



Medical Cannabis Commission

ACTION CALENDAR

September 17, 2013

(Continued from June 11, 2013)

To: Honorable Mayor and Members of the City Council
From: Medical Cannabis Commission
Submitted by: Rick Pfrommer, Chairperson, Medical Cannabis Commission
Subject: Medical Cannabis Ordinance Revisions and Dispensary Selection Process

RECOMMENDATION

1. Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 12.26.030;
2. Adopt first reading of an Ordinance adding BMC Chapter 12.27, including the Medical Cannabis Commission's recommendations (Alternative A);
3. Adopt a Resolution establishing a ranking process for the selection of additional medical cannabis dispensaries in Berkeley; and
4. Refer to the Planning Commission an amendment to BMC Section 23E.16.070 to increase the number of dispensaries permitted from four to six.

SUMMARY

The Medical Cannabis Commission recommends the following actions to the City Council:

- Adopt first reading of an Ordinance amending the BMC Section 12.26.030 (5-2-0-2; Ayes: Jones, Pappas, Pfrommer, Rice, Rush. Noes: Ferguson-Riffe, Tims. Absent: Beals, Stoloff. Vote taken February 7, 2013.)
- Adopt first reading of an Ordinance adding BMC Chapter 12.27 (7-0-0-0; Ayes: Ferguson-Riffe, Jones, Pappas, Pfrommer, Rice, Rush, Tims. Vote taken May 2, 2013.) Adopt a Resolution adopting a ranking process for the selection of additional medical cannabis dispensaries in Berkeley. (5-0-1-2; Ayes: Ferguson-Riffe, Pappas, Pfrommer, Rice, Rush. Noes: None. Abstain: Cooper. Absent: Jones, Tims. Vote taken May 2, 2013.)
- Refer to the Planning Commission an amendment to BMC Section 23E.16.070 to increase the number of dispensaries permitted from four to six. (7-0-0-0; Ayes: Ferguson-Riffe, Jones, Pappas, Pfrommer, Rice, Rush, Tims. Vote taken April 5, 2013.)

The proposed ordinance and ranking process would allow the City Council to approve additional medical cannabis dispensaries in Berkeley, as permitted in the Zoning

Ordinance. Changes to Chapter 12.26 are proposed in order to clarify the distinctions between the types of medical cannabis organizations already permitted in the City.

A change to the maximum number of dispensaries from four to six is proposed to provide more patient access to medical cannabis, one of the purposes of the BMC Chapter 12.26, the Patients Access to Medical Cannabis Act of 2008. The recommended change will need to be referred to the Planning Commission because the numerical limitation is in the Zoning Ordinance. Please refer to Attachment 5 (MCC Rationale for Additional Dispensaries) for reasoning and considerations.

FISCAL IMPACTS OF RECOMMENDATION

The Medical Cannabis Commission did not discuss the fiscal impacts of this ordinance and selection process. The Commission did express a desire to keep application costs down, since many of the applicants will be new business owners.

See the City Manager's report for an analysis of the fiscal impacts of the ordinance and selection process.

CURRENT SITUATION AND ITS EFFECTS

The ordinance amendments and the ranking process set standards and regulate both existing and new medical cannabis dispensaries and collectives in Berkeley. The following text provides a brief synopsis of each document and reviews the primary issues discussed by the MCC and the public as part of the creation of these documents. It outlines the review of the ordinance and ranking documents by other city commissions. It reflects the MCC's recommendations and identifies areas where there are different staff positions.

A. BMC Section 12.26.030 amendments

Description of ordinance

The MCC recommends amending three existing definitions ("medical cannabis collective", "medical cannabis dispensary" and "medical cannabis organization") in order to clarify the distinction between the various types of medical cannabis organizations. Additionally, a new definition, "medical cannabis cooperative," is recommended so that all medical cannabis organization options permitted by the State are reflected in the City's ordinance.

Issues discussed

The MCC discussed the different forms that a collective could take; the Commission's recommendations are included in the attached ordinance language.

B. BMC Chapter 12.27

Description of ordinance

The ordinance would add a new chapter to the Berkeley Municipal Code to provide specific regulations for dispensaries, as called for in Measure T. It would replace the 2008 Operating and Safety Standards which were adopted by the previous Medical

Cannabis Commission. The chapter also includes regulations for collectives, which are not specifically called for in Measure T, but are recommended to clarify the types of uses that are appropriate in residential areas.

The ordinance is made up of four articles:

- Article 1 – General
 - 12.27.010 - Applicability (gives the three existing dispensaries that were allowed under BMC 12.26.130 up to six months to comply with the new regulations or lose their slot. An additional six months to comply may be granted by the City Manager)
 - 12.27.020 – Definitions (in addition to those in 12.26.030)
- Article 2 – Dispensaries
 - 12.27.030 – Eligibility requirements (who may operate or work at a dispensary, i.e. limitations regarding criminal history and organizational requirements)
 - 12.27.040 – Information requirements (to be provided by the dispensaries to the City)
 - 12.27.050 – Operating Standards (rules regarding membership, non-diversion, dispensing of medicine, members and employees, security, neighborhood compatibility, on-premises consumption and accessibility)
 - 12.27.060 – Signage
 - 12.27.070 – Product safety and quality (rules regarding packaging and labeling, edibles, food safety requirements and quality control)
 - 12.27.080 – Medical cannabis for low-income Members
 - 12.27.090 – Records (explains regulations for finances, membership rosters and financial records)
 - 12.27.100 – Ranking and allocation procedure and criteria
 - 12.27.110 – Confidentiality of information
- Article 3 – Collectives
 - 12.27.120 – Limitations on Collective operations (limitations, such as number of member trips per day and the amount of cash or cannabis on hand at any time, designed to keep collectives incidental to residential use)
 - 12.27.130 – Operating standards for all Collectives (membership, non-diversion, dispensing, product safety, records, confidentiality of information)
 - 12.27.140 – Reserved
- Article 4 – Enforcement
 - 12.27.150 – Authority of the City Manager
 - 12.27.160 – Abatement of violations
 - 12.27.170 – Fees
 - 12.27.180 – Severability

Issues discussed

This staff report also reviews a number of issues that were of concern to the public and the MCC and how they were resolved. The ordinance as proposed is a consensus

document that the MCC recommends for approval, with the exception of a handful of specific provisions that are indicated in the draft by alternatives A and B. These provisions represent areas where the staff and the MCC disagree, and are presented to the Council for decision. The rationale for the MCC's positions is included in this report; Staff rationale is contained in the City Manager's report.

- 12.27.030 – Eligibility. The MCC expressed some concerns that criminal histories might unnecessarily restrict workers and principals at a dispensary. The current language addresses those concerns by distinguishing among types of offenses, so that minor offenses and misdemeanor offenses involving marijuana and concentrates would not render applicants ineligible, while more serious offenses would. Even some felony offenses would only render applicants ineligible for 10 years.
- 12.27.050.E – Operating Standards, Security. The MCC was concerned that bars on windows of dispensaries could be prohibitively expensive, and could also adversely affect the appearance of a business. The MCC modified this language to allow for security guards during non-business hours in lieu of window bars. See the City Manager's report for the staff recommendation.
- 12.27.050.G – Operating Standards, Consumption of Medical Cannabis, Tobacco and Alcohol, and 12.27.050.I – Termination of Membership. By preventing consumption of any kind in dispensaries, patients in public housing could be forced to medicate in public areas, or risk losing their housing by medicating at home. In order to address this, the MCC recommends prohibiting smoking on site (to conform to Berkeley Anti-Smoking laws), but to allow other types of medical cannabis consumption, such as vaporizing or edibles, at dispensaries. Furthermore, a minority of commissioners would like to see smoking allowed on site under proper and specially approved circumstances. See the City Manager's report for the staff recommendation.
- 12.27.070.B – Product Safety and Quality, Compliance with State Food Safety Requirements and 12.27.070.E.3 – Preparation of Edibles. Since a majority of the edible products sold in dispensaries are produced outside the City of Berkeley, the Commission expressed concern about the impact that limits on the production of edibles could have on patients and dispensaries. Forcing patients to travel to other cities to obtain edible products is not in the spirit of providing safe and affordable access to medical cannabis. The ordinance has been drafted to allow for products from government-inspected facilities to be sold in Berkeley dispensaries. This would include products made in commercial facilities outside of Berkeley, products made in Berkeley in accordance with the California Homemade Foods Act, and products made in accordance with the California Homemade Foods Act located in a jurisdiction that would inspect kitchens producing cannabis products.

The MCC is emphatically concerned that prohibiting edible medical cannabis products from sharing commercial facilities with businesses making non-cannabis products would limit manufacturing space and add to the cost of the final product. In addition, it is likely cleaner and safer for edibles to be produced in a commercial

kitchen than in private homes. To avoid potential product confusion, the MCC concurs that non-cannabis and cannabis edibles should not be cooked at the same time. However, risk of contamination can be avoided if commercial facilities used for edible cannabis products are thoroughly cleaned after use. See the City Manager's report for the staff recommendation.

