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DATE: April 17, 2014
TO: HON. CHAIR VAN HORIK, VICE CHAIR FOX, AND MEMBERS OF THE
LONG BEACH PLANNING COMMISSION
FROM: JINA A. NAM, ESQ., ATTORNEY FOR THE LONG BEACH COLLECTIVE
ASSOCIATION (LBCA)
RE: AGENDA ITEM # 14-026PL, MEDICAL MARIJUANA ORDINANCE

To the Hon. Chair, Vice Chair and Members of the Planning Commission:

We have had the opportunity to review the initial draft of the ordinance prepared by the City Attorney, and we hereby submit our proposed changes, attached hereto in a redlined format for your review.

While we appreciate the significant amount of time, care and effort that the City Attorney staff has put into crafting this initial draft, we find several main points of concern as follows:

- 1) INDUSTRIAL ONLY ZONES: At the previous hearing held on February 6, 2014, members of this Commission and the public discussed at length the need to expand the zoning from industrial only to other appropriate zones including commercial zones, and this Commission moved to direct the City staff to consider such other appropriate zones when crafting the draft of the proposed ordinance. However, this has not yet been done, and therefore we respectfully request that this Commission redirect the City Attorney and Development Services to identify and incorporate additional zones beyond industrial zones.

NO PRIORITY FOR PREVIOUSLY VETTED OPERATORS: The City Council has directed this Commission and City Attorney to craft a mechanism to prioritize previously vetted operators of medical marijuana businesses that were selected by the City under the former medical marijuana ordinance outlined in the since-rescinded Chapter 5.87 of the LBMC. The rationale behind granting such priority is because those operators previously demonstrated their willingness to abide by this City's regulations, and therefore allows the City to work with those with such good faith intentions and help keep unscrupulous operators at bay. In addition, these previously vetted operators were greenlighted and mandated by the City to commence operations under the old regulatory scheme, and have thus incurred hundreds of thousands of dollars in application and permit fees, buildout costs and operational costs. Therefore, the City Council recognizes that the appropriate

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 5.91; AND BY
REPEALING CHAPTER 5.89, ALL RELATING TO
MEDICAL MARIJUANA

WHEREAS, the people of the State of California have enacted Proposition
215, the Compassionate Use Act of 1996 ("CUA") (codified in Health and Safety Code
Section 11362.5, *et seq.*), which allows for the possession and cultivation of marijuana for
medical use by certain qualified persons; and

WHEREAS, the CUA creates a limited exception from criminal liability for
seriously ill persons who are in need of medical marijuana for specified medical purposes
and who obtain and use medical marijuana under limited circumstances; and

WHEREAS, in 2004, the State of California enacted Senate Bill 420, the
Medical Marijuana Program Act ("MMPA") (codified in California Health and Safety Code
Section 11362.7 *et seq.*), which purports to clarify the scope of the CUA, and also which
recognizes the right of cities and other governing bodies to adopt and enforce rules and
regulations consistent with the MMPA; and

WHEREAS, notwithstanding the passage of the CUA and MMPA, the
cultivation, possession, and distribution of marijuana is strictly prohibited by federal law
and specifically by the Controlled Substances Act ("CSA") (codified in 21 U.S.C. Section
841); and Section 841 of the CSA makes it unlawful for a person to manufacture,
distribute, dispense, or possess with intent to manufacture, distribute, or dispense
marijuana; and

WHEREAS, the regulations for medical marijuana uses are not adequate at
the state level to address the impacts on the City of medical marijuana, making it

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Chapter 5.91
MEDICAL MARIJUANA

5.91.010 Purpose.

A. The primary purpose of this Chapter is to protect the public health, safety, and welfare of the residents and patients of the City by prescribing the manner in which medical marijuana dispensaries can operate in the City.

