

ORDINANCE NO. 09-893

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LA PUENTE AMENDING TITLE 5 (BUSINESS
REGULATION AND LICENSES) OF AND ADDING
CHAPTER 5.58 TO LA PUENTE MUNICIPAL CODE
RELATING TO REGULATIONS OF MEDICAL
MARIJUANA COLLECTIVES AND/OR COOPERATIVES**

THE CITY COUNCIL OF THE CITY OF LA PUENTE DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings.

The City Council does adopt this ordinance based upon the following findings and determinations:

A. On November 5, 1996, the voters of the state of California approved Proposition 215, which enacted the Compassionate Use Act of 1996, codified at California Health and Safety Code § 11362.5. The Compassionate Use Act permits possession and cultivation of marijuana for certain medical purposes under limited and specified circumstances.

B. Despite voter approval of Proposition 215, certain problems and uncertainties in Proposition 215 impeded the ability of law enforcement to interpret and enforce the law and prevented persons eligible to use marijuana for medical purposes from doing so.

C. In 2003, the California Legislature enacted Senate Bill 420 (“SB 420”), effective January 1, 2004, adding Article 2.5, “Medical Marijuana Program” to Division 10 of the California Health and Safety Code §§ 11362.7, *et seq.*, to clarify the scope of the Compassionate Use Act. Among other things, SB 420 created a state-approved voluntary medical marijuana identification card program and provided for additional immunities from state marijuana laws.

D. A goal of the Compassionate Use Act and the Medical Marijuana Program is “[t]o encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.”

E. On August 25, 2008, Edmund G. Brown, the California Attorney General issued “Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use” (the “Guidelines”) pursuant to Health and Safety Code §11362.81(d), which authorizes the Attorney General to “develop and adopt appropriate guidelines to ensure the security and non-diversion of marijuana grown for medical use by patients qualified under the Compassionate Use Act of 1996.”

F. The Guidelines were issued to “(1) ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets, (2) help law enforcement agencies perform their duties effectively and in accordance with California law, and (3) help patients and primary caregivers understand how they may cultivate, transport, possess, and use medical marijuana under California law.”

ATTACHMENT - A

G. The Guidelines provide further clarification regarding the nature and organization of “collectives” and “cooperatives” within the meaning of the Compassionate Use Act and Medical Marijuana Program Act.

H. Health and Safety Code § 11362.5(b)(C)(2) provides that nothing in the Compassionate Use Act “shall be construed to supersede legislation prohibiting persons from engaging in the conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.” And, Health and Safety Code § 11352.83 authorizes cities and counties to adopt and enforce rules and regulations consistent with the Medical Marijuana Program Act.

I. The current provisions of La Puente Municipal Code do not expressly or specifically address the regulation or control of Medical Marijuana Cooperatives and/or Collectives, and appropriate regulations, such as application review process, performance and operational standards are necessary to ensure that Medical Marijuana Cooperatives and/or Collectives operate within the ambits of the Compassionate Use Act and Medical Marijuana Program, to ensure that marijuana is not diverted for non-medical use and to preserve public health, safety welfare of City’s residents.

J. Other California cities that have permitted the establishment and operation of facilities dispensing medical marijuana have experienced negative secondary effects and adverse impacts, including an increase in crime in the vicinity of these facilities, robbery of patients, burglary of the facilities, sale of illegal drugs in the areas immediately surrounding these facilities, loss of trade for other commercial businesses located near these facilities and other crimes, as further detailed in a the report entitled “White Paper On Marijuana Dispensaries” issued by the California Police Chief’s Association on April 22, 2009, recent newspaper and other articles and materials, attached to the staff report as Attachments “B” and “C” and incorporated herein by this reference. The report and newspaper and other articles are also available for review at the City’s Community Development Department.

K. Additionally, some California communities have reported that law enforcement assistance is often required to address and mitigate the adverse impacts and negative secondary effects associated with operation of facilities dispensing medical marijuana. Some actions by law enforcement agencies necessary to mitigate the secondary effects, which are often financially and/or operationally burdensome are outlined in the staff report and are incorporated herein by this reference. Accordingly, the City Council finds that a limit on the number of permitted and operating Medical Marijuana Cooperatives and Collectives is necessary to preserve law enforcement resources, to ensure that the City’s current law enforcement resources are adequate to serve the City’s needs and for preservation of public health, safety and welfare.

L. It is the City Council’s intention that nothing in this ordinance shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow the use of marijuana for non-medical purposes, or (3) allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal.