- 12.27.070.H – Quality Control. The MCC believes strongly in ensuring the quality of the medical cannabis sold at dispensaries, and supports mandatory testing of each batch of product for the presence and amounts of active ingredients and cannabis by-products. The MCC also has concerns regarding biological and chemical contaminants, such as molds, mildews, pesticides and other regulated contaminants, such as synthetic plant growth regulators, especially because patients using medical cannabis may have compromised immune systems. Mandatory testing was considered for these biological and chemical contaminants, but it was ultimately not supported by the MCC and staff for the following reasons:
 - There is no standardized or certified testing process for these contaminants, so testing would not necessarily be meaningful.
 - Testing can only be done on a product-specific basis, therefore, medicine cannot be screened for all pesticides and other regulated contaminants.
 - The cost of such additional testing for dispensaries could be very high.
 - This section of the ordinance is also proposed to apply to Collectives, which is not workable on a mandatory basis for the same reasons as listed above.

As noted in the section of this report regarding the Ranking/Allocation Process for Dispensaries, testing for biological and chemical contaminants is recommended by both the MCC and staff as an optional category (Enhanced Product Safety, Round 3). This would provide the opportunity to allocate bonus points to dispensaries competing for the fourth dispensary slot based on individual proposals for testing. The MCC would encourage all medical cannabis organizations to test their products for biological and chemical contaminants, and believes that these organizations will do this to a lesser or greater extent for the benefit of their patients and to be competitive with other organizations.

- 12.27.090.C – Records, Membership, and 12.27.110 – Confidentiality of Information. The public and the Commission expressed concern that personal identifying information about members could be accidentally released, or be released as part of a Public Records Act request. The ordinance has been drafted to minimize the possibility of this occurring.
- 12.27.120 – Limitations on Collective Operations. This section was intended to define what it means in effect for a collective to be “incidental” to residential use. There was some discussion regarding the need for a numeric limit on the number of members belonging to a collective. It was decided that the operating limitations spelled out in this Section, particularly the number of member trips per day, would keep the use incidental to the residential uses in the area without restricting membership. The Ordinance lists other limitations on Collectives including hours that Members may visit (except for social purposes), the amount of cash or cannabis

on hand, no alcohol sales, no live entertainment, and no impacts on adjoining properties.

The MCC is very concerned about the following City Manager recommendation:

Ingestion of Medical Cannabis by any means, except by residents, is prohibited at Collectives, including exterior areas, and within 50 feet of Collectives on the public right of way.

The Commission believes that it is important for Members to have a place to medicate (including smoking) especially because use of Medical Cannabis is prohibited in public housing. The Commission supports prohibition of smoking of Medical Cannabis by non-residents in all exterior areas of Collectives and within 50 feet of Collectives on the public right of way. See the City Manager's report for the staff recommendation.

C. Ranking/Allocation Process for Medical Cannabis Dispensaries

The ranking and allocation criteria, which would be adopted by Council resolution, is a consensus document. There are, however, a number of policy judgments that the Council should be aware of with respect to the criteria for ranking applications and relative weight accorded each criterion.

Description of document

The ranking process will be used to evaluate dispensary applications and determine which dispensaries may fill any unoccupied spot(s) under the City's four-dispensary cap. The process will have four steps or rounds as described below.

Round 1 (Qualification Round):

- Staff will review applications for completeness (contains all information requested in 12.27.040).
- Principals must take and pass a medical cannabis competency test.
- Principals and employees must pass the eligibility requirements set forth in 12.27.030.
- Applications that do not meet these requirements will be returned to the applicant and not considered.

Round 2 (Initial Ranking: Minimum Qualifications):

- A three-member panel of City staff appointed by the City Manager will rank applicants based on the following mandatory categories:
 - Proposed location(s) of business;
 - Business plan;
 - Neighborhood compatibility plan; and
 - Safety and security plan.
- The top 10 applicants will be considered in the third round.

Round 3 (Second Ranking – Bonus Points)

- The three-member panel will award points to applicants based on the following optional categories:
 - Availability of professional services (medical or technical consulting, mental health services, etc.);
 - Community benefits (contributions to community non-profits, provide job training);
 - Enhanced Product Safety (testing of product beyond the required testing, such as for pesticides);
 - Environmental Benefits (green business practices);
 - Labor and Employment (heightened pay and benefits standards and practices, including collective bargaining rights);
 - Local Enterprise (principals live in Berkeley or immediately adjacent communities);
 - Final location;
 - Qualifications of Principals (any special business or professional qualifications or licenses that would add to the quality of service at the dispensary); and
 - Consolidation (Businesses in this round could consolidate their applications and proceed as one application for additional points).
- The top five applicants will be considered in the fourth round.

Round 4 (Selection)

- The top five candidates will have 45 days to hold a public meeting in the area proposed for its dispensary. Noticing will be provided as set forth for Zoning Adjustment Board hearings (see BMC Chapter 23B.32).
- Once all meetings have been held, the candidates will be forwarded to the MCC, which will evaluate them and make a recommendation to Council.
- All five candidates will then go on to the Council, which will make a final selection.

Issues Discussed

Certain issues about the ranking and allocation process were of concern to the public and MCC; these issues are briefly described below.

Some members of the public believe that members of the MCC should be involved throughout the selection process, not just at the end. Ultimately the MCC and staff agreed on review and recommendation of the top five candidates by the MCC prior to review by the Council, as provided in the proposed ranking and allocation criteria document. With respect to MCC participation in Round 1, staff will work with the Commission to develop the medical cannabis competency test called for in the ranking process.

The information given as part of the location evaluation should not be used to create a de facto buffer zone from uses other than schools, as the zoning ordinance language developed from Measure T specifically states that “the Council not adopt buffer zones

from additional uses absent a compelling necessity” (23E.16.070). The proposed language was amended to address this issue.

Pesticide testing was included as an optional category (Enhanced Product Safety, Round 3) because of the cost of this testing. Testing for THC levels will be mandatory and part of the Round 2 evaluation.

Location is included in Rounds 2 and 3 to allow applicants without a proposed location to continue to be considered while searching for a site. The location must be finalized (with proof of owner’s willingness to lease) for the application to continue beyond Round 3.

D. Consideration of Additional Dispensaries in Berkeley

The MCC believes that in order to provide safe and affordable access to medical cannabis, more than four dispensaries should be permitted to operate in Berkeley. The current number does not provide sufficient conveniently located sites for patients to buy medicine, and by restricting the number of dispensaries to four, the City reduces the opportunity for competition which could lower the price of medicine for patients. Given that there are three existing dispensaries, unless the number is increased, only one additional dispensary would be permitted. The MCC discussed that patients need more access and options, especially given that the City is taking action against illegal dispensaries. Please refer to Attachment 5 for reasoning and considerations.

The Commission recommends that the Council refer to the Planning Commission an amendment to BMC Section 23E.16.070 to increase the number of dispensaries permitted from four to six.

E. Review By Other Commissions

The ordinance amendments and rankings document were forwarded to five other Commissions: The Commission on Disability; the Community Environmental Advisory Commission; the Community Health Commission; the Human Welfare and Community Action Commission; and the Peace and Justice Commission. Staff received comments from the Commission on Disability and the Peace and Justice Commission related to the need for dispensaries to be ADA compliant, and concerns regarding eligibility requirements, payment methods and patient confidentiality. These comments are attached to this report. The commissions did not consider the question of additional dispensaries in Berkeley.

BACKGROUND

In 2001, the City Council added BMC Chapter 12.26 to establish protocols for medical cannabis, but no specific permit process or specific requirements were included. At that time, medical cannabis dispensaries in Berkeley opened after receiving business licenses. One of the original purposes of the ordinance is to ensure that medical cannabis patients could obtain and use medical cannabis when appropriate. The ordinance was amended by the Council in 2004, and in 2008 and 2010 through the initiative process.

Prior to November 2010, three medical cannabis dispensaries existed in Berkeley. These dispensaries had been established prior to any city regulations regarding dispensaries, and were officially recognized by the City with the 2004 adoption of BMC Section 12.26.130, which imposed a cap of three dispensaries in Berkeley. The dispensary cap was directly motivated by Oakland's impending (June 2004) dispensary cap of 4, and also in reaction to proposed Measure JJ which would have allowed existing Berkeley dispensaries permitting authority for new dispensaries.

In November 2010, Measure T passed with 64% of the vote. The measure changed the existing regulations related to medical cannabis, including the creation of a Council-appointed Medical Cannabis Commission and an increase in the number of permitted dispensaries from three to four. The ordinance also stipulated that no new dispensaries could be permitted until the Council adopted new regulations that would apply to all dispensaries, new and existing.

The Medical Cannabis Commission has been working on an ordinance and selection process for over a year. Based on direction from the MCC, a draft of an ordinance was developed by staff and presented to the MCC in November 2012. The documents were revised based on comments from the public, the MCC Dispensary Subcommittee (five meetings were held), and the MCC as a whole (six meetings were held).

The new ordinance and selection process would be used in conjunction with Chapter 26, *Patient's Access to Medical Cannabis Act of 2008*, and the Zoning Ordinance regulations regarding medical cannabis uses, and would replace the 2008 Operating and Safety Standards adopted by the previous Medical Cannabis Commission.