B. This Chapter regulates the use, acquisition, cultivation, production, and distribution of medical marijuana in a manner that is consistent with California Health and Safety Code sections 11357 through 11362.9, also referred to as the Compassionate Use Act ("CUA") and the Medical Marijuana Program Act ("MMPA"). The CUA and MMPA do not provide a legal manner for patients to obtain medical marijuana unless the patient grows the marijuana or the marijuana is grown by the patient's primary caregiver or the marijuana is grown collectively by patients. The following regulations are intended to apply to all medical marijuana operations in the City whether by a patient or primary caregiver or a collective of patients, or any medical marijuana related entity allowed under the state law. Medical marijuana cultivation and production can have an impact on health, safety and community resources, and this Chapter is intended to allow medical marijuana distribution and cultivation only where it will have a minimal impact. To do so, the following regulations:

1. Provide for a means for cultivation, production, and distribution of marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes under the CUA and MMPA;
2. Protect public health and safety through reasonable limitations on medical marijuana business operations as they relate to noise,

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1 whether on print or on the internet, to a medical marijuana business in order
2 to promote the sale of medical marijuana by the business.

3 B. "Business Manager" means the individual designated by the
4 owner of the medical marijuana business as the person responsible for all
5 operations of the business in the absence of the owner from the business
6 property. Business manager shall include any person with managerial
7 authority in the business, and any person that has access to lock or unlock
8 the safe, to unlock or lock the business, or set or disarm the alarm.

9 C. "Cultivation" or "Cultivate" means:

- 10 1. All phases of growth of marijuana from seed to harvest;
11 or
12 2. Preparing, packaging or repackaging, labeling or
13 relabeling of a usable form of marijuana.

14 D. "Cultivation Facility" means a permitted medical marijuana
15 business that is authorized to cultivate, produce, and harvest marijuana plants
16 for a medical use for distribution by such medical marijuana business.

17 E. "Distribute" or "Distribution" means the actual, constructive or
18 attempted transfer, delivery, sale, or dispensing to another, with or without
19 remuneration.

20 F. "Financier" means any person who lends money or otherwise
21 provides assets to any person applying for a permit or who has been issued a
22 permit under this Chapter. Financier shall not include a bank, savings and
23 loan association, credit union or industrial bank supervised and regulated by
24 an agency of the State or federal government, ~~or a patient donor.~~

25 G. "Marijuana" means the same as the term "marijuana" as set
26 forth in California Health and Safety Code section 11018 which defines
27 "marijuana" as all parts of the plant Cannabis sativa L., whether growing or
28 not; the seeds thereof; the resin extracted from any part of the plant; and

1 mature marijuana plants or twelve (12) immature marijuana plants, or eight
2 (8) ounces of a useable form of marijuana by a patient or caregiver in the
3 residence of the patient.

4 J. "Medical Marijuana-Infused Product" means a marijuana-
5 infused, edible, ingestible, or inhalable product, including but not limited to
6 topical solutions and vaporizers.

7 K. "Medical Marijuana-Infused Product Manufacturer" means a
8 licensed and permitted marijuana-infused product manufacturer.

9 L. "Medical Marijuana Local Licensing Authority" means the City
10 Manager or his designee.

11 M. "Medical Marijuana Plant" means a marijuana seed that is
12 germinated and all parts of the growth therefrom including, without limitation,
13 roots, stalks and leaves. For purposes of this Chapter, the portion of a
14 medical marijuana plant harvested from the plant or converted to a usable
15 form of medical marijuana for medical use is not considered part of the plant
16 upon harvesting.

17 N. "Permittee" means the medical marijuana business named on
18 the conditional use permit, and all individuals named in the conditional use
19 permit application or later reported to the City, including without limitation,
20 owners, business managers, financiers, and individuals owning any part of an
21 entity that holds a financial or ownership interest in a medical marijuana
22 business.

23 O. "Place Open To The General Public" means any property
24 owned, leased, or used by a public entity, and any place on private property
25 open to the public, common areas of buildings, private clubs, vehicles, those
26 portions of any private property upon which the public has an express or
27 implied license to enter or remain, and any place visible from such places.

28 "Place open to the general public" shall not include any fenced area of a

1 distribution, including storage and packaging for resale.

2 T. "Responsible person" means any individual who is the owner,
3 partial owner, or occupant of real property, last registered owner and/or legal
4 owner of a vehicle, the holder or the agent of the holder of any permit, or the
5 party or agent of a party to any agreement covered by this Chapter; or the
6 owner or authorized agent of any business, company or entity subject to this
7 Chapter.

