



OFFICE OF THE CITY ATTORNEY
Long Beach, California

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December 14, 2010

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HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to receive supporting documentation into the record, conclude the hearing and declare ordinance amending the Long Beach Municipal Code by amending and restating Chapter 5.87 relating to Medical Marijuana Collectives read the first time and laid over to the next regular meeting of the City Council for final reading; and

Declare ordinance establishing a temporary moratorium on the issuance of permits, entitlements, licenses, and approvals regarding medical marijuana collectives read the first time and laid over to the next regular meeting of the City Council for final reading; declaring the urgency thereof and declaring that this ordinance shall take effect immediately. (Citywide)

DISCUSSION

Pursuant to the request of the City Council at its meeting of November 16, 2010, this office has prepared the attached amended ordinance relating to Medical Marijuana Collectives. If adopted, the ordinance would amend Chapter 5.87 of the Municipal Code which was adopted by this Council in March 2010. The amended ordinance would:

1. Create an additional "buffer zone" so that a Collective could not locate within 1,000 feet of a public park. The term "Park" is defined to include those areas of the City that are zoned for park use as well as all areas that have been designated or dedicated for park use. (The current regulations prohibit Collectives from locating within 1500 feet of a public or private high school, 1,000 feet of public or private kindergarten, elementary, middle or junior high school, or within 1,000 feet of another legally established Collective.) The amended ordinance also clarifies that, for the purpose of the Collective regulations, an Educational Partnership High School ("EPHS") is considered a public high school.

2. Create a 45-day comment period whereby members of the public and other interested persons could submit comments to the City regarding the propriety of issuing a Medical Marijuana Collective Permit for a particular location. Following the 45-day comment period, a hearing would be held by the City Council within 60 days where the Council would determine if a permit will be issued. The amended ordinance also

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establishes noticing requirements relating to the 45-day comment period, the City Council hearing, and the issuance of a permit. The new noticing requirements parallel those currently contained in the City's Zoning Code.

3. Establish a requirement that each Medical Marijuana Collective install and maintain a video surveillance system that would allow the Police Department to monitor the exterior grounds of a collective for the purpose of detecting criminal or nuisance activity occurring at the premises.

4. Limit the operations of a collective to the hours between 9:00 A.M. and 7:00 P.M.

5. Require each collective to prepare and submit an annual audited report prepared by a CPA that would detail, among other things, the revenue and operational costs and expenditures of the Collective for the calendar year.

In addition to the above, the amended ordinance also clarifies that it is illegal to operate a Collective in the City without first obtaining a valid Medical Marijuana Collective Permit and, likewise, clarifies that Collectives must adhere to the City's zoning regulations regarding parking and signage requirements. The amended ordinance would also require a permitted Collective to comply with the on-site cultivation requirements within 120 days of permit issuance, and would authorize appropriate City staff to develop fair and reasonable regulations in order to implement the Medical Marijuana Collective ordinance.

Also provided for Council's consideration is an ordinance that would implement a one (1) year moratorium that would prohibit City staff from accepting any new applications for a Medical Marijuana Collective permit. The moratorium would not apply to applications currently in the "pipeline" unless the property is located within an established buffer zone. During the moratorium period staff will be better able to study the direct and indirect effects of legally permitted collectives operating in the City. At the end of the one year moratorium period further recommendations will be made regarding any need to revise the City's current regulatory structure related to medical marijuana.

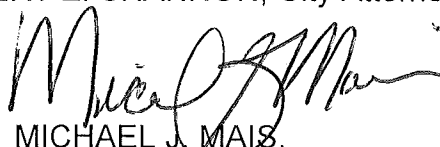
SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By


MICHAEL J. MAIS,
Assistant City Attorney

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING AND RESTATING
~~ADDING~~ CHAPTER 5.87 RELATING TO MEDICAL
MARIJUANA COLLECTIVES 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,

1 and in providing compassionate access to medical marijuana to its seriously ill
2 residents;

3 NOW, THEREFORE, the City Council of the City of Long Beach ordains
4 as follows:

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

8 Chapter 5.87

9 MEDICAL MARIJUANA COLLECTIVES

10
11 5.87.010 Purpose and intent.

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

27
28 5.87.015 Definitions.

1 Unless the particular provision or the context otherwise requires,
2 the definitions and provisions contained in this Section shall govern the
3 construction, meaning, and application of words and phrases as used in
4 this Chapter:

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

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

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

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

25 E. "Edible Medical Marijuana" as used in this Chapter is
26 defined to mean any article used for food, drink, confectionery, condiment
27 or chewing gum by human beings whether such article is simple, mixed or
28 compound, which contains physician recommended quantities of Medical

1 Marijuana, and is produced on-site at a Collective permitted pursuant to
2 this Chapter within the City of Long Beach.

3 F. "Identification Card" 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 "Identification Card" as a document
6 issued by the State Department of Health Services which identifies a
7 person authorized to engage in the medical use of marijuana, and
8 identifies the person's designated primary caregiver, if any.

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

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

26 I. "Medical Marijuana" means Marijuana used for medical
27 purposes in accordance with California Health and Safety Code Sections
28 11362.5, *et seq.*

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

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

15 L. "Park" or "Public Park" shall mean publicly owned natural or
16 open areas owned or maintained by the City of Long Beach and set aside
17 for active and passive public use for recreational, cultural or community
18 service activities. Included in the definition of "Parks" are all of those
19 areas in the City that have been dedicated, designated, or zoned as "Park"
20 in Chapter 21.35 of the Long Beach Municipal Code.

21 M.L. "Primary Caregiver" shall have the same definition as given
22 such term in California Health and Safety Code Sections 11362.5 and
23 11362.7 (as set forth in Appendix A of this Chapter), as may be amended,
24 and which define "Primary Caregiver" as an individual, designated by a
25 Qualified Patient, who has consistently assumed responsibility for the
26 housing, health, or safety of that Qualified Patient.

