

**CITY OF SAN DIEGO  
OFFICE OF THE CITY CLERK  
MEMORANDUM  
(619) 533-4000**

**DATE:** January 5, 2012  
**TO:** Lea Fields-Bernard, Rules Committee Consultant  
**FROM:** Elizabeth Maland, City Clerk  
**SUBJECT:** Ballot Proposal for Rules Committee Review

---

Attached is a ballot proposal add a section to the San Diego Municipal Code pertaining to regulations and procedures for Compassionate Use Dispensaries, filed with my office today for placement on an upcoming Rules Committee meeting agenda pursuant to Council Policy (CP) 000-21. The proponents is Cynara Velazquez.

Through CP 000-21, a proposal receives Rules Committee review and comment, and may be forwarded to the Council for consideration and possible placement on the ballot.

My office will keep a copy of the ballot proposal and re-submit it to you after the January 6, 2012, deadline for proposed ballot measures submitted under CP 000-21 for the June, 2012 primary election.

  
Elizabeth Maland  
City Clerk

Attachment

cc: Diana JuradoSainz, Legislative Coordinator

## Jenkins, Denise

---

**From:** Cynara Velazquez [Cynara@pcaca.org]  
**Sent:** Thursday, January 05, 2012 3:28 PM  
**To:** CLK City Clerk  
**Cc:** Jenkins, Denise  
**Subject:** Initiative Proposal for consideration by Rules Committee per Council Policy 000-21  
**Attachments:** SD\_MMJ\_Tax\_Regulate.pdf

Dear City Clerk,

We would like to formally submit the attached initiative proposal for consideration for the Rules committee of the City Council of San Diego, per City Council Policy 000-21, to be considered for a vote by the city council.

A copy of the initiative proposal can also be found here:

<https://docs.google.com/open?id=0B4JuiUU0wg9LZTFhMjkxZDYtM2M2Zi00YTM4LWJlYUUtYmFkMGM2NTE1ZWE1>

Please let me know if there is anything further we need to provide in order for our proposal to be considered.

Thank You,  
Cynara Velazquez  
619-208-0567

PROPOSITION \_\_\_\_\_.

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF SAN DIEGO THAT  
ESTABLISHES REGULATIONS AND PROCEDURES  
FOR COMPASSIONATE USE DISPENSARIES**

To ensure safe access to medical cannabis for qualified patients and their primary caregivers, shall the City of San Diego add this Section to the Municipal Code to enact regulations and procedures for Compassionate Use Dispensaries?

BE IT ORDAINED, by the People of the City of San Diego, as follows:

Section 1. TITLE. These provisions of the Municipal Code shall be known as the Compassionate Use Dispensary Restriction and Taxation Ordinance.

Section 2. PURPOSE AND INTENT. It is the purpose and intent of the Compassionate Use Dispensary Restriction and Taxation Ordinance to ensure safe access to medical cannabis in the City of San Diego for qualified patients and their primary caregivers in compliance with California's Compassionate Use Act of 1996 and Medical Marijuana Program Act of 2003 through regulated Compassionate Use Dispensaries in the City of San Diego.

Extensive medical research, including research conducted at the University of California San Diego, has shown that medical cannabis helps to alleviate the pain and suffering caused by diseases and ailments including cancer, multiple sclerosis, chronic pain, arthritis, and HIV/AIDS wasting syndrome. To reduce pain and suffering, the citizens of San Diego desire that qualified patients who have received a recommendation for the use of medical cannabis from a licensed physician shall have safe access to the medical cannabis that gives them relief through regulated Compassionate Use Dispensaries. These Compassionate Use Dispensaries shall be operated by collectives, cooperatives, or associations of qualified patients and primary caregivers, who cultivate, exchange, and distribute medical cannabis in a closed circuit in compliance with California law.

By regulating Compassionate Use Dispensaries, the City of San Diego will ensure safe access while protecting public safety. This Ordinance will prevent the proliferation of dispensaries, ensure dispensaries are safe distances from residences and areas where children gather, and require dispensaries to obey strict operational standards. Also, this Ordinance will improve the local economy by creating jobs and generating tax revenue for the City of San Diego.

Section 3. DEFINITIONS. For the purpose of the Compassionate Use Dispensary Restriction and Taxation Ordinance, the following words and phrases shall have the following meanings:

(a) Accreditation Board. For the purposes of this Ordinance, Accreditation Board shall mean Compassionate Use Dispensary Accreditation Board, as defined below.