8 U. "Restricted Area" means the portion of a medical marijuana
9 business location within which the licensee defines on its application it intends
10 to cultivate, distribute, possess or produce medical marijuana and which area
11 is clearly identified as the restricted area on the floor plan submitted with the
12 medical marijuana business license application for the business.

13 ~~V.V. "Violation of Any Law" means means a final nonappealable~~
14 ~~conviction or judgment plea or finding conviction of a violation of any a law~~
15 ~~that is of a moral turpitude or otherwise relevant to the enforcement of this~~
16 ~~Chapter, in a criminal, or civil, or administrative proceeding, whether part of~~
17 ~~a plea agreement, settlement agreement, or determination by an arbitrator,~~
18 ~~hearing officer court proceeding, court, or jury.~~

19 W. "Previously Vetted Operator" means a medical marijuana business
20 owner or manager who had previously applied for and had been screened, inspected,
21 and approved by the City Manager for a medical marijuana business license under
22 former Chapter 5.87 of the Long Beach Municipal Code, and who was allowed to
23 commence operations and did in fact commence such operations thereunder prior to the
24 rescission of that Chapter.

25
26 5.91.030 Permit required.

27 A. It shall be unlawful for any person or entity to operate, in or
28 upon any property, a medical marijuana business without obtaining a

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1 local law, including, but not limited to, a California seller's permit and building
2 and occupancy permits.

3 E.C. The issuance of any permit pursuant to this Chapter does not
4 create an exception, defense, or immunity to any person or entity from
5 criminal liability for the cultivation, production, distribution, transportation, or
6 possession of marijuana.

7 F.D. A separate conditional use permit shall be required for each
8 property from which a medical marijuana business is operated.

9 G.E. A Conditional use permit issued pursuant to this Chapter shall
10 become null and void upon the closure of the business for more than seven
11 days and/or the relocation of the business to a different location.

12 1. The following shall be deemed a change in location:

13 a. Any relocation or expansion that includes a
14 separate piece of property or parcel of land from the initially permitted
15 Property;

16 b. Any expansion of the initially permitted Property
17 which represents a greater than fifty percent (50%) increase in the square
18 footage of space devoted to the medical marijuana business operations;

19 c. The lawful conduct of activity regulated by this
20 Chapter by a Permittee shall be limited to those activities expressly indicated
21 on the Medical Marijuana Collective Permit application.

22 H.F. The Permittees of a medical marijuana business are only those
23 persons disclosed in the application or subsequently disclosed to the City in
24 accordance with this Chapter. A transfer of a conditional use permit is
25 prohibited.

26
27 5.91.040 General permit provisions.

28 The general procedures and requirements of conditional use permits,

1 property until a permit has been issued by the City.

2

3 5.91.050 Conditional use permit application.

4 A. Application requirements.

5 In addition to the general conditional use permit application

6 requirements of Chapter 21.25, an application for a conditional use permit

7 shall include completed forms provided by the City Manager for that purpose.

8 The applicant shall use the application to demonstrate its compliance with this

9 Chapter and any other applicable law, rule, or regulation. The application

10 shall include the following information:

11 1. Name and address of the owner or owners of the medical
12 marijuana business in whose name the permit is proposed to be issued.

13 2. If an owner is a corporation, the name and address of all
14 officers or directors of the corporation and of any person holding issued and
15 outstanding capital stock of the corporation.

16 3. If an owner is a partnership, association, or company, the
17 name and address of any person holding an interest therein and the
18 managing members. If a managing member is an entity rather than an
19 individual, the same disclosure shall be required for each entity with an
20 ownership interest until a managing member that is a natural person is
21 identified.

22 4. If an owner is not a natural person, the organizational
23 documents for all entities identified in the application, identification of the
24 natural person that is authorized to speak for the entity and contact
25 information for that person.

26 5. Name and address of:

27 a. Any business managers of the medical marijuana
28 business, if the business manager is proposed to be someone other than the

1 applicant shall provide written authorization to the City from the property
2 owner to enter the property for inspection of the property on a form approved
3 by the City.