27 N.M. "Property" as used in this Chapter means the location or
28 locations within the boundaries of the City of Long Beach at which the

1 Medical Marijuana Collective members and Management Members
2 associate to collectively or cooperatively cultivate or distribute Medical
3 Marijuana exclusively for the Collective members and Management
4 Members.

5 O.N. "Qualified Patient" means a person who is entitled to the
6 protections of Health and Safety Code Section 11362.5 for patients who
7 obtain and use marijuana for medical purposes upon the recommendation
8
9 of an Attending Physician, whether or not that person applied for and
10 received a valid Identification Card issued pursuant to State Law.

11 P.O. "Reasonable Compensation" means compensation
12 commensurate with reasonable wages and benefits paid to employees of
13 IRS-qualified non-profit organizations who have similar job descriptions
14 and duties, required level of education and experience, prior individual
15 earnings history, and number of hours worked. The payment of a bonus
16 shall not be considered "Reasonable Compensation."

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

20 R. "Surrounding properties" as used in this Chapter is defined
21 to mean all owners of real property as shown on the latest equalized
22 assessment roll within seven hundred and fifty feet (750') of the proposed
23 site(s), and all tenant households or commercial tenants of real property
24 that are located within seven hundred and fifty feet (750') of the proposed
25 site(s). Measurement of the distance for notification pursuant to this
26 Chapter shall begin at the property boundary of the real property that is
27 the subject of the hearing.
28

1 5.87.020 Medical Marijuana Collective – Permit required.

2 It shall be unlawful for any person or entity to engage in, operate,
3 conduct or carry on, in or upon any premises, a Medical Marijuana
4 Collective as that term is defined in this Ordinance unless that person or
5 entity first obtains and continues to maintain in full force and effect a
6 Medical Marijuana Collective Permit issued by the City as required by this
7 Chapter. No Medical Marijuana Collective, Management Member or
8 member shall carry on, maintain or conduct any Medical Marijuana
9 Collective related operations in the City without first obtaining a Medical
10 Marijuana Collective Permit from the Department of Financial
11 Management.

12
13 5.87.030 Medical Marijuana Collective – Permit application process.

14 Any Medical Marijuana Collective desiring a Permit required by this
15 Chapter shall, prior to initiating operations, complete and file an
16 application on a form supplied by the Department of Financial
17 Management, and shall submit with the completed application payment of
18 a nonrefundable processing and notification fee, as established by the City
19 Council by resolution. The Medical Marijuana Collective Permit application
20 is established to provide a review process for each proposed Medical
21 Marijuana Collective operation within the City.

22
23 A. Filing. The Medical Marijuana Collective shall provide the
24 following information:

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

27 2. A site plan describing the Property with fully
28 dimensioned interior and exterior floor plans including electrical,

1 mechanical, plumbing, and disabled access compliance pursuant to Title
2 24 of the State of California Code of Regulations and the federally
3 mandated Americans with Disabilities Act.

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

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

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

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

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

16 8. For each Management Member, a fully legible copy
17 of one (1) valid government issued form of photo identification, such as a
18 State Driver's License or Identification Card. Acceptable forms of
19 government issued identification include, but are not limited to: Drivers
20 licenses or photo identity cards issued by state Department of Motor
21 vehicles (or equivalent) that meet REAL ID benchmarks, a passport
22 issued by the United States or by a foreign government, U.S. Military ID
23 cards (active duty or retired military and their dependents), or a
24 Permanent Resident card.

25 9. Written confirmation as to whether the Medical
26 Marijuana Collective previously operated in this or any other county, city
27 or state under a similar license/permit, and whether the Collective
28 applicant ever had such a license/permit revoked or suspended and the

1 reason(s) therefore.

2 10. If the Medical Marijuana Collective is a corporation, a
3 certified copy of the Collective's Secretary of State Articles of
4 Incorporation, Certificate(s) of Amendment, Statement(s) of Information
5 and a copy of the Collective's By-laws.

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

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

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

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

20 15. A statement dated and signed by each Management
21 Member, under penalty of perjury, that the Management Member has
22 personal knowledge of the information contained in the application, that the
23 information contained therein is true and correct, and that the application
24 has been completed under the supervision of the Management Member(s).

25 16. Whether Edible Medical Marijuana will be prepared at the
26 proposed Property.

27 17. The Property address where any and all Medical Marijuana
28 will be collectively cultivated by the Collective members and Management

Members within the City of Long Beach.

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

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

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

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

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

4. Within ten (10) business days following the receipt of an amended application or supplemental information, except where circumstances beyond the control of the City justifiably delay such response, the Director of Financial Management shall again determine whether the application is complete in accordance with the procedures set

1 forth above. Evaluation and notification shall occur as provided above
2 until such time as the application is found to be complete or in the
3 alternative null and void.

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

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

11 C. ~~On~~Upon receipt of the completed Medical Marijuana
12 Collective Permit application, the Director of Financial Management shall:

13 1. ~~Refer~~Refer the application to all concerned City
14 departments, including, but not limited to, Police, Fire, Health,
15 Development Services and Code Enforcement for investigation. Such
16 departments shall file a report providing recommendations regarding the
17 approval or denial of the permit with the Director of Financial Management
18 within ~~sixty (60)~~ forty-five (45) ~~calendar~~ business days after the completed
19 application is filed, except where good cause exists to extend this period.
20 ~~circumstances beyond the control of the City justifiably delay such~~
21 ~~response.~~

22 2. Post the application to the City's website for public review
23 and comment for a period of forty-five (45) business days. During the
24 formal comment process, the City will receive comments from the public
25 via the City's website, email, or regular mail, and by a form that will be
26 available for download for the duration of the formal comment process
27 from the City's website.

