processing of medical marijuana by qualified patients or primary caregivers when such group is of three (3) or less individuals, and distributing, cultivating or processing the marijuana from a residential unit or a single non-residential parcel of land. Associations of three (3) or less qualified patients or primary caregivers shall not be required to obtain a permit under Chapter 5.80, but must comply with applicable State Law and the Attorney General Guidelines.
- C. The City Administrator shall issue no more than eight (8) valid permits for the operation of dispensaries in the City.
- D. In addition to the requirements specified in Section 5.02.020 for Business Permits, the permit application for a dispensary shall set forth the following information:
  - 1. Unless the City Administrator in his/her discretion determines that the location will not impact the peace, order and welfare of the public, evidence that the proposed location of such dispensary is not within six hundred (600) feet of a public or private school, public library, youth center (serving youth age eighteen (18) and under), parks and recreation facilities, residential zone or another dispensary. The proposed dispensary must be located in a commercial or industrial zone, or its equivalent as may be amended, of the City.
  - 2. A complete description of the type, nature and extent of the enterprise to be conducted, with evidence satisfactory to the City Administrator that the enterprise is either a collective or cooperative, as described in the Attorney General Guidelines.
  - 3. A plan of operations that will describe how the dispensary will operate consistent with the intent of State law, the provisions of this Chapter, and the Attorney General Guidelines, including but not limited to:
    - a. controls to verify membership in collectives and cooperatives to ensure medical marijuana will be dispensed only to qualified patients and primary caregivers; and



- b. controls to acquire, possess, transport and distribute marijuana to and from members, and plans to ensure marijuana is acquired as part of a closed-circuit of marijuana cultivation and consumption.
  - 4. A security plan, as a separate document, outlining the proposed security arrangements for ensuring the safety of persons and to protect the premises from theft. The security plan shall be reviewed by the Police Department and the Office of the City Administrator and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).
  - 5. Such other information deemed necessary to conduct any investigation or background check of the applicant, and for the City Administrator to determine compliance with this Chapter, the City's Municipal Code and Zoning Code.
- E. Public notice of the hearing on the application shall be given as provided in Section 5.02.050. The City Administrator shall be the investigating official referred to in Section 5.02.030 to whom the application shall be referred. In recommending the granting or denying of such permit and in granting or denying the same, the City Administrator shall give particular consideration to the capacity, capitalization, and complaint history of the applicant and any other factors that in the City Administrator's discretion he/she deems necessary to the peace, order and welfare of the public. All Applicants shall pay an application fee, a permit fee, and all inspection fees that may be required as part of the application process.
- F. At the time of submission of dispensary permit application, the applicant shall pay a dispensary permit application fee. The fee amount shall be set by City Council resolution.

#### **5.80.030 - Regulations.**

The City Administrator shall establish administrative regulations for the permitting of dispensaries and may set further standards for operation of dispensaries. The dispensary shall meet all the operating criteria for the dispensing of medical marijuana required pursuant to California Health and Safety Code Section 11362.7 *et seq.*, the City Administrator's administrative regulations, and this Chapter.

#### **5.80.040 - Performance standards.**

The City Administrator shall develop and implement performance standards consistent with those set forth in Ordinance No. 12585 in the Office of the City Administrator Guidelines and shall modify such Guidelines from time to time as required by applicable law and consistent with public health, welfare and safety.

The following performance standards shall be included in the City Administrative regulations:

- A. No cannabis shall be smoked, ingested or otherwise consumed on the premises of the dispensary.
- B. The dispensary shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.

**5.80.050 - Regulatory fees; Seller's Permit.**

- A. In addition to the dispensary application fee, the dispensary shall pay an annual regulatory fee at the same as applying for the business tax certificate or renewal thereof. The dispensary shall post a copy of the business tax certificate issued pursuant to Chapter 5.04, together with a copy of the dispensary permit issued pursuant to this Chapter and Section 5.02.020, in a conspicuous place in the premises approved as a dispensary at all times.
- B. The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller's Permit from the State Board of Equalization.
- C. The fees referenced herein shall be set by Council resolution, as modified from time to time.

**5.80.060 - Profit.**

The Dispensary shall not profit from the sale or distribution of marijuana. Any monetary reimbursement that members provide to the dispensary should only be an amount necessary to cover overhead costs and operating expenses.

Retail sales of medical marijuana that violate California law or this ordinance are expressly prohibited.

**5.80.070 Revocation, Suspension and Appeals.**

Notwithstanding Chapter 5.02, any decision by the City Administrator, except for the suspensions or revocations of permits, shall be final and conclusive, and there shall be no right of appeal to the City Council or any other appellate body.

For suspensions or revocations the City shall follow the procedures set forth in Section 5.02.080, except an independent hearing officer shall make the initial determination as to whether to suspend or revoke the permit. The appeal authorized in Section 5.02.100 shall be to the City Administrator, and such request for appeal must be made in writing within 14 days of the hearing officer's decision. The decision of the City Administrator shall be final and conclusive.

**5.80.080 - Prohibited operations; Nonconforming Uses.**

- A. All dispensaries in violation of California Health and Safety Code Section 11326.7 *et seq.* and 11362.5 and this Chapter are expressly prohibited. It is unlawful for any dispensary in the City, or any agent, employee or representative of such dispensary, to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct on the premises of the dispensary.
- B. Except for uses established pursuant to OMC Chapter 8.46, no use which purports to have distributed marijuana prior to the enactment of this Chapter shall be deemed to have been a legally established use under the provisions of the Oakland Planning Code, the Oakland Municipal Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

**5.80.090 - Liability.**

To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Chapter shall not become a personal liability of any public officer or employee of the city of Oakland.

**5.80.100 – Examination of books, records, witnesses – Penalty.**

- A. The City Administrator shall be provided access to any and all financial information regarding the dispensary at any time, as needed to conduct an audit of the permittees under this Chapter to verify tax compliance under Chapter 5.80 and/or gross receipts tax requirements.
- B. The City Administrator is authorized to examine the books, papers, tax returns and records of any permittee for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax due.
- C. The City Administrator is authorized to examine a person under oath, for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax, registration or permit fees due under this Chapter. In order to ascertain the business tax, registration or permit fees due under this Chapter, the City Administrator may compel, by administrative subpoena, the production of relevant books, papers and records and the attendance of all persons as parties or witnesses.
- D. Every permittee is directed and required to furnish to the City Administrator, the means, facilities and opportunity for making such financial examinations and investigations.

E. Any permittee refusal to comply with this Section shall be deemed a violation of this Chapter, and administrative subpoenas shall be enforced pursuant to applicable law.

Section II. Severability.

This Chapter shall be enforced to the full extent of the authority of the City. If any section, subsection, paragraph, sentence or word of this chapter is deemed to be invalid or beyond the authority of the City, either on its face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences, or words of this chapter, and the applications thereof; and to that end the sections, subsections, paragraphs, sentences and words of this chapter shall be deemed severable.

Section III. Effective Date

This ordinance shall take effect immediately if it is passed with six or more affirmative votes; otherwise it will take effect seven days after final passage pursuant to Section 216 of the Charter of the City of Oakland; provided, however, permits shall be issued under this Chapter until \_\_\_\_\_, 2011.

In Council, Oakland, California, \_\_\_\_\_, 2011,

Passed by the Following Vote:

AYES-

NOES-

ABSENT-

ABSTENTION-

Attest: \_\_\_\_\_  
La Tonda Simmons  
City Clerk and Clerk of the Council  
Of the City of Oakland, California



**REDLINE  
DISPENSARY  
ORDINANCE**

\_\_\_\_\_  
Meyers Nave Special Counsel

# OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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## AN ORDINANCE AMENDING CHAPTER 5.80 OF THE OAKLAND MUNICIPAL CODE PERTAINING TO MEDICAL CANNABIS DISPENSARY PERMITS

Now therefore, the Oakland City Council does hereby ordain:

Section I. Amendment to Chapter 5.80

Oakland Municipal Code Chapter 5.80 is hereby amended to read as follows:

**5.80.010 - Definitions.**

The following words or phrases, whenever used in this chapter, shall be given the following definitions:

A. "Attorney General Guidelines" shall mean the California Attorney General Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use," issued by the Attorney General's Office in August 2008, as amended from time to time, which sets regulations intended to ensure the security and non-diversion of marijuana grown for medical use by qualified patients or primary caregivers.

B. "Cannabis" or "Marijuana" shall have the same definition as Health and Safety Code § 11018, as amended from time to time, which defines "cannabis" as all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant are incapable of germination.

C. "Cannabis dispensary" or "Dispensary" shall mean a collective or cooperative that distributes, dispenses, stores, exchanges, processes, delivers, makes available, transmits and/or gives away marijuana in the City for medicinal purposes to four (4)

**Deleted:** be the same, and as may be amended, as is defined in OMC 8.46.020.

**Deleted:** , hereinafter dispensary, shall be construed to include any association, Medical Cannabis Association, cooperative, affiliation, or collective of persons where four or more "qualified patients" and/or "primary care givers", in possession of an identification card, or written recommendation, issued by the county of Alameda, or the state of California, or another agency recognized by the city of Oakland

or more qualified patients and/or primary caregivers pursuant to California Health and Safety Code Sections 11362.5, 11362.7 et seq.

Deleted: Section 11362.7 et seq, to provide education, referral, or network services, and facilitation or assistance in the lawful production, acquisition, and distribution of medical cannabis.

D. "City Administrator" means the City Administrator of the City of Oakland or his/her designee.

Deleted: "Excessive profits" means the receipt of consideration of a value substantially higher than the reasonable costs of operating the facility.

E. "Collective" means any association, affiliation, or establishment jointly owned and operated by its members that facilitates the collaborative efforts of qualified patients and primary caregivers, as described in the Attorney General Guidelines.

Deleted: "Medical cannabis collective" means a cooperative affiliation, association or collective of persons comprised of no more than three "qualified patients" and/or their "primary caregivers" with valid identification cards or written recommendation, to provide education, referral, or network services and to facilitate/assist in the lawful production, acquisition, and provision of medical marijuana to their qualified patients.

F. "Medical Marijuana" means marijuana authorized in strict compliance with Health & Safety Code §§ 11362.5, 11362.7 et seq., as such sections may be amended from time to time.

G. "Parcel of Land" means one piece of real property as identified by the county assessor's parcel number (APN) that is one contiguous parcel of real property, which is used to identify real property, its boundaries, and all the rights contained therein.

H. "Primary caregiver" shall have the same definition as California Health and Safety Code Section 11362.7, and as may be amended, and which defines "Primary Caregiver" as an individual designated by a qualified patient or by a person with an identification card who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

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1. In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the California Health and Safety Code; a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the California Health and Safety Code; a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2 of the California Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the California Health and Safety Code; a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the California Health and Safety Code; the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

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2. An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every

qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

3. An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

I. "Qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 *et seq.*, and as may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5. For purposes of this ordinance, qualified patient shall include a person with an identification card, as that term is defined by California Health and Safety Code Section 11362.7 *et seq.*

Deleted: states a person suffering from a serious medical condition who obtains a written recommendation from a physician licensed to practice medicine in the state of California to use marijuana for personal medical purposes.

J. "Serious medical condition" shall have the same definition as California Health and Safety Code Section 11362.7 *et seq.*, and as may be amended, and which means all of the following medical conditions:

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1. Acquired immune deficiency syndrome (AIDS);
2. Anorexia;
3. Arthritis;
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5. Cancer;
6. Chronic pain;
7. Glaucoma;
8. Migraine;
9. Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis;
10. Seizures, including, but not limited to, seizures associated with epilepsy;
11. Severe nausea;
12. Any other chronic or persistent medical symptom that either:
  - a. Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).
  - b. If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

K. "Written documentation" shall have the same definition as California Health and Safety Code Section 11362.7 *et seq.*, and as may be amended, and which defines "written documentation" as accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of California Health and

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Safety Code Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.

5.80.020 – Business Permit required and Application for Permit.

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A. Except for hospitals, research facilities, or an entity authorized pursuant to OMC Section 8.46.030, it is unlawful for any owner, operator, or association to own, conduct, operate or maintain, or to participate therein, or to cause or to allow to be conducted, operated, or maintained, any dispensary in the city of Oakland unless there exists a valid Business Permit in compliance with the provisions of Chapter 5.02 and a permit issued under this Chapter.

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B. This Chapter, and the requirement to obtain a Business Permit, does not apply to the individual possession or cultivation of medical marijuana for personal use, nor does this Chapter apply to the usage, distribution, cultivation or processing of medical marijuana by qualified patients or primary caregivers when such group is of three (3) or less individuals, and distributing, cultivating or processing the marijuana from a residential unit or a single non-residential parcel of land. Associations of three (3) or less qualified patients or primary caregivers shall not be required to obtain a permit under Chapter 5.80, but must comply with applicable State Law and the Attorney General Guidelines.