RATIONALE FOR RECOMMENDATION

The adoption of these ordinance amendments and selection process would allow the Council to select a fourth dispensary, fulfilling voter direction given with the passage of Measure T.

ALTERNATIVE ACTIONS CONSIDERED

Staff alternative recommendations are described in the City Manager's report.

CITY MANAGER

See companion report.

CONTACT PERSON

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Attachments:

- 1: Ordinance Amending the Berkeley Municipal Code Chapter 12.26 (Definitions)
- 2: Ordinance Adding Chapter 12.27 (Medical Cannabis Dispensaries and Collectives) to the Berkeley Municipal Code
- 3: Resolution Adopting the Ranking/Allocation Process for Medical Cannabis Dispensaries
Exhibit A: Ranking/Allocation Process for Medical Cannabis Dispensaries
- 4: Comments from Commission on Disability and the Peace and Justice Commission
5. MCC Rationale for Additional Dispensaries

ORDINANCE - N.S.

AMENDING SECTION 12.26.030 OF THE BERKELEY MUNICIPAL CODE DEFINING
MEDICAL CANNABIS COLLECTIVES AND DISPENSARIES

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Section 12.26.030 of the Berkeley Municipal Code is amended to read as follows:

12.26.030 Definitions.

A. "Cannabis" shall have the same meaning as the definition of "Marijuana" provided in California Health and Safety Code Section 11018 at this time, but if that definition is amended by state law in the future, as amended. Currently, under Health and Safety Code Section 11018, "marijuana means 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 seed of the plant which is incapable of germination."

B. "Qualified patient" shall mean a person who has a written or oral recommendation or approval from a licensed medical doctor to use cannabis for medical purposes.

C. "Primary caregiver" shall mean the individual person or persons designated by a qualified patient, provided that said individual person or persons has consistently assumed responsibility for the housing, health, or safety of the qualified patient.

D. "Medical cannabis collective" or "Collective" shall mean an cooperative, affiliation, association, or collective of persons comprised exclusively and entirely of qualified patients and the primary caregivers of those patients, the purpose of which is to collectively provide for or assist in the cultivation and distribution of Medical Cannabis to its members. education, referral, or network services to qualified patients, and to facilitate or assist in the cultivation and manufacture or acquisition of medical cannabis for qualified patients. Except as permitted by Section 12.26.130 or Title 23, mMedical cannabis collectives shall not be located in commercial or manufacturing districts, and shall only be allowed in residential districts, and only to the extent they are as incidental to residential use. A Collective may take the form of a California nonprofit public benefit or mutual benefit corporation organized under Part 2 or Part 3 of Division 2 of the Corporations Code.

E. "Medical cannabis cooperative" or "Cooperative" means a "cooperative" under the Food & Agricultural Code or the Corporations Code that is comprised exclusively and entirely of qualified patients and the primary caregivers of those patients, the purpose of which is to provide for cultivation and distribution of Medical Cannabis to its members. If a Cooperative is not operating an authorized Dispensary, it is subject to the rules governing Collectives.

EF. "Medical cannabis dispensary" or "Dispensary" shall mean an establishment operated by a Cooperative or Collective that is authorized under Chapter 12.27 and Title 23~~any medical cannabis collective that is allowed under Section 12.26.130~~ to dispense medical cannabis at a non-residential location. ~~Such a~~A dDispensary may also provide other incidental services to its members, cultivate, acquire, bake, store, process, test, and transport medical cannabis. In dispensing ~~medical c~~annabis to its qualified patients or their primary caregivers, a dDispensary may be reimbursed for the cost of its services and materials.

FG. "Medical cannabis organization" includes both ~~Medical cannabis c~~ollectives and Cooperatives~~and Medical cannabis dispensaries.~~

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

ORDINANCE - N.S.

ADDING CHAPTER 12.27 TO THE BERKELEY MUNICIPAL CODE REGULATING MEDICAL CANNABIS DISPENSARIES AND COLLECTIVES

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Chapter 12.27 is added to the Berkeley Municipal Code to read as follows:

Medical Cannabis Dispensaries and Collectives

Article I	General
12.27.010	Applicability
12.27.020	Definitions
Article II	Dispensaries
12.27.030	Eligibility requirements
12.27.040	Information requirements
12.27.050	Operating Standards
12.27.060	Signage
12.27.070	Product safety and quality
12.27.080	Medical cannabis for low income Members
12.27.090	Records
12.27.100	Ranking and allocation procedure and criteria
12.27.110	Confidentiality of information
Article III	Collectives
12.27.120	Limitations on Collective operations
12.27.130	Operating standards for all Collectives
12.27.140	Reserved
Article IV	Enforcement
12.27.150	Authority of City Manager
12.27.160	Abatement of violations
12.27.170	Fees
12.27.180	Severability

Article I General

12.27.010 Applicability

A. This Chapter applies to Medical Cannabis Dispensaries (“Dispensaries”) and Collectives as defined in Section 12.26.030.

B. The three existing Dispensaries permitted as of January 1, 2012, under Berkeley Municipal Code section 12.26.130 shall have a grace period of 6 months from the

effective date of this ordinance to comply with it. Any such Dispensary that substantially complies with this ordinance by that time may continue to operate and shall not be required to participate in the ranking and allocation process under 12.27.100. Any such dispensary that does not substantially comply with this ordinance by that date shall cease operation, but may apply to operate under Berkeley Municipal Code section 12.27.100 on the same basis as any other applicant.

C. The City Manager may grant an existing Dispensary up to another 6 months to achieve full compliance with this Chapter if he or she determines that the Dispensary has made a timely and good faith effort to comply, has not been able to achieve full compliance due to circumstances beyond its control, and has a realistic plan for achieving full compliance no later than 12 months after this Chapter took effect.

12.27.020 Definitions

For purposes of this Chapter, the definitions in Section 12.26.030, as well as the following definitions, shall apply.

A. "Active Ingredients" means, in the case of dried cannabis flowers, extractions or infusions, delta-9-tetrahydrocannabinolic acid, delta-9-tetrahydrocannabinol, cannabidiolic acid, cannabidiol, and any cannabinoid or propyl cannabinoid derivative when present in amounts greater than .5% by dry weight, and any mono- or sesquiterpenoid present in an amount exceeding .3% of a product's dry weight.

B. "Batch" means:

1. a discrete quantity of dried Medical Cannabis that is all from the same crop grown in the same location and harvested in the same manner and at the same time;
2. a discrete quantity of other Medical Cannabis Product that has been prepared or processed in the same manner.

C. "Cannabis By-Products" means delta-8-THC and cannabiniol when present in amounts greater than .2% of a product's dry weight

D. "Cultivate" and "Cultivation" mean activities related to the growing, harvesting, drying, curing, processing, manicuring and production of Medical Cannabis, and may include testing, manufacturing and preparation of Edibles, as long as the predominant use is cultivation of Medical Cannabis.

E. Medical Cannabis.

1. "Medical Cannabis" means Cannabis, as defined in Section 12.26.030.A, that is intended or used for medicinal purposes in compliance with state law.

2. "Medical Cannabis Product" is any non-edible product that contains Medical Cannabis.

3. "Edible Medical Cannabis Product" (or "Edible") is edible product that contains Medical Cannabis. Edible Medical Cannabis Products shall not be considered food for purposes of implementation of the California Retail Food Code (Health & Safety Code §§ 113700 *et. seq.*) or the California Sherman Food and Drug and Cosmetic Act (Health & Safety Code §§ 109875 *et. seq.*).

F. "Member" means a qualified patient or primary caregiver as defined in California law who is also a member of a Dispensary pursuant to its rules and consistent with California law.

G. "Not-for-Profit" means that an organization receives compensation only for the reasonable costs of its operation, including reasonable compensation for products and services provided to Members to enable them to use Medical Cannabis pursuant to Health and Safety Code Sections 11362.7 *et seq.*; reasonable compensation for employees; reasonable out-of-pocket expenses incurred in providing those products or services, or both. Reasonable out-of-pocket expenses may include, but are not necessarily limited to, reasonable expenses for Member services and education, rent or mortgage, utilities, construction, furniture, maintenance, analytic testing, security, professional service costs, regulatory compliance costs, debt service, and reserves.

H. "Principal" means any person that has direct or non-delegated indirect authority over the management or policies of a Dispensary or the Medical Cannabis Organization (MCO) that operates it.

I. "Protected Health Information" means documentation of a Member's medical history or condition other than a physician's recommendation, an identification card issued pursuant to Health and Safety Code Section 11362.7 *et seq.*, or the written designation of a primary caregiver by a qualified patient or identification card holder. Protected Health Information shall not include information conveyed by a Member to a Dispensary regarding such Member's medical condition, information conveyed by a Member to a Dispensary regarding efforts to ameliorate or otherwise address symptoms associated with such Member's medical condition, or information regarding Cannabis or Medical Cannabis Products provided to a Member.

