

OFFICE OF THE CITY ATTORNEY
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ORDINANCE NO. ORD-10-0007

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 5.87 TO
IMPLEMENT THE STATE COMPASSIONATE USE ACT
AND STATE MEDICAL MARIJUANA PROGRAM ACT.

WHEREAS, California voters approved the Compassionate Use Act
("CUA") in 1996 to exempt seriously ill patients and their primary caregivers from
criminal liability for possession and cultivation of marijuana for medical purposes; and

WHEREAS, the Medical Marijuana Program Act of 2003 ("MMPA")
provides for the association of primary caregivers and qualified patients to cultivate
marijuana for specified medical purposes and also authorizes local governing bodies to
adopt and enforce laws consistent with its provisions; and

WHEREAS, there have been recent reports from the Long Beach Police
Department and the media of increasing numbers of medical marijuana dispensaries
operating in the City of Long Beach; and

WHEREAS, medical marijuana that has not been collectively or
personally grown may constitute a unique health hazard to the public because, unlike
all other ingestibles, marijuana is not regulated, inspected, or analyzed for
contamination by state or federal government and may contain harmful chemicals that
could further endanger the health of persons already seriously ill; and

WHEREAS, the City of Long Beach has a compelling interest in protecting
the public health, safety and welfare of its residents and businesses, in preserving the
peace and quiet of the neighborhoods in which medical marijuana collectives operate,
and in providing compassionate access to medical marijuana to its seriously ill
residents;

1 NOW, THEREFORE, the City Council of the City of Long Beach ordains
2 as follows:

3
4 Section 1. Chapter 5.87 is added to the Long Beach Municipal Code to
5 read as follows:

6 Chapter 5.87

7 MEDICAL MARIJUANA COLLECTIVE

8
9 5.87.010 Purpose and intent.

10 A. It is the purpose and intent of this Chapter to regulate the
11 collective cultivation of medical marijuana in order to ensure the health,
12 safety and welfare of the residents of the City of Long Beach. The
13 regulations in this Chapter, in compliance with the State Compassionate
14 Use Act and the State Medical Marijuana Program Act ("State Law"), do
15 not interfere with a patient's right to use medical marijuana as authorized
16 under State Law, nor do they criminalize the possession or cultivation of
17 Medical Marijuana by specifically defined classifications of persons, as
18 authorized under State Law. Under State Law, only qualified patients,
19 persons with identification cards, and primary caregivers may legally
20 cultivate medical marijuana collectively. Medical marijuana collectives
21 shall comply with all provisions of the Long Beach City Municipal Code
22 ("LBMC"), State Law, and all other applicable local and state laws.
23 Nothing in this Chapter purports to permit activities that are otherwise
24 illegal under federal, state, or local law.

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26 5.87.015 Definitions.

27 Unless the particular provision or the context otherwise requires,
28 the definitions and provisions contained in this Section shall govern the

1 construction, meaning, and application of words and phrases as used in
2 this Chapter:

3 A. "Attending Physician" shall have the same definition as given
4 such term in California Health and Safety Code Section 11362.7, as may
5 be amended, and which defines "Attending Physician" as an individual
6 who possesses a license in good standing to practice medicine or
7 osteopathy issued by the Medical Board of California or the Osteopathic
8 Medical Board of California and who has taken responsibility for an aspect
9 of the medical care, treatment, diagnosis, counseling, or referral of a
10 patient and who has conducted a medical examination of that patient
11 before recording in the patient's medical record the physician's
12 assessment of whether the patient has a serious medical condition and
13 whether the medical use of marijuana is appropriate.

14 B. "Chief of Police" as used in this Chapter is defined to mean
15 the Chief of the Long Beach Police Department or her/his designee.

16 C. "Concentrated Cannabis" shall have the same definition as
17 given such term in California Health and Safety Code Section 11006.5, as
18 may be amended, and which defines "Concentrated Cannabis" as the
19 separated resin, whether crude or purified, obtained from marijuana.

20 D. "Director of Financial Management" as used in this Chapter
21 is defined to mean the Director of Financial Management for the City of
22 Long Beach or her/his designee.

23 E. "Edible Medical Marijuana" as used in this Chapter is
24 defined to mean any article used for food, drink, confectionery, condiment
25 or chewing gum by human beings whether such article is simple, mixed or
26 compound, which contains physician recommended quantities of Medical
27 Marijuana, and is produced on-site at a Collective permitted pursuant to
28 this Chapter within the City of Long Beach.

