

CITY OF OAKLAND

AGENDA REPORT

TO: Office of the City Administrator
ATTN: P. Lament Ewell, Interim City Administrator
FROM: Arturo M. Sanchez, Assistant to the City Administrator
DATE: July 12, 2011

Re: 1) **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"; AND**
2) **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 A MEDICAL CANNABIS DISPENSARY PERMIT & TO ESTABLISH A CULTIVATION OF MEDICAL CANNABIS PERMIT APPLICATION FEE AND AN ANNUAL REGULATORY FEE FOR A MEDICAL CANNABIS CULTIVATION PERMIT**

SUMMARY

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 of Oakland's process for administering these permits and monitoring the dispensaries is considered successful, and has become a role model for the nation.

In 2010 the Oakland City Council considered several amendments to the Dispensary ordinance including but not limited to increasing the number of Dispensary permits and modifying local law to clarify regulations. The Council read and approved such ordinance in early December 2010. Subsequently the Council was advised by the City Attorney's office of growing federal and local law enforcement concerns regarding our local ordinances. At which time the City Council decided to revisit the ordinances so that the matter could be reviewed in light of potential legal harm to the City. The matter was referred to outside counsel, Meyers Nave a professional legal corporation, experienced in municipal law and with experience in medical cannabis legislation.

Meyers Nave has drafted the attached ordinance modification intended to bring our local legislation into greater conformance with State law.

Council is being asked to:

1. Adopt an ordinance amending the existing dispensary ordinance and increasing the number of medical cannabis dispensaries that can be permitted by the City Administrator from four (4) to eight (8) under OMC 5.80. The amendment to the medical cannabis dispensary ordinance will address one of the issues raised to the Council by other government agencies. In the prior

Item: _____
Public Safety Committee
July 12, 2011

approval of the modifications proposed last year concerns were raised regarding the limited number of permits not ensuring that the diversity of Oakland's many communities would be served. The City's Business Tax Revenue Division reports that Oakland's four permitted dispensaries generated 28 million dollars in gross sales last year. By expanding the number of dispensaries, the City will ensure that it does not promote a situation where the market is dominated by a small number of participants who are able to collectively exert control over supply and the market prices of medical cannabis, and ensure that the diversity and different communities of Oakland are served by encouraging dispensaries to reflect and serve the cultural and geographic diversity of Oakland.

2. Adopt an ordinance amending the existing cultivation ordinance that was adopted in 2010 and whose implementation was stopped pursuant to concerns expressed by other government agencies. The cultivation amendments are intended to require the issuance of a separate license for cultivation, with a separate licensing fee; each medical marijuana dispensary would be a cooperative or collective, with all members thereof being a primary caregiver, a qualified patient, or a person with an ID card, as those terms are used in the Health & Safety Code. Only members of the dispensary could engage in cultivation under the license; only a medical marijuana dispensary, licensed by the City, could apply for a cultivation license; The Industrial Cultivation Ordinance requires compliance with Attorney General Guidelines for cultivation facilities and sets a limit of 25,000 square feet for each cultivation location. An industrial cultivation facility permit may include more than one cultivation facility, but the maximum amount of cultivation permissible under an industrial cultivation facility will be based on allowable amount of cultivation for each member or the affiliated dispensary. All medical cannabis cultivated at an industrial cultivation facility shall only be sold to the affiliated dispensary. The cultivation site would not have to be at the same site as the dispensary.

3. Adopt the Attached Master Fee Schedule Amendment to allow for a \$ 5000 one-time non-refundable application fee and annual permit fees of \$60,000 of each dispensary permit and \$211,000 for each industrial cultivation facility permit.

4. Review and approve the attached Request For Permit Applications (RFPAs) for consistency with the Council directed policy and regulations. Staff will first issue an RFPAs for the four new dispensary permits and upon granting of these permits would then publish and request RFPAs responses from dispensaries that are interested in cultivation permits.

BACKGROUND

The Statewide Cannabis Movement

On Nov. 6, 1996 Proposition 215, the California Compassionate Use Act, was enacted by the voters and took effect as 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 SB420 on January 1, 2004 to allow patients to form medical cultivation “collectives” or “cooperatives”; and established a voluntary state ID card system run through county health departments. SB 420 also establishes guidelines or safe harbors as to how much 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's of Oakland's 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, the taxation of Oakland's medical cannabis dispensaries, passed in a special election by 80% with no formal opposition, indicating recognition by Oakland residents the dispensaries' role in providing a legitimate service to the community.

Key Issues And Impacts

Cannabis Dispensary sales increased by 40% between 2008 and 2009, with Oakland's four permitted dispensaries generating 28 million dollars in gross sales last year. The City Administrator's waiting list of interested applicants combined with the weekly requests for information by prospective dispensaries at the Small Business Assistance Center indicate that there continue to be business opportunities in dispensing medical cannabis in Oakland.

Currently the Cannabis Dispensary permitting program is not fully cost recovering the addition of Cultivation permits will further impact staff resources and time in the administration of the cannabis permits. Currently the administrative costs of regulating four dispensaries exceed one administrative level FTE.

Application and Permit Fees

In 2010 the council approved a one time non-refundable application fee of \$5000 and annual permit fees of \$211,000 for the Cultivation permits. At the time these permits envisioned stand alone businesses that did not have closed loop ties to permitted dispensaries. The current ordinance modification proposed by staff requires a closed loop connection to the permitted dispensaries. Staff requests direction as to whether the council feels that the annual permit fees should remain at \$211,000 or if they should be reduced. It is important to note that regardless of close loop tie in the oversight and as a result the demands for staff time required for these facilities will remain the same. The Annual Industrial Cultivation Permit Fee in the amount of \$211,000 will be due in four quarterly instalments of \$52,750 due upon issuance of the permit and every three months immediately thereafter. Failure to pay a fee installment within five (5) days of the due date, as set forth in the permit, will be a basis for immediate revocation of the permit.

In late 2010 and early 2011 Councilmember Kaplan proposed adding a \$5000 application fee and a \$60,000 annual permit fee for dispensaries. The basis for these increases were similar to those for the Cultivation Permit fees and included the cost of the application process which will include background checks, tests on legal knowledge, business plan review, site and planning review, etc. ranked by a point system. The point system would award bonus points for preferred but not required practices, such as local ownership, third party regulating components, workforce development plans, environmental sustainability, demonstration of a commitment to responsible labor standards and community benefits. Staff recommends adoption of the permit and application fees as proposed by Councilmember Kaplan that will allow this program to be managed at a cost recovery level.

Fees

The fees are based on cost recovery for the work of several staff from different departments, including but not limited to staff from the City Administrator's office, City Finance and Management, legal and administrative support. The staff assigned to these matters will be subject matter experts with a focus on managing cannabis based issues from changing laws and field innovation, to nuisance and monitoring of permitted facilities. Since this is an emerging industry, in addition to permitting, enforcement and monitoring of permitted facilities, staff can be encouraged to work with cannabis industry representatives on an ongoing basis in the development and evaluation of standards for the operations of medical cannabis related establishments, as well as investigate reports of illicit cannabis related cultivation, manufacturing and processing activities and pursue enforcement. Fees will be deposited in General Purpose Fund (1010), Org (02111), Account (42411), Project (A252610)

Staffing

Code Enforcement Capacity, the City Administrator's office, Finance Department, City Attorney's Office and Oakland Police Department all play important roles in the permitting, regulation and monitoring of the Cannabis Program. The regulatory fees cover staff time for monitoring, regulation, documenting breach, and nullifying permits. The proposed regulatory fee will be cost recovering. The application process would be similar to that currently utilized in the dispensary permitting process with background checks, tests on legal knowledge, business plan review, site and planning review, etc. ranked by a point system.

The staffing needs related to the activities of this chapter are about the development of monitoring and regulation for an emerging industry and not simply the regulation of a nuisance activity, the proposed fees will allow the City to adequately staff the program in a cost covering manner a necessity in light of the current fiscal status of the City. This level of funding will ensure that staff stay current with industry innovation, the changing county, state and federal regulatory environment and can dedicate the time needed to work with the industry in the development of standards, guidelines and systems for the implementation of a fully functioning program. It is estimated that this can be a cost covering program with a regulatory fee schedule of \$60,000 per dispensary permit and \$211,000 per cultivation permit, fees that are separate and distinct from the application fee. The application fee will be non-refundable and is intended to

recover the costs associated with handling the number of expected applications which can be as high as 200 applicants.

The permit fee is based on the need to monitor, audit, and inspect the permit awardees. Staff estimates that an extensive amount of staff time will be required to assure that there is no diversion that facilities operate as permitted, abide by building construction and electrical requirements, as well adequately report and pay their taxes. This extensive level of review and auditing will require that staff be added to adequately monitor the permittees.

The additional staff will primarily be housed in their respective departments which include but are not limited to the City Administrator's office, City Finance and Management, Community and Economic Development Agency, and the City Attorney's office. However, all staff assigned to work on cannabis matters they will be required to attend meetings and coordinate activities with the Special Business Permit Division of the City Administrator's office. Staff estimates that with eight (8) cultivation and eight (8) dispensary facilities and the expected monthly reporting that will be required the following additional staff will be necessary:

1 FTE Administrative Analyst II Primary staff to administer and over see the permit renewal process, responsible for transfer permits, coordinate annual renewal documentation and application, schedule regular site inspections, track product reports, and verify dispensary information on a consistent basis, as well as assist in annual permit renewal inspection and audit;

1 FTE Administrative Assistant II Primary responsibility will be to provide administrative support to permit staff and inspector. Including but not limited to sending out violations notices, scheduling meetings, managing budget, purchasing office supplies and equipment, and other general clerical as may be required.

2 FTE Special Combination Code Enforcement Inspector III Responsible for monitoring all the construction of building, electrical, plumbing, and other structural changes throughout the life of the permit. Complexity of the structures, electrical and plumbing equipment installation necessary for a cultivation facility require senior level position. Inspectors will also be asked to conduct surprise inspections to make sure no expansion through unpermitted construction occurs, monitor that electrical components are maintained properly, respond to complaints, and assist in annual inspection;

.75 FTE Tax Enforcement Officer II and 2FTE Level 3 Tax Auditors who will comprise a team that will in conjunction with monthly site visit by CAO staff be responsible for quarterly review of financials and sales submitted by dispensaries and cultivation, manufacturing and processing facilities as well as annual review of audited financials and industry related tax enforcement.

.5 FTE Deputy City Attorney II Due the novel scope of regulation, subject area specialist is needed to advise on both enforcement against illicit grows and changing laws related to permitted facilities.

The number and level of Finance and Management staff required above are a direct reflection of the current state of affairs regarding the cannabis industry. At this time, we see that Finance and Management dedicate significant staff time in the enforcement of Business License and Tax policies on the developing cannabis industry. Currently they do not have enough staff to adequately track and tax all the new and emerging companies with an affiliation to cannabis, businesses such as delivery services, online sales, etc. that are conducting business in the City of Oakland without paying local business taxes.

It is important to note that The Oakland Police Department (OPD) has expressed concerns regarding their participation in the permitting of an industry that is still not recognized as lawful by the Federal government. Security and safety of the facilities have always been a high priority of the City Council and Staff, in order to address this concern staff has included a \$150,000 annual line item for 3rd party security consulting services. The outside firm or consultant would be recruited and contracted, with the assistance of OPD staff, to assess security of proposed facilities, verify security measures implemented, conducted spot security assessments and recommendations, and assure staff that adequate security measures are being utilized by the permit awardees to maintain a secure facility to safe guard against diversion, theft, and nuisance behavior, including adequate background checks on all employees.

However, it is important to remember that since this is an emerging industry, in addition to permitting, enforcement and monitoring of permitted facilities, staff can be encouraged to work with cannabis industry representatives on an ongoing basis in the development and evaluation of standards for the operations of medical cannabis related establishments, as well as investigate reports of illicit cannabis related cultivation, manufacturing and processing activities and pursue enforcement.