C. The City Administrator shall issue no more than eight (8) valid permits for the operation of dispensaries in the City.

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D. In addition to the requirements specified in Section 5.02.020 for Business Permits, the permit application for a dispensary shall set forth the following information:

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1. Unless the City Administrator in his/her discretion determines that the location will not impact the peace, order and welfare of the public, evidence that the proposed location of such dispensary is not within six hundred (600) feet of a public or private school, public library, youth center (serving youth age eighteen (18) and under), parks and recreation facilities, residential zone or another dispensary. The proposed dispensary must be located in a commercial or industrial zone, or its equivalent as may be amended, of the City.

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2. A complete description of the type, nature and extent of the enterprise to be conducted, with evidence satisfactory to the City Administrator

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that the enterprise is either a collective or cooperative, as described in the Attorney General Guidelines.

3. A plan of operations that will describe how the dispensary will operate consistent with the intent of State law, the provisions of this Chapter and the Attorney General Guidelines, including but not limited to:
  - a. controls to verify membership in collectives and cooperatives to ensure medical marijuana will be dispensed only to qualified patients and primary caregivers; and
  - b. controls to acquire, possess, transport and distribute marijuana to and from members, and plans to ensure marijuana is acquired as part of a closed-circuit of marijuana cultivation and consumption.
4. A security plan, as a separate document, outlining the proposed security arrangements for ensuring the safety of persons and to protect the premises from theft. The security plan shall be reviewed by the Police Department and the Office of the City Administrator and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).
5. Such other information deemed necessary to conduct any investigation or background check of the applicant, and for the City Administrator to determine compliance with this Chapter, the City's Municipal Code and Zoning Code.

Deleted: city.

- E. Public notice of the hearing on the application shall be given as provided in Section 5.02.050. The City Administrator shall be the investigating official referred to in Section 5.02.030 to whom the application shall be referred. In recommending the granting or denying of such permit and in granting or denying the same, the City Administrator shall give particular consideration to the capacity, capitalization, and complaint history of the applicant and any other factors that in the City Administrator's discretion he/she deems necessary to the peace, order and welfare of the public. All Applicants shall pay an application fee, a permit fee, and all inspection fees that may be required as part of the application process.

  - F. At the time of submission of dispensary permit application, the applicant shall pay a dispensary permit application fee. The fee amount shall be set by City Council resolution.

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#### 5.80.030 - Regulations.

The City Administrator shall establish administrative regulations for the permitting of dispensaries and may set further standards for operation of dispensaries. The

dispensary shall meet all the operating criteria for the dispensing of medical marijuana required pursuant to California Health and Safety Code Section 11362.7 of seq., the City Administrator's administrative regulations, and this Chapter.

**5.80.040 - Performance standards.**

The City Administrator shall develop and implement performance standards consistent with those set forth in Ordinance No. 12585 in the Office of the City Administrator Guidelines and shall modify such Guidelines from time to time as required by applicable law and consistent with public health, welfare and safety. The following performance standards shall be included in the City Administrative regulations:

A. No cannabis shall be smoked, ingested or otherwise consumed on the premises of the dispensary.

B. The dispensary shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.

**5.80.050 - Regulatory fees; Seller's Permit.**

A. In addition to the dispensary application fee, the dispensary shall pay an annual regulatory fee at the same as applying for the business tax certificate or renewal thereof. The dispensary shall post a copy of the business tax certificate issued pursuant to Chapter 5.04, together with a copy of the dispensary permit issued pursuant to this Chapter and Section 5.02.020, in a conspicuous place in the premises approved as a dispensary at all times.

B. The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller's Permit from the State Board of Equalization.

C. The fees referenced herein shall be set by Council resolution, as modified from time to time.

**5.80.060 - Profit.**

- Deleted: as is
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- Deleted: Oakland
- Deleted: Manager or his/her designee
- Deleted: for the permitting and operation of medical marijuana dispensaries including security concerns. It is unlawful for any person or association operating a dispensary under the provisions of this chapter or any dispensary whatsoever, in the city, or any agent, employee or representative of such person to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct, or otherwise, or to permit such dispensary to remain open, or patrons to remain upon the premises, between the hours of eight p.m.
- Deleted: seven a.m
- Deleted: . the next ensuing day.
- Deleted: Dispensaries, once permitted, shall meet the following operating standards for the duration of the use:
- Deleted: A. . Dispensaries may possess no more than eight ounces of dried marijuana per qualified patient or caregiver, and maintain no more than six mature and twelve (12) immature marijuana plants per ... (1)
- Deleted: B.
- Deleted: C. Dispensary
- Deleted: D. . Dispensary shall maintain records of all patients and on
- Deleted: Every person conducting, managing or maintaining the business
- Deleted: fees
- Deleted: a
- Deleted: annually in advance, and
- Deleted: keep
- Deleted: by the Business Tax Office
- Deleted: the provisions of
- Deleted: 5.12.020
- Deleted: , together with a copy of this chapter, including the regulations
- Deleted: maintained
- Deleted: such
- Deleted: during which such dispensary is being operated.
- Deleted: Compensation.

The Dispensary shall not profit from the sale or distribution of marijuana. Any monetary reimbursement that members provide to the dispensary should only be an amount necessary to cover overhead costs and operating expenses.

Deleted: Dispensary shall receive only compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card, or written recommendation, to enable that person to use marijuana pursuant to California Health and Safety Code Section 11362.7 et seq, or for payment for out-of-pocket expenses incurred in providing those services, or both.

Retail sales of medical marijuana that violate California law or this ordinance are expressly prohibited.

#### 5.80.070 Revocation, Suspension and Appeals.

Notwithstanding Chapter 5.02, any decision by the City Administrator, except for the suspensions or revocations of permits, shall be final and conclusive, and there shall be no right of appeal to the City Council or any other appellate body.

Deleted: cannabis for excessive profits are explicitly prohibited.

Deleted: 5.80.070 - Appeals.

For suspensions or revocations the City shall follow the procedures set forth in Section 5.02.080, except an independent hearing officer shall make the initial determination as to whether to suspend or revoke the permit. The appeal authorized in Section 5.02.100 shall be to the City Administrator, and such request for appeal must be made in writing within 14 days of the hearing officer's decision. The decision of the City Administrator shall be final and conclusive.

Deleted: Notwithstanding Section 5.02.100, any decision, except for suspension and or revocation, pursuant to this chapter by the City Manager or his/her designee

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Deleted: Manager

#### 5.80.080 - Prohibited operations; Nonconforming Uses.

A. All dispensaries in violation of California Health and Safety Code Section 11326.7 et seq, and 11362.5 and this Chapter are expressly prohibited. It is unlawful for any dispensary in the City, or any agent, employee or representative of such dispensary, to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct on the premises of the dispensary.

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B. Except for uses established pursuant to OMC Chapter 8.46, no use which purports to have distributed marijuana prior to the enactment of this Chapter shall be deemed to have been a legally established use under the provisions of the Oakland Planning Code, the Oakland Municipal Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

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#### 5.80.090 - Liability.

To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Chapter shall not become a personal liability of any public officer or employee of the city of Oakland.

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#### 5.80.100 - Examination of books, records, witnesses - Penalty.

- A. The City Administrator shall be provided access to any and all financial information regarding the dispensary at any time, as needed to conduct an audit of the permittees under this Chapter to verify tax compliance under Chapter 5.80 and/or gross receipts tax requirements.
- B. The City Administrator is authorized to examine the books, papers, tax returns and records of any permittee for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax due.
- C. The City Administrator is authorized to examine a person under oath, for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax, registration or permit fees due under this Chapter. in order to ascertain the business tax, registration or permit fees due under this Chapter, the City Administrator may compel, by administrative subpoena, the production of relevant books, papers and records and the attendance of all persons as parties or witnesses.
- D. Every permittee is directed and required to furnish to the City Administrator, the means, facilities and opportunity for making such financial examinations and investigations.
- E. Any permittee refusal to comply with this Section shall be deemed a violation of this Chapter, and administrative subpoenas shall be enforced pursuant to applicable law.

Section ii. Severability.

This Chapter shall be enforced to the full extent of the authority of the City. if any section, subsection, paragraph, sentence or word of this chapter is deemed to be invalid or beyond the authority of the City, either on its face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences, or words of this chapter, and the applications thereof; and to that end the sections, subsections, paragraphs, sentences and words of this chapter shall be deemed severable.

Section iii. Effective Date

This ordinance shall take effect immediately if it is passed with six or more affirmative votes; otherwise it will take effect seven days after final passage pursuant to Section 216 of the Charter of the City of Oakland; provided, however, permits shall be issued under this Chapter until \_\_\_\_\_, 2011.

In Council, Oakland, California, \_\_\_\_\_, 2011,

Passed by the Following Vote:

AYES-

NOES-

ABSENT-

ABSTENTION-

Attest: \_\_\_\_\_  
La Tonda Simmons  
City Clerk and Clerk of the Council  
Of the City of Oakland, California

- A. Dispensaries may possess no more than eight ounces of dried marijuana per qualified patient or caregiver, and maintain no more than six mature and twelve (12) immature marijuana plants per qualified patient.
  - 1. If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs.
  - 2. Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of marijuana under this section.

The City Manager shall set forth in her/his administrative regulations the method and manner in which background checks of employees for dispensaries will be conducted, and which shall set forth standards for disqualification of an employee based on their criminal history.

- D. Dispensary shall maintain records of all patients and or patient caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.7 et seq., as a protection of the confidentiality of the cardholders, or a copy of the written recommendation.
- E. Dispensary shall allow the City Manager or his/her designee to have access to the entities' books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data will be produced no later than twenty-four (24) hours after City Manager or his/her designees request.
- F. The dispensary shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within hundred (100) feet of the premises.
- G. The dispensary shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.

- H. Signage for the establishment shall be limited to one wall sign not to exceed ten square feet in area, and one identifying sign not to exceed two square feet in area; such signs shall not be directly illuminated.
- I. The dispensary shall provide City Manager or his/her designee, the chief of police and all neighbors located within fifty (50) feet of the establishment with the name, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the establishment. The dispensary shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police department or other city officials.
- J. The dispensary shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the City Manager or his/her designee in order to insure that the operation of the dispensary is consistent with protection of the health, safety and welfare of the community, qualified patients and caregivers, and will not adversely affect surrounding uses.

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Page 6: [3] Deleted

compareDocs

Every person conducting, managing or maintaining the business of a dispensary in the city shall, in

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Page 6: [4] Deleted

compareDocs

, together with a copy of this chapter, including the regulations set forth in Section 5.80.030, posted



**MASTER FEE  
SCHEDULE  
AMENDMENT  
PROPOSED  
2010**

**REVISED**

APPROVED AS TO FORM AND CALIFORNIA LEGALITY

**DRAFT**

Meyers Nave, Special Counsel

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2011 JUL 14 PM 6:35

**OAKLAND CITY COUNCIL**

**ORDINANCE No. \_\_\_\_\_ C.M.S.**

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**AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NUMBER 13024 C.M.S., AS AMENDED) TO ESTABLISH A MEDICAL CANNABIS DISPENSARY PERMIT APPLICATION FEE AND AN ANNUAL REGULATORY FEE FOR PERMITTED MEDICAL CANNABIS DISPENSARIES**

**WHEREAS**, on February 17, 2004, the City of Oakland adopted Ordinance No. 12585 C.M.S., amending Title 5 of the Oakland Municipal Code, Entitled **Business Licenses and Regulations**, To Add Chapter 5.80, **Pertaining to Medical Cannabis Dispensaries**, permitting the distribution of medical cannabis to authorized patients through four licensed dispensaries; and

**WHEREAS**, on November 9, 2010 the City of Oakland adopted Ordinance No. 13049 C.M.S., amending Chapter 5.80 of the Oakland Municipal Code pertaining to **Medical Cannabis Dispensary Permits**, increasing the number of licensed dispensaries in the City from four to eight; and

**WHEREAS**, the fee modifications and additions proposed herein, and attached as **Exhibit A**, have been justified and are identified in a report to the Council, entitled "An Ordinance Amending The Master Fee Schedule (Ordinance Number 13024 C.M.S., As Amended) To Establish A Medical Cannabis Dispensary Permit Application Fee And An Annual Regulatory Fee For Permitted Medical Dispensaries; and

**WHEREAS**, it is the City Council's intention to ensure that the city has the capacity and resources to permit, regulate and monitor **Medical Cannabis Dispensaries** permitted under the above referenced ordinance; and

**WHEREAS**, the City Administrator's Office has determined that additional staffing is needed to administer and regulate permitted medical cannabis dispensaries, to include a **Tax Enforcement Officer II, Tax Auditor II, Special Combination Code Enforcement inspectors, City Attorney, Police Officers**, and related administrative support and such resources total a minimum of \$60,000 on an annual basis; the City intends to charge an annual permit fee of \$60,000 for **Medical Cannabis Dispensaries** to cover the costs of this program; and

**WHEREAS**, the City Council finds and determines that establishing a medical cannabis **Dispensary permit and Cultivation of Medical Cannabis permit** application fee of \$5,000 and an annual regulatory fee of \$60,000 for permitted **Medical Cannabis Dispensaries** are necessary to reimburse the City for the costs of performing the various municipal and regulatory functions associated with Chapter 5.80; and

WHEREAS, a Public Hearing was held on July 19, 2011 to review the proposed fees; and now therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

**SECTION 1.** The Master Fee Schedule as set forth in Ordinance Number 13024 C.M.S., as amended is hereby amended to modify and establish a medical cannabis dispensary permit application fee of \$5,000 and an annual regulatory fee of \$60,000 for permitted medical cannabis dispensaries

**SECTION 2.** All revenues generated through the adoption of these fees will continue to be deposited in General Purpose Fund (1010), Org (02111), Account (42411), Project (A252610)

**SECTION 3.** This ordinance shall be effective immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption by the Council of the City of Oakland.