M. In adopting the regulations set forth in this ordinance, including the operational and performance standards, as a well as the limit on allowable permits within a one year period, the City is exercising its police powers authorized in Article XI, Section 7 of the California Constitution, as well as the La Puente Municipal Code to protect the health, safety and welfare of its residents.

N. Pursuant to the City’s police powers, authorized in Article XI, Section 7 of the California Constitution, as well as other provisions of California law, including, but not limited to California Government Code § 38771, the City has the power through its City Council to declare actions and activities that constitute a public nuisance. The City Council finds and declares that operation of Medical Marijuana Cooperative or Collective in violation of the provisions and requirements set forth in this ordinance constitutes a public nuisance and may be abated as such, pursuant to the applicable provisions of the La Puente Municipal Code and pursuant to any available legal remedies.

O. Neither the Compassionate Use Act nor Medical Marijuana Program Act preempt the City’s exercise of its traditional police powers in enacting legislation for preservation of public health, safety and welfare, such as this ordinance.

P. This ordinance is enacted, pursuant to and is intended to be consistent with the Compassionate Use Act, the Medical Marijuana Program Act and the Guidelines issued by the California Attorney General, and towards that end, it is not intended to and does not criminalize activity which is otherwise permitted under the state law, and it is not intended to and does not authorize conduct that is otherwise prohibited by the state law, or to prohibit conduct that is authorized by the state law.

SECTION 2. Amendment to La Puente Municipal Code.

Chapter 5.58 entitled “Medical Marijuana Cooperatives or Collectives” is hereby added to Title 5 (Business Regulation and Licenses) of La Puente Municipal Code to read in its entirety as follows:

5.58 Medical Marijuana Cooperatives or Collectives.

5.58.010 Applicability.

The regulations, requirements and criteria established in this chapter shall apply to any site, facility, location, entity, cooperative or collective in the City of La Puente that distributes, dispenses, stores, sells, exchanges, processes, delivers, gives away, transmits, cultivates or otherwise offers marijuana for medical purposes to qualified patients, health care providers, patients’ primary caregivers, or physicians, pursuant to Health & Safety Code §§ 11362.5, 11362.7-11362.83 or any state regulations adopted in furtherance thereof. Nothing in this section shall be interpreted to conflict with provisions of Health & Safety Code § 11362.5 (Compassionate Use Act) and §§ 11362.7 *et seq.* (Medical Marijuana Program Act). With respect to any Medical Marijuana Cooperative or Collective operating in the City pursuant to a valid business license issued under Chapter 5.04 of the Code prior to the effective date of this chapter, such cooperatives or collectives shall comply with the requirements of this chapter upon expiration of business license and shall be brought into compliance with this chapter upon renewal of a business license.

5.58.020 Definitions.

For the purpose of this chapter, unless it is plainly evident from the context that a different meaning is intended, the following definitions shall apply:

“City” means the City of La Puente.

“Code” means La Puente Municipal Code.

“Conviction” means a plea or verdict of guilty, or a conviction following a plea of *nolo contendere*.

“Director” means the City of La Puente Community Development Director, or his/her designee.

“Guidelines” means the “Guidelines For The Security and Non-Diversion of Marijuana Grown for Medical Use” issued by the California Attorney General in August 2008 or as such guidelines may be amended from time to time.

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

“Medical Marijuana Cooperative or Collective” means any site, facility or location where a Primary Caregiver and two or more Qualified Patients and/or Persons with an Identification Card associate, meet or congregate in order collectively or cooperatively to cultivate, distribute, dispense, transmit, exchange, process, deliver, exchange or give away marijuana for medicinal purposes pursuant to Health and Safety Code §§ 11362.5, 11362.7-11362.83 and as those terms and entities are defined by the Guidelines or as such Guidelines may be amended from time to time.

A “Medical Marijuana Cooperative or Collective” shall not include the following a clinic licensed pursuant to Chapter 1 of Division 2 of the Health & Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health & Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health & Safety Code, a residential hospice, home health agency licensed pursuant to Chapter 8 of the Health & Safety Code, a residential hospice, or home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code § 1725 *et seq.*; or a primary place of residence of a Qualified Patient, Person with Identification Card or Primary Caregiver, as long any such use complies strictly with applicable law including, but not limited to, Health & Safety Code § 11362.5 *et seq.*

“Member” means a Qualified Patient, Person with an Identification Card or Primary Caregiver who is a member in good standing of the Medical Marijuana Collective or Cooperative.

“Person with an Identification Card” shall have the meaning given that term by Health & Safety Code § 11362.7 or as such section may be amended from time to time.

“Permit” means a Medical Marijuana Cooperative or Collective Permit, as authorized by this chapter.

“Permittee” means any person, group, association, cooperative or collective issued a Permit pursuant to this chapter.