1 F. "Identification Card" shall have the same definition as given
2 such term in California Health and Safety Code Section 11362.7, as may
3 be amended, and which defines "Identification Card" as a document
4 issued by the State Department of Health Services which identifies a
5 person authorized to engage in the medical use of marijuana, and
6 identifies the person's designated primary caregiver, if any.

7 G. "Management Member" means a Medical Marijuana
8 Collective member with responsibility for the establishment, organization,
9 registration, supervision, or oversight of the operation of a Collective,
10 including but not limited to members who perform the functions of
11 president, vice president, director, operating officer, financial officer,
12 secretary, treasurer, or manager of the Collective.

13 H. "Marijuana" shall have the same definition as given such
14 term in California Health and Safety Code Section 11018, as may be
15 amended, and which defines "Marijuana" as all parts of the plant
16 Cannabis sativa L., whether growing or not; the seeds thereof; the resin
17 extracted from any part of the plant; and every compound, manufacture,
18 salt, derivative, mixture, or preparation of the plant, its seeds or resin. It
19 does not include the mature stalks of the plant, fiber produced from the
20 stalks, oil or cake made from the seeds of the plant, any other compound,
21 manufacture, salt, derivative, mixture, or preparation of the mature stalks
22 (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized
23 seed of the plant which is incapable of germination.

24 I. "Medical Marijuana" means Marijuana used for medical
25 purposes in accordance with California Health and Safety Code Sections
26 11362.5, *et seq.*

27 J. "Medical Marijuana Collective" ("Collective") means an
28 incorporated or unincorporated association, composed of four (4) or more

1 Qualified Patients and their designated Primary Caregivers who associate
2 at a particular location or Property within the boundaries of the City of
3 Long Beach to collectively or cooperatively cultivate Marijuana for medical
4 purposes or distribute said Medical Marijuana to Collective members and
5 Management Members, in accordance with California Health and Safety
6 Code Sections 11362.5, *et seq.* For purposes of this Chapter, the term
7 Medical Marijuana “cooperative” shall have the same meaning as Medical
8 Marijuana Collective.

9 K. “Medical Marijuana Collective Permit” as used in this
10 Chapter is defined to mean the permit issued by the Director of Financial
11 Management following a public hearing to allow a Medical Marijuana
12 Collective operation.

13 L. “Primary Caregiver” shall have the same definition as given
14 such term in California Health and Safety Code Sections 11362.5 and
15 11362.7 (as set forth in Appendix A of this Chapter), as may be amended,
16 and which define “Primary Caregiver” as an individual, designated by a
17 Qualified Patient, who has consistently assumed responsibility for the
18 housing, health, or safety of that Qualified Patient.

19 M. “Property” as used in this Chapter means the location or
20 locations within the boundaries of the City of Long Beach at which the
21 Medical Marijuana Collective members and Management Members
22 associate to collectively or cooperatively cultivate or distribute Medical
23 Marijuana exclusively for the Collective members and Management
24 Members.

25 N. “Qualified Patient” means a person who is entitled to the
26 protections of Health and Safety Code Section 11362.5 for patients who
27 obtain and use marijuana for medical purposes upon the recommendation
28

1 of an Attending Physician, whether or not that person applied for and
2 received a valid Identification Card issued pursuant to State Law.

3 O. "Reasonable Compensation" means compensation
4 commensurate with reasonable wages and benefits paid to employees of
5 IRS-qualified non-profit organizations who have similar job descriptions
6 and duties, required level of education and experience, prior individual
7 earnings history, and number of hours worked. The payment of a bonus
8 shall not be considered "Reasonable Compensation."

9 P. "State Law" means the state regulations set forth in the
10 Compassionate Use Act and the Medical Marijuana Program Act, codified
11 in California Health and Safety Code Sections 11362.5, *et seq.*

12
13 5.87.020 Medical Marijuana Collective – Permit required.

14 No Medical Marijuana Collective, Management Member or member
15 shall carry on, maintain or conduct any Medical Marijuana Collective
16 related operations in the City without first obtaining a Medical Marijuana
17 Collective Permit from the Department of Financial Management.

18
19 5.87.030 Medical Marijuana Collective – Permit application process.