**SECTION 4.** The Master Fee Schedule is hereby amended to read as shown on Exhibit A; additions are indicated by underscoring and deletions are indicated by strike-through-type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed:

This ordinance shall be effective upon approval by the Council of the City of Oakland.

In Council, Oakland, Cahfomia, \_\_\_\_\_, 2011

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, KAPLAN, KERNIGHAN, NADEL, SCHAAF, AND  
PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

Latonda Simmons  
CITY CLERK AND CLERK OF THE COUNCIL  
OF THE CITY OF OAKLAND, CALIFORNIA



**City of Oakland**  
**Master Fee Schedule**  
*Effective On City Council Adoption*

**CITY ADMINISTRATOR**

FEE DESCRIPTION	CURRENT FEE (FY 2010-11 )		PROPOSED FEE (FY 2010-11 )		% CHANGE
	FEE	UNIT	FEE	UNIT	
<b>SPECIAL ACTIVITIES</b>					
<b>F. MEDICAL CANNABIS DISPENSARY PERMITS</b>					
1 Application Fee	400.00	Application	5,000.00	Application	1150.00%
2 Dispensary with four (4) or more qualified patients or caregivers		Non-refundable annual regulatory fee	60,000.00	Non-refundable annual regulatory fee	
2 Dispensary with four (4) to five hundred (500) qualified patients or caregivers	10,000.00	Non-refundable-annual-regulatory fee	10,000.00	Non-refundable-annual-regulatory fee	0.00%
3 Dispensary with five hundred and one (501) to one thousand (1000) qualified patients or caregivers	20,000.00	Non-refundable-annual-regulatory fee	20,000.00	Non-refundable-annual-regulatory fee	0.00%
4 Dispensary with one thousand and one (1001) to one thousand five hundred (1500) qualified patients or caregivers	25,000.00	Non-refundable-annual-regulatory fee	25,000.00	Non-refundable-annual-regulatory fee	0.00%
5 Dispensary with one thousand five hundred and one (1501) or greater qualified patients or caregivers	30,000.00	Non-refundable-annual-regulatory fee	30,000.00	Non-refundable-annual-regulatory fee	0.00%

**ALTERNATE  
MASTER FEE  
SCHEDULE  
AMENDMENT**

**REVISED**

APPROVED AS TO FORM AND CALIFORNIA LEGALITY

**DRAFT**

Meyers Nave, Special Counsel

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

**OAKLAND CITY COUNCIL**

2011 JUL 14 PM 6:36

**ORDINANCE No. \_\_\_\_\_ C.M.S.**

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**AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NUMBER 13024 C.M.S., AS AMENDED) TO ESTABLISH A MEDICAL CANNABIS DISPENSARY PERMIT APPLICATION FEE AND AN ANNUAL REGULATORY FEE FOR PERMITTED MEDICAL CANNABIS DISPENSARIES**

**WHEREAS**, on February 17, 2004, the City of Oakland adopted Ordinance No. 12585 C.M.S., amending Title 5 of the Oakland Municipal Code, Entitled Business Licenses and Regulations, To Add Chapter 5.80, Pertaining to Medical Cannabis Dispensaries, penmitting the distribution of medical cannabis to authorized patients through four licensed dispensaries; and

**WHEREAS**, on November 9, 2010 the City of Oakland adopted Ordinance No. 13049 C.M.S., amending Chapter 5.80 of the Oakland Municipal Code pertaining to Medical Cannabis Dispensary Permits, increasing the number of licensed dispensaries in the City from four to eight; and

**WHEREAS**, the fee modifications and additions proposed herein, attached as Exhibit A, have been justified and are identified in a report to the Council, entitled "An Ordinance Amending The Master Fee Schedule (Ordinance Number 13024 C.M.S., As Amended) To Estabsh A Medical Cannabis Dispensary Permit Application Fee And An Annual Regulatory Fee For Permitted Medical Dispensaries; and

**WHEREAS**, it is the City Council's intention to ensure that the city has the capacity and resources to permit, regulate and monitor Medical Cannabis Dispensaries permitted mnder the above referenced ordinance; and

**WHEREAS**, the City Administrator's Office has determined that additional staffing is needed to administer and regulate permitted medical cannabis dispensaries, to include a Tax Auditor II, Special Combination Code Enforcement Inspectors, City Attorney, Police Officers, and related administrative support and such resources for a portion of Fiscal Year 2011-2012 total a minimum of \$133,554 per permit, to be paid in quarterly installments, therefore the City intends to charge an annual permit fee of \$133,554 per permit for Medical Cannabis Dispensaries to cover the costs of this program, to be collected in quarterly installments; and

**WHEREAS**, the City Administrator's Office has determined that additional staffing is needed to administer and regulate permitted medical cannabis dispensaries, to include a Tax Auditor II, Special Combination Code Enforcement Inspectors, City Attorney, Police Officers, and related administrative support and such resources total a minimum of \$ 169,600 on an annual basis, to be paid in quarterly installments; the City intends to charge an annual permit fee of \$169,600 for Medical Cannabis Dispensaries to cover the costs of this program for Fiscal Year 2012-2013 and each subsequent year thereafter; and

WHEREAS, the City Council finds and determines that establishing a medical cannabis Dispensary Permit RFP application fee of \$5,482 and an annual application Renewal Fee of \$1,988 for permitted Medical Cannabis Dispensaries are necessary to reimburse the City for the costs of performing the various municipal and regulatory functions associated applications for permits pursuant to Chapter 5.80; and

WHEREAS, a Public Hearing was held on July 19, 2011 to review the proposed fees; and now therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

**SECTION 1.** The Master Fee Schedule as set forth in Ordinance Number 13024 C.M.S., as amended, is hereby amended to modify and establish a Medical Cannabis Dispensary Permit RFP application fee of \$5,482, annual renewal application fee of \$1,988, a Fiscal year 2011-2012 Permit Fee of \$133,554, and an annual regulatory fee, every year thereafter, of \$169,600 for permitted medical cannabis dispensaries

**SECTION 2.** All revenues generated through the adoption of these fees will continue to be deposited in General Purpose Fund (1010), Org (02111), Account (42411), Project (A252610)

**SECTION 3.** This ordinance shall be effective immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption by the Council of the City of Oakland.

**SECTION 4.** The Master Fee Schedule is hereby amended to read as shown on Exhibit A; additions are indicated by underscoring and deletions are indicated by strike-through-type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed:

This ordinance shall be effective upon approval by the Council of the City of Oakland.

In Council, Oakland, California, \_\_\_\_\_, 2011

PASSED BY THE FOLLOWING VOTE:

AYES-BROOKS, BRUNNER, KAPLAN, KERNIGHAN, NADEL, SCHAAF, AND

PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

Latonda Simmons  
CITY CLERK AND CLERK OF THE COUNCIL  
OF THE CITY OF OAKLAND, CALIFORNIA



**City of Oakland**  
**Master Fee Schedule**  
*Effective On City Council Adoption*

**CITY ADMINISTRATOR**

FEE DESCRIPTION	CURRENT FEE (FY 2010-11 )		PROPOSED FEE (FY 2010-11 )		% CHANGE
	FEE	UNIT	FEE	UNIT	
<b>SPECIAL ACTIVITIES</b>					
<b>F. MEDICAL CANNABIS DISPENSARY PERMITS</b>					
1 RFP Application Fee		NEW	RFP Application	\$5,482	New
2 Application Fee	400.00		Application	\$1,988.00	Application 397.00%
3 FY 2011-2012 (Only) - Dispensary Permit Fee (New Permits)	New		Non-refundable FY 2011-2012 regulatory fee	\$133,554.00	Non-refundable FY 2011-2012 regulatory fee
2 Dispensary with four (4) or more qualified patients or caregivers			Non-refundable annual regulatory fee	\$169,600.00	Non-refundable annual regulatory fee
2 Dispensary with four (4) to five hundred (500) qualified patients or caregivers	10,000.00		Non-refundable annual regulatory fee	10,000.00	Non-refundable- annual- regulatory fee 0.00%
3 Dispensary with five hundred and one (501) to one thousand (1000) qualified patients or caregivers	20,000.00		Non-refundable annual regulatory fee	20,000.00	Non-refundable- annual- regulatory fee 0.00%
4 Dispensary with one thousand and one (1001) to one thousand five hundred (1500) qualified patients or caregivers	25,000.00		Non-refundable annual regulatory fee	25,000.00	Non-refundable- annual- regulatory fee 0.00%
5 Dispensary with one thousand five hundred and one (1501) or greater qualified patients or caregivers	30,000.00		Non-refundable annual regulatory fee	30,000.00	Non-refundable- annual- regulatory fee 0.00%



**COST  
ANALYSIS  
REGULATORY  
UNIT**

## Actual Cost of RFPA Initial Review

Title: Initial Administrative Processing Fee

Class	Class Name	Top Step Salary	Retirement	Fringe	% FTE	O&M	(S+R+F)* FTE	Total Cost + O&M
cao	EM11 Assistant to the City Administrator	123,698	24,604	48,131	0.01%	9	24	32
cao	SS10: Administrative Assistant	59,189	11,773	23,030	0.01%	4	11	15
oca	AL01 Deputy City Attorney	92,298	18,358	35,913	0.01%	6	18	23
cao	API0 Admin Analyst 1	45,806	9,111	17,823	0.01%	3	9	12

Retirement

CAO	19.89%	Fire	23.67%	CAO	38.91%	Fire	34.58%
OPD (Sworn)	37.48%	FMA	19.89%	Sworn Fringe	34.27%	FMA	38.91%
CEDA	19.89%	OCA	19.89%	CEDA	38.91%	OCA	38.91%

Fringe

O&M

O&M CAO	59.00%	O&M Fire	7.25%	Cost Per RFPA (Fee)	83
O&M PD Investigation	10.25%	O&M FMA	52.00%	Est. Initial Application Fee Based on # of Apps	200
O&M CEDA	52.00%	O&M OCA	52.00%		

Calculation for % FTE:

Class Name	Minutes Per App	Total Hrs Per App	% FTE
Assistant to the City Administrator	15.00	0.25	0.01%
Administrative Assistant	15.00	0.25	0.01%
Deputy City Attorney	15.00	0.25	0.01%
Admin Analyst 1	15.00	0.25	0.01%

Total Cost 16,650

Initial contact with application to ensure the necessary contact  
info Time-stamp and certification  
Public Record Log

### Actual Cost of RFPA Review

Title: Application Processing Fee & Annual Renewal Registration Fee

Class	Class Name	Top Step Salary	Retirement	Fringe	% FTE	O&M	(S+R+F)* FTE	Total Cost + O&M
CAO	EM117 Assistant to the City Administrator	123,698	24,604	48,131	0.24%	175	472	648
CAO	API03 Administrative Analyst	59,189	11,773	23,030	0.24%	84	226	310
CAO	SSI02 Administrative Assistant	45,806	9,111	17,823	0.24%	65	175	240
FMA	EM204 Revenue and Tax Administrator	174,051	34,619	67,723.38	0.24%	218	664	882
CEDA	EM220 Deputy Director Planning & Zoning	179,113	35,626	69,692.90	0.24%	224	684	908
CEDA	IS122 Senior Combination Inspector	106,799	21,242	41,555.46	0.48%	267	815	1,082
OPD	PS152 Lt. Oakland Police Department	130,907	49,064	44,862	0.24%	32	540	573
FMA	PS142 Fire Inspection Services	71,955	17,032	24,882	0.24%	15	274	289
OCA	AL010 Deputy City Attorney	92,298	18,358	35,912.97	0.24%	115	352	468