28 3. Notice of the formal comment process shall also be

1 mailed or delivered to all surrounding properties. The notice shall include
2 instructions for said property owners to provide written comments via the
3 City's website, email, or regular mail. The public noticing mailer will also
4 include a form that may be filled in and submitted as public comment.

5 D. The Director of Financial Management shall review and
6 assemble all public input received during the formal comment process
7 and shall prepare a report for the City Council providing a summary of the
8 public commentary and findings of fact, including, but not limited to, each
9 operating condition set forth in Section 5.87.040, a summary of the
10 relevant evidence, a statement of the issues, and a recommended
11 decision. A copy of the report shall be available to all parties at least ten
12 (10) business days prior to a hearing. ~~cause a hearing to be conducted~~
13 ~~not later than sixty (60) days from the date the completed Permit~~
14 ~~application was submitted, except where circumstances beyond the~~
15 ~~control of the City justifiably delay said timeframe, and shall cause the~~
16 ~~owners of property located within seven hundred and fifty feet (750') of~~
17 ~~the proposed Property to be sent advance notice of the date, time, and~~
18 ~~place of the hearing. The applicant shall be given at least ten (10)~~
19 ~~business days written notice of such hearing.~~

20 E. The City Council shall conduct a hearing on the application
21 or refer the matter to a hearing officer, pursuant to Chapter 2.93 of this
22 Code, within sixty (60) business days from close of the formal comment
23 process, except where good cause exists to extend this period. The
24 Director of Financial Management shall cause notice to be mailed or
25 delivered to the applicant and shall also be mailed or delivered to
26 surrounding properties. The applicant shall be given written notice at
27 least ten (10) business days prior to such hearing. The hearing and rules
28 of evidence shall be conducted pursuant to Chapter 2.93 of this Code.

1 The determination of the City Council shall be final.

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

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

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

24
25 5.87.040 Medical Marijuana Collective Permit approval and operating
26 conditions.

27 The City Council ~~Director of Financial Management shall approve~~
28 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 Educational Partnership High School ("EPHS") or within a one thousand foot (1,000') radius of a public park or 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.

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

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

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

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

16 I. The Medical Marijuana Collective shall install and maintain a
17 video surveillance system that monitors no less than the front and rear of
18 the Property. The surveillance system shall:

19 1. Capture a full view of the public right-of-ways and any
20 parking lot under the control of the Medical Marijuana Collective.

21 2. Be of adequate quality, color rendition and resolution
22 to allow the ready identification of any individual committing a crime
23 anywhere on or adjacent to the exterior of the Property.

24 3. Record and maintain video for a minimum of thirty
25 (30) days and be accessible via the Internet by the Long Beach Police
26 Department. A Public Internet Protocol (IP) address and user
27 name/password is also required to allow the Long Beach Police
28 Department to view live and recorded video from these cameras over the

1 Internet.

2 4. Be installed to the satisfaction of the Chief of Police,
3 Director of Technology Services, and Director of Development Services.
4 At the discretion of the Chief of Police, the Medical Marijuana Collective
5 may be required to add additional video cameras. Consent is given by
6 the Medical Marijuana Collective under this subsection to the provision of
7 said recordings or live video feed to the Police Department without
8 requirement for a search warrant, subpoena or court order.

9 ~~I. The Property is monitored at all times by closed circuit~~
10 ~~television for security purposes. The camera and recording system must~~
11 ~~be of adequate quality, color rendition and resolution to allow the ready~~
12 ~~identification of an individual on or adjacent to the Property. The~~
13 ~~recordings shall be maintained at the Property for a period of not less than~~
14 ~~thirty (30) days.~~

15 J. The Property has a centrally-monitored fire and burglar
16 alarm system.

17 K. A sign is posted in a conspicuous location inside the
18 Property advising:

19
20 1. "The diversion of marijuana for non-medical purposes
21 is a violation of State law.

22 2. The use of marijuana may impair a person's ability to
23 drive a motor vehicle or operate heavy machinery.

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

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

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

3 L. Each applicant electing to manufacture Edible Medical
4 Marijuana shall manufacture the Edible products for the sole consumption
5 by Qualified Patient members and Qualified Patient Management
6 Members of the Collective, in compliance with all applicable state and
7 local laws.

8 M. The Medical Marijuana Collective meets all applicable state
9 and local laws to ensure that the operations of the Collective are
10 consistent with the protection of the health, safety and welfare of the
11 community, Qualified Patients and their Primary Caregivers, and will not
12 adversely affect surrounding uses.

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

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

22 P. Cultivation of Medical Marijuana by the Medical Marijuana
23 Collective members and Management Members shall occur exclusively
24 within the boundaries of the City of Long Beach and only at the Property
25 identified on the Medical Marijuana Permit application.

26 Q. Distribution of the Medical Marijuana collectively cultivated
27 by the Medical Marijuana Collective members and Management Members
28 to Collective members and Management Members shall occur exclusively

1 within the boundaries of the City of Long Beach and only at the Property
2 identified on the Medical Marijuana Permit application.

3 R. If the cultivation of Medical Marijuana by the Medical
4 Marijuana Collective located within the City of Long Beach is to take place
5 at a location other than the location where the Medical Marijuana is
6 distributed to Medical Marijuana Collective members and Management
7 Members, then the location of cultivation shall likewise fully comply with
8 the provisions of Section 5.87.040 and all of its subsections.

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

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

18 U. Any Medical Marijuana from which the representative
19 sample tested positive for a harmful pesticide or other contaminant at a
20 level which exceeds the local, state, or federal regulatory or statutory
21 standards shall be destroyed forthwith; and

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

24 W. The operation of Medical Marijuana Collectives shall be
25 limited to the hours between nine o'clock (9:00) A.M. and seven o'clock
26 (7:00) P.M.

27 X. The property meets the off-street parking and loading
28 requirements set forth in Chapter 21.41. For the purpose of determining

Y. That any and all business identification signs comply with the provisions of Chapter 21.44 "On Premises Signs" as set forth in this Code.