(b) Accreditation Organization. For the purposes of this Ordinance, Accreditation Organization shall mean Compassionate Use Accreditation Organization, as defined below.

(c) Applicant. A person that files an application to serve as a qualified-patient or expert Compassionate Use Dispensary Accreditation Board Member.

(d) Cannabis. 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.

(e) Collective. A group of qualified patients, persons with identification cards and designated primary caregivers of qualified patients and persons with identification cards who associate, as an incorporated or unincorporated association, within the City of San Diego, in order to collectively or cooperatively provide medical cannabis for use exclusively by their members, in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 et seq.

(f) Compassionate Use Accreditation Organization. An organization, group, or association that accredits Compassionate Use Dispensaries through a Compassionate Use Dispensary Accreditation Board. The Accreditation Organization selects the five collective-operator members of the Accreditation Board. The Accreditation Organization also helps enforce compliance with this Ordinance through means including but not limited to on-site inspections of Compassionate Use Dispensaries.

(g) Compassionate Use Dispensary. A physical storefront created by the pooled efforts of a collective with ten or more members that facilitates the cultivation, distribution, and exchange of cannabis for medical purposes in compliance with California and local law, and operates in a not for profit manner. A Compassionate Use Dispensary must operate in compliance with California Health and Safety Code sections 11362.5 and 11362.7 et seq. and with this Ordinance. A Compassionate Use Dispensary may obtain medical cannabis from, exchange medical cannabis among, and distribute medical cannabis only to members of the collective that operates the Dispensary. The definition of a Compassionate Use Dispensary governed by this Ordinance shall not include dispensing by primary caregivers to qualified patients in the following locations:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the state Health and Safety Code;
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the state Health and Safety Code;
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the state Health and Safety Code;
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the state Health and Safety Code;
5. A residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the state Health and Safety Code.

No part of the definition of Compassionate Use Dispensary or any other provision of the Compassionate Use Dispensary Restriction and Taxation Ordinance shall restrict, limit, or alter the rights of qualified patients and primary caregivers to collectively cultivate medical cannabis for personal use pursuant to California Health and Safety Code Sections 11362.5 and 11362.7 et seq. at their residence in a single dwelling unit; multiple dwelling unit; rooming house; clinic licensed pursuant to Chapter 1 of Division 2 of the state Health and Safety Code; health care facility licensed pursuant to Chapter 2 of Division 2 of the state Health and Safety Code; residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the state Health and Safety Code; or residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the state Health and Safety Code.

(h) Compassionate Use Dispensary Accreditation Board. A board with ten members that evaluates applications for accreditation from dispensary applicants. Five of the board members shall be operators of collectives and residents of the City or County of San Diego, and shall be selected by a Compassionate Use Accreditation Organization. Two of the board members shall be qualified patients and residents of the City of San Diego. These qualified-patient board members shall be selected by the San Diego City Council, except under the circumstances set forth in Section 8(c)(5) of this Ordinance. Three of the board members shall have expertise in medical cannabis or in government policy and shall reside in the City of San Diego. These expert board members shall be selected by San Diego City Council, except under the circumstances set forth in Section 8(c)(5) of this Ordinance.

(i) Dispensary. For the purposes of this Ordinance, Dispensary shall mean Compassionate Use Dispensary, as defined above.

(j) Dispensary Applicant. A collective that seeks accreditation and registration as a Compassionate Use Dispensary as set forth in this Ordinance.

- (k) Dwelling Unit. Shall be as defined in the Chapter 11, Article 3, Division 1.
- (l) Identification Card. Shall be as defined in California Health and Safety Code Sections 11362.5 and 11362.7 et seq., and as may be amended from time to time.
- (m) Marijuana. For the purposes of this Ordinance, marijuana shall mean the same as cannabis, as defined above.
- (n) Multiple Dwelling Unit. Shall be as defined in the Chapter 11, Article 3, Division 1.
- (o) Organization Applicant. An organization, group, or association that submits an application to serve as a Compassionate Use Accreditation Organization, as defined in this Ordinance.
- (p) Person with an Identification Card. Shall be as defined in California Health and Safety Code Section 11362.7 et seq., and as amended from time to time.
- (q) Physician. A licensed medical doctor, including a doctor of osteopathic medicine, as defined in the California Business and Professions Code.
- (r) Playground. Any park or recreational area specifically designed to be used by children that has play equipment installed, or any similar facility located on public or private school grounds, or on city, county, or state park grounds, that is open to the public, as defined in California Health and Safety Code Section 104495, subdivision (a)(1).
- (s) Primary Caregiver. Shall be as defined in California Health and Safety Code Section 11362.7 et seq., and as it may be amended from time to time.
- (t) Qualified Patient. Shall be as defined in California Health and Safety Code Section 11362.7 et seq., and as it may be amended from time to time.
- (u) Rooming House. Shall be as defined in the Chapter 11, Article 3, Division 1.
- (v) School. Shall be as defined in California Health and Safety Code Section 11362.768, subdivision (h).
- (w) Single Dwelling Unit. Shall be as defined in the Chapter 11, Article 3, Division 1.