Bonus Points

Staff has prepared draft RFPA's that include preference points that the Oakland City Council has determined 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. Should the Applicant be successful and be awarded a permit of the city their commitments in bonus points categories will become a condition of their permit, and the City would reserve the right to enforce said condition. If a violation of condition occurs it will be deemed a material breach and the City would reserve 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, surprise inspections, reporting requirements, and annual renewal process. The following criteria areas will be considered when awarding bonus points in the 2nd round of scoring as directed by Council in 2010:

1) Labor & Employment Practices (240 Points) Applicants who meet the following labor and employment practices:

- 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. Should the Applicant be successful this would become a condition of their permit, and the City would reserve the right to review

Item: _____
Public Safety Committee
July 12, 2011

their 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 they are complying. (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. Should the Applicant be successful their commitment would become a condition of their permit, and the City would reserve the right to audit their board and ownership information to assure that they are complying. (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. Should the Applicant be successful their commitment would become a condition of their permit, and the City would reserve the right to audit their board and ownership information to assure that they are complying. (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. Such commitment will be made a condition of the permit issued should the Applicant be successful. (50 points)

Or

Applicant cooperatives that are 80% owner/worker locally owned will receive bonus points. Should the Applicant be successful their commitment would become a condition of their permit, and the City would reserve the right to audit cooperative ownership information to assure that they are complying. (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. Should the Applicant be successful their commitment would become a condition of their permit, and the City would reserve the right to audit their expenditures to assure that they are complying with their local purchase requirements. (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. Should the Applicant be successful their commitment would become a condition of their

- permit, and the City would reserve the right to audit their salary ranges and wage scales to assure that they are complying. (10 points)
- G. Applicants should provide Equal Benefits and sign Declaration of Non-Discrimination. Should the Applicant be successful their commitment would become a condition of their permit, and the City would reserve the right to audit their employee policies and procedures to assure that they are complying. (10 points)

2) Environment (Bonus Points 220) Bonus points will be awarded based on three categories: a) Energy, Building & Climate; b) Water; and c) Materials & Waste. Should the Applicant be successful and be awarded a permit of the city, any area contained below for which bonus points were awarded will become a condition of their permit, and the City would reserve the right to enforce said condition.

Energy, Building & Climate (100 points)

- A. Provide a description of how the facility and all operations will maximize energy efficiency
- B. Apply and use available PG&E programs offering free technical assistance for design and construction of building shell, tenant improvements, building systems and processes where applicable (some may only apply to new construction)
- C. Provide a description of how renewable energy will be used on-site or purchased (e.g., solar panels)
- D. Provide estimates of projected total facility energy consumption and greenhouse gas emissions
- E. Provide an estimate of energy use and a summary of the approach to be taken for lighting of cultivation area (e.g., number and type of lights per 10,000 square feet)
- F. Provide a description of efforts to reduce transportation emissions (e.g., use of biofuels, electric vehicles)
- G. Provide a description of any other efforts to reduce or offset greenhouse gas emissions associated with the facility and operations (e.g., achievement of climate neutrality through efficiency, renewables and offsets)
- H. Provide a description of how existing Brownfield sites, if applicable, will be remediated and used for the planned facility

Water (40 points)

- A. Provide a description of how water conservation and efficiency strategies will be developed (e.g., use of EBMUD technical assistance)
- B. Provide a description of any efforts to recycle and/or treat water on-site

- C. Provide a description of how the use of toxic materials will be minimized or prohibited in all aspects of proposed operation. (e.g., use of organic fertilizers, non-toxic pesticides)

Materials & Waste (80 points)

- A. Development of zero waste plans for operations with detail on efforts to be undertaken
- B. Provide a description of packaging to be used, including expected use of recycled content materials, recyclable materials, and reusable materials, including plans for reuse
- C. Provide a description of how others up and down the supply chain will be engaged to maximize material reuse, minimize packaging, etc. (e.g., delivery in reusable containers)
- D. Provide a prediction of operational phase waste stream broken down by garbage vs. recycled vs. composted material by volume
- E. Describe the extent to which organic fertilizers and pesticides will be used
- F. Provide a description of how toxic chemicals will be prevented from entering water, air and ground resources

3) 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. Should the Applicant be successful and be awarded a permit of the City any area contained below for which bonus points were awarded will become a condition of their permit, and the City would reserve the right to enforce said condition.

- A. Applicants who detail how growing condition used to produce the plants will produce a plant free of mold, disease, heavy metals, etc.
- B. Applicants that provide product safety through UV exposure or other non-toxic treatment mechanisms to guarantee product safe for patient use
- C. 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.
- D. 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.

- E. Applicants will explain how they intend to reduce the use of pesticides and be prepared to maintain such commitment as a component of their permit to operate.

Penalties and Assessments against Illegal operators

In 2010 the City Council directed staff to require that any illegal operator operating prior to the adoption and implementation of the cultivation ordinance be required to pay all business, tax licenses, taxes, and penalties prior to applying for a permit. To achieve this staff would require as part of RFPA that applicants that have been operating in violation of the Business Tax ordinance will only be allowed to apply and participate in the RFPA process 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.

Since the new proposed ordinances will tie the cultivation facilities to permitted dispensaries staff recommends the following language for disclosure and penalty assessment against any applicant who chooses to apply for a dispensary permit but may already be operating an illegal cultivation facility, similar language would also be reiterated in the cultivation permit RFPA:

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) All Applicants must disclose if they have ever maintained either an illegal/unpermitted dispensary or illegal/unpermitted cannabis cultivation facility within the City of Oakland proper. Please be advised that the City has maintained records of complaints of illegal unpermitted dispensaries and cultivation sites and reserves the right to disqualify applicants if they fail to disclose affiliations and or connections to illegal unpermitted grows, regardless of when the information is presented to the city. In addition if an applicant is successful in obtaining a dispensary permit and in the process of applying for an affiliated Cultivation of Medical Cannabis permit, the city becomes aware of the Applicants having previously maintained or operated an illegal unpermitted grow then the city reserves the right to disqualify the Applicant from consideration for a Cultivation of Medical Cannabis Permit and may revoke the issued dispensary permit.
- 4) All proposed site locations will be inspected during Phase I review to verify space and condition of space so as to determine if a dispensary has been operating prior to being issued a permit. If staff determines that an operation is pre-existing but did not disclose and or failed to pay past taxes, penalties, and interest because of such failure to disclose the application will be null and void, and immediately disqualified from consideration.
- 5) 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 be null and void, and immediately disqualified from consideration.
- 6) Applicants that have been operating/operated either a cultivation or dispensing business in violation 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 the Revenue and Tax Administrator, 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 the Revenue and Tax Administrator directly.

Policy on Confidentiality

Prior to the publication of the initial RFPA in November of 2010 there was a concern expressed about the privacy policy in place regarding the application for cultivation permits. In response to this concern and with the assistance of the City Attorney's Office the following language has since been added to the RFPA:

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 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 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.

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.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed ordinance should have an immediate positive effect on the local economy by generating new employment opportunities for Oakland residents, placing Oakland at the forefront of a new and promising green industry, and generating tax revenue from the cultivation and dispensary permits.

Environmental: The proposed regulations and operating standards have been drafted to provide a framework for the administration to require the industry to be as environmentally sound and responsible as possible. Further the ordinance provides the administration the flexibility to promulgate further operating conditions that will help insure this industry remains environmentally friendly.

Social Equity: The City of Oakland has historically supported the need to create and provide Oaklanders with more employment opportunities in a socially equitable manner. Recognizing and fostering the continued development of an industry which provides for the safe access of medicinal marijuana sufficient to meet the needs of patients meets the social equity goals of the Oakland City Council.

DISABILITY AND SENIOR CITIZEN ACCESS

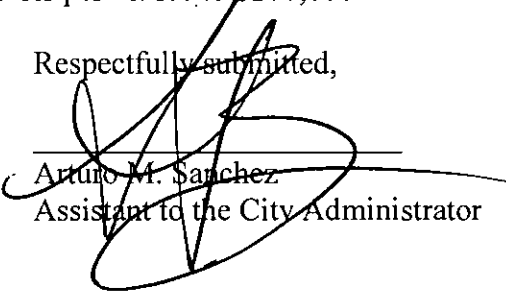
Safe access to and availability of medicinal marijuana is important to those disabled and or chronically pain ridden seniors who rely on medical marijuana in their daily routine as a way to cope with pain.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council:

1. Accept this report.
2. Adopt the proposed amendments to the Oakland Municipal Code
3. Approve the Bonus points and RFPA process outlined by staff
4. Amend The Master Fee Schedule (Ordinance Number 13024 C.M.S., As Amended) To Establish A Medical Cannabis Dispensary Permit Application Fee Of \$5,000 And increase the annual Medical Cannabis Dispensary permit fee to \$60,000 & To Establish a Cultivation of Medical Cannabis Permit Application Fee Of \$5,000 And an annual Cultivation of Medical Cannabis permit fee to \$211,000

Respectfully submitted,


Arturo M. Sanchez
Assistant to the City Administrator

**APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:**

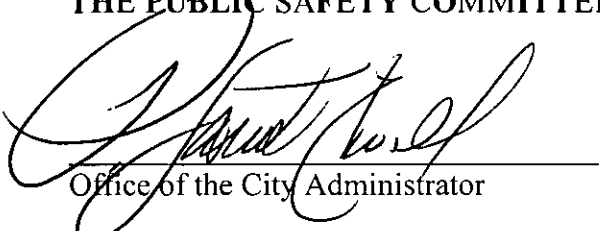

Office of the City Administrator

Exhibit A – Ordinance Amending Oakland Municipal Code Chapter 5.80 “Medical Cannabis Dispensary Permits”

Exhibit B – Ordinance Amending Oakland Municipal Code Chapter 5.81 “Cultivation Of Medical Cannabis”

Exhibit C – Ordinance Amending the Master Fee Schedule Ordinance Number 13024 C.M.S., As Amended

Exhibit D – Notice and Digest

Exhibit E – Administrative Regulations For Dispensaries

Exhibit F – Conditions of Approval and Admin Regulations for Medical Cannabis Industrial Cultivation Facilities

Exhibit G - RFPA Cannabis Dispensary

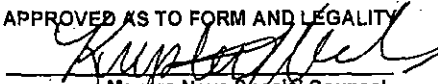
Exhibit H - RFPA Cannabis Cultivation

EXHIBIT A

Ordinance Amending Oakland Municipal
Code Chapter 5.80 "Medical Cannabis
Dispensary Permits"

FILED
OFFICE OF THE CITY CLERK
2011 APR 08 PM 5:00

APPROVED AS TO FORM AND LEGALITY


Meyers Nave Special Counsel

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

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.

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

1620119.5

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

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 2006, 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.

Deleted: be the same, and as may be amended, as is defined in CMC 6.46.020.

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

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:

Deleted: et seq
Deleted: a
Deleted: , or "medical cannabis collective"
Deleted: , or a written recommendation,

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.

Deleted: ,
Deleted: ,
Deleted: ,
Deleted: ,
Deleted: ,

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:

Deleted: states

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.

Deleted: recommendation

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.

Deleted: states a

Deleted: recommendation

Deleted: is an

5.80.020 – Business Permit required and Application for Permit.

Deleted: -
Deleted: .

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.

Deleted: and primary caregivers, as defined in Section 5.80.010 B (1)

Deleted: permit

Deleted: with four or more "qualified patients" and caregivers with valid ID pursuant to California Health and Safety Code Section 11362.7 et seq.,

Deleted: permit therefore, granted and existing

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.

Deleted: . The City Manager and/or his/her designee

Deleted: four

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:

Deleted: city of Oakland. The application for such permit shall set forth, in

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.

Deleted: A, the fact that the proposed location of such dispensary is not within one thousand (1,000) feet, unless the City Manager or his/her designee in their

Deleted: and

Deleted: or a

Deleted: or

Deleted: or

Deleted: or

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.

Deleted: location

Deleted: their

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.

Deleted: , and

Deleted: , shall be the City Manager

Deleted: Manager,

Deleted: their

Deleted: she/he

Deleted: and

Deleted:

Deleted: inspections

Deleted: therewith.

Deleted: as is

Deleted: and by

Deleted: Oakland

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.

Deleted: Manager or his/her designee'

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.

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.

5.80.040 - Performance standards.

Deleted: seven a.m

Deleted: . the next ensuing day.

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.

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 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 ¶)

Deleted: B.

Deleted: C Dispensary

Deleted: D. Dispensary shall maintain records of all patients (and ¶)

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.

Deleted: Dispensary shall receive only compensation for actual ... [5]

Deleted: cannabis for excessive profits are explicitly prohibited.

Deleted: 5.80.070 - Appeals.

Deleted: Notwithstanding Section 5.02.100, any decision, except for ¶ [6]

Deleted: with

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: and/
- Deleted: an
- Deleted: with an appeal to the City Manager, in accordance with procedures in set forth
- 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.