Upon conclusion of the City Council's hearing on the application, notice of permit issuance shall be mailed or delivered to all surrounding properties and published on the City's website. This notice will include information for residents and property owners to submit complaints or report violations to the City.

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

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

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

C. -The holder of a Medical Marijuana Collective Permit shall not allow others to use or rent the permitted 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 members or Management Members for the collective cultivation of Medical Marijuana by members and/or Management Members of the Collective.

5.87.060 Maintenance of records.

A. A Medical Marijuana Collective shall maintain the following accurate and truthful records on the Property:

1. The full name, address, and telephone number(s) of the owner, landlord and/or lessee of the Property.

2. The full name, address, and telephone number(s) and a fully legible copy of a government issued form of identification of each Collective member engaged in the management of the Collective and a description of the exact nature of the participation in the management of the Collective. 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 meets REAL ID benchmarks, a passport issued by the United States or by a foreign government, U.S. Military ID cards (active duty or retired military and their dependents), or a Permanent Resident Card.

3. The full name, address, and telephone number(s) of each Collective member and Management Member who participates in the Collective cultivation of Medical Marijuana.

4. The full name, date of birth, residential address, and telephone number(s) of each Collective member and Management

Member; the date each member and Management Member joined the Collective; the exact nature of each member's and Management Member's participation in the Collective; and the status of each member and Management Member as a Qualified Patient or Primary Caregiver.

5. A written accounting of all cash and in-kind contributions, reimbursements, and reasonable compensation provided by the Collective Management Members and members to the Collective, and all expenditures and costs incurred by the Collective.

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

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

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

9. Any and all records described in Section 5.87.060.A shall be maintained by the Medical Marijuana Collective for a period of five (5) years and shall be made available by the Collective to the City upon request, subject to the authority set forth in Section 5.87.070.

B. Annual reports – Report requirements/Content of reports.

Each Medical Marijuana Collective operating in the City shall, on an annual basis, submit to the City Manager or designee an audited financial report prepared by an independent Certified Public Accountant ("CPA") that meet the following criteria:

1. Reports shall be on a calendar year basis and shall

1 be submitted no later than April 30th following the calendar year to which
2 the report pertains (for example, a collective's 2010 annual report will be
3 submitted to the City Manager no later than April 30, 2011);

4 2. The audited financial report shall contain an
5 accounting of all cash, receipts, credit card transactions, reimbursements
6 (including any in-kind contributions), and any and all reasonable
7 compensation paid by the collective for services provided by management
8 members or other members of the collective, as well as records of all
9 operational expenditures and costs incurred by the medical marijuana
10 collective in accordance with generally accepted accounting practices and
11 standards typically applicable to business records.

12 3. The report shall document the number of medical
13 marijuana product transactions that took place during the reporting year,
14 including cost and quantity for each transaction, where medical marijuana
15 was transferred to a qualified patient or management member for cash,
16 credit, or in kind contributions.

17 4. Appended to the report shall be a copy of any and all
18 documents, records or forms submitted to the State Board of Equalization
19 for the reporting year, including, but not limited to, Board of Equalization
20 Form 401 (or its electronic equivalent) which in any manner documents
21 transaction activities related to the operation of the medical marijuana
22 collective.

23 5. Appended to the required report shall also be an
24 accounting of the number of marijuana plants or clones cultivated by the
25 dispensary during the reporting year.

26 6. Any and all records or documents that serve as the
27 basis for preparing the annual report shall be maintained by the medical
28 marijuana collective for a period of five (5) years and shall be made

1 available to the City upon request, subject to the authority set forth in
2 Section 5.87.070.

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

7
8 5.87.070 Inspection authority.

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

20
21 5.87.080 Existing Medical Marijuana operations.

22 Any existing Medical Marijuana Collective, dispensary, operator,
23 establishment, or provider that does not comply with the requirements of
24 this Chapter must immediately cease operation until such time, if any,
25 when it complies fully with the requirements of this Chapter. No Medical
26 Marijuana Collective, dispensary, operator, establishment, or provider that
27 existed prior to the enactment of this Chapter shall be deemed to be a
28 legally established use or a legal non-conforming use under the provisions

1 of this Chapter or the Code.

2
3 5.87.090 Prohibited activity.

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

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

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

16 D. No Medical Marijuana Collective, Management Member or
17 member shall cause or permit the sale, distribution or exchange of
18 Medical Marijuana or of any Edible Medical Marijuana product to any non
19 Collective Management Member or member.

20
21 E. No Medical Marijuana Collective, Management Member or
22 member shall allow or permit the commercial sale of any product, good or
23 service, including but not limited to drug paraphernalia identified in Health
24 and Safety Code Section 11364, on or at the Medical Marijuana
25 Collective, in the parking area of the Property. An exception shall be
26 made for persons who are not Collective members or Management
27 Members and who possess a valid City issued business license which
28 authorizes the "place to place" sale of soil and nutrients to the Collective,

1 Management Members or members for the collective cultivation of
2 Medical Marijuana by Management Members and members of the
3 Collective.

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

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

13 H. No Medical Marijuana Collective shall be open to or provide
14 Medical Marijuana to its members or Management Members between the
15 hours of seven o'clock (7:00) P.M. ~~eight o'clock (8:00) P.M.~~ and nine
16 o'clock (9:00) A.M. ~~ten o'clock (10:00) A.M.~~

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

21
22 J. No Medical Marijuana Collective shall possess Medical Marijuana
23 that was not collectively cultivated by its Management Members or members
24 ~~either at the Property or at its predecessor location fully~~ permitted in accordance
25 with this Chapter.

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

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

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

- 9 1. Any place where smoking is prohibited by law;
- 10 2. Within one thousand feet (1,000') of the grounds of a
11 school, recreation center, or youth center;
- 12 3. While on a school bus;
- 13 4. While in a motor vehicle that is being operated; or
- 14 5. While operating a boat.