4 8. A certificate for proof of insurance signed by a qualified
5 agent of an insurance company evidencing the existence of valid and
6 effective policies of workers' compensation and public liability and property
7 damage insurance naming the City and its officers and employees as an
8 additional named insured on the liability policy at least to the limits required by
9 section 5.91.040(A) of this Chapter, the limits of each policy, the policy
10 number(s), the name of the insurer, the effective date, and expiration date of
11 each policy, and a copy of an endorsement placed on each policy requiring
12 ten days' notice by mail owner or business manager before the insurer may
13 cancel the policy for any reason.

14 9. An operating plan for the proposed medical marijuana
15 business, including the following information:

16 a. A description of all the products and services to be
17 provided by the medical marijuana business.

18 b. A dimensioned floor plan, clearly labeled, showing:

19 (i) The layout of the structure and the floor
20 plan in which the medical marijuana business is to be located;

21 (ii) The principal uses of the floor area depicted
22 on the floor plan, including but not limited to the areas where non-patients will
23 be permitted, private consulting areas, storage areas, retail areas, and
24 restricted areas where medical marijuana will be located; and

25 (iii) Electrical, mechanical, plumbing, disabled
26 access compliance pursuant to Title 24 of the State of California Code of
27 Regulations and the federally mandated Americans with Disabilities Act; and

28 (iv) The separation of the areas that are open

1 and Livescan fingerprinting completed at the Long Beach Police Department.
2 This requirement shall apply to all owners, business managers, financiers,
3 and caregivers employed by or under contract to provide services to the
4 medical marijuana business, including all individuals who have an interest as
5 described herein of any portion of the medical marijuana business, directly or
6 as an agent, or a member, partner or officer of a corporation, partnership,
7 association or company.

8 a. A plan for disposal of any medical marijuana or
9 medical marijuana-infused product that is not sold to a patient or primary
10 caregiver in a manner that protects any portion thereof from being possessed
11 or ingested by any person or animal.

12 b. A plan for ventilation of the medical marijuana
13 business that describes the ventilation systems that will be used to prevent
14 any odor of medical marijuana off the property of the business.

15 c. A description of all toxic, flammable, or other
16 materials regulated by a federal, state, or local government that would have
17 authority over the business if it was not a marijuana business, that will be
18 used or kept at the medical marijuana business, the location of such
19 materials, and how such materials will be stored.

20 d. A statement of the amount of the projected daily
21 average and peak electric load anticipated to be used by the business and
22 certification from the landlord and utility provider that the property is equipped
23 to provide the required electric load, or necessary upgrades that will be
24 performed prior to final inspection of the property.

25 e. A statement signed under penalty of perjury by
26 each owner or business manager that they have read, understand, and shall
27 ensure compliance with the terms of this Chapter.

28 4. Fee required.

1 application complete, the matter will be set for hearing in accordance with
2 Chapter 21.21 of the Long Beach Municipal Code.

3 The City Manager or his designee will deny any application that
4 does not meet the requirements of this Chapter or any other applicable law,
5 rule, or regulation or that contains any false or incomplete information.

6 The conditions of an approval of a conditional use permit shall
7 include, at a minimum, operation of the business in compliance with all of the
8 plans and information made part of the application.

9
10 5.91.060 Persons prohibited as permittees and business managers.

11 A. It shall be unlawful for any of the following persons to have an
12 ownership or a financial interest in a medical marijuana business, and no
13 permit provided by this Chapter shall be issued to or held by, and no medical
14 marijuana business shall be managed by:

- 15 1. Any person until the annual fee for the permit has been
16 paid;
- 17 2. Any person who has been convicted within the previous
18 ten (10) years of a felony or a crime of moral turpitude, or who is currently on
19 parole or probation for the sale or distribution of a controlled substance;
- 20 3. Any natural person who is under twenty-one (21) years of
21 age; or
- 22 4. Any person who operates or manages or has been
23 convicted of operating or managing a medical marijuana business
24 contrary to the provisions of this Chapter, any other applicable law, rule or
25 regulation or conditions imposed on land use or license approvals, or contrary
26 to the terms of the plans submitted with the permit application, or amended as
27 permitted by this Chapter, or has been convicted of operating a business in
28 violation of any law.