- Deleted: owners, operators, collaborative, associations, and collectives operating
- Deleted:
- Deleted: 11366.5,
- Deleted: chapter

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.

- Deleted: chapter

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.

- Deleted: chapter

- Deleted: 1620119.1

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

1620119.5

Draft Dispensary Ordinance _____ 8

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.

Page 6: [3] Deleted

compareDocs

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

Page 6: [4] Deleted

compareDocs

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

Page 6: [5] Deleted

compareDocs

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.

Page 6: [6] Deleted

compareDocs

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

EXHIBIT B

Ordinance Amending Oakland Municipal
Code Chapter 5.81
"Cultivation of Medical Cannabis"

FILED
CITY CLERK
2019 JUN 20 PM 5:12

APPROVED/AS TO FORM AND LEGALITY

[Signature]
Meyers Nave Special Counsel

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING CHAPTER 5.81 OF THE OAKLAND MUNICIPAL CODE PERTAINING TO CULTIVATION OF MEDICAL CANNABIS

Now therefore, the Oakland City Council does hereby ordain:

Section I. Amendment to Chapter 5.81 "Medical Cannabis Cultivation Facility Permits"

Oakland Municipal Code Chapter 5.81 is hereby repealed and replaced to read as follows:

5.81.010 - Findings and Purpose.

A. It is the purpose and intent of this Chapter to regulate the cultivation of medical marijuana in a manner that is consistent with State law, and which promotes the health, safety and general welfare of the residents and businesses by balancing 1) the needs of medical patients and their caregivers for enhanced access to medical marijuana; 2) the needs of neighbors and communities to be protected from public nuisances; and 3) the need to limit harmful environmental impacts that are sometimes associated with marijuana cultivation. Nothing in this Ordinance shall be construed to 1) allow persons to engage in conduct that endangers others or causes a public nuisance; 2) allow the use or diversion of marijuana for nonmedical purposes; or 3) allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under California State Law, the Attorney General Guidelines or city ordinances.

B. Marijuana plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries. The smell of marijuana may create an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery.

C. The unregulated cultivation and processing of marijuana has caused, and is causing, impacts on the community. These impacts include damage to buildings containing indoor marijuana cultivation, including improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, increased Draft Cultivation Ordinance

frequency of home-invasion robberies and similar crimes, and many of these impacts fall disproportionately on residential neighborhoods. Additionally, these impacts result in increases in City response costs, including but not limited to code enforcement, building, fire, and police staff time and expenses.

D. Unless properly regulated, marijuana that is grown indoors may require excessive use of electricity which may overload standard electrical systems creating an unreasonable risk of fire. If indoor grow lighting systems are powered by diesel generators, improper maintenance of the generators and fuel lines and the improper storage and disposal of diesel fuel and waste oil may create an unreasonable risk of fire and pollution. Conversions of indoor rooms and homes to marijuana cultivation facilities, when completed without compliance with building permits and inspections, may result in unsafe living conditions for residents and neighbors.

E. Indoor marijuana cultivation, when not properly regulated, may damage the housing stock and is dangerous if conversions occur without required building permits or in violation of Title 24 of the California Code of Regulations. In addition, indoor marijuana cultivation when not properly regulated, may have negative effects on the physical structure of buildings and occupants health due to the possibility of mold and water damage.

F. The right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer upon them the right to create or maintain a public nuisance. By limiting the indoor cultivation of marijuana in residences, unless medical necessity requires more, the City anticipates a significant reduction in the complaints of odors and the risks of fire, crime and pollution described herein.

G. The City further finds that qualified patients and primary caregivers who operate as members of collectives and cooperatives as defined in the Attorney General Guidelines, may cultivate marijuana on property zoned light industrial, provided they apply for, obtain and operate in compliance with a permit that is conditioned to eliminate the environmental, neighborhood and community impacts associated with the growing of large quantities of marijuana.

5.81.020 – 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. "City Administrator" means the City Administrator of the City of Oakland or his/her designee.
- D. "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.
- E. "Cultivation" means the planting, growing, harvesting, manufacturing, processing or drying of marijuana plants or any part thereof.
- F. "Cultivation Area" means the maximum dimensions allowed for the cultivation of medical marijuana. "Cultivation Area" shall mean the actual area in use for the entire cultivation process of cannabis plants (including seedling production, vegetation, and maturation), as well as reasonable walking space, such that, for example, two trays used for maturation, each measuring ten (10) square feet and stacked vertically on top of each other shall be counted as twenty (20) square feet of cultivation area.
- G. "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.
- H. "Industrial Cultivation Facility" or "Cultivation Facility" means any facility used for cultivation of medical marijuana in an area that exceeds ninety-six (96) square feet of cultivation area on one parcel of land. An Industrial Cultivation Facility may engage in Cultivation on more than one Parcel of Land provided that not more than 25,000 square feet of cultivation area may exist on one parcel of land. An Industrial Cultivation Facility may include an outdoor grow area on the parcel of land provided that the outdoor area is screened from public view, located within a secure area that is not accessible to the public

and includes security equipment provided in the security plan and approved by the City Administrator.

- I. "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.
- J. "Parcel of Land" means one piece of real property as identified by the county assessor's parcel number (APN) that is one parcel of real property, its boundaries, and all the rights contained therein.
- K. "Permittee" for purposes of this Chapter means the Dispensary that has obtained and maintains a valid permit for the industrial cultivation of medical marijuana.
- L. "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.

- M. "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.*

5.81.030 – 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 person, owner, operator, or association, collective or cooperative to own, conduct, operate or maintain, or to participate therein, or to cause or to allow to be conducted, operated, or maintained, an industrial cultivation facility in the City of Oakland unless there exists a valid Business Permit in compliance with the provisions of Chapter 5.02, a valid cannabis dispensary permit in compliance with Chapter 5.80 and a permit issued under this Chapter.
- B. The requirement to obtain a permit under this Chapter 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 industrial cultivation facilities in the City.
- D. In addition to the requirements specified in Section 5.02.020 for Business Permits, the application for a permit to oversee operation of an industrial cultivation facility shall set forth the following information:
1. Evidence that the applicant for a cultivation facility currently holds a valid, unrevoked permit issued pursuant to Chapter 5.80 for the operation of a Dispensary in the City.
 2. A statement, sworn under penalty of perjury, as to the quantity of marijuana provided to members in the previous calendar year, and the expected quantity of marijuana to be cultivated by the industrial cultivation facility in the upcoming calendar year. The quantity provided to members shall be based on the Attorney General Guidelines for possession.

3. A statement, sworn under penalty of perjury, as to the number of qualified patients who were members of the Dispensary in the previous calendar year, and the expected number of qualified patients who will be members in the upcoming calendar year.
4. Sufficient evidence to establish the proposed cultivation facility or facilities in the City are located in a light manufacturing industrial zone or an equivalent zone of the City.
5. A complete description of the type, nature and extent of the enterprise to be conducted, including the proposed amount of marijuana intended to be cultivated under the applicant's permit. The proposed quantity of marijuana to be cultivated shall be the sum of marijuana cultivated under the supervision of the Dispensary, at all industrial cultivation sites affiliated with that Dispensary within the City.
6. 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 controls to ensure that the marijuana at the industrial cultivation facility is grown by members of the Dispensary for members of the Dispensary.
7. 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).
8. A plan for waste disposal, pest management, product testing, worker safety and compensation.
9. A complete list of all locations in the City where the applicant proposes to cultivate marijuana, including the cumulative square footage of all sites where the applicant proposes to cultivate marijuana. The list of locations for cultivating marijuana does not need to include the locations of marijuana cultivated by members of the Dispensary at residential sites.
10. Evidence showing how applicant will comply with all standards conditions of approval as imposed by the City Administrator or designee thereof.

11. 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 industrial cultivation facility permit application, the applicant shall pay an industrial cultivation facility permit application fee. The fee amount shall be set by City Council resolution.
- G. The permit issued pursuant to this chapter shall run coterminous with the Dispensary Permit issued pursuant to 5.80. Prior to expiration of the Dispensary Permit, the applicant may apply for a renewal of the industrial Cultivation Permit issued pursuant to this Chapter, provided that applicant also applies for renewal of its Dispensary permit. Furthermore, revocation or expiration of either the Dispensary Permit or the Industrial Cultivation Permit shall automatically, and without notice, revoke the other permit.

5.81.040 – Regulations and Operating Standards.

- A. The City Administrator shall establish administrative regulations for the permitting of cultivation facilities and may set further standards for operation of cultivation facilities. The cultivation facility shall comply with applicable operating criteria for the cultivating medical marijuana set forth in California Health and Safety Code Section 11362.7 *et seq.*, the City Administrator's administrative regulations, the Attorney General Guidelines and this Chapter. The following performance standards shall be included in the City Administrator Regulations:
 - 1. Marijuana cultivated at the industrial cultivation facilities is for use by the members of the Dispensary only, and shall not be provided to other dispensaries, or qualified patients or primary caregivers that are not members of the dispensary;
 - 2. Only members of the Dispensary are entitled to cultivate marijuana at the cultivation facility.

- B. Failure to comply with the operating standards shall constitute a breach of the permit, and may lead to suspension or revocation of the permit.

5.81.050 - Regulatory fees; Posting Permits.

- A. In addition to the industrial cultivation facility application fee, the industrial cultivation facility operator shall pay an annual regulatory fee at the same time as the industrial cultivation facility applies for the business tax certificate or renewal thereof. A copy of the cultivation permit issued pursuant to this Chapter shall be posted together with the Dispensary Permit issued pursuant to Section 5.80.020, in a conspicuous place in the industrial cultivation facility.
- B. Duplicate copies of the Industrial Cultivation permit issued by the City shall be posted at each location where the Permittee cultivates marijuana. The City may charge a fee for each duplicate permit issued.
- C. 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.
- D. The fees referenced herein shall be set by Council resolution, as modified from time to time.

5.81.060 - Profit.

The industrial cultivation facility shall not profit from the sale or distribution of marijuana

Retail sales of medical marijuana are expressly prohibited at an industrial cultivation facility.

5.81.070 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.

5.81.080 - Prohibited operations; Nonconforming Uses.

Draft Cultivation Ordinance

- A. Operation of an industrial cultivation facility without a permit is prohibited. In addition, cultivation of marijuana at non-industrial sites that does not comply with **Section 5.81.100** is expressly prohibited.
- B. No industrial cultivation facility or non-industrial cultivation of medical marijuana which purports to have cultivated 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.

5.81.090 - 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.

5.81.100 – Standards for Non-Industrial Cultivation of Medical Cannabis

- A. Qualified patients and primary caregivers may establish a cultivation area of up to thirty-two (32) square feet in a residential unit. In no event shall the cultivation area exceed thirty two (32) square feet in a residential unit, regardless of how many qualified patients and primary caregivers reside in the residential unit.
- B. An association of no more than three (3) qualified patients and/or primary caregivers may have a cultivation area up to ninety-six (96) square feet indoor in a non-residential building, not to exceed a total of 216 marijuana plants. An association of no more than three (3) qualified patients and/or primary caregivers may have up to sixty (60) marijuana plants outdoors on one parcel of land.
- C. Cultivation of medical marijuana in residential areas shall be in conformance with the following standards:
 - 1. The residential facility shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Medical marijuana cultivation shall not become the primary purpose of the residence or the property;
 - 2. The residential unit must be occupied by the qualified patient or primary caregiver;
 - 3. There shall be no more than _____ () ounces of dried marijuana and/or more than 32 square feet of cultivation area in a residence;
 - 4. Medical marijuana cultivation in the residential unit must be in compliance with the California Building Code, including but not limited to the following requirements, if applicable:
 - i. the wall(s) adjacent to the indoor cultivation area shall be constructed with 5/8" Type X fire resistant drywall; and

- ii. the cultivation area shall be in compliance with the California Building Code provisions related to natural ventilation (§1203.4) and/or mechanical ventilation (§403.2); and
 - iii. all permits, whether they are electrical or building are obtained for upgrades to the residential unit.
5. The cultivation area shall not adversely affect the health or safety of the residence or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes;
 6. All high amperage electrical equipment (exceeding six amps) used in the cultivation of medical marijuana, (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to high amperage electrical equipment (exceeding six amps) used in the cultivation of medical marijuana is prohibited;
 7. The use of butane gas products for medical marijuana cultivation is prohibited; and
 8. From a public right-of-way, there shall be no exterior evidence of medical marijuana cultivation occurring at the property.