Retirement

CAO	19.89%	Fire	23.67%
OPD (Sworn)	37.48%	FMA	19.89%
CEDA	19.89%	OCA	19.89%

Cost Per RFPA (Fee) 5,399

O&M

O&M CAO	59.00%	O&M Fire	8.76%
O&M PD Investigation	10.25%	O&M FMA	52.00%
O&M CEDA	52.00%	O&M OCA	52.00%

Est. Initial Application Fee Based on # 150

Total Cost 809,789

Calculation for % FTE:

Class Name	Total Hrs Per App	% FTE
Assistant to the City Administrator	5.00	0.24%
Administrative Analyst	5.00	0.24%
Administrative Assistant	5.00	0.24%
Revenue and Tax Administrator	5.00	0.24%
Deputy Director Planning & Zoning	10.00	0.48%
Senior Combination inspector	5.00	0.24%
Lt. Oakland Police Department	10.00	0.48%
Fire Inspection Services	5.00	0.24%
Deputy City Attorney	5.00	0.24%

Revenue Recognized in the 2011-2012 Proposed

Fringe			
CAO	38.91%	Fire	34.58%
Sworn Fringe	34.27%	FMA	38.91%
CEDA	38.91%	OCA	38.91%

## Actual Cost Staff Costs Annual Renewal Review

Title: Application for Permit Renewal Fee

Class	Class Name	Top Step Salary	Retirement	Fringe	% FTE	O&M	(S+R+F)** FTE	Total Cost + O&M
CAO	EM11 Assistant to the City Administrator	123,698	24,603.61	48,131.05	0.24%	175	472	648
CAO	AP102 Administrative Analyst	59,189	11,772.63	23,030.32	0.24%	84	226	310
CAO	SS102 Administrative Assistant	45,806	9,110.71	17,822.92	0.24%	65	175	240
FMA	EM20 Revenue and Tax Administrator	174,051	34,618.82	67,723.38	0.05%	49	133	182
CEDA	EM22 Deputy Director Planning & Zoning	179,113	35,625.59	69,692.90	0.05%	51	137	188
CEDA	IS122 Supervising Combination Inspector	106,799	21,242.31	41,555.46	0.05%	30	82	112
OPD	PS152 Lt. Oakland Police Department	130,907	26,037.43	50,935.98	0.05%	37	100	137
FMA	PS142 Fire Inspection Services	71,955	14,311.85	27,997.69	0.05%	20	55	75
OCA	AL01C Deputy City Attorney	92,298	18,357.98	35,912.97	0.05%	26	70	97

Retirement

CAO	19.89%	Fire	23.67%
OPD (Sworn)	37.48%	FMA	19.89%
CEDA	19.89%	OCA	19.89%

Cost Per Permit Renewal (Fee) 1,988

O&M

O&M CAO	59.00%	O&M Fire	8.76%
O&M PD Investigation	10.25%	O&M FMA	52.00%
O&M CEDA	52.00%	O&M OCA	52.00%

Estimated Annual Permit Renewals 16

Total Cost 31,809

Calculation for % FTE:

Class Name	Total Hrs Per App	% FTE
Assistant to the City Administrator	5.00	0.24%
Administrative Analyst	5.00	0.24%
Administrative Assistant	5.00	0.24%
Revenue and Tax Administrator	1.00	0.05%
Deputy Director Planning & Zoning	1.00	0.05%
Senior Combination Inspector	1.00	0.05%
Lt. Oakland Police Department	1.00	0.05%
Fire Inspection Services	1.00	0.05%
Deputy City Attorney	1.00	0.05%

Fringe

CAO	38.91%	Fire	34.58%
Sworn Fringe	34.27%	FMA	38.91%
CEDA	38.91%	OCA	38.91%

### Actual Staff Costs of Regulatory Unit Assuming 8 Permits (Dispensary Only)

Title: Annual Operating Fee

Dept	Class	Class Name	Salary	Retirement	Fringe	% FTE	O&M	(S+R+F)* FTE	Total Cost + O&M
CAO	EM117	Assist To the City Administrator	123,698	24,604	48,131	100%	72,982	196,433	269,415
CAO	SS102	Administrative Analyst	45,806	9,111	17,823	100%	27,025	72,739	99,764
CAO	EM138	Deputy City Administrator	174,051	34,619	67,723	20%	20,538	55,279	75,817
OPD	PI79	Police Sergeant	113,178	42,419	38,786	50%	5,800	97,192	102,992
OPD	PI68	Police Officer	98,095	36,766	33,617	100%	10,055	168,478	178,533
FMA	AF022	Auditor II	73,788	14,676	28,710.91	100%	38,370	117,175	155,545
CEDA	IS122	Senior Specialty/Combo Inspector	106,799	21,242	41,555.46	100%	55,535	169,597	225,132
Fire	PS142	OFD Fire Inspector	71,955	17,032	24,882	25%	1,576	28,467	30,043
OCA	AL010	Deputy City Attorney	92,298	18,358	35,913	100%	47,995	146,568	194,563
CAO		Non-Personal/Equipment						25,000	25,000
<b>Subtotals</b>			<b>899,668</b>		<b>337,142</b>		<b>279,876</b>	<b>1,076,928</b>	

**Retirement**

CAO	19.89%	Fire	23.67%
OPD (Swom)	37.48%	FMA	19.89%
CEDA	19.89%	OCA	19.89%

Total Costs 1,356,804.56

Estimated Annual Permits 8

**O&M**

O&M CAO	59.00% w/o NP
O&M Police	10.25% w/ NP
O&M Code Enforcmnt	52.00% w/ NP
O&M Finance	52.00% w/ NP
O&M Fire	8.76%
O&M OCA	52.00%

**Fringe**

CAO	38.91%	Fire	34.58%
Swom Fringe	34.27%	FMA	38.91%
CEDA	38.91%	OCA	38.91%

Cost Per Permit Fee \$ 169,600.57

### Actual Cost Staff Costs of Regulatory Unit Assuming 16 Permits

Title: Annual Operating Fee

Dept	Class	Class Name	Salary	Retirement	Fringe	% FTE	O&M	(S+R+F)* FTE	Total Cost + O&M
CAO	EM117	Assist To the City Administrator	123,698	24,604	48,131	100%	72,982	196,433	269,415
CAO	API03	Administrative Assistant	59,189	11,773	23,030	50%	17,461	46,996	64,456
CAO	SS102	Administrative Analyst	45,806	9,111	17,823	100%	27,025	72,739	99,764
CAO	EM138	Deputy City Administrator	174,051	34,619	67,723	20%	20,538	55,279	75,817
OPD	P179	Police Sergeant	113,178	42,419	38,786	50%	5,800	97,192	102,992
PD	P168	Police Officer	98,095	36,766	33,617	100%	10,055	168,478	178,533
OPD	P168	Police Officer	98,095	36,766	33,617	100%	10,055	168,478	178,533
FMA	AF022	Auditor II	73,788	14,676	28,710.91	100%	38,370	117,175	155,545
FMA	AF022	Auditor II	73,788	14,676	28,710.91	100%	38,370	117,175	155,545
CEDA	IS122	Senior Specialty/Combo Inspector	106,799	21,242	41,555.46	100%	55,535	169,597	225,132
CEDA	IS122	Senior Specialty/Combo Inspector	106,799	21,242	41,555.46	100%	55,535	169,597	225,132
Fire	PS142	OFD Fire Inspector	71,955	17,032	24,882	25%	1,576	28,467	30,043
OCA	AL010	Deputy City Attorney	92,298	18,358	35,913	100%	47,995	146,568	194,563
CAO		Non-Personal/Equipment						25,000	25,000
<b>Subtotals</b>			<b>1,237,538</b>		<b>464,056</b>		<b>401,297</b>	<b>1,579,174</b>	
<b>Retirement</b>								<b>Total Costs</b>	<b>1,980,471.16</b>
		CAO	19.89%	Fire	23.67%				
		OPD (Swom)	37.48%	FMA	19.89%				
		CEDA	19.89%	OCA	19.89%				
<b>O&amp;M</b>								<b>Estimated Annual Permits</b>	<b>16</b>
		O&M CAO	59.00% w/o NP					<b>Cost Per Permit Fee</b>	<b>\$ 123,779.45</b>
		O&M Police	10.25% w/ NP						
		O&M Code Enforcemnt	52.00% w/ NP						
		O&M Finance	52.00% w/ NP						
		O&M Fire	8.76%						
		O&M OCA	52.00%						
				<b>Fringe</b>					
					CAO	38.91%	Fire	34.58%	
					Swom Fringe	34.27%	FMA	38.91%	
					CEDA	38.91%	OCA	38.91%	

**Actual Staff Costs of Regulatory Unit Assuming 8 Permits FY 11-12 (Disp. Only)**

Title: Annual Operating Fee 2011-2012 ONLY

Dept	Class	Class Name	Salary	Retirement	Fringe	% FTE	O&M	(S+R+F)* FTE	Total Cost + O&M
CAO	EM117	Assist To the City Administrator	123,698	24,604	48,131	100%	72,982	196,433	269,415
CAO	AP103	Administradve Assistant	59,189	11,773	23,030	50%	17,461	46,996	64,456
CAO	EM138	Deputy City Administrator	174,051	34,619	67,723	50%	51,345	138,197	189,542
OPD	PI79	Police Sergeant	113,178	22,511	38,786	50%	5,800	87,238	93,038
OPD	P168	Police Officer	98,095	19,511	33,617	50%	5,027	75,612	80,639
FMA	AF022	Auditor II	73,788	14,676	28,710.91	50%	19,185	58,588	77,773
CEDA	IS122	Senior Specialty/Combo Inspector	106,799	21,242	41,555.46	50%	27,768	84,798	112,566
Fire	PS142	OFD Fire Inspector	71,955	14,312	24,882	50%	3,152	55,574	58,726
OCA	AL010	Deputy City Attorney	92,298	18,358	35,913	50%	23,997	73,284	97,282
CAO		Non-Personal/Equipment	-	-	-	-	-	25,000	25,000
<b>Subtotals</b>			<b>913,051</b>		<b>342,349</b>		<b>226,717</b>	<b>841,720</b>	

Retirement

CAO	19.89%	Fire	23.67%
OPD (Swom)	37.48%	FMA	19.89%
CEDA	19.89%	OCA	19.89%

Total Costs 1,068,436.76

O&M

O&M CAO	59.00%
O&M Police	10.25%
O&M Code Enforemtn	52.00%
O&M Finance	52.00%
O&M Fire	8.76%
O&M OCA	52.00%

Estimated Annual Permits 8

Cost Per Permit Fee \$ 133,554.60

Fringe

CAO	38.91%	Fire	34.58%
Swom Fringe	34.27%	FMA	38.91%
CEDA	38.91%	OCA	38.91%

Calculation for % FTE:

Class Name	Portion of FTE	TOTAL % # of Months	% FTE
Assist To the City Administrator	1.00	1.00	100%
Administrative Assistant	0.50	1.00	50%
Administrative Analyst	0.20	0.50	10%
Deputy City Administrator	1.00	0.50	50%
Police Sergeant	1.00	0.50	50%
Police Officer	1.00	0.50	50%
Police Officer	1.00	0.50	50%
Auditor II	1.00	0.50	50%
Auditor II	1.00	0.50	50%
Senior Specialty/Combo Inspector	1.00	0.50	50%
Supervising Specialty/Combo Inspector	1.00	0.50	50%
OFD Fire Inspector	1.00	0.50	50%
Deputy City Attorney	1.00	0.50	50%
Non-Personal/Equipment			

**Actual Cost Staff Costs of Regulatory Unit Assuming 16 Permits FY 11-12**

Title: Annual Operating Fee 2011-2012 ONLY

Dept	Class	Class Name	Salary	Retirement	Fringe	% FTE	O&M	(S+R+F)* FTE	Total Cost + O&M
CAO	EMI17	Assist To the City Administrator	123,698	24,604	48,131	100%	72,982	196,433	269,415
CAO	AP103	Administrative Assistant	59,189	11,773	23,030	50%	17,461	46,996	64,456
CAO	SS102	Administrative Analyst	45,806	9,111	17,823	10%	2,703	7,274	9,976
CAO	EM138	Deputy City Administrator	174,051	34,619	67,723	50%	51,345	138,197	189,542
OPD	P179	Police Sergeant	113,178	22,511	38,786	50%	5,800	87,238	93,038
PD	P168	Police Officer	98,095	19,511	33,617	50%	5,027	75,612	80,639
OPD	P168	Police Officer	98,095	19,511	33,617	50%	5,027	75,612	80,639
FMA	AF022	Auditor II	73,788	14,676	28,710.91	50%	19,185	58,588	77,773
FMA	AF022	Auditor II	73,788	14,676	28,710.91	50%	19,185	58,588	77,773
CEDA	IS122	Senior Specialty/Combo Inspector	106,799	21,242	41,555.46	50%	27,768	84,798	112,566
CEDA	IS122	Senior Specialty/Combo Inspector	106,799	21,242	41,555.46	50%	27,768	84,798	112,566
Fire	PS142	OFD Fire Inspector	71,955	14,312	24,882	50%	3,152	55,574	58,726
OCA	AL010	Deputy City Attorney	92,298	18,358	35,913	50%	23,997	73,284	97,282
CAO		Non-Personal/Equipment	-	-	-	-	-	25,000	25,000
<b>Subtotals</b>			<b>1,237,538</b>		<b>464,056</b>		<b>281,400</b>	<b>1,067,991</b>	