20 Any Medical Marijuana Collective desiring a Permit required by this
21 Chapter shall, prior to initiating operations, complete and file an
22 application on a form supplied by the Department of Financial
23 Management, and shall submit with the completed application payment of
24 a nonrefundable processing and notification fee, as established by the City
25 Council by resolution. The Medical Marijuana Collective Permit application
26 is established to provide a review process for each proposed Medical
27 Marijuana Collective operation within the City.
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A. Filing. The Medical Marijuana Collective shall provide the following information:

1. The address of the Property or Properties where the proposed Medical Marijuana Collective will operate.

2. A site plan describing the Property with fully dimensioned interior and exterior floor plans including electrical, mechanical, plumbing, and disabled access compliance pursuant to Title 24 of the State of California Code of Regulations and the federally mandated Americans with Disabilities Act.

3. Exterior photographs of the entrance(s), exit(s), street frontage(s), parking, front, rear and side(s) of the proposed Property.

4. Photographs depicting the entire interior of the proposed Property.

5. If the Property is being rented or leased or is being purchased under contract, a copy of such lease or contract.

6. If the Property is being rented or leased, written proof that the Property owner, and landlord if applicable, were given notice that the Property will be used as a Medical Marijuana Collective, and that the Property owner, and landlord if applicable, agree(s) to said operations.

7. The name, address, telephone number, title and function(s) of each Management Member.

8. For each Management Member, a fully legible copy of one (1) valid government issued form of photo identification, such as a State Driver's License or Identification Card. Acceptable forms of government issued identification include, but are not limited to: Drivers licenses or photo identity cards issued by state Department of Motor vehicles (or equivalent) that meet REAL ID benchmarks, a passport issued by the United States or by a foreign government, U.S. Military ID

1 cards (active duty or retired military and their dependents), or a
2 Permanent Resident card.

3 9. Written confirmation as to whether the Medical
4 Marijuana Collective previously operated in this or any other county, city
5 or state under a similar license/permit, and whether the Collective
6 applicant ever had such a license/permit revoked or suspended and the
7 reason(s) therefore.

8 10. If the Medical Marijuana Collective is a corporation, a
9 certified copy of the Collective's Secretary of State Articles of
10 Incorporation, Certificate(s) of Amendment, Statement(s) of Information
11 and a copy of the Collective's By laws.

12 11. If the Medical Marijuana Collective is an unincorporated
13 association, a copy of the Articles of Association.

14 12. The name and address of the applicant's current Agent for
15 Service of Process.

16 13. A copy of the Medical Marijuana Collective Operating
17 Conditions, listed in Section 5.87.040, containing a statement dated and
18 signed by each Management Member, under penalty of perjury, that they
19 read, understand and shall ensure compliance with the aforementioned
20 operating conditions.

21 14. A copy of the Prohibited Activity, listed in Section 5.87.090,
22 containing a statement dated and signed by each Management Member, under
23 penalty of perjury, that they read, understand and shall ensure that neither the
24 Collective nor its members and Management Members shall engage in the
25 aforementioned prohibited activity.

26 15. A statement dated and signed by each Management
27 Member, under penalty of perjury, that the Management Member has
28 personal knowledge of the information contained in the application, that the

1 information contained therein is true and correct, and that the application
2 has been completed under the supervision of the Management Member(s).

3 16. Whether Edible Medical Marijuana will be prepared at the
4 proposed Property.

5 17. The Property address where any and all Medical Marijuana
6 will be collectively cultivated by the Collective members and Management
7 Members within the City of Long Beach.

8 18. The Property address where any and all collectively
9 cultivated Medical Marijuana will be distributed to the Collective members and
10 Management Members.

11 B. The Director of Financial Management shall ensure that the
12 application is complete as follows:

13 1. Within ten (10) business days of receipt of a Medical
14 Marijuana Collective Permit application, except where circumstances
15 beyond the control of the City justifiably delay such response, the Director
16 of Financial Management shall determine whether the application is
17 complete.

18 2. If it is determined the application is incomplete, the
19 applicant shall be notified in writing within ten (10) business days of the
20 date the application is determined to be incomplete, except where
21 circumstances beyond the control of the City justifiably delay such
22 response, that the application is not complete and the reasons therefore,
23 including any additional information necessary to render the application
24 complete.

25 3. The Collective shall have thirty (30) calendar days
26 from the date of notice set forth above in Subsection 5.87.030(B),
27 Subsection (2) to complete the application. Failure to do so within the
28 thirty (30) day period shall render the application null and void.

1 4. Within ten (10) business days following the receipt of
2 an amended application or supplemental information, except where
3 circumstances beyond the control of the City justifiably delay such
4 response, the Director of Financial Management shall again determine
5 whether the application is complete in accordance with the procedures set
6 forth above. Evaluation and notification shall occur as provided above
7 until such time as the application is found to be complete or in the
8 alternative null and void.