D. If a qualified patient or primary caregiver cultivating medical marijuana for personal use at the residence has a doctor's recommendation that the above allowable 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, as specified by such doctor.

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.

Draft Cultivation Ordinance

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

1656200.2

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S. _____

AN ORDINANCE AMENDING CHAPTER 5.81 OF THE OAKLAND MUNICIPAL CODE PERTAINING TO CULTIVATION OF MEDICAL CANNABIS

Deleted: 0

Now therefore, the Oakland City Council does hereby ordain:

Section I. Amendment to Chapter 5.81 "Medical Cannabis Cultivation Facility Permits"

Oakland Municipal Code Chapter 5.81 is hereby repealed and replaced to read as follows:

5.81.010 - Findings and Purpose.

A. It is the purpose and intent of this Chapter to regulate the cultivation of medical marijuana in a manner that is consistent with State law, and which promotes the health, safety and general welfare of the residents and businesses by balancing 1) the needs of medical patients and their caregivers for enhanced access to medical marijuana; 2) the needs of neighbors and communities to be protected from public nuisances; and 3) the need to limit harmful environmental impacts that are sometimes associated with marijuana cultivation. Nothing in this Ordinance shall be construed to 1) allow persons to engage in conduct that endangers others or causes a public nuisance; 2) allow the use or diversion of marijuana for nonmedical purposes; or 3) allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under California State Law, the Attorney General Guidelines or city ordinances.

B. Marijuana plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries. The smell of marijuana may create an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery.

C. The unregulated cultivation and processing of marijuana has caused, and is causing, impacts on the community. These impacts include damage to buildings containing indoor marijuana cultivation, including improper and dangerous electrical

Draft Cultivation Ordinance

Deleted: MEDICAL CANNABIS CULTIVATION FACILITY PERMITS

Deleted: Sections: 5.81.010 - Findings and purpose, 5.81.020 - Definitions, 5.81.030 - Permit required, 5.81.040 - Industrial

Deleted: ,

Deleted: 5.81.050 - Application for permit.

Deleted: 5.81.070 - Operating standards, 5.81.080 - Examination of books, records, witnesses - Information confidential - Penalty, 5.81.100 - Liability and indemnification, 5.81.101 - Residential and individual limits for non-licensed medical cannabis cultivation, 5.81.110 - Prohibited operations, 5.81.120 - Appeals, 5.81.010 - Findings and purpose. A. The City Council, based on evidence presented to it in the proceedings leading to the adoption of this Chapter hereby finds that the

Deleted: medical cannabis in the City

Deleted:

Deleted: ongoing

Deleted: to

Deleted: medical cannabis

Deleted: facilities

alterations and use, inadequate ventilation leading to mold and mildew, increased frequency of home-invasion robberies and similar crimes, and many of these impacts fall disproportionately on residential neighborhoods. Additionally, these impacts result in increases in City response costs, including but not limited to code enforcement, building, fire, and police staff time and expenses.

Deleted: that

Deleted: have fallen

Deleted: These

Deleted: have also created an increase in

D. Unless properly regulated, marijuana that is grown indoors may require excessive use of electricity which may overload standard electrical systems creating an unreasonable risk of fire. If indoor grow lighting systems are powered by diesel generators, improper maintenance of the generators and fuel lines and the improper storage and disposal of diesel fuel and waste oil may create an unreasonable risk of fire and pollution. Conversions of indoor rooms and homes to marijuana cultivation facilities, when completed without compliance with building permits and inspections, may result in unsafe living conditions for residents and neighbors.

Deleted: B. The City acknowledges that the voters of the State have provided an exemption to prosecution for the cultivation, possession of cannabis for medical purposes under the Compassionate Use Act (CUA), but that the CUA does not address land use or building code impacts or issues arising from the resulting increase in cannabis cultivation within the City.

Deleted: C.

E. Indoor marijuana cultivation, when not properly regulated, may damage the housing stock and is dangerous if conversions occur without required building permits or in violation of Title 24 of the California Code of Regulations. In addition, indoor marijuana cultivation when not properly regulated, may have negative effects on the physical structure of buildings and occupants health due to the possibility of mold and water damage.

F. The right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer upon them the right to create or maintain a public nuisance. By limiting the indoor cultivation of marijuana in residences, unless medical necessity requires more, the City anticipates a significant reduction in the complaints of odors and the risks of fire, crime and pollution described herein.

Deleted: The City acknowledges that sales of medical marijuana are subject to taxation by both the City and the State and that the California State Board of Equalization (BOE) is also requiring that businesses engaging in such retail transactions hold a seller's permit.

G. The City further finds that qualified patients and primary caregivers who operate as members of collectives and cooperatives as defined in the Attorney General Guidelines, may cultivate marijuana on property zoned light industrial, provided they apply for, obtain and operate in compliance with a permit that is conditioned to eliminate the environmental, neighborhood and community impacts associated with the growing of large quantities of marijuana.

Deleted: D.

5.81.020 – Definitions.

Deleted: The purpose and intent of this Chapter is to regulate the cultivation and processing of medical cannabis in a manner that protects the public health, safety and welfare of the community.

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

Deleted: (Ord. No. 13333, § 3, 7-27-2010) ¶

Deleted: 5.81.020

Deleted: - 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

Deleted: Chapter.

Deleted: A. "Applicant" as used only in this Chapter shall be any industrial cannabis cultivation, processing, manufacturing facility that applies for a permit required under this Chapter.

Draft Cultivation Ordinance

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.

Deleted: B. ¶
"Batch" as used only in this Chapter shall be defined by the City Administrator to mean a discrete quantity of dried cannabis produced and sold together. ¶
C.

Deleted: as used only in this Chapter shall be the same, and as may be amended, as is defined in Section 8.46.020.

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

Deleted: D.

D. "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: "Cannabis Dispensary" as used only in this Chapter shall be the same, and as may be amended, as is defined in Section 5.80.010 and is also referred to herein as "dispensary."

E. "Cultivation" means the planting, growing, harvesting, manufacturing, processing or drying of marijuana plants or any part thereof.

Deleted: E.

Deleted: "City Administrator" as used only in this Chapter shall mean the City Administrator for the City of Oakland and his or her designee. ¶
F.

F. "Cultivation Area" means the maximum dimensions allowed for the cultivation of medical marijuana. "Cultivation Area" shall mean the actual area in use for the entire cultivation process of cannabis plants (including seedling production, vegetation, and maturation), as well as reasonable walking space, such that, for example, two trays used for maturation, each measuring ten (10) square feet and stacked vertically on top of each other shall be counted as twenty (20) square feet of cultivation area.

Deleted: "Cultivation Area" as used only in this Chapter hereinafter

Deleted: 20

G. "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.

Deleted: G. "Industrial Cannabis Cultivation, Processing, Manufacturing Facility" hereinafter "cultivation and manufacturing facility" shall mean any facility used for cultivating, warehousing, storing, processing and/or manufacturing more than 48 ounces of dried cannabis, and/or cultivating or storing medical cannabis in an area greater than 96 square feet of total area within one parcel of land. Any establishment engaged in, permitted to be engaged in or carrying on any medical cannabis cultivation, processing, or manufacturing or other activity mentioned in this Chapter shall be deemed an industrial cannabis cultivation and manufacturing facility as described in Section 5.81.040.

H. "Industrial Cultivation Facility" or "Cultivation Facility" means any facility used for cultivation of medical marijuana in an area that exceeds ninety-six (96) square feet of cultivation area on one parcel of land. An Industrial Cultivation Facility may engage in Cultivation on more than one Parcel of Land provided that not more than 25,000 square feet of cultivation area may exist on one

Deleted: H.

parcel of land. An Industrial Cultivation Facility may include an outdoor grow area on the parcel of land provided that the outdoor area is screened from public view, located within a secure area that is not accessible to the public and includes security equipment provided in the security plan and approved by the City Administrator.

I. "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.

~~Deleted: "Medical Cannabis Collective" as used only in this Chapter shall be the same, and as may be amended, as if defined in Section 5.80.010.~~

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

~~Deleted: I.~~

~~Deleted: "One Parcel of Land" as used only in this Chapter shall mean any single~~

K. "Permittee" for purposes of this Chapter means the Dispensary that has obtained and maintains a valid permit for the industrial cultivation of medical marijuana.

~~Deleted: County Assessor,~~

~~Deleted: used to identify.~~

~~Deleted: J. "Permittees" as used only in this Chapter are cultivation and manufacturing facilities that have obtained a permit under this Chapter.~~

L. "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:

~~Deleted: K.~~

~~Deleted: Caregiver~~

~~Deleted: " as used only in this Chapter~~

~~Deleted: be~~

~~Deleted: as if defined in Section 5.80.010.~~

1. In any case in which a dualified 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.

~~Deleted: L.~~

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.

M. "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: "Patient" as used only in this Chapter shall be the same, and as may be amended, as if defined in Section 5.80.010.

5.81.030 – Business Permit required and Application for Permit.

Deleted: M.

A. Except for hospitals, research facilities, or an entity authorized pursuant to OMC Section 8.46.030, it is unlawful for any person, owner, operator, or association, collective or cooperative to own, conduct, operate or maintain, or to participate therein, or to cause or to allow to be conducted, operated, or maintained, an industrial cultivation facility in the City of Oakland unless there exists a valid Business Permit in compliance with the provisions of Chapter 5.02, a valid cannabis dispensary permit in compliance with Chapter 5.80 and a permit issued under this Chapter.

Deleted: "Written Recommendation" as used only in this Chapter shall be the same, and as may be amended, as if defined in Section 5.80.010.

B. The requirement to obtain a permit under this Chapter 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.

Deleted: [Ord. No. 13033, § 3, 7-27-2010]

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

D. In addition to the requirements specified in Section 5.02.020 for Business Permits, the application for a permit to oversee operation of an industrial cultivation facility shall set forth the following information:

1. Evidence that the applicant for a cultivation facility currently holds a valid, unrevoked permit issued pursuant to Chapter 5.80 for the operation of a Dispensary in the City.

Deleted: 5.81.030
Deleted: - Permit required.¶
A.¶
Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to establish any cultivation and manufacturing facility without a valid business permit issued pursuant to the provisions of this Chapter. It is unlawful for any entity organized on a for-profit basis, except for hospitals and research facilities, to engage in any medical cannabis cultivation whatsoever.¶
B.

Deleted: as detailed below, special business

2. A statement, sworn under penalty of perjury, as to the quantity of marijuana provided to members in the previous calendar year, and the expected quantity of marijuana to be cultivated by the industrial cultivation facility in the upcoming calendar year. The quantity provided to members shall be based on the Attorney General Guidelines for possession.
3. A statement, sworn under penalty of perjury, as to the number of qualified patients who were members of the Dispensary in the previous calendar year, and the expected number of qualified patients who will be members in the upcoming calendar year.
4. Sufficient evidence to establish the proposed cultivation facility or facilities in the City are located in a light manufacturing industrial zone or an equivalent zone of the City.
5. A complete description of the type, nature and extent of the enterprise to be conducted, including the proposed amount of marijuana intended to be cultivated under the applicant's permit. The proposed quantity of marijuana to be cultivated shall be the sum of marijuana cultivated under the supervision of the Dispensary, at all industrial cultivation sites affiliated with that Dispensary within the City.
6. 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 controls to ensure that the marijuana at the industrial cultivation facility is grown by members of the Dispensary for members of the Dispensary.
7. 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).
8. A plan for waste disposal, pest management, product testing, worker safety and compensation.
9. A complete list of all locations in the City where the applicant proposes to cultivate marijuana, including the cumulative square footage of all sites where the applicant proposes to cultivate marijuana. The list of locations for cultivating marijuana does not

need to include the locations of marijuana cultivated by members of the Dispensary at residential sites.

10. Evidence showing how applicant will comply with all standards conditions of approval as imposed by the City Administrator or designee thereof

11. 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 industrial cultivation facility permit application, the applicant shall pay an industrial cultivation facility permit application fee. The fee amount shall be set by City Council resolution.