**Retirement**

CAO	19.89%	Fire	23.67%
OPD (Swom)	37.48%	FMA	19.89%
CEDA	19.89%	OCA	19.89%

Total Costs 1,349,390.81

**O&M**

O&M CAO	59.00%
O&M Police	10.25%
O&M Code Enforcmnt	52.00%
O&M Finance	52.00%
O&M Fire	8.76%
O&M OCA	52.00%

Estimated Annual Permits 16

Cost Per Permit Fee \$ 84,336.93

**Fringe**

CAO	38.91%	Fire	34.58%
Swom Fringe	34.27%	FMA	38.91%
CEDA	38.91%	OCA	38.91%

Calculation for % FTE:

Class Name	Portion of FTE	TOTAL % # of Months	% FTE
Assist To the City Administrator	1.00	1.00	100%
Administrative Assistant	0.50	1.00	50%
Administrative Analyst	0.20	0.50	10%
Deputy City Administrator	1.00	0.50	50%
Police Sergeant	1.00	0.50	50%
Police Officer	1.00	0.50	50%
Police Officer	1.00	0.50	50%
Auditor II	1.00	0.50	50%
Auditor II	1.00	0.50	50%
Senior Specialty/Combo Inspector	1.00	0.50	50%
Supervising Specialty/Combo Inspector	1.00	0.50	50%
OFD Fire Inspector	1.00	0.50	50%
Deputy City Attorney	1.00	0.50	50%
Non-Personal/Equipment			



**ADMINISTRATIVE  
REGULATIONS  
AND  
PERFORMANCE  
STANDARDS FOR  
OAKLAND  
MEDICAL  
CANNABIS  
DISPENSARIES**

# ADMINISTRATIVE REGULATIONS AND PERFORMANCE STANDARDS FOR OAKLAND MEDICAL CANNABIS DISPENSARIES

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## I. Introduction

Oakland Municipal Code § 5.80.030 requires the City Administrator to establish and amend administrative regulations for the permitting of dispensaries, and also authorizes the City Administrator to set forth standards for operation of medical cannabis dispensaries.

The definitions set forth in Oakland Municipal Code Chapter 5.80 apply to the interpretation and understanding of these Administrative Regulations (“Regulations”).

## II. Compliance with State Law, Municipal Code and Regulations

The Dispensary shall meet all of the operating criteria for the dispensing of medical marijuana, in compliance with State law, including California Health and Safety Code Section 11362.7 *et seq.*, the Oakland Municipal Code, and the City Administrator’s Regulations for the permitting and operation of medical cannabis dispensaries.

The Dispensary must comply with all applicable state and local laws, policies or regulations, including the Health and Safety Code, the City adopted Building Code, Plumbing Code, Electrical Code, Mechanical Code, Fire Code, and the Americans with Disabilities Act.

The Dispensary must pay the Cannabis Tax as required pursuant to Section 5.04.480 of the Oakland Municipal Code.

The Dispensary must comply with the Conditions of Approval and City Administrator’s Administrative Regulations for Cannabis Dispensaries, including any additions or revisions thereto.

Failure to comply with the Conditions of Approval, City Administrator’s Administrative Regulations for Cannabis Dispensaries, and all applicable local and state laws or regulations may result in the imposition of fines, and suspension or revocation of the Dispensary permit after an administrative hearing. The Dispensary may also be subject to enforcement through the City’s nuisance abatement process and other administrative enforcement mechanisms, civil action, and criminal prosecution.

## III. Permitting

### A. Applications for Permit

The City Administrator shall be responsible for implementing a process for selection of qualified Dispensaries, and may set forth criteria in any request for permit applications standards and requirements to determine a Dispensary's qualifications to meet the City's ordinance, regulations and state law. In addition to the standards set forth in Oakland Municipal Code Chapter 5.80, the Request for Permit Application ("RFPA"), and these Regulations, the City Administrator or his/her designee may consider the history of applicant's operating experience in the City of Oakland during the review of his or her application for Cannabis Dispensary permit or the renewal thereof

In applying for a dispensary permit, the Dispensary shall pay the required regulatory fee, permit application fees, and other processing fees annually in advance as mandated in Chapter 5.80 of the Oakland Municipal Code. Dispensary Permits are valid for one (1) year from the date of issuance. Permit fees shall be due in four (4) quarterly installments, with the initial installment due prior to issuance of the permit.

The Dispensary shall comply with any specific, additional administrative regulations, procedures and measures imposed as conditions of approval by the City Administrator to ensure that the operation of the Dispensary is consistent with protection of the health, safety and welfare of the community and will not adversely affect surrounding uses. Additionally, any approved aspects of the Dispensary's Permit application shall be deemed to be incorporated into the Dispensary's Permit; failure to comply with the Business Plan and other aspects of the permit may be grounds for revocation of the Permit.

#### B. Renewal of Permits

Dispensary Permits must be renewed annually with the City Administrator's Office. Permit Holders shall contact the City Administrator's Office no later than forty-five (45) days before the expiration of the current permit to begin the renewal process. At that time, the Dispensary shall submit verification of the current Business Tax Certificate, audited financial statements for the previous permit term, and any other requested financial documents or information as required by the Oakland Municipal Code or the Regulations. If the Oakland Dispensary is part of a multi-dispensary business or is included as part of a non-dispensary business for tax reporting purposes, the audited financial statements must be for the Oakland dispensary part of the business.

As part of the annual renewal process the Dispensary shall be inspected by the Building Inspector, Fire Marshall, or their designees. Violations of the Oakland Municipal Code shall be corrected within a reasonable time, as determined by the Building Inspector, Fire Marshal or his/her designee. The Dispensary shall provide proof to the City Administrator's Office that there are no outstanding violations of the Oakland Municipal Code.

#### C. Revocation

Suspensions and revocations of permits shall follow the procedures set forth in Oakland Municipal Code Section 5.80.080.

#### **IV. Performance Standards**

A Dispensary shall operate in conformance with the following standards, and such standards shall be deemed to be conditions of approval on the Dispensary's Permit, to ensure that its operation is in compliance with California law, the Guidelines, and Municipal Code, and to mitigate any potential adverse impacts of the Dispensary.

##### **Operations at the Dispensary**

1. The Dispensary shall provide the City Administrator, the Chief of Police, and all neighbors located within fifty (50) feet of the premises with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the Dispensary. The Dispensary shall make a good faith effort to encourage neighbors to call the community relations staff person to try to solve operating problems, if any, before any calls or complaints are made to the City Administrator or Police Department.
2. Medical marijuana shall only be distributed by the dispensary at the property identified and approved as the location for the Dispensary on the permit application.
3. The Dispensary shall only provide, distribute, dispense, give or transmit medical marijuana to qualified patients or primary caregivers.
4. With the exception of security guards, only qualified patients and caregivers shall be allowed inside of the Dispensary.
5. The Dispensary shall not profit from the sale or distribution of marijuana. Any monetary reimbursement that members provide to the dispensary should only be an amount necessary to cover overhead cost and operating expenses. Retail sales of medical marijuana that violate state law are prohibited.
6. The Dispensary may only dispense, store, or transport marijuana in aggregate amounts tied to its membership numbers. The dispensary may possess no more than eight (8) ounces of dried marijuana per qualified patient or caregiver, and maintain no more than six (6) mature and twelve (12) immature marijuana plants per qualified patient. However, if a qualified patient or primary caregiver has a doctor's recommendation that the above quantity does not meet the qualified patient's needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs. For purposes of determining the quantity of marijuana, only the dried mature processed flowers of female cannabis plants or the plants conversion shall be considered.

7. The maximum operating hours for the Dispensary shall be as follows: 7:01 am to 7:59 pm daily. The Dispensary is prohibited from operating between the hours of 8:00 p.m. and 7:00 a.m. the next ensuing day.
8. Dispensaries are encouraged to disclose the percentage level of delta-9 (trans) tetrahydrocannabinol, cannabidiol, and cannabinol in medical cannabis to qualified patients before providing medical cannabis.
9. Dispensaries shall follow the direction of the City Administrator or his/her designee regarding any medical cannabis found to be non-compliant with testing standards. These instructions may extend to any medical cannabis found to be unsafe on the basis of such testing results, or to the Dispensary's operations and practices generally.
10. Representative samples of medical marijuana distributed by the collective shall be analyzed by an independent laboratory to ensure it is free of harmful pesticides and other contaminants regulated by local, state or federal regulatory statutory standards. Any medical marijuana from which the representative sample tested positive for a harmful pesticide or other contaminant at a level which exceeds the local, state or federal regulatory or statutory standards shall be destroyed forthwith.
11. Any medical marijuana provided to collective members shall be properly labeled in strict compliance with state and local laws, regulations and policies.
12. The Dispensary shall not allow cannabis to be smoked, ingested or otherwise consumed on the premises. The term premises includes the actual building, as well as any accessory structures, parking areas, or other immediately surrounding areas.
13. The Dispensary shall not hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.
14. The Dispensary shall post a copy of the Business Tax Certificate issued by the Business Tax Office and a copy of the Cannabis Dispensary Permit issued by the City Administrator's Office in a conspicuous place on the premises.
15. Dispensaries that offer edible marijuana products shall be keep and display the edible marijuana products separate from edible non-marijuana products. In addition, edible marijuana products be clearly labeled pursuant to state or local law, rules or regulations.
16. Dispensaries that manufacture edible medical marijuana products, including but not limited to drinks, infused water, cookies, candy or brownies, shall manufacture the edible products for the sole consumption by qualified patient members in compliance with all applicable state and local laws, including any requirements of the Department of Health.

17. All employees responsible for the handling, processing, dispensing, providing and cultivation of marijuana must be members of the Dispensary. Prior to employment, the employee members must be fingerprinted (live scan) for the purpose of conducting a background check. The purpose is to determine whether the employee has been convicted or plead guilty or *nolo contendere* to the following criminal offenses, or their equivalent if arising out of state:

- a) Health and Safety Code Sections 11350 *et al* (pertaining to controlled substances, with the exception of marijuana related offenses)
- b) Penal Code Section 187 (homicide)
- c) Penal Code Section 207 (kidnapping)
- d) Penal Code Section 211 (robbery)
- e) Penal Code Sections 240-248 (assault & battery)
- f) Penal Code Section 261 (rape)
- g) Penal Code Section 314 (indecent exposure)
- h) Penal Code Section 450 (arson)
- i) Penal Code Sections 458-464 (burglary)
- j) Penal Code Sections 470-483.5 (forgery)
- k) Penal Code Sections 484-502.9 (larceny)
- l) Penal Code Sections 503-515 (embezzlement)

The employee must contact the Chief of Police and/or City Administrator for information related to the processing and cost of the fingerprinting, and any costs must be paid for in advance by the employee applicant. The background checks shall review the last five (5) years of the employee's criminal history. The results of the background checks shall be reported to the City Administrator's Office no later than 30 days following hire of the employee, unless the City Administrator grants an extension of time. If the background investigation determines the employee has been convicted of one of the above offenses, the Dispensary shall no longer employ the member as an employee.

#### Records

18. The Dispensary shall maintain records of its members using only the State of California Medical Marijuana Identification Card number issued by the county or the County's designee, pursuant to California Health and Safety Code Section 11362.7 *et seq.*, or a copy of the written recommendation, as a protection of the confidentiality of the cardholders. The Dispensary shall track when Members' medical marijuana recommendation and/or identification cards expire and enforce conditions of membership by excluding members whose identification card or recommendation are invalid or have expired. Additionally, the Dispensary shall exclude members who are caught diverting marijuana for non-medical use. All membership records shall be maintained on site.

19. The Dispensary shall, by using the patient or caregiver's identification number keep an accurate account of the number of members that visit the Dispensary each month, and also for the entire permit year.