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1 priority of a medical marijuana business application and the proximity of
2 applicants' properties, applicants meeting all application requirements shall
3 have priority based on the accumulation of points based on the following
4 criteria:

5 a. Suitability of the proposed property:

6 (i) Applicant demonstrates proposed location
7 exceeds all buffer zones established in subsection (F) by at least five hundred
8 (500) feet (1 point);

9 (ii) Proposed property possesses air scrubbers or
10 a filtration system capable of eliminating odors from escaping the building or
11 commitment to do so before operating (1 point);

12 b. Suitability of -security plan:

13 (i) The applicant's security plan includes the
14 presence of security personnel on premises twenty-four (24) hours per day (1
15 point);

16 (ii) The applicant's security plan demonstrates
17 a method to track and monitor inventory so as to prevent theft and diversion
18 of marijuana (1 point);

19 (iii) The applicant's security plan describes the
20 enclosed, locked facility that will be used to secure or store marijuana when
21 the location is both open and closed for business, and the steps taken to
22 ensure marijuana is not visible to the public (1 point);

23 (iv) The applicant's security plan includes
24 measures to prevent the diversion of marijuana to persons under the age of
25 twenty-one (21) (1 point);

26 (v) Applicant demonstrates security measures
27 exceeding the requirements of this Chapter, including but not limited to brick
28 or concrete construction or additional fire and/or security alarms (1 point);

1 previously vetted operator as defined in this Chapter (-15 point);

2 e.

3 (i) Applicants have not had a permit or license
4 revoked by the City of Long Beach (1 point);

5 (ii) Applicants have not had administrative
6 penalties assessed against their business or the location of their business
7 business for violation of former Chapter 5.89 of the Long Beach Municipal
8 Code (1 point);

9 (iii) Applicants have not been convicted of
10 operating a medical marijuana business in violation of any provision of the
11 Long Beach Municipal Code within five (5) years (1 point);

12 g.f. Community service:

13 (i) Applicants demonstrate involvement in the
14 community, other non-profit association, or neighborhood association (1
15 point);

16 3.2. In the event review of the applications of two (2) or more
17 eligible medical marijuana business applicants within the same district results
18 in the same total number of points assigned, the City will utilize a lottery to
19 determine which applicant receives priority. Planning Commission Council or its
20 designee will determine which applicant will receive priority.

21 E. No medical marijuana business may be located in an exclusive
22 residential zone may be located in residential zoning districts.

23 It shall be unlawful to operate a medical marijuana business in a
24 building or zone which contains a residence attached to the medical
25 marijuana business structure or dwelling unit; within a dwelling unit within any
26 zoning district, or within a residential zoning district or within a mixed-use
27 development that includes a residence.

28 F. Separation from schools, parks, and other medical marijuana

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1 5.91.080 Requirements related to operation of medical marijuana
2 businesses.

3 A. Onsite use prohibited.

4 No marijuana shall be smoked, eaten, or otherwise consumed
5 or ingested within the medical marijuana business.

6 B. Restriction on access to restricted area.

7 No person, other than a patient, licensee, employee, or a
8 contractor shall be in the medical marijuana dispensary room. No patient shall
9 be allowed entry into the medical marijuana dispensary room without showing
10 their valid picture ID.

11 C. Display of permits required.

12 The name and contact information for the owner or owners and
13 any business manager of the medical marijuana business, the conditional use
14 permit and the sales tax seller's permit shall be conspicuously posted in the
15 business.

16 D. Business conducted within building.

17 Any and all cultivation, production, distribution, possession,
18 storage, display, sales or other distribution of marijuana shall occur only
19 within an enclosed area of a medical marijuana business and shall not be
20 visible from the exterior of the business.

21 E. Owner or business manager required on property.

22 No medical marijuana business shall be managed by any
23 person other than the Permittee or the business manager listed on the
24 application for the permit or a renewal thereof. Such Permittee or business
25 manager shall be on the property and responsible for all activities within the
26 licensed business during all times when the business is open.