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

18 O. No person who has been convicted within the previous ten
19 (10) years of a felony or a crime of moral turpitude, or who is currently on
20 parole or probation for the sale or distribution of a controlled substance,
21 shall be engaged directly or indirectly in the management of the Medical
22 Marijuana Collective nor, further, shall manage or handle the receipts and
23 expenses of the Collective.

24
25 5.87.100 Violation and enforcement.

26 A. Any person violating any provision of this Chapter or
27 knowingly or intentionally misrepresenting any material fact in procuring
28 the permit herein provided for, shall be deemed guilty of a misdemeanor

1 punishable by a fine of not more than one thousand dollars (\$1,000.00) or
2 by imprisonment for not more than twelve (12) months, or by both such
3 fine and imprisonment.

4 B. Any person who engages in any Medical Marijuana
5 Collective operations after a Medical Marijuana Collective Permit
6 application has been denied, or a Medical Marijuana Collective Permit has
7 been suspended or revoked, and before a new permit is issued, shall be
8 guilty of a misdemeanor.

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

18 D. Any violation of the terms and conditions of the Medical
19 Marijuana Collective permit, of this Chapter, or of applicable local or state
20 regulations and laws shall be grounds for permit suspension or
21 revocation.

22
23 5.87.110 Appeal process.

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

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

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

~~A. This ordinance will become effective one hundred and twenty (120) days following its passage and adoption. The Department of Financial Management will accept completed Medical Marijuana Collective permit applications one hundred and twenty (120) days prior to the~~

1 ~~effective date of this ordinance.~~

2 B. ~~Each Medical Marijuana Collective issued a Medical~~
3 ~~Marijuana Collective Permit, pursuant to this Chapter, within the one~~
4 ~~hundred and twenty (120) day period set forth above in Section 5.87.120,~~
5 ~~Subsection (a), shall have an additional one-hundred-and-twenty (120)~~
6 ~~days from the date the permit is issued to comply with the Medical~~
7 ~~Marijuana cultivation requirements set forth in Section 5.87.040,~~
8 ~~Subsection (P) and Section 5.87.090, Subsection (J) of this Chapter.~~

9
10 5.87.130 Severability.

11 If any provision of this Chapter, or the application thereof to any
12 person or circumstance, is held invalid, that invalidity shall not affect any
13 other provision or application of this Chapter that can be given effect
14 without the invalid provision or application; and to this end, the provisions
15 or applications of this Chapter are severable.

16
17
18 5.87.135

19 The City Manager or designee is hereby authorized to develop
20 procedures necessary to implement this Ordinance in a fair and
21 reasonable manner.

22
23 5.87.140 Review of Regulations.

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

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

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

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__40, by the following vote:

Ayes: Councilmembers:

Noes: Councilmembers:

Absent: Councilmembers:

City Clerk

Approved: _____

Mayor

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING AND RESTATING
CHAPTER 5.87 RELATING TO MEDICAL MARIJUANA
COLLECTIVES

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 of the Long Beach Municipal Code is amended
5 and restated to read as follows:

6 Chapter 5.87

7 MEDICAL MARIJUANA COLLECTIVES

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.

25
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. "Park" or "Public Park" shall mean publicly owned natural or
14 open areas owned or maintained by the City of Long Beach and set aside
15 for active and passive public use for recreational, cultural or community
16 service activities. Included in the definition of "Parks" are all of those
17 areas in the City that have been dedicated, designated, or zoned as "Park"
18 in Chapter 21.35 of the Long Beach Municipal Code.

19 M. "Primary Caregiver" shall have the same definition as given
20 such term in California Health and Safety Code Sections 11362.5 and
21 11362.7 (as set forth in Appendix A of this Chapter), as may be amended,
22 and which define "Primary Caregiver" as an individual, designated by a
23 Qualified Patient, who has consistently assumed responsibility for the
24 housing, health, or safety of that Qualified Patient.

25 N. "Property" as used in this Chapter means the location or
26 locations within the boundaries of the City of Long Beach at which the
27 Medical Marijuana Collective members and Management Members
28 associate to collectively or cooperatively cultivate or distribute Medical

1 Marijuana exclusively for the Collective members and Management
2 Members.

3 O. "Qualified Patient" means a person who is entitled to the
4 protections of Health and Safety Code Section 11362.5 for patients who
5 obtain and use marijuana for medical purposes upon the recommendation
6 of an Attending Physician, whether or not that person applied for and
7 received a valid Identification Card issued pursuant to State Law.

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

14 Q. "State Law" means the state regulations set forth in the
15 Compassionate Use Act and the Medical Marijuana Program Act, codified
16 in California Health and Safety Code Sections 11362.5, *et seq.*

17 R. "Surrounding properties" as used in this Chapter is defined
18 to mean all owners of real property as shown on the latest equalized
19 assessment roll within seven hundred and fifty feet (750') of the proposed
20 site(s), and all tenant households or commercial tenants of real property
21 that are located within seven hundred and fifty feet (750') of the proposed
22 site(s). Measurement of the distance for notification pursuant to this
23 Chapter shall begin at the property boundary of the real property that is
24 the subject of the hearing.

25
26 5.87.020 Medical Marijuana Collective – Permit required.

27 It shall be unlawful for any person or entity to engage in, operate,
28 conduct or carry on, in or upon any premises, a Medical Marijuana

1 Collective as that term is defined in this Ordinance unless that person or
2 entity first obtains and continues to maintain in full force and effect a
3 Medical Marijuana Collective Permit issued by the City as required by this
4 Chapter.

5
6 5.87.030 Medical Marijuana Collective – Permit application process.