Section 4. OPERATIONAL REQUIREMENTS.

(a) Security Personnel Required. Compassionate Use Dispensaries must have at least one security guard on duty during operating hours who possesses a valid guard card from the California Department of Consumer Affairs. Members of a collective that operates a Compassionate Use Dispensary who possess a valid guard card from the California Department of Consumer Affairs may serve as security guards.

(b) Security Cameras. For security purposes, the premises of Compassionate Use Dispensaries shall be monitored at all times by a closed circuit video recording system. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the ready identification of any individual committing a crime on the premises. Recordings must be kept for at least thirty calendar days.

(c) Alarm System. The premises of Compassionate Use Dispensaries shall have centrally-monitored alarm systems.

(d) Lighting to Ensure Safety. Interior building lighting, exterior building lighting, and parking area lighting, if applicable, of Compassionate Use Dispensaries must be in compliance with applicable regulations, and must be of sufficient foot-candles and color rendition so as to allow the ready identification at a distance of no less than twenty feet from any individual committing a crime on premises.

(e) Secured Storage of Medical Cannabis. No dried medical cannabis shall be stored in Compassionate Use Dispensaries without at least four walls and a roof, or stored in an unlocked vault or safe, or other unsecured storage structure; nor shall any dried medical cannabis be stored in a safe or vault. If the safe or vault weighs less than 450 pounds, it must be bolted to the floor or structure of Compassionate Use Dispensaries.

(f) Hours of Operation. Compassionate Use Dispensaries may operate within the hours of 7:00 AM to 12:00 AM.

(g) Exterior Signs. Signs displayed on the exterior of the premises of Compassionate Use Dispensaries shall conform to existing regulations.

(h) Interior Signs. A sign shall be posted in a conspicuous location inside Compassionate Use Dispensaries, stating as follows: "The diversion of marijuana for non-medical purposes is a violation of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery. Loitering at the

location of a medical marijuana dispensing collective for an illegal purpose is prohibited by California Penal Code Section 647(h).”

(i) No Alcoholic Beverages. No Compassionate Use Dispensaries shall cause or permit the sale or dispensing of alcoholic beverages for consumption on or off the premises.

(j) No Cannabis Visible from Exterior of Compassionate Use Dispensaries. No cultivation of cannabis, dried cannabis, or dried cannabis products may be visible by the naked eye from the exterior of Compassionate Use Dispensaries.

(k) Packaging of Foods Containing Medical Cannabis. Any beverage or edible produced, provided, or distributed at Compassionate Use Dispensaries containing medical cannabis shall be so identified as part of the packaging with a prominent and clearly legible warning advising that the product contains medical cannabis and that it is to be consumed only by those with a physician's recommendation.

(l) Operation in Compliance with California and Local Law Required. Compassionate Use Dispensaries must comply with state laws regarding medical cannabis, and they must ensure that only qualified patients and designated primary caregivers who are members of the collective that operates the Compassionate Use Dispensary receive medical cannabis from the Compassionate Use Dispensary.

(m) Restrictions on Dispensing to Qualified Patients Under Eighteen Years of Age. Compassionate Use Dispensaries may not dispense medical cannabis to anyone under the age of eighteen unless he or she is a qualified patient and is accompanied by a parent or legal guardian in accordance with state law. The parent or legal guardian shall sign a statement of fact that they are the parent or legal guardian of the minor, and produce legal proof of parental or guardian status, such as a birth certificate or court order.

(n) No Evaluations for the Use of Medical Cannabis Allowed on Premises. Compassionate Use Dispensaries may not allow any licensed medical doctor or doctor of osteopathic medicine to provide medical cannabis evaluations within the physical premises of the Compassionate Use Dispensary.

(o) No Consumption of Medical Cannabis Allowed on Premises. Compassionate Use Dispensaries may not allow any consumption of medical cannabis within the physical premises of Compassionate Use Dispensaries.