20. Within thirty (30) days of the end of the calendar quarter, the Dispensary shall provide the City Administrator count of the total number of members of the Dispensary, the number of Dispensary visits during the previous calendar quarter.
21. Within thirty (30) days of the end of the calendar quarter, the Dispensary shall provide the City Administrator a listing of the medical marijuana products for sale during the previous calendar quarter, the prices of such products, and the end of quarter quantity on hand, listed in the applicable units, for each product.
22. The Dispensary shall keep accurate records, follow accepted cash handling practices and maintain a general ledger of cash transactions. Additionally, a Dispensary shall maintain records of all members' contribution of labor, resources or money to the Dispensary.
23. The Dispensary shall allow the City Administrator to access the books, records, accounts and all data relevant to its operations for purposes of conducting an audit or examination to determine compliance with the Municipal Code, the Regulations and applicable laws. Books, records, accounts and all relevant data shall be produced no later than twenty-four (24) hours after receipt of the City Administrator's request.
24. The Dispensary shall maintain a log of patient complaints and shall make the log available to the City Administrator upon request. The log shall contain at a minimum the date of the complaint, the complaining patient's identification number or reference to his/her written recommendation, the nature of the complaint, and the action taken by the Dispensary to address the complaint.

#### Facilities

25. The Dispensary must be located six hundred feet (600') from public or private school, public library, youth center (serving youth eighteen (18) and under), parks and recreation facilities, residential zone or another dispensary.
26. The Dispensary shall not permit any breach of peace inside of the dispensary or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct.
27. The Dispensary shall be designed with sufficient sound absorbing insulation so that the noise generated inside the Dispensary is not audible on the premises, beyond that of normal commercial offices, or public rights-of-way, or any other building or other separate unit within the same building as the Dispensary.
28. The Dispensary shall be designed to provide sufficient odor absorbing ventilation and exhaust system so that any odor generated inside the Dispensary is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the Dispensary, if the use only occupies a portion of a building.

29. The dispensary shall provide litter removal services twice (2) each operating day on and in front of the premises and, if necessary, on public sidewalks within one hundred feet (100') of the Dispensary.

### Security

30. Security cameras shall be installed and maintained in good condition, and the camera and recording system must be of adequate quality, color rendition and resolution to allow the identification of an individual. The cameras shall be in use 24 hours a day, 7 days per week, and shall cover the marijuana dispensing areas, storage areas, all doors and windows to the Dispensary, parking areas and other areas as determined by the Chief of Police. The recordings shall be maintained at the dispensary property for a period of thirty (30) days.

31. The Dispensary shall be alarmed with a centrally-monitored fire and burglar alarm system, and monitored by an alarm company properly licensed by the State of California Department of Consumer Affairs Bureau of Security and Investigative Services in accordance with California Business & Professions Code § 7590 *et seq.* and whose agents are properly licensed and registered under applicable law.

32. During Business Hours, the Dispensary shall provide a minimum of three (3) security guards duly licensed by the State of California, Department of Consumer Affairs. Each security guard shall possess a "Security Guard Card" at all times, and shall not possess firearms or lasers.

33. Among other things, Security guards shall be responsible for ensuring compliance with Chapter 8.30 of the Oakland Municipal Code which prohibits smoking within twenty-five feet (25') of any building entrance, exit, window and air intake vent of service buildings.

34. The Dispensary shall direct its security guards to monitor the outside of the premises for loitering and unlawful sale of medical marijuana by members. Further those security persons shall be directed to report to the Dispensary all unlawful sales of medical marijuana by members. The Dispensary shall immediately cease providing medical cannabis to the reported member, and make a report within twenty-four (24) hours to Alameda County Health Department or the doctor that issued the medical marijuana recommendation for the member. If the patient is cleared by county health or its agent, the dispensary may resume the providing medical marijuana to the patient and caregiver. The dispensary shall keep a record of all incidents where members unlawfully provide marijuana to non-members. Additionally, the dispensary shall inform patients and caregivers about this condition and remind them that it is unlawful for them to sell medical cannabis.



35. Windows and roof hatches at the property shall be secured so as to prevent unauthorized entry and also equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency.

36. The Dispensary shall maintain adequate exterior lighting in the parking areas to help provide safety for qualified patients, primary caregivers, and employees.

#### Signage

37. That exterior signage for the dispensary shall be limited to one wall sign not to exceed ten (10) square feet in area, and one (1) identifying sign not to exceed two (2) square feet in area. Such signs shall not be directly illuminated.

38. The dispensary shall, within sixty (60) days of the issuance of permit, post, and thereafter maintain signs inside the Dispensary where they may be easily read by members. Each sign shall be white with black lettering, and shall comply with the following regulations regarding text, size and content:

Sign 1: Font size at least 1 inch; Overall size at least 18" by 33"

#### PATIENT NOTICE

1. YOU HAVE THE RIGHT TO HAVE YOUR PRODUCT REWEIGHED AND SUPPLEMENTED IF IT IS UNDER THE STATED WEIGHT AT THE TIME OF PURCHASE.

2. IF YOU DO NOT HAVE A VALID STATE OF CALIFORNIA IDENTIFICATION CARD ISSUED BY ALAMEDA COUNTY HEALTH DEPARTMENT, THIS DISPENSARY MUST CONFIRM YOUR MEDICAL NEED FOR MARIJUANA. IF YOU HAVE A VALID IDENTIFICATION CARD, YOU SHOULD NOT BE ASKED FOR ADDITIONAL INFORMATION.

Sign 2: Font size at least 1 inch; Overall size at least 18" by 33"

TO REGISTER COMPLAINTS OR COMPLIMENTS ABOUT THIS DISPENSARY, CONTACT: THE CITY OF OAKLAND 510-238-7542

Sign 3: Font size at least 1 inch; Overall size at least 23" by 32"

THE DIVERSION OF MARIJUANA FOR NONMEDICAL PURPOSES IS A VIOLATION OF STATE LAW.

Sign 4: Font size at least 1 inch

THE USE OF MARIJUANA MY IMPAIR A PERSON'S ABILITY TO DRIVE  
A MOTOR VEHICLE OR OPERATE HEAVY MACHINERY.

Sign 5: Font size at least 1 inch

LOITERING AT THE LOCATION OF A MEDICAL CANNABIS  
DISPENSARY FOR AN ILLEGAL PURPOSE IS PROHIBITED BY  
CALIFORNIA PENAL CODE SECTION 647(h).

Sign 6: Font size at least 1 inch

THIS MEDICAL CANNABIS DISPENSARY HAS RECEIVED A PERMIT TO  
OPERATE FROM THE CITY OF OAKLAND

#### V. Effective Date of Regulations and Changes

Any amendments to the regulations shall take effect immediately, and compliance with current regulations shall be required for all new permit applicants.

All dispensaries impacted by a change in the Regulations, including but not limited to, a change in the existing regulations or the addition of a new regulation, shall comply with the changed or new regulation within thirty (30) days of the effective date of the regulation, unless a longer time is approved in advance in writing by the City Administrator.

(Regulations Last Modified \_\_\_\_\_)

1666653.4

**PROPOSED  
DRAFT FOR  
RFPA**



**CITY OF  
OAKLAND**

**THE CITY OF OAKLAND**

**SPECIAL BUSINESS PERMITS DIVISION  
OFFICE OF THE CITY ADMINISTRATOR**

**MEDICAL CANNABIS DISPENSARY PERMIT**

**REQUEST FOR PERMIT APPLICATIONS**

**Mandatory Pre-meeting:  
Submittal Due Date:**

## I. INTRODUCTION

This Request for Permit Applications (RFPA) is issued by the City of Oakland to identify qualified collectives, cooperatives or associations of individuals (Permittees), and solicit applications from such, to engage in a Medical Cannabis Dispensary business in order to provide safe and adequate access to medical cannabis to qualified patients and primary caregivers. Applicants will compete for one (1) of four (4) available Permits to operate a Medical Cannabis Dispensary in the City of Oakland. Selected Permittees will be required to comply with operating standards, regulations, and reporting requirements as identified by the City Administrator or her/his designee.

A mandatory pre-meeting will be held on \_\_\_\_\_. All proposals/applications in response to this RFPA are due on TBD, 2011. Late or incomplete applications will not be accepted.

## II. BACKGROUND

### The Statewide Cannabis Movement

On Nov. 6, 1996 Proposition 215, the California Compassionate Use Act, was enacted by the voters (California Health & Safety Code 11362.5). The law makes it legal for patients and their designated primary caregivers to possess and cultivate cannabis for their personal medical use given the recommendation or approval of a licensed physician. This was expanded through SB 420 on January 1, 2004 to (i) allow patients to associate for purposes of medical cannabis cultivation; (ii) establish a voluntary state ID card system through county health departments; and (iii) establish guidelines or safe harbors as to quantities patients can possess and cultivate, protecting legal patients who stay within the guidelines from arrest.

### Medical Cannabis in Oakland

On February 17, 2004, the City of Oakland adopted Ordinance No. 12585 C.M.S., permitting distribution of medical cannabis to authorized patients through four licensed dispensaries. The City process for administering these Permits and monitoring the dispensaries is considered successful, and has become a role model for the nation. In June 2009, Measure F, which taxed Oakland's medical cannabis dispensaries, passed in a special election by 80% with no formal opposition, indicating recognition of the dispensaries' role in providing a legitimate service to the community.

On November 9, 2010, the City Council amended Ordinance No. 12585 C.M.S. to among many other changes increase the total number of Dispensary Permits from four (4) to eight (8) permits city wide. The purpose was to provide local qualified patients with a sufficient number of Dispensaries to meet their medical needs.

### III. DEFINITIONS

The following words or phrases, whenever used in this RFPA and attached regulations, shall be given the following definitions:

- A. "Attorney General Guidelines" shall mean the California Attorney General Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use," issued by the Attorney General's Office in August 2008, as amended from time to time, which sets regulations intended to ensure the security and non-diversion of marijuana grown for medical use by qualified patients or primary caregivers.
- B. "Applicant" as used only in this Chapter shall be any individual, firm, cooperative, association, collective, or corporations that applies for a Medical Cannabis Dispensary Permit via the RFPA process described herein.
- C. "Batch" as used only in this Chapter shall be defined by City Administrator to mean a discrete quantity of dried cannabis sold.
- D. "Cannabis" or "Marijuana" shall be the same as is defined in Section 5.80.010, and as may be amended.
- E. "Cannabis dispensary" or "Dispensary" shall mean a collective or cooperative that distributes, dispenses, stores, exchanges, processes, delivers, makes available, transmits and/or gives away marijuana in the City for medicinal purposes to four (4) or more qualified patients and/or primary caregivers pursuant to California Health and Safety Code Sections 11362.5, 11362.7 *et seq.*
- F. "City Administrator" shall mean the City Administrator of the City of Oakland, or his/her designee.
- G. "Collective" means any association, affiliation, or establishment jointly owned and operated by its members that facilitates the collaborative efforts of qualified patients and primary caregivers, as described in the Attorney General Guidelines.
- H. "HVAC" is an acronym that stands for the closely related functions of "Heating, Ventilating, and Air Conditioning"—the technology of indoor or automofive environmental comfort. HVAC is particularly important in the design of medium to large industrial and office buildings such as skyscrapers and in marine environments such as aquariums, where safe

and healthy building conditions are regulated with temperature and humidity, as well as "fresh air" from outdoors.

- I. "Local" – means residing in the Oakland City limits.
- J. "Primary caregiver" shall be the same as is defined in OMC 5.80.010, and as may be amended.
- K. "Qualified patient" shall be the same as is defined in OMC 5.80.010, and as may be amended.
- L. "Serious medical condition" shall be the same as is defined in OMC 5.90.010, and as may be amended.
- M. "Written documentation" shall be the same as is defined in OMC 5.80.010, and as may be amended.

#### IV. PURPOSE AND SUMMARY OF PROCESS

The purpose of this RFPA is to solicit applications for Medical Cannabis Dispensary Permits. Please be advised that no Dispensary, awarded a permit by the City, may operate for profit. The City of Oakland is seeking in particular submissions that identify the best business practices to prevent diversion and present a closed loop medical cannabis dispensary. The best submissions will be forward thinking and deploy solutions designed to reduce and address any actual or potential concern the City may have.

##### Application

All Applicant groups will be required to submit an application form, with required attachments, and non refundable application fee of \$5,000.

Complete applications submitted by the deadline will be redacted, assigned a reference number, and submitted to a panel of subject matter experts in the fields of building/construction, business development, revenue, fire, public safety, and environmental planning, with Special Business permit staff acting as a second reviewer of all applicants. Staff's review will be conducted in a blind manner with no reviewer knowing the identity of the applicants.