27 F. Hours of operation.

28 A medical marijuana business shall be closed to the public, and

1 reports to the City monthly.

2 3. A violation of any law by any Permittee or applicant of a
3 medical marijuana business.

4 4. Reports of all criminal activity or attempts of violation of
5 any law at the medical marijuana business or related thereto shall be reported
6 to the Long Beach Police Department within twelve hours of occurrence.

7 K. Delivery between medical marijuana businesses. (DEPENDING
8 ON CULTIVATION REQUIREMENTS)

9 It shall be unlawful for any person to transport medical
10 marijuana, except as specifically allowed by applicable law, unless the
11 medical marijuana being transported meets the following requirements:

12 1. All medical marijuana-infused products are hand-
13 packaged, sealed and labeled as provided in this Chapter and the products
14 stored in closed containers that are labeled as provided in this section.

15 2. All medical marijuana in a usable form for medicinal use
16 is packaged and stored in closed containers that are labeled as provided in
17 this section.

18 3. Each container used to transport medical marijuana is
19 labeled with the amount of medical marijuana or medical marijuana-infused
20 products, or the number and size of the plants, in the container. The label
21 shall include the name and address of the medical marijuana business that
22 the medical marijuana is being transported from and the name and address of
23 the medical marijuana business that the medical marijuana is being
24 transported to. The label shall be shown to any law enforcement officer who
25 requests to see the label.

26 4. Unless otherwise specifically allowed by applicable law,
27 medical marijuana may be transported only:

28 a. From a medical marijuana cultivation facility to a

1 media: illuminated signs, signs incorporating green crosses or other
2 marijuana related symbol, any billboard or other outdoor general advertising
3 device as defined by the zoning regulations of the City; any sign mounted on
4 a vehicle; any hand-held or other portable sign; or any handbill, leaflet or flier
5 directly handed to any person in a public place, left upon a motor vehicle, or
6 posted upon any public or private property. The prohibition set forth in this
7 paragraph shall not apply to:

8 a. Any sign located on the same lot as a medical
9 marijuana business which exists solely for the purpose of identifying the
10 location of the medical marijuana business and which otherwise complies with
11 this Chapter and any other applicable city laws and regulations;

12 b. Any advertisement contained within a newspaper,
13 magazine, or other periodical of general circulation within the City or on the
14 Internet; or

15 c. Advertising which is purely incidental to
16 sponsorship of a charitable event by a medical marijuana business or a
17 medical marijuana-infused products manufacturer.

18 d. ~~No medical marijuana business shall distribute or~~
19 ~~allow the distribution of any marijuana without charge within a marijuana~~
20 ~~business or any place open to the public for the purpose of promotion or~~
21 ~~advertising.~~

22 e. ~~No medical marijuana business shall distribute or~~
23 ~~allow the distribution of any coupon or similar writing, electronically or on~~
24 ~~paper, which purports to allow the bearer to exchange the same for any~~
25 ~~marijuana product, either free or at a discount.~~

26 f. ~~No medical marijuana business shall sell,~~
27 ~~distribute, or provide, or allow the sale, distribution, or provision of, products~~
28 ~~marked with its name or logo, other than packaging in which medical~~

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5.91.090 Right of entry – records to be maintained.

A. Records to be maintained.

Each Permittee shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, correspondence, bank statements including cancelled checks and deposit slips and all other records necessary to show fully the business transactions of such Permittee. Receipts shall be maintained in a computer program or by pre-numbered receipts and used for each sale. The records of the business shall clearly track medical marijuana product inventory purchased and/or grown and sales and disposal thereof to clearly track revenue from sales of any medical marijuana from other paraphernalia or services offered by the medical marijuana business. The Permittee shall also maintain inventory records evidencing that no more medical marijuana was within the medical marijuana business than allowed by applicable [law](#).~~law for the number of patients who designated the medical marijuana business owners as their primary caregiver.~~ All such records shall be open at all times during business hours for the inspection and examination of the City or its duly authorized representatives. The City may require any Permittee to furnish such information as it considers necessary for the proper administration of this Chapter [with reasonable notice to the owner or manager of not less than one business day](#). The records shall clearly show the source, amount, price and dates of all marijuana received or purchased, and the amount, price, dates and patient or caregiver for all medical marijuana sold.