9 5. Once the application is found to be complete, the
10 applicant shall be notified within ten (10) business days, except where
11 circumstances beyond the control of the City justifiably delay such
12 response, of that fact.

13 6. All notices required by this Chapter shall be deemed
14 issued upon the date they are either deposited in the United States mail
15 or the date upon which personal service of such notice is provided.

16 C. On receipt of the completed Medical Marijuana Collective
17 Permit application, the Director of Financial Management shall refer the
18 application to all concerned City departments, including, but not limited to,
19 Police, Fire, Health, Development Services and Code Enforcement for
20 investigation. Such departments shall file a report providing
21 recommendations regarding the approval or denial of the permit with the
22 Director of Financial Management within sixty (60) calendar days after the
23 completed application is filed, except where circumstances beyond the
24 control of the City justifiably delay such response.

25 D. The Director of Financial Management shall cause a hearing
26 to be conducted not later than sixty (60) days from the date the completed
27 Permit application was submitted, except where circumstances beyond
28 the control of the City justifiably delay said timeframe, and shall cause the

1 owners of property located within seven-hundred-and-fifty-feet (750') of
2 the proposed Property to be sent advance notice of the date, time, and
3 place of the hearing. The applicant shall be given at least ten (10)
4 business days written notice of such hearing.

5 E. The Director of Financial Management shall render her/his
6 decision not later than fifteen (15) days after the hearing is closed. The
7 report shall be in writing and shall include findings of fact, including but not
8 limited to each operating condition set forth in Section 5.87.040, a
9 summary of the relevant evidence, a statement of the issues, a resolution
10 of the credibility of witnesses where there is conflicting testimony and a
11 recommended decision. A copy of the report shall be served on all parties.

12 F. The decision of the Director of Financial Management may
13 be appealed to the City Council within ten (10) calendar days from the
14 date the written notice of Permit decision was mailed. The request for
15 appeal shall be in writing, shall set forth the specific ground(s) on which it
16 is based and shall be submitted to the Director of Financial Management
17 along with an appeal deposit in an amount determined by the City Council
18 by resolution.

19 G. The City Council shall conduct a hearing on the appeal or refer the
20 matter to a hearing officer, pursuant to Chapter 2.93 of this Code, within thirty
21 (30) business days from the date the completed request for appeal was received
22 by the Director of Financial Management, except where good cause exists to
23 extend this period. The appellant shall be given at least ten (10) business days
24 written notice of such hearing. The hearing and rules of evidence shall be
25 conducted pursuant to Chapter 2.93 of this Code. The determination of the City
26 Council on the appeal shall be final.

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5.87.040 Medical Marijuana Collective Permit approval and operating conditions.

The Director of Financial Management shall approve and issue a Medical Marijuana Collective Permit if the application and evidence submitted in the hearing, conducted pursuant to Section 5.87.030, Subdivisions (D) and (E) as set forth above, sufficiently demonstrate that:

A. The Property is not located in an area zoned in the City for exclusive residential use. Medical Marijuana Collectives are not permitted to operate in exclusive residential zones as established pursuant to Title 21 of this Code.

B. The Medical Marijuana Collective is not located within a one thousand five hundred foot (1,500') radius of a public or private high school or within a one thousand foot (1,000') radius of a public or private kindergarten, elementary, middle or junior high school. The distances specified in this subdivision shall be determined by the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the Medical Marijuana Collective is located, without regard to intervening structures.

C. The Medical Marijuana Collective is not located within a one thousand foot (1,000') radius of any other Medical Marijuana Collective. The distance specified in this subdivision shall be determined by the horizontal distance measured in a straight line from the property line of any other Medical Marijuana Collective, to the closest property line of the lot on which the permitted Medical Marijuana Collective is located, without regard to intervening structures.

D. Exterior building and parking area lighting at the Property are in compliance with all applicable provisions of this Code.

1 E. Any exterior or interior sign visible from the exterior of the
2 Property shall be unlighted.

3 F. Windows and roof hatches at the Property shall be secured
4 so as to prevent unauthorized entry, and are equipped with latches that
5 may be released quickly from the inside to allow exit in the event of
6 emergency and are in compliance with all applicable building code
7 provisions.

8 G. The Property provides sufficient sound absorbing insulation
9 so that noise generated inside the premises is not audible anywhere on
10 the adjacent property or public rights-of-way, or within any other building
11 or other separate unit within the same building as the Medical Marijuana
12 Collective.