“Primary Caregiver” shall have the meaning given that term by Health & Safety Code § 11362.7 or as such section may be amended from time to time.

“Qualified Patient” shall have the meaning given that term by Health & Safety Code § 11362.7 or as such section may be amended from time to time.

“State law” means Compassionate Use Act, as codified in Health & Safety Code § 11362.5 and Medical Marijuana Program Act, as codified in §§11362.7 *et seq.* or as such acts may be amended from time to time.

“Zoning Code” means Title 10 (Zoning) of the Code.

5.58.030 Permit, Business Licenses, Sales Tax, and Seller’s Permits for Medical Marijuana Cooperative or Collective.

(a) Prior to initiating operations or establishing, and as a continuing prerequisite to conducting legally valid operations, any person, association, cooperative, collective or entity wishing to operate a Medical Marijuana Cooperative or Collective shall apply for and receive from the City a Permit for operation of a Medical Marijuana Cooperative or Collective, pursuant the terms and conditions set forth on this chapter.

(b) Medical Marijuana Cooperative or Collective shall also apply for and maintain business license pursuant to Chapter 5.04 of the Code, as a prerequisite to operating a Medical Marijuana Collective or Cooperative in the City. Additionally, Medical Marijuana Cooperative or Collective shall comply with all applicable provisions of the Code, Zoning Code and State laws.

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

5.58.040 Application for Medical Marijuana Cooperative or Collective.

(a) Application for a Permit shall be filed with the Director, as provided in this section.

(b) The application for a Permit shall include:

1. A warning that members of this collective or cooperative may be subject to prosecution under federal laws.
2. The applicant’s agreement, in a form approved by the City Attorney, to waive and release the City from any and all legal liability related to or arising from the application for Permit or business license, the issuance of a Permit or business license, or the enforcement of the conditions of the Permit, and/or the operation of any Medical Marijuana Cooperative or Collective.

(c) The application shall be filed on a form, signed by the applicant under penalty of perjury, shall contain such information as is requested by the City, and shall comply with the following requirements:

- (1) The applicant for Medical Marijuana Cooperative or Collective shall be at least 18 years old.

(2) The application shall include a complete description of the type, nature and extent of the enterprise to be conducted and for which application is made, with evidence that the enterprises is either a “cooperative” or “collective”, as set forth in the Guidelines. The requirements, standards and criteria of the Guidelines are as follows:

(A) **Statutory Cooperatives:** A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. (Corp. Code, § 12201, 12300.) No business may call itself a “cooperative” (or “co-op”) unless it is properly organized and registered as such a corporation under the Corporations or Food and Agricultural Code. (*Id.* at §12311(b).) Cooperative corporations are “democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons.” (*Id.* at §12201.) The earnings and savings of the business must be used for the general welfare of its members or equitably distributed to members in the form of cash, property, credits, or services. (*Id.*) Cooperatives must follow strict rules on organization, articles, elections and distribution of earnings, and must report individual transactions from individual members each year. (See *id.* at § 12200, *et seq.*) Agricultural cooperatives are likewise nonprofit corporate entities “since they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.” (Food & Agric. Code, § 54033.) Agricultural cooperatives share many characteristics with consumer cooperatives. (See, e.g., *id.* at § 54002, *et seq.*) Cooperatives should not purchase marijuana from, or sell to, non-members; instead, they should only provide a means for facilitating or coordinating transactions between members.

(B) **Collectives:** California law does not define collectives, but the dictionary defines them as “a business, farm, etc., jointly owned and operated by the members of a group.” (*Random House Unabridged Dictionary*; Random House, Inc.© 2006.) Applying this definition, a Collective should be an organization that merely facilitates the collaborative efforts of patient and caregiver members – including the allocation of costs and revenues. As such, a Collective is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The Collective should not purchase marijuana, but should facilitate or coordinate transactions between members.

(3) The address of the location from which the Cooperative or Collective will be operated, and a copy of a lease signed by the owner or duly authorized agent of the property, authorizing allowing the applicant to occupy the property as a Medical Marijuana Collective or Cooperative. The property owner must authorize the application for a Medical Marijuana Collective or Cooperative in writing, and provide his/her name, address, and telephone number of where he/she may be reached for verification of the lease.

(4) The application shall include the name and address of the applicant for the Medical Marijuana Cooperative or Collective for which application is made, as well as the applicant’s previous addresses for the past five (5) years immediately prior to the present address of the applicant.

(5) The application shall include all business, occupation or employment of the applicant for the five (5) years immediately preceding the date of the application.