(p) Background Checks Required for Directors. Compassionate Use Dispensaries must obtain a background check through the California Department of Justice, Office of the Attorney General, for all directors, to verify that no director has been convicted in the past seven years of a serious felony, as defined in California Penal Code section 1192.7, subdivision (c).

Section 5. LIMITATIONS ON THE PERMITTED LOCATIONS OF COMPASSIONATE USE DISPENSARIES.

(a) Permissible Zoning for Compassionate Use Dispensaries. Compassionate Use Dispensaries are prohibited from operating in all residential, open space, industrial heavy, or agriculture base zones, as so defined in the San Diego Municipal Code. Compassionate Use Dispensaries may operate within other zoning designations not expressly prohibited by this Ordinance and defined in the San Diego Municipal Code.

(b) Distance Restrictions for Compassionate Use Dispensaries from Schools. Compassionate Use Dispensaries may not operate within a 600-foot radius from an accredited kindergarten through twelfth-grade school, as measured in Health and Safety Code section 11362.768, subdivision (c).

If a kindergarten through twelfth-grade school begins operating within a 600-foot radius as measured in Health and Safety Code section 11362.768, subdivision (c), of a Compassionate Use Dispensary after the Compassionate Use Dispensary has received entry in the City's registry, the Compassionate Use Dispensary shall remain listed in the registry and shall remain eligible to receive renewed accreditation from a Compassionate Use Dispensary Accreditation Board.

(c) Distance Restrictions for Compassionate Use Dispensaries from Playgrounds. Compassionate Use Dispensaries may not operate within a 600-foot radius, measured from the property line of the Dispensary to the boundary of the Playground. The boundary of the Playground shall be defined by the edge of the material surrounding the playground, such as a fence, concrete, or wood, or it shall be defined by the end of the groundcover for the playground, such as grass, sand, or gravel.

If a playground begins operating within a 600-foot radius, measured from the property line of the Dispensary to the boundary of the Playground, after the Compassionate Use Dispensary has received entry in the City's registry, the Compassionate Use Dispensary shall remain listed in the registry and shall remain eligible to receive renewed accreditation from a Compassionate Use Dispensary Accreditation Board.

Section 6. CITY REGISTRY OF LOCATIONS OF COMPASSIONATE USE DISPENSARIES.

(a) Compassionate Use Dispensaries Must be Listed in a City Registry. All Compassionate Use Dispensaries must seek and receive entry in the City of San Diego's registry of locations of compassionate use dispensaries. This registry shall be maintained by the City of San Diego's Development Services Department. The requirements for being listed in the registry are as follows:

1. The dispensary applicant's proposed physical location complies with the provisions of this Ordinance;
2. The dispensary applicant has received accreditation from a Compassionate Use Dispensary Accreditation Board or approval from Development Services, as set forth below; and,
3. No director of the dispensary-applicant collective has been convicted of a serious felony, as defined in California Penal Code section 1192.7, subdivision (c), in the past seven years.

If all of these requirements are met, the City must list the Compassionate Use Dispensary in the registry.

(b) City of San Diego Development Services Department Shall Develop the Registry Process Promptly After this Ordinance Goes into Effect. The City of San Diego shall formally develop and put into effect the registry process set forth in this Section of this Ordinance within ninety calendar days after when this Ordinance goes into effect.

(c) City of San Diego Development Services Department Shall Grant or Deny All Applications for Registry Within Fifteen Days of Submission. The City of San Diego Development Services Department shall process and grant or deny all applications for registry within fifteen calendar days of when applications for registry are submitted.

Section 7. CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT SHALL MAINTAIN A LIST OF COMPASSIONATE USE ACCREDITATION ORGANIZATIONS THAT SHALL SELECT MEMBERS OF COMPASSIONATE USE DISPENSARY ACCREDITATION BOARDS.