##### Please Note:

- 1) Incomplete submissions will not be considered; and
- 2) Applications will be immediately determined "null and void" if they do not comply with location requirements (i.e. they are located outside light industrial areas or areas specifically authorized in RFPA).
- 3) Applicants that have been operating in violafion of the Business Tax ordinance will be allowed to apply and participate in the **RFPA** process only if they pay all

prior years and current year taxes, penalties, and interest on gross sales receipts and income. Failure to pay this amount before the date applications are due will cause the application to be considered incomplete, null, and void its submission. In order for the taxes, penalties, and interest to be determined by the application due date, applicants must contact David McPherson, Revenue and Tax Administrator at (510) 238-6650, and present copies of the following documents from the initial year that the business started in the City:

- Income & expense statement (monthly).
- First page of Form 1040 (Front & Back).
- Schedule C of your Tax Return (Profit or Loss for Business or Profession)
- Sales and Use Tax Returns.
- Other: Listing of vendors

If the declaration and supporting documentation is not available an alternative method of assessment will be levied against the business. The assessment will be determined by the square footage of the growing facility. The business tax assessment for prior years shall be \$504 for every 1,000 square feet for each year of operation. For the year 2010, the business tax assessment shall be \$7,560 for every 1,000 square feet for each year of operation. This is based upon estimated gross sales income of \$420,000 per 1,000 square feet at the tax rate of \$1.20 per thousand for the prior years and \$18 per thousand for the year 2010.

All proposed facilities will be inspected by the City of Oakland staff. Failure to disclose pre-existing operations or refusal to submit the requested documents, information, or complying with the business tax assessment will automatically disqualify your business from the RFP process. As a reminder you are attesting to veracity of the information contained in this application. Any misrepresentation, failure to disclose, or withholding of information pertinent to this application process including but not limited to prior operations, board and management composition, pre-constructed sites, gross receipts, length of time operating, etc. will result in immediate disqualification.

If you have any questions, please contact David McPherson, Revenue and Tax Administrator directly at (510) 238-6650 or email [DMcPherson@oaklandnet.com](mailto:DMcPherson@oaklandnet.com).

- 4) Inspections will be conducted with a 12 hour notification afforded to applicants. Any applicant that fails to grant access to the property for inspection will null and void, and immediately disqualified from consideration.

## PHASE I

In addition to the documents submitted in support of the Application, Staff will award points for three (3) components of the Proposal and also will award points in three (3) bonus point categories.



Business Plan Submission & Review

In addition to the documents submitted in support of the Application, Staff will review all applicants, who have submitted all required documents in a timely manner, based on the three (3) central categories during the PHASE I review process:

1. Business Plan, which includes the following information
  - a. Building and Construction
  - b. Security Plan
  - c. Fire Plan
2. Proof of Capitalization
3. Community Benefits Plan

The top ten (10) highest scoring applications, based on three (3) categories above will move on to Phase II.

PHASE II

The top ten (10) Applicants from Phase I review will move on to Phase II allocation of bonus points, examination, and public hearing. Staff will schedule an examination which will be used as a component of Phase II scoring.

Bonus Point Allocations

Each of the ten finalist Applicant's submissions will be reviewed to determine a score based on two (2) bonus point categories, based on their ability to meet or exceed minimum requirements in the two (2) categories:

1. Labor & Employment Practices
2. Product Safety

The Applicants must provide information on how they plan to meet these bonus point categories. Such actions will become a mandatory condition of their permit. Failure to meet or comply with such requirement will subject the Permittee to penalties and/or revocation proceedings.

Examination

All ten (10) finalists will be required to designate a member applicant to take a Cannabis Dispensary exam. The member applicant should be a managing member of the Applicant's Collective. The exam will test the representative of the Applicant's familiarity with Oakland and California law, as well as the Attorney General's guidelines on Medicinal Cannabis. Scores on the examination will be added to original score total.

After all applicants have been allocated their bonus points and exam scores, the four (4) highest scoring Applicants will then be reviewed as part of a public hearing.

Public Hearing

The top four (4) Applicant Dispensaries will be subject to a public hearing noticed to the community where the proposed dispensary is located. Prior to public hearings, all proposed Dispensary sites will have be inspected by a building official to ascertain current condifion of location.

During the Public Hearing, the community will be allowed to present concerns and/or support and provide additional considerations for potential permit conditions that will be created by staff The Public Hearings will be used to determine if the highest scoring Applicants should be issued a permit. Hearing decisions, recommendations, and conditions will be based primarily on community input, site inspection results, business feasibility, and the viability of the proposed location. If an applicant is disqualified as a result of the public hearing then the next highest scoring applicant will have a public hearing scheduled to determine their suitability and viability for a permit.

Permit Issuance and Permit Fees

Staff expects that permits will be issued in September 2011.

The Annual Permit Fee in the amount of \$60,000 will be due in four quarterly installments of \$15,000, with the first installment due upon issuance of the permit and the remaining installments due every three months thereafter. Failure to pay a fee installment within five (5) calendar days of the due date, as set forth in the permit, will be a basis for immediate revocation of the permit.

**V. SUBMITTAL REQUIREMENTS**

Please submit one (1) copy of the completed proposal and transmittal letter to the City Administrator's Office, Special business Permit Division, 1 Frank H. Ogawa Plaza, 11<sup>th</sup> Floor, Oakland, CA 94612, no later than 5:00 p.m., TBD, 2011. The City reserves the right to accept or reject any or all proposals, and reject all proposals not received on time, without appropriate attachments, or submitted at the incorrect location.

All proposals submitted via US Mail or common carrier must be delivered in a sealed package and on the outside of the package or documents must reference the RFPA, Applicant's proposed Dispensary location, the Proposal's submittal date, and location of the delivery of the proposal. Failure to provide the necessary information on the outside of the Proposal, or failure to provide the proposal in a sealed envelope may result in the documents not being accepted.

Required Proposal Elements And Format

1. Transmittal Letter
  - a. Addressed to Mr. Arturo M. Sanchez, Assistant to the City Administrator, Special Business Permits Division.
  - b. Signed by an officer of the Applicant Dispensary and who is also a member of the Dispensary.
2. A letter from Managing Partner declaring under penalty of perjury that he/she has personal knowledge of the information contained in the application and it is true and correct and submitted under his/her supervision.
3. Identification of the primary contact/applicant, who is a member of the Dispensary, who shall be responsible for answering questions and being the point of contact for the City.
4. A copy of the Articles of Incorporation and/or Bylaws filed with the California Secretary of State, and/or other documentation establishing valid Cooperative, Association, or Collective in conformance with the Attorney General's Guidelines.
5. Clearly identify the proposed Dispensary's site address, its conformance with site requirements as mandated by the ordinance and this RFPA. Additionally, Proposal must provide proof of ownership, lease, and or letter of landlord's commitment to lease upon issuance of a permit to this site. The Proposed Dispensary must be located in a commercial or industrial zone, or its equivalent as amended.
6. Identification of all proposed managers of the Dispensary and submit Live Scan applications for each person identified.
7. Proof of Insurance
8. Business Plan which includes, at a minimum contains the information described in the RFPA:
  - a. Building and Constmction
  - b. Security Plan
  - c. Fire Plan
9. Proof of Capitalization, as described in further detail in this RFPA.
10. Community Benefits Plan, as described in further detail in this RFPA.

Rejection of Proposals

Proposals will be rejected for any of the following reasons:

1. The proposal is delivered to the wrong location by  TBD , 2010 at 5:00 p.m. local time.
2. The proposal is received at designated location after designated time.
3. The proposal is not in compliance with the City of Oakland's RFPA requirements and/or any of the required Attachments are missing, including but not limited to a failure by the Applicants to submit all eligible member managers for Live Scan background check by application deadline.
4. The proposal does not contain the required elements or is not organized in the required format.
5. The proposal contains a disclaimer.
6. The Proposal is incomplete.
7. Applications will be immediately determined "null and void" if they do not comply with location requirements (i.e. they are located outside commercial or industrial areas authorized in dispensary ordinance).

Once the final award is made, all RFPA responses, except financial and proprietary information, become a matter of public record and shall be regarded by the City as public records. The City shall not in any way be liable or responsible for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act or the City of Oakland Sunshine Ordinance.

## VI. EVALUATION OF PROPOSALS

### General Principles

Applications for the Medical Cannabis Dispensary Permit received by the deadline set forth above will be reviewed for completeness. No late submissions will be accepted. Application will be rejected if Applicant fails to submit all of the required information, does not comply with the RFPA or the proposed site does not comply with the zoning requirements. Such incomplete applications will not advance to Phase I review.

The best submissions will be forward thinking and deploy solutions that identify the best "green" practices, while employing "sustainable" energy and waste solutions, and implement the "best practices" available in the medical cannabis arenas designed to reduce and address any actual or potential concern the City may have regarding the nuisance behavior, environment, or product safety.

1. All proposals will be evaluated by City staff. The evaluation of the proposals shall be within the sole judgment and discretion of the panel. Proposals will be numerically ranked. The top ten (10) proposals will be submitted in rank order to the City Administrator's designee for bonus point allocation, examination, and a public hearing will be held for the four (4) top Applicants.

2. Upon completion of hearing, the City may issue up to four (4) Permits. Upon issuance of the permit, with appropriate conditions, Permittees may proceed with implementation.

#### Criteria for Evaluation

- A. The following criteria will be used in evaluating and rating the Proposals:
  1. Overall quality of the proposal including responsiveness and conformance to RFPA requirements for content and format;
  2. Quality and appropriateness of proposed Applicant team, professional; experience and background of Applicants;
  3. Appropriate personnel principals, project location, and other key personnel with required experience and skills relevant to this project;
  4. Applicants experience and ability to manage operations of proposed facility, scheduling of work and implementation necessary to operate, cost estimating and budget management;
  5. Primary makeup of applicant corporation's board, and prior ability to work with local government agencies;
  6. Appropriateness of proposed project site, quality of business model, organization, and their knowledge and experience in working with specific legal codes and regulations.
  7. Applicant's use and implementation of solutions designed to reduce and address any actual or potential concerns of the City and its residents.
- B. Submissions will be reviewed to determine the applicant's strength of the Proposal in the following three (3) major categories.

### **VII. CATEGORIES FOR APPLICATION**

1) Overall Business Plan – Each applicant must submit a business plan generally describing their business model and plans. Plans will provide a description of proposed operation and completely detail the overall make up of the corporate entity that will be operating pursuant to the permit. Each plan should detail and articulate all scope of work proposed, partnerships, property and location, and provide as much detail as possible into the day to day operation of the Dispensary. Business plan should also identify how cannabis will be tracked and monitored to prevent diversion. Applicants should identify methods and manners in which they will provide information required by the City to track product in order to prevent diversion. The plan should also articulate how the Applicants business will conform to the regulations of the City of Oakland and the State of California, including but not limited to operating as a not for profit entity or other accepted business model as recognized by the Attorney General's Guidelines.

Applicants should submit a narrative outlining the elements of proposed construction and improvements; timeline for proposed construction and improvements; detailing type and number of anticipated building and construction permits that may be required and factoring in time for acquiring building and construction permits into implementation schedule. Reviewers recognize that these items may be subject to change once permit applications are submitted to building services. Such improvements will be a significant element to a winning proposal if facility is located in an existing industrial area with aging infrastructure. Attached to narrative should be a copy of design plans which include diagrams of proposed construction, electrical, plumbing, fire and security elements.

#### *Security*

Applicants should provide a detailed description of their security plan that includes an assessment of site security by a qualified security consultant. The security component should be broken down into operational and facility security categories. Appropriate plans will have considered all potential security threats and planned for any contingency needed for these situations. A successful Applicant will have both written and physical mechanisms in place to deal with each specific situation. A detailed schematic diagram of alarm systems and placements that also details by when all security measures will be operational will be required.

#### *Operational Security*

Applicants will detail their operational security including but not limited to general security policies for the facility, employee specific policies, training, sample written policies, transactional security, and delivery security. This list is not intended to fully capture all areas for applicant consideration, but instead to guide applicants into thinking about all possible security concerns related to the operation of a Dispensary. Operational portions of a security plan will be scored based on the level of consideration applicant has given to every possible scenario and response to scenario.

#### *Facility Security*

Applicants should provide a description and detailed schematic of the Dispensary's security. In particular the applicant should address ingress and egress access, perimeter security, product security (at all hours), internal security measures for access (area specific), types of security systems (alarms and cameras), and security personnel that will be employed.

#### *Fire Plan*

Applicants should provide a detailed description of their Fire prevention, suppression, and alarm systems that includes an assessment of the facility's fire safety by a qualified Fire prevention suppression consultant. An appropriate plan will have considered all possible fire, hazardous material, and inhalation issues/threats and will have both written and physical mechanisms in place to deal with each specific situation. A detailed

schematic diagram of alarm systems and placements that details by when all fire prevention measures will be operational will be required.