(6) The application shall include a plan of operations describing how the Medical Marijuana Cooperative or Collective will operate consistent with the State law, the provisions of this Chapter and the Guidelines, including but not limited to:

- (A) Ensuring that medical marijuana is not distributed, transmitted, dispensed, cultivated, exchanged, delivered or otherwise offered by the Medical Marijuana Cooperative or Collective in a manner that would generate a profit;
- (B) Controls or measures intended to ensure medical marijuana will be dispensed, transmitted, delivered, offered, cultivated to and exchanged with Members only;
- (C) Controls or measures intended to ensure that access to the Medical Marijuana Cooperative or Collective premises is adequately monitored and restricted only to Members; and
- (D) Independent verification methods for ensuring that a potential Member and/or Member is a Qualified Patient, Person with Identification Card or a Primary Caregiver.

(7) The Application shall include a sketch or diagram showing the interior configuration of the premises. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches denoting the following:

- (A) Waiting area;
- (B) Dispensing area;
- (C) Location of storage area;
- (D) Separate air handling/HVAC system for the lease space. Neither the ventilation system for the lease space/premise nor the air handling/HVAC controls are to be shared with another lease space.
- (E) Exterior lighting;
- (F) Restrooms; and
- (G) Signage plan (both interior and exterior)

(8) The application shall include a security plan including the following measures:

(A) Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 120 concurrent hours of digitally recorded documentation in a format approved by the Los Angeles County Sheriff's Department. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the dispensing areas, storage areas, all doors and windows to the Medical Marijuana Cooperative or Collective, all parking areas, and any other areas as determined by the Los Angeles County Sheriff's Department.

(B) The premises shall be equipped with an alarm system that is operated and monitored by an alarm company properly licensed by the California Department of Consumer Affairs Bureau of Security and Investigative Services in accordance with California Business and Professions Code § 7590 *et seq.* and whose agents are also properly licensed and registered under the provisions of said sections of the Business and Professions Code.

(9) Any applicant for a Permit shall complete a background check and shall provide the following information, to enable the Los Angeles County Sheriff's Department to perform the background check:

(A) The name, address, phone number, and fingerprints of the applicant;

(B) A list of each criminal conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which the applicant was convicted; and

(C) Such other information as may be required by the Director or Los Angeles County Sheriff's Department for the purpose of completing the background check required by this section.

(10) The application shall include a written statement by the applicant that he/she certifies under penalty of perjury that the applicant has the consent of the property owner to operate a Medical Marijuana Cooperative or Collective at the premises.

(11) The application shall include a statement by the applicant that he/she certifies under penalty of perjury that all information contained in the application is true and correct.

(12) The application shall include any other information that is deemed necessary for the Director to complete the investigation and determine compliance with this Chapter, the Code, Zoning Code and applicable State law.

(13) The application shall be accompanied by a nonrefundable fee in an amount prescribed by resolution of the City Council.

5.58.050 Director Review and Action on the Permit.

(a) The completeness of an application for a Permit shall be determined by the Director within fifteen (15) City business days of its submittal. If the Director determines that the Permit application is incomplete, the Director shall notify in writing the applicant of such fact and the reasons therefore, including any additional information necessary to render the application complete. The Director's notice of incomplete application shall be deposited in the U.S. mail, postage prepaid. The application shall be deemed abandoned if, within ten (10) days from the date of depositing the notice of incomplete application in the U.S. mail, postage prepaid, application is not received by the City with all of its defects entirely corrected.

(b) Once a completed application is filed, and applicant pays all applicable fees, the Director shall initiate an investigation of facts for the Permit with the appropriate City and county agencies designated to review such application. This investigation and review shall be ensure that the action on each Permit application is consistent with the intent, purpose and requirement of this Chapter, Guidelines, applicable provisions of the Code and Zoning Code and State law.

(c) Upon completion of investigation, the Director shall review and either approve, conditionally approve or deny the application for a Permit, as provided in this chapter.

(d) Director may approve an application for Permit, if the Director determines that the proposed Medical Marijuana Cooperative or Collective complies with all of the requirements of

this chapter, the applicable provisions of the Guidelines, the Code, State law and Zoning Code, and none of the grounds for denial, as set forth in Subsection (e) below are present. If the application is granted, the Director shall attach to the application a Permit and notify the applicant, as provided in Subsection (g), below.