(a) City of San Diego's Development Services Department Shall Maintain a List of Compassionate Use Accreditation Organizations. The procedure for creating and maintaining this list is as follows:

1. Within thirty calendar days of when this Ordinance goes into effect, Development Services Department shall develop an application process for accepting and processing applications from organization applicants that wish to be listed as Compassionate Use Accreditation Organizations.
2. At the end of the thirty calendar days after which this Ordinance goes into effect, Development Services Department shall make available applications to organization applicants that wish to be listed as Compassionate Use Accreditation Organizations.
3. All organization applicants shall have thirty calendar days from when the applications are available to submit their applications.
4. At the end of the thirty-calendar-day period to submit applications, Development Services Department shall have thirty calendar days to process the applications and complete the list of Compassionate Use Accreditation Organizations.
5. Once completed, Development Services Department shall not add any additional Compassionate Use Accreditation Organizations to the list for five years, unless for some reason, no Accreditation Organizations are listed. If no Accreditation Organizations are listed, Development Services Department must add Accreditation Organizations to the list through the procedure above.
6. One-hundred-twenty business days before the five-year period for the list of Compassionate Use Accreditation Organizations expires, Development Services Department shall make available applications for organization applicants that wish to be listed as Compassionate Use Accreditation Organizations. Potential organization applicants shall have thirty business days from when the applications are made available to submit their applications. At the end of the thirty-business-day period to submit applications, Development Services Department shall have thirty business days to process the applications and complete the new list of Compassionate Use Accreditation Organizations. This process shall occur every five years.
7. The criteria for listing shall be as set forth in Section 7(b) of this Ordinance, except that for all listing periods after the initial listing period, an organization applicant must have been in existence in the City of San Diego for at least eighteen months prior to the date when the organization applicant applies for listing as an Compassionate Use Accreditation Organization.

(b) Objective Criteria for Listing as a Compassionate Use Accreditation Organization. For the list of Compassionate Use Accreditation Organizations, Development Services Department must include all organization applicants that satisfy the following requirements:

1. The organization applicant must be an independent, San Diego-based organization of medical cannabis collectives with at least thirty collective-members that are operating or have formerly operated out of a storefront, or currently operate Compassionate Use Dispensaries, in the City of San Diego. Collective-members of the organization applicant may demonstrate proof of this operation with a Seller's Permit from the California State Board of Equalization listing a physical address in the City of San Diego, and with some documentary evidence of that medical cannabis distribution and exchange occurred at a physical address in the City of San Diego.
2. The organization applicant must have been in existence for at least eighteen months at the time this Ordinance goes into effect. The organization applicant can demonstrate proof of how long it has been in existence by producing its Articles of Incorporation.
3. The organization applicant has developed a comprehensive plan for evaluating dispensary applicants for accreditation based on the operational requirements set forth in Section 4 of this Ordinance.
4. The organization applicant has developed additional objective criteria for accrediting Compassionate Use Dispensaries. These additional objective criteria include, but are not limited to, safety, recordkeeping, and operational standards.
5. The organization applicant has developed a plan to enforce compliance with the operational requirements set forth in Section 4 of this Ordinance and the additional objective criteria developed by the organization applicant. This plan must include conducting on-site inspections of the dispensary applicants' locations as part of the application process, as part of ensuring compliance, and as part of renewing accreditation.
6. The organization applicant has developed a plan to train and certify proposed directors of collectives that submit dispensary applications. This plan must include reviewing the background checks submitted by the proposed directors, as set forth in Section 4(q) of this Ordinance. The plan must also include a mandatory training program for proposed directors that discusses compliance

with this Ordinance, the organization applicant's additional objective criteria, and the state medical marijuana laws.

7. The organization applicant has developed measures to maintain strict confidentiality with respect to Compassionate Use Dispensaries, dispensary applicants, and all records that may be disclosed to the Compassionate Use Accreditation Organization, and not to disclose this confidential information to any third parties.
8. The organization applicant has developed a policy to prevent and handle conflicts of interest.

(c) Grounds for Being Removed from List of Compassionate Use Accreditation Organizations. Development Services Department can remove a Compassionate Use Accreditation Organization from the list of Compassionate Use Accreditation Organizations, if the Accreditation Organization fails to comply with the requirements for a Compassionate Use Accreditation Organization set forth in this Ordinance, or if the Accreditation Organization commits an act of gross negligence, malfeasance, or breach of fiduciary responsibility, as part of its accreditation responsibilities under this Ordinance. An Accreditation Organization can appeal being removed from the list to San Diego City Council within fifteen business days of being removed from the list. City Council shall decide the appeal within thirty business days of receiving the appeal.

(d) Compassionate Use Accreditation Organizations Shall Develop Compassionate Use Dispensary Accreditation Boards. All listed Compassionate Use Accreditation Organizations shall develop a Compassionate Use Dispensary Accreditation Board. This Accreditation Board will accredit dispensary applicants, as set forth in Section 8 of this Ordinance. Compassionate Use Accreditation Organizations shall select five operator members of their Accreditation Board, as set forth in Section 8 of this Ordinance.