Article II Dispensaries

12.27.030 Eligibility requirements

A. No person may be allowed to have any position with a Dispensary other than that of Member if he or she has been convicted of:

1. homicide;
2. within the preceding 10 years, any serious or violent felony listed in Penal Code Section 1192.7(c) or Section 667.5(c);
3. within the preceding 10 years, any violation of Penal Code Sections 243 through 247, except for subdivision (a) of Section 243;
4. within the preceding 10 years, any offense under subdivisions (d) or (e) of Section 11357 or Section 11361, or Articles 1, 3, 5, 6, or 7 of Chapter 6 of Division 10 of the Health and Safety Code; or
5. within the preceding 5 years any felony violation of Health and Safety Code Section 11358, Section 11359 or Section 11360.

B. A Dispensary may only be operated by a Cooperative or Collective, and shall operate in a Not-for-Profit manner.

12.27.040 Information requirements

Every Dispensary shall provide the following information to the City, and shall update it annually and whenever there is any material change.

A. A description of the Dispensary and its location, which shall include such information as the City may require that demonstrates compliance with applicable provisions of this Chapter.

B. The name, address and 24-hour contact information for each Principal, including a photocopy of at least one primary form of photo identification, such as a California Drivers License or US Passport. This information shall also include any aliases, maiden or married names or other former legal names.

C. Proof of each Principal's status as a qualified patient or primary caregiver.

D. For each Principal, a signed consent for the City to conduct a background check, including criminal history.

E. Proof of the nature of the Dispensary's organizational status, such as articles of incorporation, by-laws, partnership agreements, and other documentation as may be appropriate or required by the City.

12.27.050 Operating Standards

Dispensaries shall comply with Health and Safety Code Sections 11362.7 *et seq.* and any other state laws that may be adopted concerning Medical Cannabis, the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, and Chapter 12.26 and Title 23 of the Berkeley Municipal Code, and any other applicable City laws or regulations, and shall pay all applicable state or local taxes. Dispensaries shall also comply with the operating standards set forth in this Section.

A. Membership.

1. Dispensaries may consist only of Members.

2. Dispensaries may only obtain Medical Cannabis from, and supply Medical Cannabis to, their Members.

3. No person other than a Member may Cultivate Medical Cannabis on behalf of a Dispensary.

4. The scale of Cultivation by or on behalf of a Dispensary shall be proportional to its Member load.

5. Dispensaries may not admit any person as a Member without first verifying his or her status as a qualified patient or primary caregiver as defined by state law, and shall immediately cancel the membership of any person who diverts Medical Cannabis for non-medical use or in any manner not permitted by this Chapter, Chapter 12.26 or California law.

6. Physicians' recommendations shall be verified prior to granting membership and at least every twelve (12) months thereafter, and a written record shall be kept of such verification. No Medical Cannabis may be dispensed except to a Member and pursuant to a recommendation that is no more than twelve (12) months old, unless the recommendation expressly states that it has a longer term or does not expire.

7. No physician recommendations for Medical Cannabis may be provided on site.

8. All prospective members must be advised in writing, prior to accession to membership, as follows: "WARNING: Medical cannabis products including edibles are not tested by local, state or federal governmental agencies for health, safety, or efficacy. There may be health risks associated with the consumption of these products."

B. Non-diversion. Dispensaries shall take all practicable steps necessary to prevent and deter diversion of Medical Cannabis to non-Members. Dispensaries must limit access to Medical Cannabis, Medical Cannabis Products and Edibles to authorized personnel only, and must maintain an inventory management system that:

1. Accounts for all Medical Cannabis, Medical Cannabis Products and Edibles;
2. Tracks each Batch of Medical Cannabis, Medical Cannabis Products and Edibles received by the Dispensary from its source, including each Batch's approximate content of Active Ingredients and Cannabis By-Products as a percentage of weight;
3. Retains all information listed in paragraphs 1 and 2 above for a period of at least 120 days from receipt of the Batch; and
4. Is capable of producing a summary showing the information necessary to verify non-diversion.

C. Dispensing.

1. Dispensaries may not dispense to any person who is not a Member, and may not dispense without first verifying membership.

2. Dispensaries may not provide more Medical Cannabis to an individual than is necessary for that person's personal medical use, and may not dispense more than one ounce of dried Cannabis per day per qualified patient as defined in state law; provided that:

a. if a qualified patient has a physician's recommendation that this quantity does not meet his or her medical needs, the qualified patient or his or her primary caregiver may possess, and the Dispensary may dispense to him or her, an amount of Medical Cannabis consistent with those needs;

b. a Dispensary may provide more than one ounce of dried Medical Cannabis if the excess amount is low concentration Medical Cannabis that would not normally be sold for consumption, and is only used for preparation of Medical Cannabis Products by a Member; or

c. a qualified patient needs a greater quantity due to a planned absence from the area.

3. Dispensaries may not distribute free samples for promotional purposes outside of the Dispensary premises.

4. If a Member has an identification card issued pursuant to Health & Safety Code Section 11362.71 or 11362.735, a Dispensary shall use the number from that card to ensure compliance with this subdivision.

D. Members and employees.

1. All employees and volunteers must be Members who are at least 18 years of age.

2. Dispensaries may not admit any person under 18 years of age to membership without written authorization of a parent or legal guardian. Any Member under 18 years of age shall be accompanied by a parent or legal guardian at all times that such person is at the Dispensary.

E. Security.

1. Dispensaries shall provide adequate security and lighting on-site to ensure the safety of persons and protect the premises from theft at all times. Lighting shall be of sufficient intensity to illuminate all areas of the lot with an illumination of not less than 1.5 foot-candles evenly distributed as measured at floor level.

2. Dispensaries must maintain security guards and camera coverage of their entire grounds to an extent sufficient to ensure the safety of persons and deter crime.

Cameras must be maintained in good condition, and use a format approved by the City Manager, which is of adequate quality, color rendition and resolution to allow the ready

identification of any individual committing a crime. The cameras shall be in use 24 hours per day, seven (7) days per week. The areas to be covered by the security cameras include, but are not limited to, dispensing areas, storage areas, cultivation areas, all doors, parking lots, and any other area determined by the City Manager. Surveillance footage must be retained for a period of 90 days and made available to the Berkeley Police Department for purposes of investigation of alleged crimes, promptly upon request without the necessity of a warrant or subpoena. Retention and maintenance of security camera recordings shall comply with Section 12.27.110.

3. Dispensaries must be equipped with an alarm system that is operated and monitored by a security company licensed by and in good standing with the California Department of Consumer Affairs. Alarms shall be maintained and in good working condition at all times.

4. ALTERNATIVE A: MCC RECOMMENDATION - In order to prevent unauthorized entry during non-business hours, a Dispensary shall either secure all exterior windows and roof hatches from the inside with bars, retractable, folding or sliding metal gates, or metal rollup or accordion doors, or provide at least one security guard during those hours.

4. ALTERNATIVE B: STAFF RECOMMENDATION - In order to prevent unauthorized entry during non-business hours, a Dispensary shall secure all exterior windows and roof hatches from the inside with bars, retractable, folding or sliding metal gates, or metal rollup or accordion doors.

5. Any security guards employed by Dispensaries shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times. Security personnel may not be armed.

6. All Medical Cannabis, Medical Cannabis Products and Edibles, except for limited amounts used for display purposes, samples or immediate sale, shall be securely stored at all times, and the entrance to all storage areas shall be locked and under the control of staff.

7. Dispensaries shall make transactions with payment methods other than cash whenever feasible. All cash received, except that needed for retail customer transactions shall be kept in a secure receptacle such as a drop safe or other type of safe.

F. Neighborhood compatibility.

1. Dispensaries shall be operated to ensure neighborhood compatibility, and shall take all steps necessary to ensure that Members do not create neighborhood disturbances. Such measures shall include, but not be limited to, providing a security guard to patrol the area surrounding the Dispensary during all hours of operation.

2. Dispensaries shall provide the Police Department and all residents and property owners within 100 feet with the current name, phone number, secondary phone number and e-mail address of an on-site community relations staff person to whom notice of any operating problems associated with the establishment may be reported. This information shall be updated as necessary to keep it current. Dispensaries shall encourage neighbors to call this person to try to solve any operating problems.

3. All Dispensaries shall have an on-site manager responsible for overall operation at all times they are open, and shall provide the Police Department with contact information for all such persons, including telephone number and e-mail address.

Dispensaries shall also provide the Police Department with the current name and phone numbers of at least one 24-hour-on-call manager. This information shall be updated as necessary to keep it current.

4. Dispensaries shall take all reasonable steps to discourage and correct objectionable conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties. Such conditions include, but are not limited to: smoking; creating a noise disturbance; loitering; littering; and graffiti.

5. Dispensaries shall ensure all graffiti is removed from property and parking lots under their control within 72 hours of its appearance.

6. Dispensaries shall operate only between the hours of 9:00 a.m. and 9:00 p.m.

G. Consumption of Medical Cannabis, Tobacco and Alcohol.

1. ALTERNATIVE A: MCC RECOMMENDATION - Smoking of Medical Cannabis is prohibited at Dispensaries and within 50 feet of Dispensaries on the public right of way.