*Note: Submission of these plans to staff via this RFP process does not in any way waive or remove the requirement of eventual permit awardees to apply for and receive permits for any and all construction including electrical, plumbing, fire, and any other permits as may be deemed necessary by the relevant department in charge of said permits. Nor does it guarantee that plans submitted via this RFP will meet the standards and requirements of those permitting agencies. All permit awardees will still be required to complete all the permitting processes for the proposed construction of their facility.*

2) Capitalization – A successful Applicant will have sufficient capital in place to build, secure, and start up the proposed facility. Such costs must incorporate the City's permit fee. The Applicants must provide proof in the form of Letters of Credit sufficient to cover construction, start up and equipment. Financial information should include estimated costs of build, operation, compensation of employees, equipment costs, utility costs, and other O & M as needed. Applicants should provide the following documents to substantiate their ability to operate proposed facility:

- A. Letter of Credit
- B. Three (3) years of Corporate Audited Financials and Tax Returns if entity has existed for three (3) years; otherwise documentation of when entity was established and any tax returns since the establishment of the entity
- C. Three (3) years of financials and taxes for any individual with 20% or greater interest in the business
- D. Sources of capital and how these sources are expected to be expended
- E. Three (3) year Performance

3) Community Benefits - Applicants must demonstrate how they intend to provide their local community with community benefits and mitigate any nuisance and/or negative impacts that the facility's existence may cause. Should the Applicant be successful and be awarded a permit any information contained below for which points were awarded will become a condition of their permit, and the City reserves the right to enforce said condition. Applicants who demonstrate a commitment to their community and to improving the quality of life of their neighbors may receive points for practices that include:

- A. Applicants must show how they plan to have minimal nuisance or negative impacts on their neighbors and community. Nuisance/negative impacts include but are not limited to: noise, odor, increased foot or vehicle traffic, increase in waste or water production, and or increase in safety related concerns.
- B. Applicants must provide to the City how their entity will develop and implement a Community Benefits Program. Programs should be designed to

give back to the community and Oakland residents by assisting in the provision of necessary support services.

- Areas of particular concern to the City would be:
  - Re-entry Jobs and Job Training
  - Domestic Violence
  - Revitalizing Oakland – either with improved infrastructure, providing assistance to Oakland Parks and Recreation Centers, libraries, or funding for arts, culture, and environmental programs.
  - Children and Youth programs and intervention services.
  - Cannabis-Friendly Substance Abuse Education and Rehabilitation Programs
  - Foreclosure Prevention
  - Public Schools

Applicants must detail how they will revitalize the building/site provide neighborhood improvements and will be a beneficial/positive neighbor to the neighborhood.

#### VIII. BONUS POINTS

The Oakland City Council has determined that bonus points should be awarded to RFPA applicants who set out standards, measurable, and/or written commitments (contracts or letters of intent) by which they intend to meet Council Adopted Policies and Procedures, attached here to this RFPA as Exhibit D. Should the Applicant be successful and be awarded a permit, their commitments in bonus points categories will become conditions of their permit, and the City reserves the right to enforce said conditions. Additionally, the City reserves the right to conduct audits to determine whether the Applicant is complying with said condition. Violation of those conditions will be deemed a material breach of the permit, and the City reserves the right to assess a penalty or seek revocation of the permit. All conditions will be monitored and tracked by staff on a regular basis via quarterly audits, unscheduled inspections, reporting requirements, and annual renewal process. The following areas will be considered when awarding bonus points:

1) Labor & Employment Practices (240 Points) Applicants who meet the following labor and employment practices may be awarded up to 240 points:

- A. Applicants must provide compensation to and opportunities for continuing education and training of their employees. Applicants should provide proof of their policy and regulations. The City reserves the right to review employee policies and procedures and to audit their employee records to determine how many employees have participated in education and training programs as well as what programs are being offered and how employees are being compensated to assure that the Dispensary is complying with this condition. (10 points)



- B. Applicants with existing lawful union recognition or collective bargaining agreements to ensure labor peace and stability. (50 points)
- C. Equity participation: Applicants that are 40% local owned and operated. Local owned means 40% of the Applicants not for profit entity board is comprised of Oakland residents and reflective of the diversity of the City of Oakland. (50 points)

Or

A locally owned cooperative Applicant organization with no employees, locally owned means at least 40% of cooperative members are residents of Oakland and reflective of the diversity of the City of Oakland. (50 points)

- D. Applicants that maintain a staff comprised of at least 80% Oakland residents, and hire from Oakland training, employment development centers, and Oakland Union hiring halls will receive bonus points. (50 points)

Or

Applicant cooperatives that are 80% owner/worker locally owned will receive bonus points. (50 points)

- E. Applicants that make a commitment in writing to, whenever feasible, buy at least 50% of their products, equipment, materials from Oakland businesses and hire only local firms for construction. (50 points)
- F. Applicants that provide a living wage to their employees. Wage scale should be provided in writing for all levels of employment at the facility. (10 points)
- G. Applicants should provide Equal Benefits and sign Declaration of Non-Discrimination. (10 points)

2) Product Safety (200 points) Permittees will be required to abide by product safety and testing standards. Applicants whose applications consider such standards in advance will be awarded bonus points.

- A. Applicants who provide information on the product safety and testing standards they will employ, for mold/contaminants and how they will provide this information to the City on a quarterly basis.
- B. Applicants shall explain how, to the best of their ability, they intend to monitor product so that substances that would not be allowed by the Organic Foods Production Act (OFPA) of 1990 and regulations in Title 7, Part 205 of

the Code of Federal Regulations and The National Organic Program (NOP) are not included with their product. Such monitoring may include the curing or treating of product to eliminate any such substances prior to packaging.

## IX. SCORING

1. Responsiveness – A Pass/Fail evaluation will be applied to the determination of responsiveness relative to meeting the requirements of this RFPA. Incomplete applications are deemed to fail for not meeting the requirements of this RFPA.
2. Business Plan (700 points) – The business plan will be evaluated based on responsiveness to items identified in RFPA, capacity to perform the work; familiarity with the difficulties, uncertainties, and risks associated with the work and knowledge of the staff qualifications necessary to the performance of the work. Furthermore, to the extent possible, Proposals will be evaluated based on a demonstrated confidence in their product vision and implementation of a Dispensary, appropriateness of business in surrounding community, ability to clearly articulate business model, and conformance with Oakland and California State Law.
3. Capitalization (200 points) – An evaluation will be made of the overall (a) fiscal health of the proposal; (b) experience and background of organization members in operating successful business ventures; (c) letters of credit and performance bond commitment in an amount sufficient to fulfill the commitments detailed in the overall plan; (d) feasibility and viability of plan from an economic perspective.
4. Community Benefits Plan (100 points) – Applicants must demonstrate how they intend to provide their local community with community benefits and mitigate any nuisance and/or negative impacts that the facility's existence may cause. Applicants who demonstrate a commitment to their community and to improving the quality of life of their neighbors should receive points for sustainable practices that they implement.
5. Additional Preference Points – In addition preference points may be earned as follows:
  - a. *Labor & Employment* (240 points) - Applicants who agree to meet the labor and employment practices outlined above will receive additional bonus points for their ability to meet the subcategories.
  - b. *Product Safety* (200 points) – Applicants will be awarded bonus points based on their ability to show how they will produce cannabis without pesticides, free of mold, bacteria, and other harmful substances, how they intend to test the product for safety, and what steps they will take to make sure their product will be safe for consumption.

6. Examination – will be scored on a 100 point scoring system.

Each category will be reviewed by the Special Business Permit Assistant to the City Administrator, and their respective scores will be added together to provide actual score for the section. The maximum score available for an Applicant, based on categories, would be 1540 points.

## X. NOTICE OF DECISION

Successful applicants will be notified in writing no later than TBD. All applicants who fail to advance to Phase II to will be notified within ten (10) days of the decision, and will be informed of the Proposal's rank and total score. All applicants that proceed to Phase II, but are unsuccessful, will be notified within ten (10) days of decision along with rank and score.

All Permit Awardees will be required, as a condition of their permit, to abide by a timeline of deliverables as proscribed by Permit Staff. Failure to comply with the timeline and or meet a deliverable may result in the assessment of a monetary penalty in the amount of \$1000/day for breach of a permit condition or immediate revocation of permit for repeated failure to abide by deliverables timeline. Deliverables can include, but may not be limited to:

- A. A schedule by when construction plans will be submitted to the appropriate department;
- B. Date by when construction permits must be pulled;
- C. Date by when construction must be started;
- D. Date by when construction will be completed;
- E. Date by which Fire Alarm Systems will be installed and functional;
- F. Date by when Security Measures will be installed and deployed; and
- G. Other measures as may be determined so that staff continues to see movement towards the opening of the Dispensary.

## XI. RESERVATION OF RIGHTS

The City reserves the right to reject any or all proposals, whether or not minimum qualifications are met, and to modify, postpone, or cancel the RFPA without liability, obligation, or commitment to any party, firm, or organization. In addition, the City reserves the right to request and obtain additional information from any candidate submitting a proposal. Furthermore, a proposal **RISKS BEING REJECTED** for any of the following reasons:

- 1. Proposal received after designated time and date.
- 2. Proposal not containing the required elements, exhibits, nor organized in the required format.
- 3. Proposal considered not fully responsive to this RFPA.
- 4. Proposal contains excess or extraneous material not called for in the RFPA.

***AS YOU KNOW, THE CULTIVATION, POSSESSION, DISTRIBUTION AND SALE OF ANY TYPE OF MARIJUANA, INCLUDING MEDICAL MARIJUANA, IS PROHIBITED UNDER FEDERAL LAW. STATE LAW DOES NOT PROVIDE ANY PROTECTIONS FOR VIOLATIONS OF FEDERAL LAW. THUS, MEDICAL MARIJUANA COLLECTIVES PROCEED AT THEIR OWN RISK WITH NO RECOURSE UNDER STATE OR FEDERAL LAW.***

Policy on Confidentiality

The City of Oakland's Special Business Permit Division's (Special Business) Policy on Confidentiality was created to protect the confidential information of City of Oakland ("City") RFPA Applicants. "Confidential information" means all financial and security plan information, electronic and non-electronic, that is furnished to or obtained by Special Business in connection with collection of RFPA or administrative proceedings related to the determination permit applicants and assessment of any taxes, penalties and interest, including, but not limited to,

- (a) Information and documents furnished to or secured by Special Business, or contained in any audit report or findings made in connection with the Special

Business's determination and assessment of any City taxes, penalties and interest;

- (b) Notes, analysis, memoranda or other documents and writings prepared by Special Business relating to the administrative proceeding, which contain, reflect or are based upon, in whole or in part, any information furnished to Special Business by taxpayer in writing or orally;
- (c) Any data or information that is competitively sensitive material, and not generally known to the public, including, but not limited to, the amount or source of income, profits, losses, and expenditures of taxpayer, product or service information, planning information, marketing strategies, strategic plans, contracts, pricing, earnings, costs, expense and other financial, managerial or operational data, symbols, trademarks, trade names, trade secrets, customer/client transactions, customer/client lists, customer/client profiles, employee lists, employee profiles, lender lists, lender information, business plans, business operations and business relationships; and
- (d) All nonpublic personal information.

Notwithstanding any provision to the contrary in the above paragraphs, Special Business's Policy on Confidentiality shall not restrict or prohibit, nor be construed to restrict or prohibit: (1) any disclosures to, or the examination of records by, any city officials, employees, agents, attorneys or consultants made for the purpose of administering or enforcing any provisions of City of Oakland ordinances, or collecting taxes imposed thereby; (2) any disclosures made in connection with any hearing, appeal, or any court action or proceeding relating to the determination or recovery of a tax; nor (3) any disclosure of information which disclosure is compelled by an order of court or other judicial process.

All confidential information such as security plans and financial information will be returned to the applicants.

Attachments:

General Information

Exhibit A – Oakland Municipal Code Chapter 5.80 Medical Cannabis Cultivation

Exhibit B – Current Dispensary Operating Conditions

Exhibit C – California Attorney general Guidelines

Exhibit D - Council Adopted Policies and Procedures

**GENERAL INFORMATION**

1. A pre-proposal conference is scheduled for:

**DATE TIME**

**1 Frank H. Ogawa Plaza, 1<sup>st</sup> Floor, Hearing Room  
Oakland, California 94612**

The pre-proposal conference will cover the following items.

- a. Project information.
- b. 3 major categories
- c. Proposal submittal requirements.
- d. Questions by attendees.

2. All Permit Awardees will be required to abide by Operating Conditions that meet the City of Oakland Policies and Procedures regarding product safety, environment, labor, building, and operational standards as adopted by the Oakland City Council. Attached below are draft operational conditions currently being proposed by staff for the Medical Cannabis Dispensary Permit. These conditions are subject to modification prior to issuance of the permit to successful applicants. Successful Applicants applications will at a minimum clearly delineate how their proposal could meet the operating conditions as set forth below.

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