(e) The Director shall deny an application for a Permit based on any of the following grounds:

(1) If the proposed Medical Marijuana Cooperative or Collective fails to show compliance with any of the requirements of this chapter, applicable Code and Zoning Code regulations, Guidelines and State law;

(2) If applicant fails to demonstrate that the proposed Medical Marijuana Cooperative or Collective, as a “cooperative” or a “collective”, permitted under State law, Guidelines and set forth in Section 5.58.050(c)(2);

(3) If applicant fails to demonstrate or comply with any of the requirements of Sections 5.58.040, 5.58.050, 5.58.090, 5.58.100 of this chapter;

(4) If the Medical Marijuana Cooperative or Collective fails to comply with any of the operational and/or performance standards set forth in Sections 5.58.090 and 5.58.100;

(5) If the applicant has knowingly made any false, misleading, or fraudulent statement of material fact in the application or in any report or document required to be filed with the application for the Permit;

(6) If the applicant is not at least eighteen (18) years of age;

(7) If the applicant fails to pay the application fees;

(8) If the applicant has had a prior Permit revoked by the City within the previous calendar year;

(9) If the applicant has committed acts which would constitute a felony or which would constitute a crime, or the conviction thereof, if the crime is substantially related to the qualifications, functions, or duties for operation of Medical Marijuana Cooperative or Collective. Notwithstanding the above, an applicant shall not be denied solely on the basis that the applicant has been convicted of a felony if the applicant has obtained a certificate of rehabilitation under California law or that the applicant has been convicted of a misdemeanor if the applicant has met all applicable requirements of rehabilitation pursuant to California law;

(10) If the applicant, his/her agent or any person exercising managerial authority on behalf of the applicant has committed any act involving dishonesty, fraud or deceit with intent to substantially benefit him/her self, or another, or substantially injure another, or illegal use, possession, distribution or similar action relating to illegal drugs or controlled substances. Notwithstanding the above, an applicant shall not be denied solely on the basis that the applicant has been convicted of a felony if the applicant has obtained a certificate of rehabilitation under California law or that the applicant has been convicted of a misdemeanor

if the applicant has met all applicable requirements of rehabilitation pursuant to California law;

(11) If the building, structure, premises, or the equipment used to conduct, establish and/or operate Medical Marijuana Cooperative or Collective fails to comply with all applicable health, zoning, fire, building and safety laws of the state of California or the City;

(12) If the applicant, his or her agent or employee, or any person connected or associated with the applicant as partner, director, officer, associate or manager, has committed, assisted in, or incited the commission of any act, or act of omission, which would be grounds for disciplinary action under this chapter if committed by the applicant (or in case of renewal, Permittee);

(13) If the Permittee has failed to pay business license fee, as required by Chapter 5.04 of the Code; or

(14) The applicant has been subject to enforcement actions by another state governmental agency in connection with his or her operation of a similar business activity for which the permit is being sought.

(f) If the application for a Permit is denied, the Director shall prepare a notice of his/her decision, together with reasons for the denial based on the grounds set forth above.

(g) In approving a Permit or renewal of a Permit, the Director may impose reasonable terms and condition on the proposed operation of Medical Marijuana Cooperative or Collective, consistent with the requirements of this Chapter, Guidelines, State law or to preserve or preserve public health, safety and welfare.

(h) The notice of Director's decision shall be mailed to the applicant at the address provided on the application and by depositing the notice in U.S. mail, postage prepaid, within five (5) City business days of such decision.

(i) Any interested person may appeal the decision of the Direct to the City Council, pursuant to provisions of Section 5.58.110.

5.58.060 Term of the Permit; Expiration and Renewal; Limit on Permits.

(a) Unless suspended or revoked, the term and renewal of a Permit shall be governed by this chapter. A Permit issued pursuant to this chapter shall be valid for one (1) year.

(b) Applications for renewal of a Permit shall be processed in accordance with the procedures governing initial applications as specified in this chapter. Complete applications for renewal shall be made at least forty-five (45) calendar days before the annual expiration of the Permit, and shall be accompanied by a nonrefundable renewal fee, as established by a resolution of the City Council. Applications for renewal made less than forty-five (45) days before the annual expiration date shall not stay the annual expiration date of the Permit, and in addition to satisfying all other criteria for renewal, the applicant shall be required to demonstrate good cause for failing to timely renew his/her application. The Director shall have the sole discretion to determine whether such good cause is demonstrated. If a Permit expires without being renewed,

the holder of the expired Permit must apply for a new Permit by complying with all requirements of this chapter applicable to an original application for a Permit.

(c) No more than six (6) Medical Marijuana Cooperatives or Collectives shall be permitted to operate in the City at any one time.

5.58.070 Nontransferable.

(a) No person shall operate a Medical Marijuana Cooperative or Collective under the authority of the Permit at any place other than the address stated in the application for Permit.

(b) No Permit issued pursuant to this chapter shall be transferable.