G. The permit issued pursuant to this chapter shall run coterminous with the Dispensary Permit issued pursuant to 5.80. Prior to expiration of the Dispensary Permit, the applicant may apply for a renewal of the Industrial Cultivation Permit issued pursuant to this Chapter, provided that applicant also applies for renewal of its Dispensary permit. Furthermore, revocation or expiration of either the Dispensary Permit or the Industrial Cultivation Permit shall automatically, and without notice, revoke the other permit.

5.81.040 – Regulations and Operating Standards.

A. The City Administrator shall establish administrative regulations for the permitting of cultivation facilities and may set further standards for operation of cultivation facilities. The cultivation facility shall comply with applicable operating criteria for the cultivating medical marijuana set forth in California Health and Safety Code Section 11362.7 et seq., the City Administrator's administrative regulations, the Attorney General Guidelines and this Chapter.

- Deleted: cannabis cultivation processing and manufacturing facility
- Deleted: proposed cultivation and manufacturing facility as detailed in Section 5.81.040;
- Deleted: her/his
- Deleted: she/he
- Deleted: | and
- Deleted: applicants shall pay any necessary fees including without limitation application fees, inspection fees and regulatory fees that may be required hereunder.
- Deleted: C.
- Deleted: The City Administrator, shall issue in the first year of this cultivation and manufacturing facility program no more than four permits. Two years after the first permit has been issued, the City Administrator, shall return to the City Council to report on the development of this program, and determine how additional permits to meet the needs of medical cannabis dispensaries and other lawful cannabis providers shall be administered, if any.
- Deleted: D.
- Deleted: All cultivation and manufacturing facility permits shall be special business permits and shall be issued for a term of two years, subject to annual review one year from the date of prior issuance. No vested right shall ever inure to the benefit of such permit holder as such permits are revocable at any time with out without cause by the City Administrator subject to Section [1]
- Deleted: 5.81.040
- Deleted: - Industrial cultivation of medical marijuana. ¶ A. ¶ ... [2]
- Deleted: 5.81.050
- Deleted: - Application for permit ¶ A. ¶ ... [3]
- Deleted: 5.81.070
- Deleted: - Operating standards.
- Deleted: operating

The following performance standards shall be included in the City Administrator Regulations:

1. Marijuana cultivated at the industrial cultivation facilities is for use by the members of the Dispensary only, and shall not be provided to other dispensaries, or qualified patients or primary caregivers that are not members of the dispensary;

2. Only members of the Dispensary are entitled to cultivate mariiuaana at the cultivation facility.

B. Failure to comply with the operating standards shall constitute a breach of the permit, and may lead to suspension or revocation of the permit.

5.81.050 - Regulatory fees; Posting Permits.

A. In addition to the industrial cultivation facility application fee, the industrial cultivation facility operator shall pay an annual regulatory fee at the same time as the industrial cultivation facility applies for the business tax certificate or renewal thereof. A copy of the cultivation permit issued pursuant to this Chapter shall be posted together with the Dispensary Permit issued pursuant to Section 5.80.020, in a conspicuous place in the industrial cultivation facility.

B. Duplicate copies of the Industrial Cultivation permit issued by the City shall be posted at each location where the Permittee cultivates mariiuaana. The City may charge a fee for each duplicate permit issued.

C. 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 mariiuaana must obtain a Seller's Permit from the State Board of Equalization.

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

5.81.060 - Profit.

The industrial cultivation facility shall not profit from the sale or distribution of mariiuaana

Retail sales of medical marijuana are expressly prohibited at an industrial cultivation facility.

5.81.070 Revocation, Suspension and Appeals.

Draft Cultivation Ordinance

~~Deleted: permittees. Noncompliance of such~~

~~Deleted: issued hereunder and may render such permit suspended or revoked based upon the City Administrator's determination.~~

~~Deleted: (Ord. No. 13633, S 3, 7-27-2010)~~

~~Deleted: 5.81.080 - Examination of books, records, witnesses— Information confidential—Penalty.~~

~~Deleted: A.~~

~~Deleted: The City Administrator shall be provided access to any and all financial information 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.~~

~~Deleted: B.~~

~~Deleted: 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.~~

~~Deleted: 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.~~

~~Deleted: C.~~

~~Deleted: Every permittee is directed and required to furnish to the City Administrator, the means, facilities and opportunity for making such financial examinations and investigations.~~

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: D.

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: 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.

Deleted: Ord No. 13093, § 3.7-27 (2019)

Deleted: 5.81.100 - Liability and indemnification.

Deleted: A.

Deleted: City.

Deleted: B.

5.81.080 - Prohibited operations; Nonconforming Uses.

A. Operation of an industrial cultivation facility without a permit is prohibited. In addition, cultivation of marijuana at non-industrial sites that does not comply with Section 5.81.100 is expressly prohibited.

Deleted: The permittees under this Chapter hereby agree to save, defend, indemnify and keep harmless the City and its officials, officers, employees, representatives, agents and volunteers from all actions, claims, demands, litigation, or proceedings, including those for attorneys' fees, against the City in consequence of the granting of this permit, and will in all things strictly comply with the conditions under which this permit is granted, if any. (Ord No. 13093, § 3.7-27-2019)

B. No industrial cultivation facility or non-industrial cultivation of medical marijuana which purports to have cultivated 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.

5.81.090 - 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.

Deleted: 5.81.101

Deleted: - Residential and individual limits for non-licensed medical cannabis cultivation. Notwithstanding State law regarding medical cannabis cultivation, no qualified patient or primary caregiver may cultivate medical cannabis in an area of more than 32 square feet on one parcel of land, unless they form a cooperative or collective.

5.81.100 - Standards for Non-Industrial Cultivation of Medical Cannabis

A. Qualified patients and primary caregivers may establish a cultivation area of up to thirty-two (32) square feet in a residential unit. In no event shall the cultivation area exceed thirty two (32) square feet in a residential unit, regardless of how many qualified patients and primary caregivers reside in the residential unit.

Deleted: A collective or cooperative of qualified patients or primary caregivers, may cultivate medical cannabis covering an area of no more than 32

B. An association of no more than three (3) qualified patients and/or primary caregivers may have a cultivation area up to ninety-six (96) square feet indoor in a non-residential building, not to exceed a total of 216 marijuana plants. An association of no more than three (3) qualified patients and/or primary caregivers may have up to sixty (60) marijuana plants outdoors on one parcel of land.

Deleted: or if in a nonresidential building on one parcel of land per each member of the cooperative or collective, up to a maximum of 216 cannabis/marijuana plants within a maximum growing area of 96 square feet indoor or 60 outdoor

Deleted: In the absence of a permit under this Chapter, such cultivation shall be subject to the following operating standards:

C. Cultivation of medical marijuana in residential areas shall be in conformance with the following standards:

1. The residential facility shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Medical marijuana cultivation shall not become the primary purpose of the residence or the property;
2. The residential unit must be occupied by the qualified patient or primary caregiver;
3. There shall be no more than () ounces of dried marijuana and/or more than 32 square feet of cultivation area in a residence;
4. Medical marijuana cultivation in the residential unit must be in compliance with the California Building Code, including but not limited to the following requirements, if applicable:
 - i. the wall(s) adjacent to the indoor cultivation area shall be constructed with 5/8" Type X fire resistant drywall; and
 - ii. the cultivation area shall be in compliance with the California Building Code provisions related to natural ventilation (§1203.4) and/or mechanical ventilation (§403.2); and
 - iii. all permits, whether they are electrical or building are obtained for upgrades to the residential unit.
5. The cultivation area shall not adversely affect the health or safety of the residence or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes;
6. All high amperage electrical equipment (exceeding six amps) used in the cultivation of medical marijuana, (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to high amperage

- Deleted: A. ¶
Cultivation, processing, possession, and/or manufacturing of medical marijuana in any residential areas shall be limited to qualified patients, primary caregivers, and medical cannabis collectives or cooperatives comprised of no more than three qualified patients and/or their primary caregivers. Every member of the medical cannabis collective or cooperative shall possess an identification card issued by the County of Alameda, or the State of California, or another agency recognized by the City pursuant to California Health and Safety Code Section 11362.7 et seq. ¶
- B.
- Deleted: Cultivation, processing, possessing, and/or manufacturing of medical cannabis
- Deleted: 1.
- Deleted: cannabis cultivation, processing, possession, and/or manufacturing shall remain at all times secondary to the residential use of the property;
- Deleted: 2.
- Deleted: Cultivation, possession, processing and/or manufacturing of medical cannabis in residential areas;
- Deleted: 3.
- Deleted: No individual residential facility or other facility housing the [6]
- Deleted: 48
- Deleted: cannabis, i
- Deleted: 96
- Deleted: 4.
- Deleted: If required by the building or fire code, i
- Deleted: 5.
- Deleted: The
- Deleted: the current adopted edition of
- Deleted: § 1203.4
- Deleted: or § 402.3
- Deleted: or its equivalent(s);
- Deleted: 6
- Deleted: 7.
- Deleted: cannabis

electrical equipment (exceeding six amps) used in the cultivation of medical ~~marijuana~~ is prohibited;

Deleted: cannabis

Deleted: a. Any electrical rewiring or remodeling shall first require an electrical permit from the City. 9.

7. The use of butane gas products for ~~medical marijuana~~ cultivation is prohibited; and

Deleted: personal use

Deleted: cannabis

Deleted: 10.

8. From a public right-of-way, there shall be no exterior evidence of ~~medical marijuana~~ cultivation occurring at the property.

Deleted: cannabis

Deleted: C.

D. If a qualified patient or primary caregiver cultivating ~~medical marijuana~~ for personal use at the residence has a doctor's recommendation that the above allowable 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, as specified by such doctor.

Formatted: Bullets and Numbering

Deleted: who is

Deleted: , possessing, processing and/or manufacturing

Deleted: cannabis

Section II. Severability.

Deleted: [Ord. No. 13033, § 3.7-27-2010]

Deleted: 5.81.110 - Prohibited operations.

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.

Deleted: All cultivation, processing, and manufacturing facilities that do not have a permit under this Chapter are expressly prohibited. No use that purports to have cultivated or processed marijuana 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 a vested right, legal nonconforming or other similar status.

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.

Deleted: [Ord. No. 13033, § 3.7-27-2010]

Deleted: 5.81.120 - Appeals.

In Council, Oakland, California, _____, 2011.

Passed by the Following Vote:

Deleted: Notwithstanding Section 5.02.100, any decision, except for suspension and or revocation, pursuant to this Chapter by the City Administrator or his/her designee shall be final and conclusive, with no appeal to the City Council or any other appellate body. For suspensions and/or revocations an independent hearing officer shall make an initial determination with an appeal to the City Administrator in writing within 14 days of the Administrative Hearing Officer's [7]

AYES-

NOES-

ABSENT-

ABSTENTION-

Deleted: 1667488.1

Draft Cultivation Ordinance

Attest:

La Tonda Simmons
City Clerk and Clerk of the Council
Of the City of Oakland, California

1656200.2

Draft Cultivation Ordinance

All cultivation and manufacturing facility permits shall be special business permits and shall be issued for a term of two years, subject to annual review one year from the date of prior issuance. No vested right shall ever inure to the benefit of such permit holder as such permits are revocable at any time with or without cause by the City Administrator subject to Section 5.81.120.

E.

Cultivation and manufacturing facility permits shall be granted to entities operating legally according to State law.

{Ord. No. 13033, § 3, 7-27-2010}

- Industrial cultivation of medical marijuana.

A.

Any use or activity that involves possessing, cultivating, processing and/or manufacturing and/or more than 96 square feet of cultivation area shall constitute industrial cultivation of medical cannabis and shall only be allowed upon the granting of a permit as prescribed in this Chapter. Possession of other types of State or City permits or licenses does not exempt an applicant from the requirement of obtaining a permit under this Chapter.

B.

The proposed location of a cultivation and manufacturing facility shall be in areas where "light manufacturing industrial," or their equivalent use, is permitted under the Oakland Planning Code, as may be amended; provided, however, that no vested or other right shall inure to the benefit of any cultivation and manufacturing facility permittee. Public notice shall be given as provided in Section 5.02.050, and the investigating official referred to in Section 5.02.030 to whom the application shall be referred, shall be the City Administrator.

{Ord. No. 13033, § 3, 7-27-2010}

- Application for permit.

A.

All applicants shall pay an application fee as specified in the Master Fee Schedule.

B.

All applicants shall submit written information to the City Administrator including, but not limited to, plans for security, waste disposal, pest management, product testing, worker safety and compensation, non diversion of product, facility location, capitalization, business plans, applicant complaint history, criminal background checks, and any additional information deemed necessary by the City Administrator.