13 H. The Property provides a sufficient odor absorbing ventilation
14 and exhaust system so that odor generated inside the Property is not
15 detected outside the Property, anywhere on adjacent property or public
16 rights-of-way, or within any other unit located within the same building as
17 the Medical Marijuana Collective.

18 I. The Property is monitored at all times by closed-circuit
19 television for security purposes. The camera and recording system must
20 be of adequate quality, color rendition and resolution to allow the ready
21 identification of an individual on or adjacent to the Property. The
22 recordings shall be maintained at the Property for a period of not less than
23 thirty (30) days.

24 J. The Property has a centrally-monitored fire and burglar
25 alarm system.

26 K. A sign is posted in a conspicuous location inside the
27 Property advising:
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1 1. “The diversion of marijuana for non-medical purposes
2 is a violation of State law.

3 2. The use of marijuana may impair a person’s ability to
4 drive a motor vehicle or operate heavy machinery.

5 3. Loitering at the location of a Medical Marijuana
6 Collective for an illegal purpose is prohibited by California Penal Code
7 Section 647(h).

8 4. This Medical Marijuana Collective is permitted in
9 accordance with the laws of the City of Long Beach.

10 5. The sale of marijuana and the diversion of marijuana
11 for non-medical purposes are violations of State Law.”

12 L. Each applicant electing to manufacture Edible Medical
13 Marijuana shall manufacture the Edible products for the sole consumption
14 by Qualified Patient members and Qualified Patient Management
15 Members of the Collective, in compliance with all applicable state and
16 local laws.

17 M. The Medical Marijuana Collective meets all applicable state
18 and local laws to ensure that the operations of the Collective are
19 consistent with the protection of the health, safety and welfare of the
20 community, Qualified Patients and their Primary Caregivers, and will not
21 adversely affect surrounding uses.

22 N. No Collective shall operate for profit. Cash and in-kind
23 contributions, reimbursements, and reasonable compensation provided by
24 Management Members and members towards the Collective’s actual
25 expenses of the growth, cultivation, and provision of Medical Marijuana
26 shall be allowed provided that they are in strict compliance with State Law.
27 All such cash and in-kind amounts and items shall be fully documented in
28 accordance with Section 5.87.060 of this Chapter.

1 O. Collective cultivation of Medical Marijuana shall be limited to
2 the Medical Marijuana Collective members and Management Members.

3 P. Cultivation of Medical Marijuana by the Medical Marijuana
4 Collective members and Management Members shall occur exclusively
5 within the boundaries of the City of Long Beach and only at the Property
6 identified on the Medical Marijuana Permit application.

7 Q. Distribution of the Medical Marijuana collectively cultivated
8 by the Medical Marijuana Collective members and Management Members
9 to Collective members and Management Members shall occur exclusively
10 within the boundaries of the City of Long Beach and only at the Property
11 identified on the Medical Marijuana Permit application.

12 R. If the cultivation of Medical Marijuana by the Medical
13 Marijuana Collective located within the City of Long Beach is to take place
14 at a location other than the location where the Medical Marijuana is
15 distributed to Medical Marijuana Collective members and Management
16 Members, then the location of cultivation shall likewise fully comply with
17 the provisions of Section 5.87.040 and all of its subsections.

18 S. Every Medical Marijuana Collective shall maintain, on-site at
19 the Property, cultivation records, signed under penalty of perjury by each
20 Management Member, identifying the location within the City of Long
21 Beach at which the Medical Marijuana was cultivated, and the total
22 number of said plants cultivated at each location.

23 T. Representative samples of Medical Marijuana distributed by
24 the Collective shall be analyzed by an independent laboratory to ensure it
25 is free of harmful pesticides and other contaminants regulated by local,
26 state or federal regulatory or statutory standards.

27 U. Any Medical Marijuana from which the representative
28 sample tested positive for a harmful pesticide or other contaminant at a

1 level which exceeds the local, state, or federal regulatory or statutory
2 standards shall be destroyed forthwith; and

3 V. Any Medical Marijuana provided to Collective members shall
4 be properly labeled in strict compliance with state and local laws.

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6 5.87.050 Medical Marijuana Collective Permit – Non transferable.

7 A Medical Marijuana Collective Permit issued pursuant to this
8 Chapter shall become null and void upon the cessation of the Collective
9 and/or the relocation of the Collective to a different Property

10 A. The following shall be deemed a change in location:

11 1. Any relocation or expansion that includes a separate
12 piece of property or parcel of land from the initially permitted Property.