1. ALTERNATIVE B: STAFF RECOMMENDATION - Consumption of Medical Cannabis by any means is prohibited at Dispensaries and within 50 feet of Dispensaries on the public right of way.

2. Sale or consumption of tobacco is prohibited at Dispensaries.

3. Sale, service and consumption of alcoholic beverages at Dispensaries is prohibited, and Dispensaries shall prohibit any person in possession of an alcoholic beverage from entering or remaining on the premises.

4. This subdivision does not prohibit the testing of Medical Cannabis Products by staff of a Dispensary or the use of tinctures or topical Medical Cannabis Products that do not have intoxicating effects.

H. Accessibility. Dispensaries shall comply with all physical accessibility requirements that would be applicable to a newly-constructed building, except that pre-existing Dispensaries permitted under Ordinance No. 6826 – N.S. shall not be required to comply with such requirements as long as they remain in the same location as when this Chapter became effective, except as may be required by other laws.

I. Termination of Membership.

ALTERNATIVE A: A Dispensary shall terminate the membership of any Member of whom it is aware who purposely or repeatedly violates the limitations in this Section or who operates a motor vehicle after ingesting any Medical Cannabis Product at that Dispensary. Prompt termination of membership under this subdivision shall be considered in any enforcement proceeding against a Dispensary.

ALTERNATIVE B: A Dispensary shall terminate the membership of any Member of whom it is aware who purposely or repeatedly violates the limitations in this Section or who operates a motor vehicle after ingesting any Medical Cannabis Product at that Dispensary. Prompt termination of membership under this subdivision shall be considered in any enforcement proceeding against a Dispensary.

12.27.060 Signage

A. A sign shall be posted at the entrance to any Dispensary that includes the following language:

Only individuals with legally recognized California Medical Cannabis Identification Cards or a verifiable, written recommendation from a

physician for medical cannabis may obtain cannabis from medical cannabis dispensaries.

The required text shall be of sufficient size to be easily read from a distance of five feet.

B. A sign shall be posted in a conspicuous location inside the structure at the location advising:

This Dispensary is registered in accordance with the laws of the City of Berkeley. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

C. A sign or signs shall be posted in a location or locations conspicuous from all sales areas inside the structure that state:

WARNING: Medical cannabis products including edibles are not tested by local, state or federal governmental agencies for health, safety, or efficacy. There may be health risks associated with the consumption of these products.

The required text shall be of sufficient size to be easily read from a distance of five feet.

12.27.070 Product safety and quality

A. Packaging and Labeling.

1. Medical Cannabis that is made available to members shall be contained in packaging that bears labels containing the following information, in addition to any other information that a Dispensary may choose to provide or that may be required by law:

- a. the name and contact information for the Dispensary;
- b. the weight;
- c. the quantity of Active Ingredients;
- d. the date of manufacture or production; and
- e. a complete list of ingredients.

2. Scales and weighing mechanisms must be able to weigh to within 1/100th of a gram, shall be maintained in good working order and shall be subject to annual inspection by the Alameda County Department of Agriculture/Weights and Measures.

B. Compliance with State Food Safety Requirements.

A Dispensary that prepares, dispenses, or in any manner distributes Edible Medical Cannabis Products must comply with the relevant provisions of all State and local laws specified by the City Manager regarding the preparation, distribution, labeling and sale of food, as specified by the City Manager, even if those laws are not directly applicable to Edibles. Any facility used by a Dispensary to produce Edibles shall be constructed, operated and inspected in accordance with the applicable building code and applicable food safety requirements.

ALTERNATIVE A: MCC RECOMMENDATION - No commercial facility used for preparation of Edibles may be used for the preparation of any other type of edible product.

ALTERNATIVE B: STAFF RECOMMENDATION - No commercial facility used for preparation of Edibles may be used for the preparation of any other type of edible product.

C. Packaging of Edibles.

1. All Edibles shall be individually wrapped at the original point of preparation. Labeling shall be distinctly and clearly legible on the front of the package and must include: (i) a warning if nuts or other known allergens are used; (ii) a warning that the item is a medication containing Medical Cannabis and the total weight (in ounces or grams) and amount of Active Ingredients in the package; (iii) the date of manufacture; and (iv) a statement that the contents are not a food product. The package label must have a warning clearly legible emphasizing that the product is to be kept away from children.

2. Packaging of Edibles shall be opaque, and may not make it appear as if the Edible is a food product. Packaging that makes the product attractive to children or imitates candy is not allowed.

D. Edibles. Edibles shall be limited to those items approved in the California Homemade Food Act, Chapter 6.1 (commencing with Section 51035) of Part 1 of Division 1 of Title 5 of the Government Code.

E. Preparation of Edibles.

1. Individuals involved in the production or distribution of Edibles containing Medical Cannabis shall thoroughly wash their hands before commencing production and before handling the finished product. Gloves must be worn when packaging edible products containing Medical Cannabis.

2. In order to reduce the likelihood of foodborne disease transmission, individuals who are suffering from symptoms associated with acute gastrointestinal illness or are known to be infected with a communicable disease that is transmissible through foodstuffs are prohibited from preparing edible products containing Medical Cannabis until they are free of that illness or disease, or are incapable of transmitting the illness or disease through foodstuffs. Individuals who have sores or cuts on their hands must use gloves when preparing and handling edible products containing Medical Cannabis.

3. Edibles that are produced or distributed at a Dispensary may only be prepared by a Member of that Dispensary and shall only be prepared in a facility permitted and inspected for the production of Edibles by a government agency, such as a commercial kitchen or a facility operating in accordance with the California Homemade Food Act.

F. Certified Food Handler. A Member who produces Edible Medical Cannabis Products must be a State certified food handler. The valid certificate number of such Members must be on record at each Dispensary where the edible product is distributed, and a copy of the certificate kept either on-site, or made available during inspections if kept off-site.

G. Hand-washing Facilities. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the facility in Edible preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.

H. Quality Control.

1. Dispensaries shall ensure that the quality control measures required by this Chapter are implemented, and shall follow the direction of the City Manager or his or her designee regarding any Medical Cannabis, Medical Cannabis Product or Edible found to be non-compliant with the quality standards set forth herein.

2. a. Before providing any Medical Cannabis or Medical Cannabis Product to their Members, Dispensaries shall cause representative samples of each Batch to be analyzed by an independent laboratory to identify the presence and amounts of: (i) Active Ingredients and (ii) Cannabis By-Products.

b. Dispensaries may also cause representative samples of each Batch to be analyzed by an independent laboratory to identify the presence and amounts of biological and chemical contaminants, specified by the City Manager pursuant to state or federal standards for food, drugs or tobacco.

c. The results of testing for Active Ingredients and Cannabis By-Products shall be disclosed in writing to any Member prior to sale.

3. Edibles produced with Medical Cannabis that has already been tested need not be analyzed again except to the extent necessary to provide the information required by subdivision (C)(1).

4. Any Medical Cannabis or Medical Cannabis Product from which the representative sample analysis tests positive for a pesticide or other contaminant at a level which exceeds the state or federal regulatory or statutory standard for the food and drug supply shall not be provided to Members and shall either be destroyed forthwith or returned to the supplier. When state and federal standards are different, the stricter standard shall apply.

5. Dispensaries shall maintain a written or computerized log documenting:

a. the date, type, and amount of Medical Cannabis and Medical Cannabis Product tested;

b. the source(s) of any contaminated Medical Cannabis or Medical Cannabis Product;

c. the report containing the results of the testing, including the name and level of the substance detected; and

d. the disposition of the Medical Cannabis or Medical Cannabis Product from which the contaminated sample was obtained, including the amount of Medical Cannabis or Medical Cannabis Product and the date and manner of disposition.

Logs required under this subdivision shall be maintained for at least one year.

12.27.080 Medical cannabis for low income Members

A. At least 1% (by weight) of the annual amount of Medical Cannabis provided by a Dispensary to all Members, shall be provided at no cost to very low-income Members. This amount shall be calculated every six months, based on the amount dispensed during the immediately preceding six months. Medical Cannabis provided under this Section shall be the same quality on average as Medical Cannabis that is dispensed to other members.

B. For purposes of this Section, income shall be verified using federal income tax returns or other reliable method approved by the City Manager.

C. For purposes this Section, "very low income" shall mean the household income established by the most recent annual City Council resolution that establishes the maximum income levels for qualification for exemption from specified local taxes and fees.

12.27.090 Records

A. General. All Dispensaries shall maintain contemporaneous financial and operational records sufficient to show compliance with this Chapter, Chapter 12.26, and applicable California law, as well as satisfaction of commitments made in the Dispensary's application and during the ranking and allocation process. Such records shall be maintained in a secure location under the control of the Dispensary within the City of Berkeley, and shall be subject to inspection by the City upon reasonable notice during regular operational hours or by appointment.

B. Finances.

1. Dispensaries shall operate on a Not-for-Profit basis. Sale of Medical Cannabis to cover anything other than reasonable compensation and reasonable out-of-pocket expenses is explicitly prohibited. To the extent they provide goods or services not related to Medical Cannabis, Dispensaries need not operate on a Not-For-Profit basis.