C.

All applicants shall be ranked by a point or similar system established by the City Administrator based on information submitted by each applicant and any additional information that may be submitted to or discovered by the City Administrator.

D.

All applicants shall demonstrate compliance with State law, during the course of the permit application procedure described under this Section, prior to issuing any permit, and upon the issuance of a permit, thereafter.

(Ord. No 13033, § 3, 7-27-2010)

Page 9: [4] Deleted

compareDocs

or if in a nonresidential building on one parcel of land per each member of the cooperative or collective, up to a maximum of 216 cannabis/marijuana plants within a maximum growing area of 96 square feet indoor or 60 outdoor cannabis/marijuana plants on one parcel of land.

Page 10: [5] Deleted

compareDocs

Cultivation possession, processing and/or manufacturing of medical cannabis in residential areas shall occur only in a secured residences

Page 10: [6] Deleted

compareDocs

No individual residential facility or other facility housing the cultivation, processing and/or manufacturing of medical cannabis shall contain

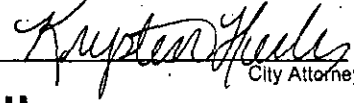
Page 11: [7] Deleted

compareDocs

Notwithstanding Section 5.02.100, any decision, except for suspension and or revocation, pursuant to this Chapter by the City Administrator or his/her designee shall be final and conclusive, with no appeal to the City Council or any other appellate body. For suspensions and/or revocations an independent hearing officer shall make an initial determination with an appeal to the City Administrator in writing within 14 days of the Administrative Hearing Officer's decision, in accordance with procedures in set forth in Section 5.02.100. The decision of the City Administrator shall be final and conclusive.

EXHIBIT C

Ordinance Amending the
Master Fee Schedule Ordinance
Number 13024 C.M.S., As Amended


City Attorney**OAKLAND CITY COUNCIL**

ORDINANCE No. _____ C.M.S.

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 & TO ESTABLISH A CULTIVATION OF MEDICAL CANNABIS PERMIT APPLICATION FEE AND AN ANNUAL REGULATORY FEE FOR PERMITTED MEDICAL CANNABIS CULTIVATION.

WHEREAS, on February 17, 2004, the City of Oakland adopted Ordinance No. 12585, 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.

WHEREAS, the fee modifications and additions proposed herein 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 Pennit Application Fee And An Annual Regulatory Fee For Permitted Medical Dispensaries & To Establish A Cultivation Of Medical Cannabis Permit Application Fee And An Annual Regulatory Fee For Permitted Medical Camabis Cultivation"; 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 & the Cultivation of Medical Cannabis permitted under the above referenced ordinance

WHEREAS, the City Administrator Office determines that additional staffing is needed to administer and regulate permitted medical cannabis dispensaries, to include Tax Enforcement Officer II, Tax Auditor II, Special Combination Code Enforcement Inspectors, City Attorney, related administrative support and such resources including third party security services total \$60,000 on an annual basis, therefore the City intends to charge an annual permh fee of \$60,000 for Medical Cannabis Dispensaries to cover the costs of this program, (Attached Exhibit 1)

WHEREAS, the City Administrator Office determines that additional staffing is needed to administer and regulate permitted medical cannabis dispensaries, to include Tax Enforcement Officer II, Tax Auditor II, Special Combination Code Enforcement Inspectors, City Attorney, related administrative support and such resources including third party security services total \$211,000 on an annual basis, therefore the City intends to charge an annual permit fee of \$211,000 for Cultivation of Medical Cannabis permits to cover the costs of this program, (Attached Exhibh 1)

WHEREAS, the City Council finds and determines that establishing a medical cannabis Dispensary permit and Cultivation of Medical Cannabis permit application fees of \$5,000 and an annual regulatory fees of \$60,000 and \$211,000 respectively for permitted Medical Cannabis Dispensaries and Cultivation of Medical Cannabis are necessary to reimburse the

City for the costs of performing the various municipal and regulatory functions associated with Chapter 5.81 and 5.80; and

WHEREAS, a Public Hearing was held on July 19, 2011 to review the proposed fees; 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 and to establish a cultivation of medical cannabis permit application fee of \$5,000 and an annual regulatory fee of \$211,000 for permitted cultivation of medical cannabis

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, July 19, 2011.

In Council, Oakland, California, _____, 2011

delete —

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

ABSTENTION-

delete —

ATTEST: _____ Lat

fix this

**onda 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 2011-12)		PROPOSED FEE (FY 2011-12)		% CHANGE
	FEE	UNIT	FEE	UNIT	
SPECIAL ACTIVITIES					
F. MEDICAL CANNABIS DISPENSARY PERMITS					
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%
G. Cultivation Of Medical Cannabis Permits					
1 Application Fee			5,000.00	Application	NEW
2 Cultivation, Manufacturing and Processing Facility			211,000.00	Non-refundable annual regulatory fee	NEW
G- H. REHEARING FILING FEE					
H- I. HEARING NOTIFICATION FEE					
I- J. TAXICAB PERMIT FEES					

EXHIBIT D

Notice and Digest

ORDINANCE AMENDING ORDINANCE NUMBER 13024 C.M.S. (MASTER FEE SCHEDULE), AS AMENDED, TO ESTABLISH, MODIFY AND DELETE FEES ASSESSED BY CITY ADMINISTRATOR, OFFICE OF THE CITY ATTORNEY, OFFICE OF THE CITY CLERK, OAKLAND PUBLIC LIBRARY, POLICE SERVICES AGENCY, FIRE SERVICES AGENCY, OFFICE OF PARKS AND RECREATION, PUBLIC WORKS AGENCY, AND COMMUNITY AND ECONOMIC DEVELOPMENT AGENCY.

NOTICE AND DIGEST

This Ordinance authorizes an amendment to Ordinance Number 13024 C.M.S. C.M.S. (Master Fee Schedule), as amended, to establish, modify and delete fees assessed by the Office of the City Administrator, City Administrator, Office of the City Attorney, Office of the City Clerk, Oakland Public Library, Police Services Agency, Fire Services Agency, Office of Parks and Recreation, Public Works Agency, and Community and Economic Development Agency. These amended fees would become effective September 6, 2011 and would remain in effect until further notice. A public hearing has been scheduled to review the proposed fee changes. The meeting will take place at the time of the first reading of the proposed ordinance by the City Council, on July 19, 2011 at 7:00 pm or as soon as practically possible thereafter.

1666759.1

EXHIBIT E

Administrative Regulations For Dispensaries

ADMINISTRATIVE REGULATIONS AND PERFORMANCE STANDARDS FOR OAKLAND MEDICAL CANNABIS DISPENSARIES

L Introduction

Oakland Municipal Code § 5.80.030 requires the City Administrator to establish 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 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 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 meet any specific, additional administrative regulations, procedures and measures as may be 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 prove to 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 Marshal, 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 cannabiniol 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.

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. The Dispensary shall be separate and distinct from the operation of any food service activity.

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)
- 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, 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"; Text

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"; Text

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

Sign 3: Font size at least 2 inches; Overall size at least 23" by 32"; Text

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

Sign 4:

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

Sign 5:

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

Sign 6:

THE SALE OF MARIJUANA AND THE DIVERSION OF MARIJUANA FOR NONMEDICAL PURPOSES ARE VIOLATIONS OF STATE LAW.

Sign 7:

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 _____)

1666653.3

EXHIBIT F

Conditions of Approval and Admin
Regulations for Medical Cannabis Industrial
Cultivation Facilities

ADMINISTRATIVE REGULATIONS AND PERFORMANCE STANDARDS FOR OAKLAND MEDICAL CANNABIS CULTIVATION FACILITIES

I. Introduction

Oakland Municipal Code § 5.81.040 requires the City Administrator to establish administrative regulations for the permitting of Cultivation Facilities, and also authorizes the City Administrator to set forth standards for operation of medical cannabis cultivation facilities (“Cultivation Facilities”).

The definitions set forth in Oakland Municipal Code Chapter 5.81 apply to the interpretation and understanding of these Administrative Regulations (“Regulations”).

II. Compliance with State Law, Municipal Code and Regulations

The Cultivation Facility 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 cultivation facilities.

The Cultivation Facility must comply with all applicable state and local laws 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 Cultivation Facility must comply with the Conditions of Approval and City Administrator’s Administrative Regulations for Cultivation Facilities, including any additions or revisions thereto.

Failure to comply with the Conditions of Approval, City Administrator’s Administrative Regulations for Cultivation Facilities, and all applicable local and state laws or regulations may result in the imposition of fines, and suspension or revocation of the Cultivation Facility permit after an administrative hearing. The Cultivation Facility 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 Cultivation Facilities, and may set forth criteria in any request for permit applications standards and requirements to determine a Cultivation Facility’s qualifications to meet the City’s ordinance, regulations and state law. In addition to the

standards set forth in Oakland Municipal Code Chapter 5.81, 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 a Cultivation Facility permit or the renewal thereof

In applying for a Cultivation Facility permit, the Cultivation Facility shall pay the required regulatory fee, permit application fees, and other processing fees annually in advance as mandated in Chapter 5.81 of the Oakland Municipal Code. Cultivation Facility 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 Cultivation Facility shall meet any specific, additional administrative regulations, procedures and measures as may be imposed as conditions of approval by the City Administrator to ensure that the operation of the Cultivation Facility 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 Cultivation Facility’s Permit application shall be deemed to be incorporated into the Cultivation Facility’s Permit; failure to comply with the Business Plan and other aspects of the permit may prove to be grounds for revocation of the Permit.

B. Renewal of Permits

Cultivation Facility 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 Cultivation Facility 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 these Regulations

As part of the annual renewal process the Cultivation Facility 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 Cultivation Facility 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 5.81.070.

IV. Performance Standards

A Cultivation Facility shall operate in conformance with the following standards, and such standards shall be deemed to be conditions of approval on the Cultivation Facility'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 Cultivation Facility.

Operations at the Cultivation Facility

1. The Cultivation Facility 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 Cultivation Facility. The Cultivation Facility 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. Only members of the Dispensary, specifically qualified patients and primary caregivers, shall be allowed to cultivate marijuana at the Cultivation Facility. Furthermore, medical marijuana cultivated at the Cultivation Facility shall only be provided to the Dispensary associated with the Cultivation Facility.
3. The Cultivation Facility shall be located in an area zoned for Light Manufacturing Industrial, or its equivalent as defined in the Oakland Municipal Code.
4. With the exception of security guards, only qualified patients and caregivers shall be allowed inside of the Cultivation Facility.
5. Cash shall not be maintained on the premises of the Cultivation Facility. Retail sales of medical marijuana that violate state law are prohibited.
6. The members of the Dispensary may only dispense, store, or transport marijuana in aggregate amounts tied to its membership numbers.
7. The maximum operating hours for the Cultivation Facility shall be as follows: 7:01 am to 7:59 pm daily. The Cultivation Facility shall not be open for access by members between the hours of 8:00 p.m. and 7:00 a.m. the next ensuing day.
8. Cultivation Facilities 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 Cultivation Facility's operations and practices generally.

9. 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.
10. The Cultivation Facility shall implement a system that tracks each batch of medical cannabis such that any medical cannabis subject to recall may be identified.
11. The Cultivation Facility 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.
12. The Cultivation Facility shall not allow alcoholic beverages to be consumed on the premises.
13. The Cultivation Facility shall post a copy of the Business Tax Certificate issued by the Business Tax Office and a copy of the Cannabis Dispensary Permit and Cultivation Facility Permit issued by the City Administrator's Office in a conspicuous place on the premises.
14. The Cultivation Facility shall be separate and distinct from the operation of any food service activity.
15. Cultivation Facilities 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.
16. 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)
 - 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

17. The Dispensary shall maintain records of its members cultivating marijuana at the Cultivation Facility using only the State of California Medical Marijuana Identification Card number issued by the county, 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.

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

19. The Cultivation Facility shall record the total amount of medical cannabis provided to its affiliated dispensary. Such counts shall identify the amount provided daily, weekly and monthly.

The Dispensary shall maintain records of all members' contribution of labor, resources or money to the Dispensary.

20. The Cultivation Facility 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.

Facilities

21. The Cultivation Facility 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 or Cultivation Facility.

22. The Cultivation Facility shall not permit any breach of peace inside of the Cultivation Facility or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct.