13 2. Any expansion of the initially permitted Property which
14 represents a greater than fifty percent (50%) increase in the square
15 footage of space devoted to public access or occupancy.

16 B. The lawful conduct of activity regulated by this Chapter by a
17 permittee shall be limited to those activities expressly indicated on the
18 Medical Marijuana Collective Permit application.

19 C. The holder of a Medical Marijuana Collective Permit shall
20 not allow others to use or rent the permitted Property. An exception shall
21 be made for persons who are not Collective members or Management
22 Members and who possess a valid City issued business license which
23 authorizes the “place to place” sale of soil and nutrients to the Collective
24 members or Management Members for the collective cultivation of
25 Medical Marijuana by members and/or Management Members of the
26 Collective.

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- 1 5.87.060 Maintenance of records.
- 2 A. A Medical Marijuana Collective shall maintain the following
- 3 accurate and truthful records on the Property:
- 4 1. The full name, address, and telephone number(s) of
- 5 the owner, landlord and/or lessee of the Property.
- 6 2. The full name, address, and telephone number(s)
- 7 and a fully legible copy of a government issued form of identification of
- 8 each Collective member engaged in the management of the Collective
- 9 and a description of the exact nature of the participation in the
- 10 management of the Collective. Acceptable forms of government issued
- 11 identification include, but are not limited to: Drivers licenses or photo
- 12 identity cards issued by state Department of Motor Vehicles (or
- 13 equivalent) that meets REAL ID benchmarks, a passport issued by the
- 14 United States or by a foreign government, U.S. Military ID cards (active
- 15 duty or retired military and their dependents), or a Permanent Resident
- 16 Card.
- 17 3. The full name, address, and telephone number(s) of
- 18 each Collective member and Management Member who participates in
- 19 the Collective cultivation of Medical Marijuana.
- 20 4. The full name, date of birth, residential address, and
- 21 telephone number(s) of each Collective member and Management
- 22 Member; the date each member and Management Member joined the
- 23 Collective; the exact nature of each member's and Management
- 24 Member's participation in the Collective; and the status of each member
- 25 and Management Member as a Qualified Patient or Primary Caregiver.
- 26 5. A written accounting of all cash and in-kind contributions,
- 27 reimbursements, and reasonable compensation provided by the Collective
- 28 Management Members and members to the Collective, and all expenditures and

1 costs incurred by the Collective.

2 6. An inventory record documenting the dates and
3 amounts of Medical Marijuana cultivated at the Property, and the daily
4 amounts of Medical Marijuana stored on the Property.

5 7. Proof of a valid Medical Marijuana Collective Permit
6 issued by the Department of Financial Management in conformance with
7 this Chapter.

8 8. A list of Prohibited Activity, set forth in Section 5.87.090,
9 containing a statement dated and signed by each Collective member and
10 Management Member, under penalty of perjury, that they read, understand and
11 shall not engage in the aforementioned prohibited activity.

12 B. These records shall be maintained by the Medical Marijuana
13 Collective for a period of five (5) years and shall be made available by the
14 Collective to the City upon request, subject to the authority set forth in
15 Section 5.87.070.

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17 5.87.070 Inspection authority.

18 City representatives may enter and inspect the Property of every
19 Medical Marijuana Collective between the hours of ten o'clock (10:00)
20 A.M. and eight o'clock (8:00) P.M., or at any reasonable time to ensure
21 compliance and enforcement of the provisions of this Chapter, except that
22 the inspection and copying of private medical records shall be made
23 available to the Police Department only pursuant to a properly executed
24 search warrant, subpoena, or court order. It is unlawful for any Property
25 owner, landlord, lessee, Medical Marijuana Collective member or
26 Management Member or any other person having any responsibility over
27 the operation of the Medical Marijuana Collective to refuse to allow,
28 impede, obstruct or interfere with an inspection.

1 5.87.080 Existing Medical Marijuana operations.

2 Any existing Medical Marijuana Collective, dispensary, operator,
3 establishment, or provider that does not comply with the requirements of
4 this Chapter must immediately cease operation until such time, if any,
5 when it complies fully with the requirements of this Chapter. No Medical
6 Marijuana Collective, dispensary, operator, establishment, or provider that
7 existed prior to the enactment of this Chapter shall be deemed to be a
8 legally established use or a legal non-conforming use under the provisions
9 of this Chapter or the Code.

10
11 5.87.090 Prohibited activity.