Section 8. ACCREDITATION BY A COMPASSIONATE USE DISPENSARY ACCREDITATION BOARD REQUIRED BEFORE COMPASSIONATE USE DISPENSARIES MAY SEEK ENTRY IN THE CITY OF SAN DIEGO'S REGISTRY OF COMPASSIONATE USE DISPENSARIES.

(a) Dispensary Applicants Must Receive Accreditation from a Compassionate Use Dispensary Accreditation Board. Before seeking entry in the City of San Diego's registry of locations of compassionate use dispensaries, all dispensary applicants must receive accreditation from a Compassionate Use Dispensary Accreditation Board.

(b) Compassionate Use Dispensary Accreditation Boards Shall Contain Ten Members. Each Compassionate Use Accreditation Organization shall maintain a Compassionate Use Dispensary Accreditation Board. Accreditation Boards shall be comprised of the following ten members:

1. All Accreditation Boards must contain five members who operate medical cannabis collectives in the City of San Diego and who reside in the City or the County of San Diego. These five operator board members shall be selected by a Compassionate Use Accreditation Organization that has been listed by the Development Services Department as such using the objective criteria set forth in Section 7 of this Ordinance.
2. All Accreditation Boards must contain two members who are qualified patients and residents of the City of San Diego. Applicants shall demonstrate they are qualified patients by showing an official at City Clerk's Office their original recommendation for the use of medical cannabis or their Identification Card as defined in California Health and Safety Code Sections 11362.5 and 11362.7 et seq., when the qualified patient submits his or her application. The official shall note on the application that the applicant supplied proof that he or she is a legal qualified patient. The official shall not copy or otherwise reproduce the qualified patient's recommendation or Identification Card under any circumstances. These qualified-patient board members must not operate, manage, direct, consult for, or be employed by any Compassionate Use Dispensary or medical cannabis collective in the City of San Diego. These qualified-patient board members must also not be directly related to anyone who operates, manages, directs, consults for, or is employed by any Compassionate Use Dispensary or medical cannabis collective in the City of San Diego. These qualified-patient board members must not be members of any Compassionate Use Accreditation Organization, or be directly related to anyone who is a member of any Compassionate Use Accreditation Organization. These qualified-patient board members must not be employed by or currently receive compensation for serving as consultants to the City of San Diego, or be directly related to anyone who is employed by or currently receives compensation for serving as a consultant to the City of San Diego. San Diego City Council shall select the two qualified-patient board members.
3. All Accreditation Boards must contain three members who have expertise in medical cannabis or in government policy and are residents of the City of San Diego. These expert board members must not operate, manage, direct, or be employed full time by any Compassionate Use Dispensary or medical

cannabis collective in the City of San Diego. These expert board members must also not be directly related to anyone who operates, manages, directs, or is employed full time by any Compassionate Use Dispensary or medical cannabis collective in the City of San Diego. These expert board members must not be members of any Compassionate Use Accreditation Organization, or be directly related to anyone who is a member of any Compassionate Use Accreditation Organization. These expert board members must not be employed by or currently receive compensation for serving as consultants to the City of San Diego, or be directly related to anyone who is employed by or currently receives compensation for serving as a consultant to the City of San Diego. San Diego City Council shall select the three expert board members.

(c) City Council of San Diego Shall Appoint Five Members of Compassionate Use Dispensary Accreditation Boards. The procedure for appointing these board members is as follows:

1. Within thirty calendar days after this Ordinance goes into effect, City Council shall develop a process for accepting and processing applications from potential qualified-patient board members and potential expert board members.
2. At the end of the thirty-calendar-day period to develop an application process for potential qualified-patient board members and potential expert board members, City Council shall make the applications available and have public notice about the application process.
3. All applicants for positions as qualified-patient board members and expert board members shall have thirty calendar days from when the applications are available to submit their applications.
4. At the end of the thirty-calendar-day period to submit applications to serve as board members, City Council shall have thirty calendar days to process the applications and pair the selected qualified-patient and expert board members with Compassionate Use Accreditation Organizations, thus forming Compassionate Use Dispensary Accreditation Boards.
5. If for some reason, City Council fails to pair qualified-patient and expert board members with Compassionate Use Accreditation Organizations to form Accreditation Boards within the time period specified, Compassionate Use Accreditation Organizations shall be permitted to select qualified-patient and expert board members that comply with the requirements of this Ordinance to serve on the Accreditation Organization's Compassionate Use Dispensary

Accreditation Board. Under these circumstances only, City Council shall have the right to remove and replace the qualified-patient and expert board members, pursuant to the requirements of this Ordinance, at any time.