2. Dispensaries shall make their financial records available to the City on an annual basis. Such records shall be sufficiently accurate and reliable to demonstrate that they are operating on a Not-for-Profit basis.

C. Membership. Dispensaries shall keep an accurate roster of Members, which shall include either the State of California Medical Marijuana Identification Card number issued by a county pursuant to Health & Safety Code Sections 11362.7 *et seq.* or a copy of a physician's referral and, if using a primary caregiver, a written authorization from the qualified patient to be represented by such primary caregiver. Such records shall be maintained in a manner that protects the confidentiality of the Dispensary's Members.

D. Operations. Dispensaries shall maintain the following information and make it available to the City within 30 days of the end of each calendar year.

1. The total number of members during the year;
2. The total amount of revenue collected during the year;
3. The consideration paid for each Batch;
4. Monetary and non-monetary contributions from Members;
5. Total monetary and non-monetary distributions to Members other than Medical Cannabis Products or Edibles dispensed for monetary consideration;
6. Salaries and overhead; and
7. A complete list of the types of Medical Cannabis, Medical Cannabis Products and Edibles available, and the prices thereof.

E. Convictions. Dispensaries shall immediately report any conviction of a person subject to Section 12.27.030.A that would cause him or her to be ineligible to have a position other than that of Member.

12.27.100 Ranking and allocation procedure and criteria

The Council may by resolution establish procedures and criteria for accepting applications to operate Dispensaries and determining which, if any, to approve.

12.27.110 Confidentiality of information

A. The City's review of information submitted or maintained pursuant to this Chapter shall preserve the confidentiality of all information about Principals and Members to the maximum extent consistent with law. The City shall incur no liability for the inadvertent or negligent disclosure of such information. Disclosure of any Principal or Member

information to the City for purposes of this Chapter shall not be deemed a waiver of confidentiality. Financial information provided to the City pursuant to Section 12.27.090 shall be deemed to be “financial information” covered by Chapter 7.26.

B. The information required by Section 12.27.040 and recordings from security cameras, shall be confidential and shall not be subject to public inspection or disclosure except to City employees for purposes of law enforcement.

C. In order to protect confidentiality, Dispensaries shall not collect or maintain Protected Health Information. Dispensaries shall maintain membership records and information about members in a manner that ensures that the information will not be disclosed except as required by this Chapter or other laws. If a Dispensary maintains information conveyed by a Member to a Dispensary regarding such Member’s medical condition, information conveyed by a Member to a Dispensary regarding efforts to ameliorate or otherwise address symptoms associated with such Member’s medical condition, or information regarding Medical Cannabis, Medical Cannabis Products and/or Edibles provided to a Member, such information shall be kept in a manner that is in compliance with the Confidentiality of Medical Information Act. Membership lists shall be available to City employees charged with the administration of this Chapter for inspection on site without a warrant during business hours or by appointment.

Article III Collectives

12.27.120 Limitations on Collective operations

As a use that is incidental to the residential use of property in residential zoning districts, Collectives shall comply with the following operating limitations:

A. A Collective may not generate more than 10 Member trips per day, excluding trips by residents of the Collective location.

B. Cash on hand shall be minimized, and no more than \$1000 may be retained overnight.

C. Collectives may not store or maintain on site at any time more than a combined total of 10 pounds of dried Medical Cannabis and concentrates, of which no more than 1 pound may be concentrates.

D. Collectives may not operate or have Member visits except for social purposes before 8:00 a.m. or after 10:00 p.m.

E. No alcohol may be served for consideration.

F. No consideration may be charged for entry into the Collective or any part of the residence in which the Collective is located, no live entertainment may be provided, and no entertainment of any sort may be provided for consideration.

G. ALTERNATIVE A: MCC RECOMMENDATION - Smoking of Medical Cannabis by non-residents is prohibited in all exterior areas of Collectives and within 50 feet of Collectives on the public right of way.

G. ALTERNATIVE B: STAFF RECOMMENDATION - Ingestion of Medical Cannabis by any means, except by residents, is prohibited at Collectives, including exterior areas, and within 50 feet of Collectives on the public right of way.

H. Collectives may not have any exterior display identifying them as such.

I. Establishment and maintenance of a Collective may not involve any changes in utility service or exterior modifications beyond those that would be customary for a residence.

J. Collectives may not have any impacts on adjoining properties, such as, but not limited to, excessive noise, glare, smells, smoke, etc., beyond those that are normal for residential use.

12.27.130 Operating standards for all Collectives

Collectives shall comply with the following provisions of this Chapter.

- A. Section 12.27.050, subdivisions A, B and C.
- B. Section 12.27.070 subdivisions A and H.
- C. Section 12.27.090, subdivisions B and D.
- D. Section 12.27.110, to the extent applicable.

12.27.140 Reserved.

Article IV Enforcement

12.27.150 Authority of City Manager

A. The City Manager or his or her designee shall have authority to determine the nature of any purported Collective or Dispensary and whether that Collective or Dispensary complies with any of the requirements of this Chapter and to conduct inspections as provided in Chapter 1.16.

B. The City Manager or his or her designee shall have authority to enter onto private property and perform such inspections as may be necessary or convenient to implement and enforce this Chapter, and to adopt regulations to implement this Chapter.

12.27.160 Abatement of violations

A. Violations of this Chapter shall constitute a public nuisance under Chapter 1.26. The City may enforce this Chapter through proceedings under Chapter 1.24, Chapter 1.28, Chapter 23B.64 and any other law or ordinances it deems appropriate.

B. Notwithstanding anything to the contrary, violations of this Chapter shall not be punishable as public offenses to the extent that doing so would conflict with state law.

12.27.170 Fees

The City Council may establish by resolution the fees that shall be charged for administration and implementation of this Chapter. The adoption of such fees shall not prevent the City from recovering enforcement costs not specified in such resolution.

12.27.180 Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and

effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

RESOLUTION NO. ##,###-N.S.

ADOPTING RANKING AND ALLOCATION CRITERIA AND PROCEDURE FOR
MEDICAL CANNABIS DISPENSARIES

WHEREAS, on _____, 2013, the City Council adopted the first reading of a new Chapter 12.27 of the Berkeley Municipal Code, which establishes operating standards for medical cannabis dispensaries in Berkeley and will take effect thirty days following the second reading of the Ordinance; and

WHEREAS, when Chapter 12.27 becomes effective it will permit the operation of a limited number of additional dispensaries in Berkeley; and

WHEREAS, the City Council anticipates that there will be more applicants to operate the limited number additional dispensaries than available slots, and accordingly some system for allocating those limited slots is necessary.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Ranking and Allocation Process attached hereto as Exhibit A is hereby adopted.

RANKING/ALLOCATION PROCESS FOR MEDICAL CANNABIS DISPENSARIES

INTRODUCTION

This process is adopted pursuant to and to implement Berkeley Municipal Code Chapter 12.27. The competitive process and criteria below will be used for determining which Dispensaries may fill any unoccupied slots under the City's 4-dispensary cap, adopted in 2010, and codified in Section 12.26.130. As of the adoption of this Process, there were three operating Dispensaries, and one open slot, however additional slots may become available in the future either as a result of attrition or amendment of Section 12.26.130, or for other reasons.

PUBLIC INFORMATION

Applications and associated materials in the possession of the City are public records. While certain information will likely be exempt from disclosure, other information will not be, and some information will necessarily be made public as part of the ranking process. In complying with the Public Records Act, the City will make reasonable efforts to keep sensitive information from being disclosed, but cannot guaranty that information an applicant may want to be kept confidential will not be disclosed. The City will make reasonable efforts to notify applicants whenever requests for disclosure of their information are received. The City shall not in any way be liable for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act, and applicants assume the risk of such disclosure by submitting their applications.

SUMMARY OF PROCESS

The ranking/allocation process shall consist of a single comprehensive application, and four rounds of evaluation, which are summarized below.

Round 1: Application and Determination of Eligibility

Staff will conduct a background and criminal history check and evaluate whether an application demonstrates eligibility under Section 12.27.030.

Each Principal must attain a passing grade on a Medical Cannabis competency test.

Successful applicants whose applications meet these requirements will be forwarded on to Round 2.

Materials submitted by applicants who do not pass the qualification round will be returned to them, and all copies of those materials will be destroyed.

Round 2: Initial Ranking – Minimum Qualifications

Applicants will be ranked based on criteria below.

- Proposed Location(s) of business
- Business Plan
- Neighborhood Compatibility Plan
- Safety and Security Plan

The top 10 applicants would move on to Round 3.

Round 3: Second Ranking – Bonus Points

Points will be awarded based on the categories listed below. The top five applications would move to the Selection process.

- Availability of Professional Services
- Community Benefits
- Enhanced Product Safety
- Environmental Benefits
- Labor & Employment
- Local Enterprise
- Location (final)
- Qualifications of Principals
- Consolidation

Round 4: Selection

The City Council will then make the final decision from among the top five candidates.