7 Any Medical Marijuana Collective desiring a Permit required by this
8 Chapter shall, prior to initiating operations, complete and file an
9 application on a form supplied by the Department of Financial
10 Management, and shall submit with the completed application payment of
11 a nonrefundable processing and notification fee, as established by the City
12 Council by resolution. The Medical Marijuana Collective Permit application
13 is established to provide a review process for each proposed Medical
14 Marijuana Collective operation within the City.

15 A. Filing. The Medical Marijuana Collective shall provide the
16 following information:

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

19 2. A site plan describing the Property with fully
20 dimensioned interior and exterior floor plans including electrical,
21 mechanical, plumbing, and disabled access compliance pursuant to Title
22 24 of the State of California Code of Regulations and the federally
23 mandated Americans with Disabilities Act;

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

26 4. Photographs depicting the entire interior of the proposed
27 Property;
28

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

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

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

9 8. For each Management Member, a fully legible copy
10 of one (1) valid government issued form of photo identification, such as a
11 State Driver's License or Identification Card. Acceptable forms of
12 government issued identification include, but are not limited to: Drivers
13 licenses or photo identity cards issued by state Department of Motor
14 vehicles (or equivalent) that meet REAL ID benchmarks, a passport
15 issued by the United States or by a foreign government, U.S. Military ID
16 cards (active duty or retired military and their dependents), or a
17 Permanent Resident card;

18 9. Written confirmation as to whether the Medical
19 Marijuana Collective previously operated in this or any other county, city
20 or state under a similar license/permit, and whether the Collective
21 applicant ever had such a license/permit revoked or suspended and the
22 reason(s) therefore;

23 10. If the Medical Marijuana Collective is a corporation, a
24 certified copy of the Collective's Secretary of State Articles of
25 Incorporation, Certificate(s) of Amendment, Statement(s) of Information
26 and a copy of the Collective's Bylaws;

27 11. If the Medical Marijuana Collective is an unincorporated
28 association, a copy of the Articles of Association;

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

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

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

15. A statement dated and signed by each Management Member, under penalty of perjury, that the Management Member has personal knowledge of the information contained in the application, that the information contained therein is true and correct, and that the application has been completed under the supervision of the Management Member(s);

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

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

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

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

1. Within ten (10) business days of receipt of a Medical

1 Marijuana Collective Permit application, except where circumstances
2 beyond the control of the City justifiably delay such response, the Director
3 of Financial Management shall determine whether the application is
4 complete;

5 2. If it is determined the application is incomplete, the
6 applicant shall be notified in writing within ten (10) business days of the
7 date the application is determined to be incomplete, except where
8 circumstances beyond the control of the City justifiably delay such
9 response, that the application is not complete and the reasons therefore,
10 including any additional information necessary to render the application
11 complete;

12 3. The Collective shall have thirty (30) business days
13 from the date of notice set forth above in Subsection 5.87.030(B),
14 Subsection (2) to complete the application. Failure to do so within the
15 time allotted shall render the application null and void;

16 4. Within ten (10) business days following the receipt of
17 an amended application or supplemental information, except where
18 circumstances beyond the control of the City justifiably delay such
19 response, the Director of Financial Management shall again determine
20 whether the application is complete in accordance with the procedures set
21 forth above. Evaluation and notification shall occur as provided above
22 until such time as the application is found to be complete or in the
23 alternative null and void;

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

28 6. All notices required by this Chapter shall be deemed

1 issued upon the date they are either deposited in the United States mail
2 or the date upon which personal service of such notice is provided.

3 C. Upon receipt of the completed Medical Marijuana Collective
4 Permit application, the Director of Financial Management shall:

5 1. Refer the application to all concerned City
6 departments, including, but not limited to, Police, Fire, Health,
7 Development Services and Code Enforcement for investigation. Such
8 departments shall file a report providing recommendations regarding the
9 approval or denial of the permit with the Director of Financial Management
10 within forty-five (45) business days after the completed application is filed,
11 except where good cause exists to extend this period;

12 2. Post the application to the City's website for public
13 review and comment for a period of forty-five (45) business days. During
14 the formal comment process, the City will receive comments from the
15 public via the City's website, email, or regular mail, and by a form that will
16 be available for download for the duration of the formal comment process
17 from the City's website;

18 3. Notice of the formal comment process shall also be
19 mailed or delivered to all surrounding properties. The notice shall include
20 instructions for said property owners to provide written comments via the
21 City's website, email, or regular mail. The public noticing mailer will also
22 include a form that may be filled in and submitted as public comment.

23 D. The Director of Financial Management shall review and
24 assemble all public input received during the formal comment process
25 and shall prepare a report for the City Council providing a summary of the
26 public commentary and findings of fact, including, but not limited to, each
27 operating condition set forth in Section 5.87.040, a summary of the
28 relevant evidence, a statement of the issues, and a recommended

1 decision. A copy of the report shall be available to all parties at least ten
2 (10) business days prior to a hearing.

3 E. The City Council shall conduct a hearing on the application
4 or refer the matter to a hearing officer, pursuant to Chapter 2.93 of this
5 Code, within sixty (60) business days from close of the formal comment
6 process, except where good cause exists to extend this period. The
7 Director of Financial Management shall cause notice to be mailed or
8 delivered to the applicant and shall also be mailed or delivered to
9 surrounding properties. The applicant shall be given written notice at
10 least ten (10) business days prior to such hearing. The hearing and rules
11 of evidence shall be conducted pursuant to Chapter 2.93 of this Code.
12 The determination of the City Council shall be final.
13

14 5.87.040 Medical Marijuana Collective Permit approval and operating
15 conditions.

16 The City Council shall approve and issue a Medical Marijuana
17 Collective Permit if the application and evidence submitted in the hearing,
18 conducted pursuant to Section 5.87.030, Subsections (D) and (E) as set
19 forth above, sufficiently demonstrate that:

20 A. The Property is not located in an area zoned in the City for
21 exclusive residential use. Medical Marijuana Collectives are not permitted
22 to operate in exclusive residential zones as established pursuant to Title
23 21 of this Code.