6. If a qualified-patient or expert board member resigns, dies, or is otherwise no longer able to serve on a Compassionate Use Accreditation Board, City Council shall follow the above procedure to fill the vacancy.
7. One-hundred-twenty business days before the five-year listing period expires, City Council shall make available applications for potential qualified-patient board members and potential expert board members. Potential applicants shall have sixty business days from when the applications are made available to submit their applications. At the end of the application-submission period, City Council shall have sixty business days to process the applications and appoint new qualified-patient and expert board members to the Compassionate Use Dispensary Accreditation Boards. This process shall occur every five years.

(d) Procedure for Evaluating Compassionate Use Dispensary Applicants for Accreditation.

1. Compassionate Use Dispensary Accreditation Boards shall review a dispensary applicant's application for accreditation to ensure that the dispensary applicant can and will comply with the operational requirements set forth in Section 4 of this Ordinance. The Accreditation Boards shall also review a dispensary applicant's application to ensure that the dispensary applicant can and will comply with the additional objective criteria for accrediting Compassionate Use Dispensaries that was developed by the Compassionate Use Accreditation Organization.
2. Compassionate Use Dispensary Accreditation Organizations must make available to all potential dispensary applicants sufficient information to enable them to comply with Section 4 of this Ordinance and the additional objective criteria required by the Compassionate Use Accreditation Organization. Among the information that Accreditation Organizations must make available is the following:
  - i. Process for accreditation decision-making used by the Compassionate Use Dispensary Accreditation Board;
  - ii. Criteria for accreditation;

- iii. Minimum information required from dispensary applicants and accredited Compassionate Use Dispensaries to demonstrate compliance with this Ordinance and the additional criteria set forth by the Compassionate Use Accreditation Organization;
  - iv. Procedures employed by the Compassionate Use Accreditation Organization to verify that Compassionate Use Dispensaries accredited by the Accreditation Board are complying with this Ordinance and the Accreditation Organization's additional criteria;
  - v. Procedures for inspection by the Compassionate Use Accreditation Organization, including frequency and items covered; and
  - vi. Qualifications of and training requirements for inspectors.
3. If a dispensary applicant meets all requirements set forth in Section 4 of this Ordinance, as well as additional objective criteria for accreditation that was developed by the Compassionate Use Accreditation Organization, the Accreditation Board must grant accreditation to the dispensary applicant.
4. The Accreditation Board shall be able to alter, update, or otherwise change the additional objective criteria for accreditation that was developed by the Compassionate Use Accreditation Organization, after the Accreditation Organization initially develops the additional criteria. However, none of these additional criteria can be unreasonably difficult or cost-prohibitive, nor otherwise negate or frustrate the purpose of this Ordinance to ensure safe access to medical cannabis through regulated Compassionate Use Dispensaries. The Accreditation Board shall vote on all alterations, changes, or updates to the additional criteria. If a proposed alteration, change, or update receives a simple majority of votes, the alteration, change, or update shall be adopted. If a tie vote occurs, the current president the Compassionate Use Accreditation Organization that selected the operator board members of the Compassionate Use Dispensary Accreditation Board shall break the tie.
5. The Accreditation Board shall vote whether to grant accreditation to a dispensary applicant. If a dispensary applicant receives a simple majority of votes, the dispensary applicant receives accreditation. If a tie vote occurs, the current president the Compassionate Use Accreditation Organization that selected the operator board members of the Compassionate Use Dispensary Accreditation Board shall break the tie.

6. All accreditation decisions must be explained in writing.
7. If a dispensary applicant disagrees with the decision of the Accreditation Board, the dispensary applicant may appeal the decision to the Development Services Department within fifteen business days of the Accreditation Board's decision. The appeal shall be conducted by the Director of the Development Services Department, who shall examine the dispensary applicant's application and the Accreditation Board's hearing record. The Director shall arrive at a decision by applying the objective criteria for accreditation that the Accreditation Board applied, and by examining the hearing record for any errors, mistakes, biases, or other grounds for appeal. Within thirty business days of receipt of the appeal, the Director shall decide whether to affirm the Accreditation Board's ruling or order a new hearing before the Accreditation Board.