23. The Cultivation Facility shall be designed with sufficient sound absorbing insulation so that the noise generated inside the Cultivation Facility 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 Cultivation Facility.

24. The Cultivation Facility shall be designed to provide sufficient odor absorbing ventilation and exhaust system so that any odor generated inside the Cultivation Facility 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 Cultivation Facility, if the use only occupies a portion of a building.

25. The Cultivation Facility 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 Cultivation Facility.

Security

26. 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 Cultivation Facility, parking areas and other areas as determined by the Chief of Police. The recordings shall be maintained at the Cultivation Facility property for a period of thirty (30) days.

27. The Cultivation Facility 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.

28. During Operating Hours, the Cultivation Facility 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.

29. 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.

30. The Cultivation Facility 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 Cultivation Facility all unlawful sales of medical marijuana by members. The Cultivation Facility shall immediately cease providing access to the Cultivation Facility to any member found unlawfully providing marijuana to its non-members.

31. 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.

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

Signage

33. There shall be no exterior signage at the Cultivation Facility.

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 Cultivation Facilities 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 _____)

1667458.2

EXHIBIT G

RFPA Cannabis Dispensary



**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 (RFP) 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 RFP 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 automotive 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.
2. Applications will be immediately determined "null and void" if they do not comply with location requirements (i.e. they are located outside of commercial or industrial areas).
3. All proposed Dispensary sites will be inspected by staff; failure to disclose pre-existing operation will cause the applicant to be immediately disqualified.

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.
5. As a reminder, Applicants 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 operation, board and management composition, pre-constructed sites, gross receipts, length of time operating, etc. will result in immediate disqualification.

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 to be inspected by a building official to ascertain current condition 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, I Frank H. Ogawa Plaza, 11th 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 RFP, 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 RFP. 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 Construction
 - 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 RFPA 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 RFPA 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.
 - o 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:

I) 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 RFP. Incomplete applications are deemed to fail for not meeting the requirements of this RFP.
2. Business Plan (700 points) – The business plan will be evaluated based on responsiveness to items identified in RFP, 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 constmction plans will be submitted to the appropriate department;
- B. Date by when constmction permits must be pulled;
- C. Date by when constmction must be started;
- D. Date by when constmction 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, 1st 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.

1667459.3

EXHIBIT H

RFPA Cannabis Cultivation



**CITY OF
OAKLAND**

THE CITY OF OAKLAND

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

**MEDICAL CANNABIS INDUSTRIAL
CULTIVATION AND PROCESSING FACILITY
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 Dispensaries (Permittees), and solicit applications, to engage in Medical Cannabis Industrial Cultivation And Processing in order to provide safe and adequate access to medical cannabis to qualified patients, and primary caregivers. Applicants will compete for one (1) of _____ available Permits to conduct industrial cultivation of Cannabis 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.

This RFPA is only open to those entities that have a valid, unrevoked permit issued pursuant to OMC 5.80 for the operation of a Dispensary in the City.

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.

While Oakland, and for that matter the State, has created a method for dispensing medical cannabis, there is no established structure for its production, growth and cultivation.

This, combined with the City of Oakland's low priority enforcement policy, has made it difficult for OPD to regulate production within the structure of dispensary collectives.

On July 27, 2010 the Oakland City Council Adopted Ordinance No.13033 C.M.S. creating a regulation and permit process to designate four large-scale Medical Cannabis Industrial Cultivation and Processing Facilities.

Number of Permits

To balance the objectives of sufficient scale and ease of implementation, the City Council approved _____ () Medical Cannabis Industrial Cultivation And Processing Facility Permits in the interim phase of the program.

III. DEFINITIONS

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

- A. "Aeroponics" is the process of growing plants in an air or mist environment without the use of soil or an aggregate medium (known as geponics). The word "aeroponic" is derived from the Greek meanings of "aero" (air) and "ponos" (labour). Aeroponic culture differs from both conventional hydroponics and in-vitro (plant tissue culture) growing. Unlike hydroponics, which uses water as growing medium and essential minerals to sustain plant growth, aeroponics is conducted without a growing medium.
- B. "Applicant" as used only in this Chapter shall be the Dispensary applying for a Medical Cannabis Industrial Cultivation And Processing Facility 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, produced and sold together.
- D. "Cannabis" or "Marijuana" shall be the same as defined in Section 5.81.020, 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.* Such Dispensary also must have a valid, and

- unrevoked permit for operation of a Dispensary issued by the City of Oakland.
- F. “Carbon neutrality” having a net zero carbon footprint, refers to achieving net zero carbon emissions by balancing a measured amount of carbon released with an equivalent amount sequestered or offset, or buying enough carbon credits to make up the difference.
- G. “Carbon Sequestration” is defined as the process of removing carbon from the atmosphere and depositing it in a reservoir. It may also be a geoengineering technique for long-term storage of carbon dioxide or other forms of carbon to mitigate global warming. It has been proposed as a way to mitigate accumulation of greenhouse gases in the atmosphere, which are released by burning fossil fuels.
- H. “City Administrator” shall mean the City Administrator for the City of Oakland or his/her designee.
- I. “Cultivation” shall be the same as defined in OMC Section 5.81.020, as may be amended.
- J. “Cultivation Area” shall be the same as defined in OMC Section 5.81.020, as may be amended.
- K. “Efficient Energy Use, sometimes simply called Energy Efficiency” means using less energy to provide the same level of energy service. For example, insulating a home allows a building to use less heating and cooling energy to achieve and maintain a comfortable temperature. Efficient energy use is achieved primarily by means of a more efficient technology or processes rather than by changes in individual behavior.
- L. “Hydroponics”, means a method of growing plants using mineral nutrient solutions, in water, without soil. Terrestrial plants may be grown with their roots in the mineral nutrient solution only or in an inert medium, such as perlite, gravel, mineral wool, or coconut husk.
- M. “HVAC” is an acronym that stands for the closely related functions of “Heating, Ventilating, and Air Conditioning”—the technology of indoor or automotive 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.

- N. "Industrial Cultivation Facility" or "Cultivation Facility" shall be the same as is defined in OMC 5.81.020.
- O. "Leadership in Energy & Environmental Design (LEED)" is an internationally recognized green building certification system, providing third-party verification that a building or community was designed and built using strategies intended to improve performance in metrics such as energy savings, water efficiency, CO2 emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts.
- P. "Light Manufacturing Industrial or their equivalent use" shall be defined to include areas where medical services, research services, crop raising, cultivation, and agricultural activities are permitted or conditionally permitted in the area where the Applicants property is located.
- Q. "Local" – means residing in the Oakland City limits.
- R. "Primary caregiver" shall be the same as is defined in OMC 5.81.020, and as may be amended.
- S. "Qualified patient" shall be the same as is defined in OMC 5.81.020, and as may be amended.
- T. "Written recommendation" shall be the same as is defined in OMC 5.81.020, and as may be amended.
- U. "Zero Waste" a philosophy that encourages the redesign of resource life cycles so that all products are reused. Any trash sent to landfills is minimal. The process recommended is one similar to the way that resources are reused in nature. In industry this process involves creating commodities out of traditional waste products, essentially making old outputs new inputs for similar or different industrial sectors.

IV. PURPOSE AND SUMMARY OF PROCESS

The purpose of this RFPA is to solicit applications for Industrial Cultivation Facility Permits. Please be advised that no Cultivation Facility, awarded a permit by the City, may operate for profit. Additionally, Applicants that do not have a valid, and unrevoked permit to operate a Dispensary in the City of Oakland are ineligible for a Cultivation Facility permit. The City is seeking in particular submissions that identify the best "green" cultivation practices, while employing "sustainable" energy and waste solutions, and implement the "best practices" available in the agricultural and industrial

cultivation arenas. 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.
- 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).
- 3) All proposed Cultivation Facilities will be inspected by staff; failure to disclose pre-existing operations will cause the applicant to be immediately disqualified.
- 4) As a reminder, Applicants 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 operation, board and management composition, pre-constructed sites, gross receipts, length of time operating, etc. will result in immediate disqualification.

PHASE I

Business Plan Submission & Review

In addition to the documents submitted in support of the Application, Staff will consider seven (7) key components and three (3) categories for bonus points. During the Phase I review process, Staff will review all applicants based on the following seven (7) central categories:.

1. Business Plan
2. Building Construction – Plans and Schedule
3. Security Plan
4. Fire Protection Plan
5. Environmental Plan

6. Capitalization
7. Community Benefits Plan

The top ten (10) highest scoring applications will be notified by mail on or about _____ if they will proceed to Phase II.

PHASE II

Bonus Point Allocations

The top ten (10) Applicants will move on to Phase II scoring and examination. Each Applicant's submission will be reviewed to determine a score based on three (3) bonus point categories, based on their ability to exceed and excel minimum requirements in the three (3) bonus point categories:

1. Labor & Employment Practices
2. Environmental Mitigations
3. 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 Cultivation Facility exam. The member applicant should be a managing member of the Applicant's Collective. The exam will test the applicant's familiarity with Oakland and California law, as well as the Attorney General's guidelines on Medicinal Cannabis. The exam scores will be added to original score total, bonus points and the eight (8) highest Applicant awardees will then be required to be reviewed as part of a public hearing.

Public Hearing

The _____ awardees facilities will be subject to a public hearing noticed to the community where the proposed facility is located. Prior to public hearings, all proposed facility sites will be inspected by a building official to ascertain current condition of facility. 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 not be used to determine who gets the permit but merely to inform staff of potential concerns for which a condition may be necessary to address. Hearing decisions, recommendations, and conditions will be based primarily on community input, site inspection results, business feasibility, and the viability of the proposed location.

Permit Issuance and Permit Fees

Staff expects that the permits will be issued in _____, 2011.

The Annual Permit Fee in the amount of \$211,000 will be due in four quarterly installments of \$52,750, with the first installment due upon issuance of the permit and the remaining installments due every four 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, 11th Floor, Oakland, CA 94612, no later than 4:00 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, City Identification Number, Applicant's proposed Cultivation Facility location, submittal date, and time of the delivery of 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.

A. 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.
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 valid, unrevoked Dispensary permit issued by the City of Oakland, and a copy of the Articles of Incorporation and/or Bylaws filed with the California Secretary of State, and/or other documentation establishing a valid

Cooperative or Collective in conformance with the Attorney General's Guidelines.

5. Clearly identify the proposed sites for Cultivation, its conformance with site requirements as mandated by the ordinance and this RFP. Additionally, the Proposal must include proof of ownership, lease, and or letter of landlord's commitment to lease upon issuance of a permit to this site. The proposed Cultivation Facilities must be located in a light manufacturing industrial site.
6. Identification of all proposed managers of the Cultivation Facility and executives of the business and submit Live Scan applications for each person identified.
7. Proof of Insurance
8. Business Plan
9. Building and Construction
10. Security Plan
11. Fire Plan
12. Environmental Plan
13. Proof of Capitalization
14. Community Benefits Plan

Rejection of Proposals

A proposal will be rejected for any of the following reasons:

1. The proposal is delivered to the wrong location by _____ TBD, 2011 at 4:00 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 RFP requirements and/or any of the required Attachments are missing, including but not limited to a failure by the Applicant 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 submissions.

7. 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).

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 Cultivation Facility Permits received by the deadline set forth above will be reviewed for completeness. No late applications will be accepted. Application will be rejected if the Applicant does not have a valid, unrevoked Dispensary Permit issued by the City of Oakland, or fails to submit all of the required information, 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" cultivation practices, while employing "sustainable" energy and waste solutions, and implement the "best practices" available in the agricultural and industrial cultivation arenas designed to reduce and address any actual or potential concern the City may have regarding the environment or product safety.

1. All proposals will be evaluated by a panel which may include City staff and other parties, such as security experts, with expertise or experience in business, fire inspection, police and Community Policing Through Environmental Design (CPTED), Revenue, Nuisance, Building and Construction design. The panel will rank and score all complete applications in their respective areas of expertise. The evaluation of the proposals shall be within the sole judgment and discretion of the panel.
2. 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 determination of the _____ awardees.
3. A public hearing will be held for the _____ awardees, upon completion of hearing a permit will be issued with appropriate conditions and 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 policies and other key personnel with required experience and skills relevant to this project;
4. Appropriateness project location;
5. Applicants experience and ability to manage operations of proposed facility, scheduling of work and implementation necessary to operate, cost estimating and budget management;
6. Primary makeup of applicant entity board, and proven ability to work with local government agencies;
7. Appropriateness of business model, organization, and their knowledge and experience in working with specific legal codes and regulations.
8. Applicant's use and implementation of "sustainable" energy and waste solutions, "best practices" available in the agricultural and industrial cultivation arenas, and deployment 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 seven (7) 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 Cultivation Facility. The plan should identify types of cultivation that will be conducted aeroponics, hydroponics, greenhouse, as well as whether facility will be organic, and provide a copy of their Integrated Pest Management (IPM) Plan. Business plan should also identify how clients, purchases, and product will be tracked and monitored. 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 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.