24 B. The Medical Marijuana Collective is not located within a one
25 thousand five hundred foot (1,500') radius of a public or private high
26 school or Educational Partnership High School ("EPHS") or within a one
27 thousand foot (1,000') radius of a public park or a public or private
28 kindergarten, elementary, middle or junior high school. The distances

1 specified in this subdivision shall be determined by the horizontal distance
2 measured in a straight line from the property line of the school to the
3 closest property line of the lot on which the Medical Marijuana Collective
4 is located, without regard to intervening structures.

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

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

14 E. Any exterior or interior sign visible from the exterior of the
15 Property shall be unlighted.

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

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

26 H. The Property provides a sufficient odor absorbing ventilation
27 and exhaust system so that odor generated inside the Property is not
28 detected outside the Property, anywhere on adjacent property or public

rights-of-way, or within any other unit located within the same building as the Medical Marijuana Collective.

I. The Medical Marijuana Collective shall install and maintain a video surveillance system that monitors no less than the front and rear of the Property. The surveillance system shall:

1. Capture a full view of the public right-of-ways and any parking lot under the control of the Medical Marijuana Collective;

2. Be of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on or adjacent to the exterior of the Property;

3. Record and maintain video for a minimum of thirty (30) days and be accessible via the Internet by the Long Beach Police Department. A Public Internet Protocol (IP) address and user name/password is also required to allow the Long Beach Police Department to view live and recorded video from these cameras over the Internet;

4. Be installed to the satisfaction of the Chief of Police, Director of Technology Services, and Director of Development Services. At the discretion of the Chief of Police, the Medical Marijuana Collective may be required to add additional video cameras. 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.

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

K. A sign is posted in a conspicuous location inside the Property advising:

1. "The diversion of marijuana for non-medical purposes

1 is a violation of State law;

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

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

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

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

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

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

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

28 O. Collective cultivation of Medical Marijuana shall be limited to

1 the Medical Marijuana Collective members and Management Members.

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

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

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

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

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

26 U. Any Medical Marijuana from which the representative
27 sample tested positive for a harmful pesticide or other contaminant at a
28 level which exceeds the local, state, or federal regulatory or statutory

standards shall be destroyed forthwith; and

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

W. The operation of Medical Marijuana Collectives shall be limited to the hours between nine o'clock (9:00) A.M. and seven o'clock (7:00) P.M.

X. The property meets the off-street parking and loading requirements set forth in Chapter 21.41. For the purpose of determining required parking, a Medical Marijuana Collective shall be deemed to be a "personal services" type use.

Y. That any and all business identification signs comply with the provisions of Chapter 21.44 "On Premises Signs" as set forth in this Code.

5.87.045 Notice of permit issuance.

Upon conclusion of the City Council's hearing on the application, notice of permit issuance shall be mailed or delivered to all surrounding properties and published on the City's website. This notice will include information for residents and property owners to submit complaints or report violations to the City.

5.87.050 Medical Marijuana Collective Permit – Non transferable.

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

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

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

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

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

C. The holder of a Medical Marijuana Collective Permit shall not allow others to use or rent the permitted 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 members or Management Members for the collective cultivation of Medical Marijuana by members and/or Management Members of the Collective.

5.87.060 Maintenance of records.

A. A Medical Marijuana Collective shall maintain the following accurate and truthful records on the Property:

1. The full name, address, and telephone number(s) of the owner, landlord and/or lessee of the Property;

2. The full name, address, and telephone number(s) and a fully legible copy of a government issued form of identification of each Collective member engaged in the management of the Collective and a description of the exact nature of the participation in the management of the Collective. 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 meets REAL ID benchmarks, a passport issued by the

1 United States or by a foreign government, U.S. Military ID cards (active
2 duty or retired military and their dependents), or a Permanent Resident
3 Card;

4 3. The full name, address, and telephone number(s) of
5 each Collective member and Management Member who participates in
6 the Collective cultivation of Medical Marijuana;

7 4. The full name, date of birth, residential address, and
8 telephone number(s) of each Collective member and Management
9 Member; the date each member and Management Member joined the
10 Collective; the exact nature of each member's and Management
11 Member's participation in the Collective; and the status of each member
12 and Management Member as a Qualified Patient or Primary Caregiver;

13 5. A written accounting of all cash and in-kind contributions,
14 reimbursements, and reasonable compensation provided by the Collective
15 Management Members and members to the Collective, and all expenditures and
16 costs incurred by the Collective;

17 6. An inventory record documenting the dates and
18 amounts of Medical Marijuana cultivated at the Property, and the daily
19 amounts of Medical Marijuana stored on the Property;

20 7. Proof of a valid Medical Marijuana Collective Permit
21 issued by the Department of Financial Management in conformance with
22 this Chapter;

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

27 9. Any and all records described in Section 5.87.060.A
28 shall be maintained by the Medical Marijuana Collective for a period of

1 five (5) years and shall be made available by the Collective to the City
2 upon request, subject to the authority set forth in Section 5.87.070;

3 B. Annual reports – Report requirements/Content of reports.

4 Each Medical Marijuana Collective operating in the City shall, on
5 an annual basis, submit to the City Manager or designee an audited
6 financial report prepared by an independent Certified Public Accountant
7 (“CPA”) that meet the following criteria:

8 1. Reports shall be on a calendar year basis and shall
9 be submitted no later than April 30th following the calendar year to which
10 the report pertains (for example, a collective’s 2010 annual report will be
11 submitted to the City Manager no later than April 30, 2011);

12 2. The audited financial report shall contain an
13 accounting of all cash, receipts, credit card transactions, reimbursements
14 (including any in-kind contributions), and any and all reasonable
15 compensation paid by the collective for services provided by management
16 members or other members of the collective, as well as records of all
17 operational expenditures and costs incurred by the medical marijuana
18 collective in accordance with generally accepted accounting practices and
19 standards typically applicable to business records;