(c) Any attempt to transfer the Permit is hereby declared invalid and the permit automatically shall become void effective the date of such attempted transfer. "Transfers" include, but are not limited to, the transactions specified in paragraphs (1) to (8) of Section 5.08.090(a) of the Code.

5.58.080 Operational and Performance Standards.

Medical Marijuana Cooperative or Collective in the City shall operate in compliance with the following standards to ensure that the operations of the Cooperative or Collective are in compliance with this Chapter, Guidelines, State Law and to mitigate the adverse impacts associated with operations of facilities dispensing medical marijuana:

(a) Medical Marijuana Cooperative or Collective shall provide adequate security and lighting on-site to ensure the safety of persons and protect the premises from theft at all times. In addition, Medical Marijuana Cooperative and Collective shall prepare and implement a Safety and Security Plan, as reviewed and approved by the Los Angeles County Sheriff's Department.

(b) All security guards employed by Medical Marijuana Cooperative or Collective shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times.

(c) The security guard and Medical Marijuana Cooperative or Collective shall monitor the site and the immediate vicinity of the site to assure that members immediately leave the site and not consume medical marijuana in the vicinity or on the property or in the parking lot of the cooperative or collective.

(d) No recommendations for use of medical marijuana shall be issued on-site.

(e) There shall be no on-site sales of alcohol or tobacco, and no consumption of alcohol, tobacco or marijuana by Members on-site, the premises, common area(s), parking lot or sidewalks surrounding the property.

(f) Hours of operation shall be limited to: 8:00 a.m. to 8:00 p.m.

(g) Medical Marijuana Cooperative or Collective shall only provide, distribute, dispense, give or transmit medical marijuana to a Member, as defined in this chapter. This shall include possession of a valid physician's recommendation, not more than one-year old, for medical marijuana use by the Member. Medical Marijuana Cooperative or Collective shall not distribute medical marijuana to a person who is not a Member.

(i) Medical Marijuana Cooperative or Collective shall notify Members of the following in writing and through posting of a sign in a conspicuous location:

(1) Use of medical marijuana shall be limited to the Qualified Patient or Person with Identification Card identified on the doctor's recommendation. Secondary sale, barter or distribution of medical marijuana is a crime and can lead to arrest.

(2) Members of Medical Marijuana Cooperative or Collective must immediately leave the site and not consume or use medical marijuana until at home or in an equivalent private location. Medical Marijuana Cooperative or Collective staff, employees, volunteers or members shall monitor the site and vicinity to ensure compliance with Health and Safety Code §§11362.5, 11362.7-11362.83, the Guidelines and requirements of this chapter.

(3) Forgery of medical documents is a felony crime.

(h) Medical Marijuana Cooperative or Collective shall track when Members' medical marijuana recommendation and/or identification cards expire and enforce conditions of membership by excluding members whose identification card or physician recommendation are invalid or have expired, or who are caught diverting marijuana for non-medical use.

(i) Medical Marijuana Cooperative or Collective shall not provide marijuana to any member in an amount not consistent with personal medical use, as recommended by the recommending physician.

(j) Medical Marijuana Cooperative or Collective may only cultivate, dispense, transmit, store or transport marijuana in aggregate amounts tied to its membership numbers.

(k) Medical Marijuana Cooperative or Collective shall keep accurate records, follow accepted cash handling practices and maintain a general ledger of cash transactions. Medical Marijuana Cooperative or Collective shall maintain membership records on-site or have them reasonably available.

(l) Any Qualified Patient or Person with an Identification Card under 18 years of age shall be accompanied by a parent or legal guardian. In addition, no one under 18 years of age shall be a member of a Medical Marijuana Cooperative or Collective without written, verified authorization by a parent or legal guardian.

(m) Medical Marijuana Cooperative or Collective shall provide law enforcement and all neighbors within one hundred 100 feet of the cooperative or collective with the name and phone number of an on-site community relations staff person to notify if there are operational problems with the establishment.

(n) The operator(s) of Medical Marijuana Cooperative or Collective must attend coordination meetings with the Los Angeles County Sheriff's Department, as recommended by the Department.

(o) City of La Puente Community Preservation Officers, Code Enforcement Officers, Los Angeles County Sheriff's Department or other agents or employees of the City requesting admission for the purpose of determining compliance with these standards shall be given unrestricted access.

(p) The operator(s) of Medical Marijuana Cooperative or Collective shall maintain the premises, location, property and/or structures free of litter, debris, junk and other similar cast-off materials and free of graffiti. Any graffiti must be removed and/or repainted within 72 hours from discovery of or verbal or written notice of the graffiti vandalism from the City.