B. Separate bank accounts.

The revenues and expenses of the medical marijuana business shall not be commingled in a checking account or any other bank account with any other business or individual person's deposits or disbursements.

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1 E. Consent to Inspection.

2 Application for a conditional use permit or operation of a medical
3 marijuana business, or leasing property to a medical marijuana business,
4 constitutes consent by the applicant, and all owners, managers and
5 employees of the business and the owner of the property to permit the City
6 Manager to conduct routine inspections of the medical marijuana business to
7 ensure compliance with this Chapter or any other applicable law, rule or
8 regulation with reasonable notice of not less than seven (7) business days.

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9 The owner or business manager on duty shall retrieve and
10 provide the records of the business pertaining to the inspection in a manner
11 consistent with this Chapter and all other laws governing such records. For
12 purposes of this Chapter, inspections of medical marijuana businesses and
13 recordings from security cameras in such businesses are required to be
14 produced as part of the routine policy of inspection and enforcement of this
15 Chapter for the purpose of protecting the public safety, individuals operating
16 and using the services of the medical marijuana business, and the adjoining
17 properties and neighborhood.

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18 ~~Application for a conditional use permit constitutes consent to~~
19 ~~inspection of the business as a public property without a search warrant, and~~
20 ~~consent to seizure of any surveillance records, camera recordings, reports or~~
21 ~~other materials required as a condition of a medical marijuana permit without~~
22 ~~a search warrant. Should the owner or business manager refuse to comply~~
23 ~~with this section, the City will obtain an administrative search warrant.~~

24 F. Reporting of source, quantity and sales.

25 The records to be maintained by each medical marijuana
26 business shall include the source and quantity of any marijuana distributed,
27 produced or possessed within the property. Such reports shall include,
28 without limitation, for both cultivation, acquisitions from wholesalers and

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28

to view live and recorded video from these cameras over the Internet.
Consent is given by the Medical Marijuana Collective under this subsection to
the provision of said recordings or live video feed to the Police Department
without requirement for a search warrant, subpoena or court order

3.;

B. Use of safe for storage.

The medical marijuana business shall install and use a safe for
storage of any processed marijuana and cash on the property when the
business is closed to the public. The safe shall be incorporated into the
building structure or securely attached thereto. For medical marijuana-
infused products that must be kept refrigerated or frozen, the business shall
lock the refrigerated container or freezer in place of use of a safe so long as
the container is affixed to the building structure.

C. Alarm system.

The medical marijuana business shall install and use a fire and
burglar alarm system that is monitored by a company that is staffed twenty-
four hours a day, seven days a week. The security plan submitted to the City
shall identify the company monitoring the alarm, including contact information,
and the City shall be updated within seventy-two (72) hours of any change of
monitoring company.

5.91.110 Requirements for public health and labeling.

A. Medical marijuana-infused products.

The production of any medical marijuana-infused product shall
be at a medical marijuana-infused product manufacturer that meets all
requirements of a retail food establishment as set forth in Chapter 8.45 of this
Code. The Permittee shall comply with all applicable state and local health
regulations related to the production, preparation, labeling, and sale of

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1 medical marijuana businesses in the City. Provided however, if a state law or
2 regulation permits what this Chapter prohibits, this Chapter shall prevail.
3 Compliance with any applicable state law or regulation that does not permit
4 what this Chapter prohibits shall be deemed an additional requirement for
5 issuance or denial of any license under this Chapter, and noncompliance with
6 any applicable state law or regulation is unlawful and shall be grounds for
7 revocation or suspension of any license issued under this Chapter. No
8 medical marijuana business shall continue operations in violation of an
9 additional state law or regulation, which does not permit what this Chapter
10 prohibits, applicable within the City after the effective date of the state law or
11 regulation.

12 B. Revocation of permit upon applicable state or federal
13 prohibition.

14 If the state prohibits the cultivation, production, possession or
15 other distribution of marijuana through a medical marijuana businesses, or if a
16 court of competent jurisdiction determines that the federal government's
17 prohibition of the cultivation, production, possession or other distribution of
18 marijuana through medical marijuana businesses supersedes state law, any
19 permit issued pursuant to this Chapter shall be deemed to be immediately
20 revoked by operation of law, with no ground for appeal or other redress on
21 behalf of the Permittee.