DESCRIPTION OF PROCESS

A. Round 1 – Application and Determination of Eligibility

1. Application Requirements

Before accepting applications, the City will give at least 60 days public notice that applications to operate a Dispensary or Dispensaries will be accepted pursuant Chapter 12.27. The notice shall specify a deadline for submission of applications, as well as the number of Dispensaries for which applications will be accepted.

All Applicants will be required to submit an application on a form provided by the City. Applications shall be signed by a Principal under penalty of perjury that she or he has personal knowledge of the information stated in the application and that it is true.

The application shall include such information as the City may require that demonstrates compliance with applicable provisions of Chapter 12.27, as well as the following:

1. The name of a single point of contact for the applicant, who shall be a Principal.
2. All information required by Section 12.27.040.
3. A description of the Dispensary and its proposed location(s), including the address of any proposed facility with proof of ownership, lease, and or letter of owner's willingness to lease.
4. Plans for alteration of any existing buildings.
5. Business Plan. The business plan must contain as much detail as possible on the day-to-day operation of the Dispensary and how it will conform to applicable state and local laws and the Attorney General's Guidelines. The business plan shall describe: mechanisms for ensuring that the Dispensary will operate on a Not-for-Profit basis; a description of how Medical Cannabis will be tracked and monitored to prevent diversion, such as by verifying the status of recommending physicians and retaining all written recommendations from recommending physicians; a schedule for beginning operation, including a narrative outlining any proposed construction and improvements and a timeline for completion. The business plan shall include a budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation and maintenance costs, and shall demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the sources and uses of funds. Proof of capitalization shall be in the form of documentation of cash or other liquid assets on hand, Letters of Credit or other equivalent assets. The business plan shall also include a pro forma for at least three years of operation.
6. Neighborhood Compatibility Plan. The application must describe how the Dispensary, including its exterior areas and surrounding public areas, will be managed so as to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community.
7. Location(s). The application must describe the proposed location or locations of the Dispensary, all confronting and abutting uses, transit access and accessibility and nearby sensitive uses.
8. Safety and Security Plan. The application shall include a detailed description of Fire prevention, suppression, HVAC 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.

The security plan shall include a description and detailed schematic of the overall facility security. Applicants shall 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 party contractor security, and delivery security. In particular Applicants 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 to be employed. The security plan shall also include an assessment of site security by a qualified security consultant. Security plans shall not be made public.

During the evaluation period, security plan details that could aid persons who wish to commit security violations shall be considered to be confidential and shall not be released unless ordered by a court.

9. Environmental Benefits. The application must describe any proposed “green” business practices relating to energy and climate, water conservation, and materials and waste management. Specific “green” practices that are encouraged are:
 - a. maximizing energy efficiency;
 - b. where applicable, applying for and using available PG&E programs for free technical assistance for design and construction of building shell, tenant improvements, building systems and processes;
 - c. using renewable energy;
 - d. reducing transportation emissions (e.g., use of biofuels, electric vehicles);
 - e. using green building measures;
 - f. any other efforts to reduce or offset any greenhouse gas emissions
 - g. reuse and remediation of Brownfield sites;
 - h. water conservation, including recycling and on-site treatment, if permitted
 - i. developing a zero waste plan for operations;
 - j. minimizing packaging and using recycled content, recyclable and reusable materials, throughout the supply chain;
 - k. implementing a reuse plan for materials used;
 - l. providing a prediction of and implementing an operational phase waste stream broken down by refuse, recycled materials and composted materials by volume;
 - m. using organic fertilizers and pest control measures; and
 - n. minimizing use of hazardous or toxic substances and preventing them from entering the soil, air or water.

10. Community Benefits. The application shall describe benefits that the Dispensary would provide to the local community. Examples of such benefits are:
 - a. providing re-entry jobs and job training to the unemployed;
 - b. contributing to/supporting domestic violence prevention programs;
 - c. contributing to/supporting Parks and Recreation Centers, libraries, or funding for arts, culture, and environmental programs;
 - d. contributing to/supporting Children/Youth programs and intervention services;

- e. contributing to/supporting substance abuse education and rehabilitation programs;
 - f. funding foreclosure prevention and foreclosure abatement programs, including eviction defense following foreclosure; and
 - g. any other neighborhood improvements.
11. Enhanced Product Safety. The application shall state how the Dispensary will ensure enhanced consumer safety by testing for biological and chemical contaminants, specified by the City Manager pursuant to state or federal standards for food, drugs or tobacco.
12. Labor and Employment. The application shall describe to what extent the Dispensary will adhere to heightened pay and benefits standards and practices, including recognition of the collective bargaining rights of employees. Specific practices that are subject to consideration include the following:
- a. providing compensation to and opportunities for continuing education and training of employees/staff (applications should provide proof of the Dispensary's policy and regulations);
 - b. being a "card check-neutral" facility;
 - c. having obtained pre-existing recognition from a certified labor union;
 - d. being party to a collective bargaining agreement with a certified labor union; and
 - e. providing a "living wage" to facility staff and employees. Wage scale should be provided in writing for all levels of employment at the facility. "Living Wage" shall mean 200% of the minimum wage mandated by California or Federal law, whichever is greater.
13. Local Enterprise. The application shall state the extent to which the Dispensary will be a locally managed enterprise whose Principals reside within Berkeley and/or the following adjacent cities: Albany, Kensington, Oakland and Emeryville.
14. Availability of Professional Services. The application shall state the extent to which the Dispensary will provide professional services related to the use of Medical Cannabis to Members, whether on- or off-site. Such services may include, but are not necessarily limited to, medical or technical consulting, referrals to providers of such services, mental health services, alternative health care to the extent permitted by state law, diet and nutritional advice, and similar types of services, but shall not include recommending the use of Medical Cannabis.
15. Qualifications of Principals. The application shall include information concerning any special business or professional qualifications or licenses of principals that would add to the number or quality of services that the Dispensary would provide, especially in areas related to Medical Cannabis, such as scientific or health care fields.

2. Determination of Eligibility

Staff will undertake background and criminal history checks, verify whether the applications provide complete and accurate information and demonstrate compliance with the eligibility requirements of Section 12.27.030.

If an application meets these requirements, each Principal will be required to attain a passing grade on a Medical Cannabis competency test to demonstrate a working knowledge of state and local compliance standards.

Applications that include all required information will be considered.

Late and incomplete applications will not be considered.

Applicants who pass the Medical Cannabis competency test and whose applications meet these requirements will be eligible to continue to Round 2.

Determinations in Round 1 will be final and not be subject to appeal.

3. Competitive Ranking Process

Applications that pass Round 1 will be reviewed by a three-person panel of City staff designated by the City Manager. The reviewing panel will evaluate applications in each succeeding round based on how well they satisfy the criteria for that round. In evaluating applications, the reviewing panel shall consider the quality and responsiveness of the application with respect to each of the topics covered. The evaluation and ranking of the applications and allocation of Dispensary slots shall lie within the sole judgment and discretion of the reviewers.

B. Round 2 – Initial Ranking: Minimum Qualifications

In Round 2, the reviewing panel will evaluate each application against the criteria in, and assign points based on, the following table.

Topic	Maximum Possible Points
Proposed Location(s)	400
Business Plan	300
Neighborhood Compatibility Plan	400
Safety and Security Plan	400
Total possible	1500

The top 10 applicants will move on to Round 3.

The reviewing panel will rank the remaining applicants by assigning points in each of the categories in the table below. "Consolidation" points shall be awarded for consolidation with one or more of the other top ten applications. The top five

applications, based on the total number of points from Rounds 2 and 3 will then move to the Selection process. In the case of a consolidated application, the average number of total points shall be used.

C. Round 3 – Second Ranking: Bonus Points

Topic	Maximum Possible Points
Availability of Professional Services	300
Enhanced Product Safety	200
Environmental Benefits	200
Community Benefits	300
Labor & Employment	300
Local Enterprise	500
Location (final)	500
Qualifications of Principals	500
Consolidation (with applicants that pass Round 2)	150 for each consolidation, maximum of 300
Total possible	2800 (plus up to 300 for consolidation)

D. Round 4 – Selection

Within 45 days after Round 3 is completed, each applicant shall conduct a public meeting in the area or areas proposed for its Dispensary. If no location in the immediate area is available, the applicant shall use a community facility that is as near as possible. Notice of such public meetings shall be on a form approved by the City and shall be provided as set forth in BMC Chapter 23B.32 for Use Permit public hearings. Within 5 days after notice of the public meeting is mailed, an applicant shall provide to the City a copy of the notice of the public meeting, a list of addresses to which it was sent, and an affidavit of mailing. An applicant that does not hold a public meeting within this period of time shall be disqualified.

After the public meetings are completed the applications shall be presented to the Medical Cannabis Commission, which may make a recommendation to the City Council.

The City Council will then establish the final ranking of applications and make its selection from among the top five.

Notice of the public meetings of the Commission and Council shall be provided as set forth in BMC Chapter 23B.32 for Use Permit public hearings.