- (q) There shall be no loitering on the premises, surroundings or parking lot of the Medical Marijuana Cooperative or Collective.
- (r) Medical Marijuana Cooperative or Collective must bar all windows and ensure that all marijuana is securely stored, subject to the approval of the Fire Department. In addition, a reliable, commercial, alarm system must be installed and maintained.
- (s) Medical Marijuana shall not be grown, stored or cultivated outside. Only indoor growing, storage and cultivation is permitted.
- (t) Only the owner, operator or the security guard(s) of a Medical Marijuana Cooperative or Collective shall be permitted to carry weapons.
- (u) In the event the Medical Marijuana Cooperative or Collective engages in the cooking, preparation, or manufacturing of marijuana enhanced or edible or drinkable products, including but not limited to drinks, infused water, cookies, candy or brownies, the cooperative or collective shall comply with all applicable state and City regulations pertaining to the preparation, distribution, handling and sale of food.
- (v) The Medical Marijuana Cooperative or Collective shall comply with all other applicable property development and design standards of the Zoning Code, as well the applicable provisions of the Code. In addition, Medical Marijuana Cooperative and Collective shall comply with and operate in compliance with Health and Safety Code §§ 11362.5, 11362.7-11362.83 and in conformance with the Guidelines.

5.58.090 Membership Application and Verification.

When a Qualified Patient, Person with Identification Card or Primary Caregiver wishes to join a Medical Marijuana Cooperative or Collective, the following application guidelines should be followed by operators of Medical Marijuana Cooperative or Collective to help ensure that medical marijuana is not diverted to illicit markets:

- (a) Medical Marijuana Cooperative or Collective shall require that potential members complete and submit a written membership application;
- (b) Verify the individual’s status as a Qualified patient, Person with Identification Card or Primary Caregiver. Unless Qualified Patient has a valid state medical marijuana identification card, the verification process should involve personal contact with the recommending physician (or his or her agent), verification of the physician’s identify, as well as his or her state licensing status. Verification of Primary Caregiver status should include contact with the Qualified Patient, as well as validation of the Qualified Patient’s recommendation. Copies should be made of the physician’s recommendation or identification card, if any;
- (c) Have the applicant for the membership of Marijuana Cooperative or Collective agree not to distribute marijuana to non-members or anyone for non-medicinal purposes; and
- (d) Have the applicant for the membership in Medical Marijuana Cooperative or Collective agree not to use the marijuana for other than medical purposes.

5.58.100 Permit modification, suspension and revocation procedure.

- (a) Grounds for modification, revocation or suspension. The Director may modify, suspend or revoke a Permit based on any of the following grounds:

- (1) The building, structure, premises or equipment used to conduct or operate Medical Marijuana Cooperative or Collective fails to comply with any applicable health, zoning, fire, and building and safety laws of the state of California or the City;
- (2) Medical Marijuana Cooperative or Collective is established, operated or maintained in a manner that would justify the denial of the application for a Permit, based on the grounds set forth in Section 5.58.050(e).
- (3) The existence of any conditions constituting a public nuisance under California law, including but not limited to California Civil Code §§ 3479 or 3480 or the Code;
- (4) Permittee is operating the Medical Marijuana Cooperative or Collective not in conformance with any requirements of this Chapter, applicable provisions of Guidelines or the State Law;
- (5) The Permittee, Permittee's employees, agents or manager has conducted or operated Medical Marijuana Cooperative or Collective in a manner contrary to the peace, health, safety and the general welfare of the public, including, without limitation, by allowing or failing to prevent the use of the business as a base or magnet for unlawful or criminal activity;
- (6) The Permittee has violated one or more conditions upon which the Permit has been issued;
- (7) The Permittee, while holding an active Permit, has committed an act which would have resulted in the denial of the Permit pursuant to this Chapter; or
- (8) The Permittee has failed to pay business license fee as required by Chapter 5.04 of the Code.

(c) Procedures for modification, revocation or suspension.

- (1) On determining that grounds for modification, revocation or suspension of a Permit exist, the Director shall furnish written notice of the proposed action to the Permittee. Such notice shall set forth the time and place of a hearing, and the ground(s) upon which the proposed suspension or revocation is based, the pertinent provisions of this chapter, Guidelines, Code, Zoning Code or State Law, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the Permittee, or shall be personally delivered to the Permittee, at least ten (10) days prior to the hearing date.
- (2) The public hearing on modification, revocation or suspension of the Permit shall be conducted by the Director or his/her designee, which may include a third party hearing officer. Additionally, such hearings shall be conducted in accordance with procedures established by the Director but, at minimum shall include the following:

- (d) All parties involved shall have a right to: (1) offer testimonial, documentary and tangible evidence bearing on the issues; (2) be represented by counsel; and (3) confront and cross-examine witnesses.