20 3. The report shall document the number of medical
21 marijuana product transactions that took place during the reporting year,
22 including cost and quantity for each transaction, where Medical Marijuana
23 was transferred to a qualified patient or management member for cash,
24 credit, or in kind contributions;

25 4. Appended to the report shall be a copy of any and all
26 documents, records or forms submitted to the State Board of Equalization
27 for the reporting year, including, but not limited to, Board of Equalization
28 Form 401 (or its electronic equivalent) which in any manner documents

1 transaction activities related to the operation of the Medical Marijuana
2 Collective;

3 5. Appended to the required report shall also be an
4 accounting of the number of marijuana plants or clones cultivated by the
5 dispensary during the reporting year;

6 6. Any and all records or documents that serve as the
7 basis for preparing the annual report shall be maintained by the medical
8 marijuana collective for a period of five (5) years and shall be made
9 available to the City upon request, subject to the authority set forth in
10 Section 5.87.070.

11
12 5.87.070 Inspection authority.

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

24
25 5.87.080 Existing Medical Marijuana operations.

26 Any existing Medical Marijuana Collective, dispensary, operator,
27 establishment, or provider that does not comply with the requirements of
28 this Chapter must immediately cease operation until such time, if any,

1 when it complies fully with the requirements of this Chapter. No Medical
2 Marijuana Collective, dispensary, operator, establishment, or provider that
3 existed prior to the enactment of this Chapter shall be deemed to be a
4 legally established use or a legal non-conforming use under the provisions
5 of this Chapter or the Code.

6
7 5.87.090 Prohibited activity.

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

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

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

20 D. No Medical Marijuana Collective, Management Member or
21 member shall cause or permit the sale, distribution or exchange of
22 Medical Marijuana or of any Edible Medical Marijuana product to any non
23 Collective Management Member or member.

24 E. No Medical Marijuana Collective, Management Member or
25 member shall allow or permit the commercial sale of any product, good or
26 service, including but not limited to drug paraphernalia identified in Health
27 and Safety Code Section 11364, on or at the Medical Marijuana
28 Collective, in the parking area of the Property. An exception shall be

1 made for persons who are not Collective members or Management
2 Members and who possess a valid City issued business license which
3 authorizes the "place to place" sale of soil and nutrients to the Collective,
4 Management Members or members for the collective cultivation of
5 Medical Marijuana by Management Members and members of the
6 Collective.

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

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

16 H. No Medical Marijuana Collective shall be open to or provide
17 Medical Marijuana to its members or Management Members between the
18 hours of seven o'clock (7:00) P.M. and nine o'clock (9:00) A.M.

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

23 J. No Medical Marijuana Collective shall possess Medical Marijuana
24 that was not collectively cultivated by its Management Members or members at
25 the Property location permitted in accordance with this Chapter.

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

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

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

- 9 1. Any place where smoking is prohibited by law;
- 10 2. Within one thousand feet (1,000') of the grounds of a
11 school, recreation center, or youth center;
- 12 3. While on a school bus;
- 13 4. While in a motor vehicle that is being operated; or
- 14 5. While operating a boat.

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

18 O. No person who has been convicted within the previous ten
19 (10) years of a felony or a crime of moral turpitude, or who is currently on
20 parole or probation for the sale or distribution of a controlled substance,
21 shall be engaged directly or indirectly in the management of the Medical
22 Marijuana Collective nor, further, shall manage or handle the receipts and
23 expenses of the Collective.

24
25 5.87.100 Violation and enforcement.

26 A. Any person violating any provision of this Chapter or
27 knowingly or intentionally misrepresenting any material fact in procuring
28 the permit herein provided for, shall be deemed guilty of a misdemeanor

1 punishable by a fine of not more than one thousand dollars (\$1,000.00) or
2 by imprisonment for not more than twelve (12) months, or by both such
3 fine and imprisonment.

4 B. Any person who engages in any Medical Marijuana
5 Collective operations after a Medical Marijuana Collective Permit
6 application has been denied, or a Medical Marijuana Collective Permit has
7 been suspended or revoked, and before a new permit is issued, shall be
8 guilty of a misdemeanor.

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

18 D. Any violation of the terms and conditions of the Medical
19 Marijuana Collective permit, of this Chapter, or of applicable local or state
20 regulations and laws shall be grounds for permit suspension or
21 revocation.

22
23 5.87.110 Appeal process.

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

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

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

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

23
24 5.87.120 Operative date of cultivation requirement.

25 Each Medical Marijuana Collective issued a Medical Marijuana
26 Collective Permit, pursuant to this Chapter, shall have one-hundred-and-
27 twenty (120) days from the date the permit is issued to comply with the
28 Medical Marijuana cultivation requirements set forth in Section 5.87.040,

1 Subsection (P) and Section 5.87.090, Subsection (J) of this Chapter.

2
3 5.87.130 Severability.

4 If any provision of this Chapter, or the application thereof to any
5 person or circumstance, is held invalid, that invalidity shall not affect any
6 other provision or application of this Chapter that can be given effect
7 without the invalid provision or application; and to this end, the provisions
8 or applications of this Chapter are severable.

9
10 5.87.135 Designee.

11 The City Manager or designee is hereby authorized to develop
12 procedures necessary to implement this Ordinance in a fair and
13 reasonable manner.

14
15 5.87.140 Review of Regulations.

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

19
20 Section 2. The City Clerk shall certify to the passage of this Ordinance
21 by the City Council and cause it to be posted in three conspicuous places in the City of
22 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by
23 the Mayor.

24
25 I hereby certify that the foregoing Ordinance was adopted by the City
26 Council of the City of Long Beach at its meeting of _____, 20__, by the
27 following vote:

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

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Ayes: Councilmembers:

Noes: Councilmembers:

Absent: Councilmembers:

City Clerk

Approved: _____

Mayor