2) Building and Construction – 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. Any proposed public right of way improvements for access and safety of employees and customers shall be clearly identified; proposed sewer improvements that may be deemed necessary to meet demands of proposed facility; proposed sidewalk improvements (if any); proposed traffic engineering improvements anticipated to be needed to mitigate impact to traffic and or neighborhood; proposed lighting improvements designed to improve visibility and safety in conjunction with overall safety and fire plan. 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.

If the facility is already constructed then proof that work was done with such building and construction permits and approved by building services (if possible), all construction (new or existing) should meet building code. All facilities will be subject to initial inspection for viability by building official.

Attached to narrative should be a copy of design plans which include diagrams of proposed construction, electrical, plumbing, fire and security elements.

Note: Submission of these plans to staff via this RFP process does not in anyway 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.

3) Security Plan – Applicants should provide a detailed description of their security plan that includes an assessment of site security by a qualified security consultant, this assessment may be required also as part of permit renewal . The following items are 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, visitor security, 3rd part contractor security, and delivery security. This list is not intended to fully capture all areas for applicant consideration but to guide applicants into thinking about all possible security concerns related to the operation of a cultivation facility. 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 overall facilities 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.

Note: Submission of these plans to staff via this RFP process does not in anyway 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.

4) Fire Plan - Any proposed facility with a group U occupancy (agricultural buildings & greenhouses) and group F-1 occupancy (assembling, packaging, manufacturing hemp products) classifications for their building / structure shall be in compliance with current California Fire Code requirements for fire & life safety. Any occupancy change or remodel will require upgrade or installation of modern fire protection systems in compliance with OMC, CBC and CFC regulations.

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. A fire inspection will be required annually prior to renewal of any permit awarded, to assure the City that adequate fire safety measures remain in place. 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 also details by when all fire prevention measures will be operational will be required.

Minimum requirements

An automatic fire sprinkler system shall be provided throughout all buildings containing F-1 occupancy per 903.2.3 CFC. This fire sprinkler system shall be monitored and the system shall alert the occupants of the building or structure on activation and notify the Fire Department of an alarm.

Per 901.4.3 CFC in occupancies of a hazardous nature, where special hazards exist in addition to the normal hazards of the occupancy, or where the Fire Code Official determines that access for fire apparatus is unduly difficult, the Fire Code Official shall have the authority to require additional safeguards. Such safeguards include, but shall not be limited to, the following: automatic fire detection systems, fire alarm systems, automatic fire extinguishing systems, standpipe systems, or portable or fixed extinguishers. Fire protection equipment required under this section shall be installed in accordance with this code and the applicable referenced standards.

Any additional fire protection systems required by the Fire Code Official shall be installed forthwith, with required plans and building and construction permits submitted for approval to and by the City of Oakland per 105.7 CFC.

Per 105.6.7 CFC, a Corubustible Fibers permit shall be obtained annually for the storage and handling of combustible fibers (hemp) in quantities greater than 100 cubic feet (2.8m3).

An annual Inspection of operations and fire / life safety systems shall be a condition of obtaining both building and construction permits & Fire Department clearance.

Note: Submission of these plans to staff via this RFP process does not in anyway 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.

5) Environmental Plan Please include an Environmental Compliance Plan as a required element of the submission. This plan must provide a detailed description of how the applicant will comply with all existing state and local policies, including:

A. Stormwater Management – Meet Provision C.3 requirements by developing and implementing both a Stormwater Pollution Prevention Plan to minimize potential runoff pollution during construction and a Stormwater Control Plan to minimize potential runoff pollution and runoff flows for the life of the project.

B. Discharge into Stormwater System – Obtain a Non Point-source Discharge & Elimination Permit from the State and comply with the City’s Municipal Regional Permit regulated by the State

C. Discharge into Sanitary Sewer System – Obtain a discharge permit from EBMUD and City building and construction permits for plumbing.

D. Energy – Comply with Title 24 statewide building energy code.

- E. Identify number and types of PGE energy vaults transformers that will be installed, including placement on facility (if applicable).
- F. Green Building – Comply with Oakland Green Building Ordinance.
- G. Recycling – Comply with Oakland’s Construction and Demolition Debris Recycling Ordinance
- H. Recycling – Comply with Oakland’s Recycling Space Allocation Ordinance in the Planning Code.
- I. Recycling – Comply with the countywide ban on plant debris disposal in the garbage.
- J. Recycling – Provide mandatory weekly garbage collection.
- K. Air Quality – Obtain permits from the Bay Area Air Quality Management District for backup diesel generators or other equipment requiring such permits.
- L. Describe with specificity the number and types of air filters to be used in facility. Describe how air filtration system will be used to create negative or positive pressure to reduce odor and emissions into the facility and out into the neighboring areas.
- M. Hazardous Materials – Develop a Spill Prevention, Control and Countermeasure plan if storing more than 1,350 gallons of liquid hazardous materials.
- N. Hazardous Materials – Prepare a Hazardous Materials Business Plan (HMBP) as necessary.
- O. Provide information on pesticides that will be used onsite, or whether facility will be organic or cultivate in an organic manner. Information should be folded into IPM.

In addition, this plan must describe how the Applicant will comply with the following additional requirements, including:

- Achievement of energy performance at least 10% superior to latest version of Title 24 code adopted by the State
- Ban on disposal of organics in the garbage

Note: Submission of these plans to staff via this RFP process does not in anyway 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.

6) Capitalization – A successful Applicant will have sufficient capital in place to build, secure, and start up the Cultivation Facility. Such costs must incorporate the City's permit fee. The Applicants must provide proof in the form of some combination of Letters of Credit, equity, and or loans sufficient to cover construction, start up, equipment, and product production. 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. Letters of Credit; equity, and/or loans
- B. Three (3) years of 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 Performa
- F. Reasonable reserves

7) Community Benefits - Apphcants 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 bonus 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. Apphcants 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.
 - o 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 B. Should the Applicant be successful and be awarded a permit, their commitments in bonus points categories will become a condition 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 conditions. 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) Environment (Bonus Points 220) Bonus points will awarded based on three categories: a) Energy, Building & Climate; b) Water; and c) Materials & Waste. Should the Applicant be successful and be awarded a permit of the city, any area contained below for which bonus points were awarded will become a condition of their permit, and the City would reserve the right to enforce said condition.

Energy, Building & Climate (100 points)

- A. Provide a description of how the facility and all operations will maximize energy efficiency
- B. Apply and use available PG&E programs offering free technical assistance for design and construction of building shell, tenant improvements, building

systems and processes where applicable (some may only apply to new construction)

- C. Provide a description of how renewable energy will be used on-site or purchased (e.g., solar panels)
- D. Provide estimates of projected total facility energy consumption and greenhouse gas emissions
- E. Provide an estimate of energy use and a summary of the approach to be taken for lighting of cultivation area (e.g., number and type of lights per 10,000 square feet)
- F. Provide a description of efforts to reduce transportation emissions (e.g., use of biofuels, electric vehicles)
- G. Provide a description of any other efforts to reduce or offset greenhouse gas emissions associated with the facility and operations (e.g., achievement of climate neutrality through efficiency, renewables and offsets)
- H. Provide a description of how existing Brownfield sites, if applicable, will be remediated and used for the planned facility

Water (40 points)

- A. Provide a description of how water conservation and efficiency strategies will be developed (e.g., use of EBMUD technical assistance)
- B. Provide a description of any efforts to recycle and/or treat water on-site
- C. Provide a description of how the use of toxic materials will be minimized or prohibited in all aspects of proposed operation (e.g., use of organic fertilizers, non-toxic pesticides)

Materials & Waste (80 points)

- A. Development of zero waste plans for operations with detail on efforts to be undertaken
- B. Provide a description of packaging to be used, including expected use of recycled content materials, recyclable materials, and reusable materials, including plans for reuse
- C. Provide a description of how others up and down the supply chain will be engaged to maximize material reuse, minimize packaging, etc. (e.g., delivery in reusable containers)

- D. Provide a prediction of operational phase waste stream broken down by garbage vs. recycled vs. composted material by volume
- E. Describe the extent to which organic fertilizers and pesticides will be used
- F. Provide a description of how toxic chemicals will be prevented from entering water, air and ground resources

3) 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 detail how growing condition used to produce the plants will produce a plant free of mold, disease, heavy metals, etc.
- B. Applicants that provide product safety through UV exposure or other non-toxic treatment mechanisms to guarantee product safe for patient use
- C. 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.
- D. 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.
- E. Applicants will explain how they intend to reduce the use of pesticides and be prepared to maintain such commitment as a component of their permit to operate.

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 (600 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, bidders will be evaluated based on a demonstrated capacity to work quickly, efficiently, reliably, and with the ability to demonstrate confidence in their product vision and implementation of a

cultivation facility, appropriateness of business in surrounding community, ability to clearly articulate business model, and conformance with Oakland and California State Law.

3. Building/Constmction Plan (100 points) – The Building Constmction plan will be scored based on feasibility, length of time needed for constmction, design, overall scale, and appropriateness of facility stmcture/scale size in surrounding community.
4. Security Plan (150 points) – An evaluation will be made of (a) overall safety and security; (b) ability to adequately secure and protect employees, patients, patient/caregivers, client dispensaries, and the general public entering the facility; and (c) ability to adequately secure cultivation areas, product, and adhere to closed loop system that prevents diversion.
5. Fire Prevention Plan (50 points) - An evaluation will be made of (a) overall safety and security; (b) ability to adequately secure and protect employees, patients, patient/caregivers, client dispensaries, and the general public in case of a fire and/or other emergency, including plans and regular rehearsals; and (c) adequate fire prevention and suppression measures sufficient to prevent and or respond to a fire of any size.
6. Capitalization (300 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.
7. Environmental Plan (200 points) – An evaluation will be made of the applicants overall ability to meet state, federal, and local regulations regarding environmental protections.
8. 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.
9. Additional Preference Points – In addition preference points may be eamed 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. *Environmental (220 points)* – Bonus points will be awarded based on three sub-categories: a) Energy, Building & Climate; b) Water; and c) Materials & Waste.
- c. *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.

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

Each category will be reviewed by a subject matter expert and the Special Business Permits staff, by way of example the Fire Plan category will be reviewed by OFD Fire Inspector and 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 1500 points.

Please be advised that there is an additional 660 points available based on Applicants ability to meet the bonus requirements identified by the Oakland City Council. Applicants that move on to Phase II of the RFPA will also be subject to an examination that will be worth an additional 100 points. The total overall maximum score available to applicants that go through Phase I and Phase II will be 2260. The examination will be taken prior to the selection of the _____ Permit awardees selection. A Public Hearing will be held for the _____ awardees to finalize conditions and hear concerns or consideration from residents.

X. NOTICE OF DECISION

Successful applicants will be notified in writing no later than TBD, 2011. All applicants who fail to proceed to Phase II to will be notified within ten (10) days of the decision and they will be informed of their 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 \$ 1,000 a 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;
- G. Date by when local hiring practices and employment commitments begin; and
- H. Other measures as may be determined so that staff continues to see movement towards opening of the Cultivation Facility.

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.

Attachments:

General Information

Exhibit A – Draft Operating Conditions

Exhibit B – Oakland City Council policies and Procedures

Exhibit C – Oakland Municipal Code Chapter 5.81 Medical Cannabis Cultivation

GENERAL INFORMATION

1. pre-proposal conference is scheduled for:

_____ from _____
1 Frank H. Ogawa Plaza, 1st Floor, Hearing Room 1
Oakland, California 94612

The pre-proposal conference will cover the following items.

- a. Project information.
- b. 5 major categories
- c. Bonus Point Categories
- d. Proposal submittal requirements.
- e. Questions by attendees.

The City Administrator reserves the right to reject any and all applicants.

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 Industrial Cultivation And Processing Facility Permits. 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.