12 A. It is unlawful for any person to cause, permit or engage in
13 the cultivation, possession, distribution, exchange or giving away of
14 Marijuana for medical or non medical purposes except as provided in this
15 Chapter, and pursuant to any and all other applicable local and state law.

16 B. It is unlawful for any person to cause, permit or engage in
17 any activity related to Medical Marijuana except as provided in this
18 Chapter and in Health and Safety Code Sections 11362.5 *et seq.*, and
19 pursuant to any and all other applicable local and state law.

20 C. It is unlawful for any person to knowingly make any false,
21 misleading or inaccurate statement or representation in any form, record,
22 filing or documentation required to be maintained, filed or provided to the
23 City under this Chapter.

24 D. No Medical Marijuana Collective, Management Member or
25 member shall cause or permit the sale, distribution or exchange of
26 Medical Marijuana or of any Edible Medical Marijuana product to any non
27 Collective Management Member or member.

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E. No Medical Marijuana Collective, Management Member or member shall allow or permit the commercial sale of any product, good or service, including but not limited to drug paraphernalia identified in Health and Safety Code Section 11364, on or at the Medical Marijuana Collective, in the parking area of the Property. An exception shall be made for persons who are not Collective members or Management Members and who possess a valid City issued business license which authorizes the "place to place" sale of soil and nutrients to the Collective, Management Members or members for the collective cultivation of Medical Marijuana by Management Members and members of the Collective.

F. No cultivation of Medical Marijuana at the Property shall be visible with the naked eye from any public or other private property, nor shall cultivated Medical Marijuana or dried Medical Marijuana be visible from the building exterior. No cultivation shall occur at the Property unless the area devoted to the cultivation is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.

G. No manufacture of Concentrated Cannabis in violation of California Health and Safety Code Section 11379.6 is allowed.

H. No Medical Marijuana Collective shall be open to or provide Medical Marijuana to its members or Management Members between the hours of eight o'clock (8:00) P.M. and ten o'clock (10:00) A.M.

I. No person under the age of eighteen (18) shall be allowed at the Property, unless that minor is a Qualified Patient and is accompanied by his or her licensed Attending Physician, parent(s) or documented legal guardian.

1 J. No Medical Marijuana Collective shall possess Medical Marijuana
2 that was not collectively cultivated by its Management Members or members
3 either at the Property or at its predecessor location fully permitted in accordance
4 with this Chapter.

5 K. No Medical Marijuana Collective, Management Member or
6 member shall cause or permit the sale, dispensing, or consumption of
7 alcoholic beverages on the Property or in the parking area of the Property.

8 L. No dried Medical Marijuana shall be stored at the Property
9 in structures that are not completely enclosed, in an unlocked vault or
10 safe, in any other unsecured storage structure, or in a safe or vault that is
11 not bolted to the floor of the Property.

12 M. Medical Marijuana may not be inhaled, smoked, eaten,
13 ingested, or otherwise consumed on the Property, in the parking areas of
14 the Property, or in those areas restricted under the provisions of California
15 Health and Safety Code Section 11362.79, which include:

- 16 1. Any place where smoking is prohibited by law;
- 17 2. Within one thousand feet (1,000') of the grounds of a
18 school, recreation center, or youth center;
- 19 3. While on a school bus;
- 20 4. While in a motor vehicle that is being operated; or
- 21 5. While operating a boat.

22 N. Medical Marijuana Collective membership and Management
23 Membership, established pursuant to this Chapter, shall be limited to one
24 Collective fully permitted in accordance with this Chapter.

25 O. No person who has been convicted within the previous ten
26 (10) years of a felony or a crime of moral turpitude, or who is currently on
27 parole or probation for the sale or distribution of a controlled substance,
28 shall be engaged directly or indirectly in the management of the Medical

1 Marijuana Collective nor, further, shall manage or handle the receipts and
2 expenses of the Collective.

3

4 5.87.100 Violation and enforcement.

5 A. Any person violating any provision of this Chapter or
6 knowingly or intentionally misrepresenting any material fact in procuring
7 the permit herein provided for, shall be deemed guilty of a misdemeanor
8 punishable by a fine of not more than one thousand dollars (\$1,000.00) or
9 by imprisonment for not more than twelve (12) months, or by both such
10 fine and imprisonment.

11 B. Any person who engages in any Medical Marijuana
12 Collective operations after a Medical Marijuana Collective Permit
13 application has been denied, or a Medical Marijuana Collective Permit has
14 been suspended or revoked, and before a new permit is issued, shall be
15 guilty of a misdemeanor.