(e) **Compassionate Use Dispensary Accreditation Boards Shall Grant or Deny All Applications Within Forty-Five Days of Submission.** Compassionate Use Accreditation Boards shall process and grant or deny all applications for accreditation within forty-five calendar days of when applications are submitted.

(f) **Accreditation Valid for One Year.** Once granted by a Compassionate Use Dispensary Accreditation Board, accreditation shall remain valid for a period of one year, after which the accredited Compassionate Use Dispensary must seek renewal from a Compassionate Use Dispensary Accreditation Board. As part of this renewal application, a Compassionate Use Dispensary must be inspected and reviewed for ongoing accreditation compliance by the Compassionate Use Accreditation Organization.

(g) **Certificate of Accreditation Must be Displayed.** Compassionate Use Dispensaries must post their certificate of accreditation in a location visible from the outside of the premises where law enforcement can view the certificate. The certificate must contain the name of the collective that operates the Compassionate Use Dispensary, the address of the Compassionate Use Dispensary, and the validity period of the accreditation.

Section 9. **COMPASSIONATE USE DISPENSARIES SHALL BE ELIGIBLE TO RECEIVE BUSINESS TAX CERTIFICATES.** After receiving accreditation from a Compassionate Use Dispensary Accreditation Board as set forth in Section 8 and registering with Development Services Department as set forth in Section 6, Compassionate Use Dispensaries shall be eligible to apply for and receive a Business Tax Certificate from the City Treasurer's Office, as set forth in Chapter 3, Article 1, Division 3.

Section 10. FEES CHARGED BY THE CITY OF SAN DIEGO SHALL BE FOR COST RECOVERY ONLY. All fees charged to implement this Ordinance by the City of San Diego shall be for cost recovery only.

Section 11. COMPASSIONATE USE DISPENSARIES, QUALIFIED PATIENTS, AND PRIMARY CAREGIVERS THAT COMPLY WITH STATE AND LOCAL LAW SHALL NOT BE SUBJECT TO ARREST OR PROSECUTION.

(a) Protection from Arrest for Qualified Patients, Primary Caregivers, and Dispensary Officials in Compliance with this Ordinance. Qualified patients, primary caregivers, and dispensary directors, officers, managers, employees, agents, and volunteers who comply with California's medical marijuana laws and the laws of the City of San Diego including this Ordinance are not in violation of any local or state law. Thus, they shall not be subject to arrest or prosecution if they come into contact with law enforcement. Further, law enforcement shall not seize any dried cannabis or cannabis plants in their possession.

(b) Update of Police Department Materials. Within six months of the date that this Ordinance goes into effect, the training materials, handbooks and printed procedures of the San Diego Police Department and Police Academy shall be updated to reflect its provisions. These updated materials shall be made available to police officers in the regular course of their training and service.

Section 12. ADDITIONAL SALES TAX IMPOSED TO BENEFIT THE GENERAL FUND OF THE CITY OF SAN DIEGO.

(a) Two and One-Half Percent Sales Tax Imposed on Every Transaction of Medical Cannabis. Notwithstanding any provision of law to the contrary, and in addition to the usual state and local sales tax imposed on every retail transaction in the City of San Diego, for transactions at Compassionate Use Dispensaries involving medical cannabis, an additional tax of two and one-half percent (2.5%) shall be imposed, so long as the State of California does not impose any sales or excise tax on every retail transaction involving medical cannabis beyond the standard sales tax for all retail transactions.

(b) Reduction if Statewide Sales or Excise Tax Imposed on Transactions Involving Medical Cannabis. If the State of California imposes a sales or excise tax on every retail transaction involving medical cannabis in addition to the usual state and local sales tax imposed on every retail transaction in the City of San Diego, before this Ordinance goes into effect, simultaneous with when this Ordinance goes into effect, or after this Ordinance goes into effect, the additional tax imposed by this Ordinance on

every retail transaction involving medical cannabis shall be reduced to one percent (1.0%).

(c) Allocation to General Fund. All revenues collected pursuant to this Ordinance shall be deposited in the General Fund of the City and be used for general governmental purposes as the City Council may from time to time provide in accordance with the Charter of the City of San Diego and the City Council's Annual Appropriation Ordinance.

Section 13. SEVERABILITY. If any provision of the Compassionate Use Dispensary Regulation and Taxation Ordinance, or the application thereof to any person or circumstance, is held to be invalid or unenforceable, that invalidity or unenforceability shall not affect all of the remaining provisions of this Ordinance that can be given effect without the invalid portion or application; and to this end, the provisions or applications of this Chapter are severable.