(e) Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

(f) Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness at the request of the Permittee. Extension of the time or continuances sought by a Permittee shall not be considered delay on the part of the City or constitute failure by the City to provide for prompt decisions on permit suspensions or revocation.

(3) After holding the public hearing in accordance with this section, if the Director finds and determines that there are grounds for modification, suspension or revocation of the Permit, the Director shall impose one of the following: (1) Modification of the Permit; (2) Suspension of the permit for a specified period; or (3) Revocation of the Permit.

(4) The Director shall render a written decision that shall be served by depositing the notice of the decision in U.S. mail, postage prepaid, within thirty (30) days of the public hearing.

(d) In the event a the Permit is revoked pursuant to this section, another Permit to operate Medical Marijuana Cooperative or Collective shall not be granted to the Permittee or an entity related to the Permittee within 12 months after the date of such revocation.

(e) Whenever a Permit is suspended or revoked by the Director or City Council on appeal, Director or Los Angeles County Sheriff Department shall take into possession the Permit for the subject operation. The Permittee shall surrender the Permit. No Permit fee refunds shall be issued to any Permittee upon suspension or revocation of the Permit.

(f) Upon revocation or suspension of a Permit, the Permittee shall immediately cease operation of the activity, unless Permittee files a timely appeal, in which case the Director's decisions shall be stayed pending the outcome of the appeal. Except as otherwise provided, in the event that the permit is suspended, the Permittee may resume operation once the suspension period has expired.

(g) The decision of the Director may be appealed pursuant to Section 5.58.110. The suspension or revocation shall become effective ten (10) calendar days following the date of service upon the Permittee, unless the Permittee files a written request for an appeal hearing pursuant to Section 5.58.110. If the Permittee files an appeal within the time and manner prescribed, the Permit shall remain in effect until the appeal is finally determined.

5.58.110 Appeals.

(a) After approval, denial, suspension, modification or revocation of a Permit applicant, Permittee or any interested may appeal the Director's decision to the City Council, by filling written request for hearing with the City Clerk within ten (10) days following the date of the mailing of the Director's decision and paying the fee for appeals, as set by a resolution of the City Council. All such appeals shall be filed with the City Clerk and shall be public records.

(b) Consideration of an appeal of the Director's decision shall be at a public hearing, notice of which shall be given pursuant to California Government Code §§ 65091 and 65905 and which hearing shall occur within thirty (30) days of the filing or initiation of the appeal. The City Clerk shall issue a notice which shall set forth the time and place of a hearing before the City Council, the pertinent provisions of this Chapter, Guidelines, Code, Zoning Code or State Law, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the applicant or Permittee, or shall be personally delivered to the applicant or Permittee, at least ten (10) days prior to the hearing date.

(c) The appeal shall be conducted at a public hearing and in accordance with procedures established by the City Council but, at minimum shall include the standards set forth in Subsection (c)(2) of Section 5.58.110.

(d) The City Council shall not be bound by the formal rules of evidence.

(e) The City Council upon the conclusion of the de novo public hearing, shall grant or deny the appeal. The City Council's decision shall be final and conclusive and shall be rendered in writing within thirty (30) days of the hearing, such written decision shall be mailed to the party appealing the Director's decision.

5.58.120 Violation and Enforcement.

(a) The establishment, maintenance or operation of a Medical Marijuana Cooperative or Collective in violation of or in non-compliance with any of the requirements of this chapter, applicable provisions of the Guidelines, Code, Zoning Code or State law shall be subject to the enforcement remedies available under the Code, including but not limited to Chapter 1.12. In addition, the City may enforce the violation of this Chapter by means of civil enforcement through a restraining order, a preliminary or permanent injunction or by any other means authorized under the law.

(b) The establishment, maintenance or operation of a Medical Marijuana Cooperative or Collective in violation of or in non-compliance with any of the requirements of this chapter, applicable provision of the Guidelines, Code, Zoning Code or State law is declared to be a public nuisance and may be abated by the City either pursuant to Chapter 3.20 of the Code, or any available legal remedies.

SECTION 3. Severability.

Should any provision, section, paragraph, sentence or word of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of La Puente by a court of competent jurisdiction, such decisions shall not affect the validity or effectiveness of remaining portions of this Ordinance.

SECTION 4. In accordance with California Government Code §36937, this Ordinance shall take effect and be in force on the thirty-first (31st) day after adoption.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published or posted as required by law.

PASSED AND ADOPTED this _____ day of _____, 2010.

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:
ABSTAIN: Councilmembers:

Louie A. Lujan, Mayor

ATTEST:

Amy M. Turner, City Clerk