16 C. As a nuisance *per se*, any violation of this Chapter shall be
17 subject to injunctive relief, revocation of the certificate of occupancy for
18 the property, disgorgement and payment to the City of any and all monies
19 unlawfully obtained, costs of abatement, costs of investigation, attorney
20 fees, and any other relief or remedy available at law or equity. The City
21 may also pursue any and all remedies and actions available and
22 applicable under local and state law for any violations committed by the
23 Medical Marijuana Collective, its Management Members, members or any
24 person related or associated with the Collective.

25 D. Any violation of the terms and conditions of the Medical
26 Marijuana Collective permit, of this Chapter, or of applicable local or state
27 regulations and laws shall be grounds for permit suspension or
28 revocation.

1 5.87.110 Appeal process.

2 A. If a City department determines that the permittee failed to
3 comply with any provision of this Chapter, or with any other provision or
4 requirement of law, the Director of Financial Management shall revoke or
5 suspend the Medical Marijuana Collective Permit in accordance with the
6 provisions set forth in Section 5.06.020, Subsection A, of this Code.

7 B. The Director of Financial Management shall notify the
8 permittee of the permit revocation or suspension by dated written notice.
9 Said notice shall advise the permittee of the right to appeal the decision to
10 the City Council. The request for appeal shall be in writing, shall set forth
11 the specific ground(s) on which it is based and shall be submitted to the
12 Director of Financial Management within ten (10) calendar days from the
13 date the notice was mailed along with an appeal deposit in an amount
14 determined by the City Council by resolution.

15 C. The City Council shall conduct a hearing on the appeal or
16 refer the matter to a hearing officer, pursuant to Chapter 2.93 of this
17 Code, within thirty (30) business days from the date the completed
18 request for appeal was received by the Director of Financial Management,
19 except where good cause exists to extend this period. The appellant shall
20 be given at least ten (10) business days written notice of such hearing.
21 The hearing and rules of evidence shall be conducted pursuant to
22 Chapter 2.93 of this Code. The determination of the City Council on the
23 appeal shall be final.

24 D. Whenever a Medical Marijuana Collective Permit has been
25 revoked or suspended, no other such permit application shall be
26 considered for a period of one (1) year from either the date notice of the
27 revocation or suspension was mailed, or the date of the final decision of
28 the City Council, whichever is later.

1 5.87.120 Operative date.

2 A. This ordinance will be come effective one-hundred-and-
3 twenty (120) days following its passage and adoption. The Department of
4 Financial Management will accept completed Medical Marijuana Collective
5 permit applications one-hundred-and-twenty (120) days prior to the
6 effective date of this ordinance.

7 B. Each Medical Marijuana Collective issued a Medical
8 Marijuana Collective Permit, pursuant to this Chapter, within the one-
9 hundred-and-twenty (120) day period set forth above in Section 5.87.120,
10 Subsection (a), shall have an additional one-hundred-and-twenty (120)
11 days to comply with the Medical Marijuana cultivation requirements set
12 forth in Section 5.87.040, Subsection (P) and Section 5.87.090,
13 Subsection (J) of this Chapter.

14
15 5.87.130 Severability.

16 If any provision of this Chapter, or the application thereof to any
17 person or circumstance, is held invalid, that invalidity shall not affect any
18 other provision or application of this Chapter that can be given effect
19 without the invalid provision or application; and to this end, the provisions
20 or applications of this Chapter are severable.

21
22 5.87.140 Review of Regulations.

23 On or before the first anniversary of the effective date of this
24 Chapter, the City Council shall review the effectiveness of these
25 regulations, and shall enact modifications, if necessary.

26 ///

27 ///

28 ///

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

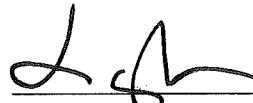
1 Section 2. The City Clerk shall certify to the passage of this Ordinance
2 by the City Council and cause it to be posted in three conspicuous places in the City of
3 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by
4 the Mayor.

5 I hereby certify that the foregoing Ordinance was adopted by the City
6 Council of the City of Long Beach at its meeting of March 23, 2010, by the
7 following vote:


8
9 Ayes: Councilmembers: Lowenthal, DeLong, O'Donnell,
10 Schipske, Andrews.

11
12
13 Noes: Councilmembers: Garcia, Reyes Uranga, Gabelich, Lerch.

14
15 Absent: Councilmembers: None.

16
17
18 
19 _____
City Clerk

20 Approved: 4/1/2010

21 
22 _____
Mayor