From: Church, Paul
Sent: Thursday, November 15, 2012 10:23 AM
To: Greene, Elizabeth
Subject: RE: memo for Commission on Disability

Hi Elizabeth,

The commission on disability looked at the cannabis proposal last night, and have one comment. That being that all public areas of the dispensary be fully accessible and meet all applicable federal and state codes for accessibility. Basically it includes parking, entrances and doors, bathrooms if they are available to the public (members), any "counseling rooms" where staff might meet privately w/ members, and counter heights. This list is also not exclusive by any means.

As a medical dispensary, their clientele by definition will often have a disabling condition.

It sounds like common sense that a new business has to move into an accessible building, but that's not the case, there are a lot of loopholes they could use to get around it.

Thanks

Paul

TO: Medical Cannabis Commission

FROM: Peace and Justice Commission

SUBJECT: Feedback on Regulations and Selection Process for Medical Cannabis Dispensaries // Response to October 29, 2012 Referral

We appreciate the opportunity to provide feedback on the proposed Regulations and Selection Process for Medical Cannabis Dispensaries. It is clear that the Medical Cannabis Commission has taken a reasoned and thoughtful approach to this endeavor, and we are confident that the finished product will be appropriate and comprehensive.

In reviewing these materials from a Peace and Justice perspective, we have three primary concerns, outlined below. Please direct questions to our commission secretary, Eric Brenman.

1) Employment Discrimination.

Section 12.27.030 paragraph A requires that no position other than member within a dispensary be granted to anyone who has been convicted of any felony or any offence relating to controlled substances, among others. *This section violates the spirit of the City of Berkeley's adoption of the concept of fair employment practices known as 'ban the box'.* The US Equal Employment Opportunity Commission (EEOC) enforces Title VII of the Civil Rights Act of 1964 relating to employment discrimination, and publishes guidelines for employers which read, in part, "eliminate policies or practices that exclude people from employment based on any criminal recordⁱ." All of Us or None, a nonprofit based in Oakland, advocates for civil and human rights for former prisoners, and initiated the 'Ban the Box' campaignⁱⁱ which "calls for the elimination of the questions about past convictions on initial public employment applications". These questions, effecting formerly incarcerated workers who have *already served their time* and have been released from correctional responsibility by the courts, unfairly bias employers against candidates and foster the conditions that create a prison industrial complex.

The City of Berkeley has embraced the tenets of the Ban the Box campaign, first by eliminating criminal record questions from city job applications in 2008ⁱⁱⁱ, and then by adopting a resolution supporting Assembly Bill 1831 in May 2012, stating "In California and around the country, qualified job applicants are often plagued by old or

minor records and discouraged from applying because a “box” on job applications requires disclosure of criminal history information that often leads employers to reject applicants at the outset,” and adding, “people of color are especially hard hit by criminal background checks, which is why [the EEOC] requires employers to establish a strong nexus between an individual’s criminal history and the specific responsibilities of a given job.” In these ways, Berkeley has repeatedly rejected an approach to safety and security which unfairly targets community members who have been incarcerated.

Additionally, under the proposed regulations, all staff-members of a dispensary are required to be members of the dispensary collective, and all members are required to be a “qualified patient or primary caregiver”, meaning that *all staff-members have a medically necessary reason to possess medical marijuana as allowed under California State Law*. In our view, it is unproductive to prevent medical marijuana patients who were prosecuted for related activities that are now legal, from being employed in dispensaries.

We recommend the removal of 12.27.030 paragraph A.

2) **Payment Methods.**

In section 12.27.050 paragraph E 7, dispensaries are required to make transactions with payment methods other than cash “wherein possible”, and the city manager is given powers to ban the use of cash at dispensaries. The only viable alternatives to cash are Credit and Debit cards, Checks, or ACH Transfers from Checking or Savings accounts. The other regulations in this section are already sufficient to accomplish the goal of safety and security at dispensaries. For example, per paragraphs E 1 and E 2 of this section, dispensaries will be significantly more well-guarded than most businesses that accept cash presently in the city. Additionally, access to merchant accounts – a necessary banking tool for the collection of monies via credit and debit cards – is increasingly restricted for providers of medical marijuana^{iv}, making this regulation unduly burdensome on dispensaries.

In practice, this restriction would force all members of the dispensary to hold accounts with a bank, in order to obtain a credit/debit card or checks. In 2001, a national study by the Fannie May Foundation found that one in four low-income households don’t have accounts with a formal banking institution^v, largely because they do not qualify for credit or immigration related reasons. Given the socioeconomic discrimination that this regulation would create, and the chilling effect that it would have on the normal business operation of dispensaries.

We recommend that paragraph E 7 be stricken.

3) **Patient Privacy.**

Section 12.27.110, Confidentiality of Information, requires dispensaries to not maintain Private Medical Records, but under HIPAA Prescription Records are considered Protected Health Information (PHI). The City of Berkeley Public Health department posts HIPAA privacy practices for PHI^{vi}, and is a resource for further information on health information privacy. Section 12.27.110 capably outlines the privacy responsibilities of the City, but fails to put in place guidelines that protect the privacy of members against disclosure of PHI by dispensaries.

Without protections, it is possible for dispensaries to commodify member data and share it with advertisers, other dispensaries, or other interested parties. These types of patient information disclosures open members to stigma and discrimination and should be expressly forbidden.

We recommend adding language that requires dispensaries to comply with HIPAA where possible, and that prevents dispensaries from sharing members' identifying information with any entity other than those provided otherwise by this ordinance.

ⁱ "Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964." EEOC. N.p., n.d. Web. 27 Dec. 2012.

<http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm>.

ⁱⁱ "Ban The Box." All Of Us Or None. N.p., n.d. Web. 27 Dec. 2012.

<<http://www.allofusornone.org/campaigns/ban-the-box>>.

ⁱⁱⁱ "Ban the Box: Major U.S. Cities and Counties Adopt Fair Hiring Policies to Remove Unfair Barriers to Employment of People with Criminal Records." National Employment Law Project. N.p., 20 July 2011. Web. 27 Dec. 2012. <http://nelp.3cdn.net/7677c73949232155e3_1bm6briwd.pdf>.

^{iv} Greene, Ilana. "American Express Nixes Purchase Of Medical Marijuana." *Business Insider*. N.p., 23 May 2011. Web. 27 Dec. 2012.

^v Platoni, Kara. "Banking for the 'Unbankable'" East Bay Express. N.p., 3 July 2001. Web. 27 Dec. 2012. <<http://www.eastbayexpress.com/ebx/banking-for-the-unbankable/Content?oid=1067894>>.

^{vi} "Notice of Privacy Practices for Protected Health Information (HIPAA)." City of Berkeley Public Health. N.p., n.d. Web. 27 Dec. 2012.

<[http://www.ci.berkeley.ca.us/Health_Human_Services/Public_Health/HIPAA_Notice_\(Main\).aspx](http://www.ci.berkeley.ca.us/Health_Human_Services/Public_Health/HIPAA_Notice_(Main).aspx)>.

**MCC Rationale for Additional Dispensaries
May 2, 2013**

Considerations for Additional Medical Cannabis Dispensaries in Berkeley

1. Accept and choose more than one qualifying candidate, from a possible five, reaching and completing round 4, in BMCC permit process recommendations. (round 3 includes appropriate location, probable neighborhood approval, round 4 includes public hearing)
2. Long time, problem free local dispensary operations.
3. Proliferation- large scale collectives/ delivery services (3 or more each)- unregulated and untaxed, but indicating strong amount of patient need.
4. During most of the present Commission's tenure 3 MCDs as well as 3 large scale collectives operating in commercial districts have existed.
5. Closure of Berkeley Patients Group and zoning actions against at least 2 large scale collectives have caused Berkeley patients frequently to seek medicine out of town.
6. Increased revenue for the City, community services.
7. Amount of interest from the public at numerous BMCC meetings.
8. The May 2004 dispensary cap was directly motivated by Oakland's impending (June 2004) dispensary cap of 4, and perhaps somewhat in reaction to proposed Measure JJ which would have allowed existing Berkeley dispensaries permitting authority for new dispensaries.
9. Commercial space limitations preclude abundance of available, possible, suitable dispensary locations, and therefore are indeed a factor restricting the number of dispensaries. Expansion of zoning, may be a likely necessity even for 1 additional dispensary currently planned.

Dear Mayor and BCC,

The Berkeley Medical Cannabis Commission believe there are enough reasons to consider adding more than 1 additional permitted/regulated medical cannabis dispensary already mandated in Measure T. While some of you may be reticent to take the time for this discussion, the issues involved may be difficult, but inaction can cause worse consequences. Without proper political oversight, medical marijuana distribution in LA and SJ has been relatively chaotic when compared to other more orderly and regulated SF, Sacto, Oakland, Santa Cruz, Santa Rosa. More importantly, Berkeley patients' (and many adjacent nearby communities) needs, services, and accessibility deserve to be maintained, continued, and improved if possible.

Please don't forget due to the difference in State and Federal law, the hardships (BPG closing) patients endured during the resulting year and a half statewide Federal intervention with medical cannabis distribution. Therefore, this Commission asks that you make any and all necessary provisions and judgments for the benefit of local medical cannabis patients, Berkeley citizens and community.