22 C. Revocable privilege.

23 A conditional use permit is a revocable privilege, and no
24 applicant therefor or holder thereof shall be deemed to have acquired any
25 property interest therein, except for the rights to notice and appeal as
26 specified in the Long Beach Municipal Code Chapter 21.21.

27
28 5.91.130 Prohibited acts.

1 use permit or outside of the restricted area of the medical marijuana business.

2 j. Deliver or transport medical marijuana to a patient.

3 k. Permit any other person to violate any provision of

4 this Chapter or any condition of an approval granted pursuant to this Chapter,
5 or any law, rule or regulation applicable to the use of medical marijuana or the
6 operation of a medical marijuana business.

7 l. Lease any property to a medical marijuana
8 business that has marijuana on the property without a conditional use permit
9 from the City.

10
11 5.91.140 Suspension or revocation of permit.

12 A. A conditional use permit may be suspended or revoked for any
13 violation of this Chapter in accordance with the procedures provided in Long
14 Beach Municipal Code Chapter 21.21.

15 B. If the City revokes or suspends a permit, the business may not
16 move any marijuana from the property except under the supervision of the
17 Long Beach Police Department.

18
19 5.91.150 Term of permit – renewals – expiration of permit.

20 A. Term of permit.

21 A conditional use permit shall be valid for one (1) year. The
22 permit shall expire on the last day of the month in which the permit is issued
23 of the year following issuance or renewal of the permit.

24 B. Renewal of permit.

25 The Permittee shall apply for renewal of the conditional use
26 permit at least forty-five days before the expiration of the permit. The
27 Permittee shall apply for renewal using forms provided by the City. If the
28 applicant fails to apply for renewal at least forty-five days before the expiration

1 received marijuana, the police report numbers or case numbers of all police
2 calls to the medical marijuana business and for calls resulting in a charge of a
3 violation of any law, the charge, case number and disposition of any of the
4 charges.

5 7. The City shall not accept renewal applications after the
6 expiration of the permit, but instead shall require the applicant to file a new
7 permit application.

8 8. In the event there have been allegations of violations of
9 this Chapter by any of the Permittees or the business submitting a renewal
10 application, the City may hold a hearing prior to approving the renewal
11 application. The hearing shall be to determine whether the application and
12 proposed Permittees comply with this Chapter and whether the operation of
13 the business has been in compliance with this Code.

14 C. Nonpayment of tax.

15 In the event a medical marijuana business that has been open
16 and operating and submitting monthly sales and use tax returns to the City
17 ceases providing sales and use tax returns to the City for a period of three (3)
18 months or longer, the conditional use permit shall be deemed to have expired
19 and a new permit shall be required prior to reopening at the property.

20
21 5.91.160 City manager authorized to issue rules.

22 The City Manager or his designee may adopt rules and regulations that
23 the City Manager determines are reasonably necessary to implement the
24 requirements of this Chapter.

25
26 5.91.170 Violation and enforcement.

27 A. Any person violating any provision of this Chapter or knowingly
28 or intentionally misrepresenting any material fact in procuring a conditional

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 the City Council shall review the effectiveness of these regulations, and shall
2 enact modifications, if necessary.

3
4 Section 2. Chapter 5.89 of the Long Beach Municipal Code is
5 hereby repealed.

6
7 Section 3. The City Clerk shall certify to the passage of this ordinance by
8 the City Council and cause it to be posted in three (3) conspicuous places in the City of
9 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
10 Mayor.

11 I hereby certify that the foregoing ordinance was adopted by the City
12 Council of the City of Long Beach at its meeting of _____, 20__, by the
13 following vote:

14 Ayes: Councilmembers: _____
15 _____
16 _____
17 _____

18 Noes: Councilmembers: _____
19 _____

20 Absent: Councilmembers: _____
21 _____

22
23
24 _____
25 City Clerk

26
27 Approved: _____
28 (Date) Mayor