

ORDINANCE NO. ORD-11-0002

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 set aside for active and passive public use for recreational,
15 cultural or community service activities. For purposes of this Chapter only,
16 all beaches in the City, including but not limited to, all ocean facing
17 beaches, Alamitos Bay, Marine Stadium, Colorado Lagoon, and Marina
18 Park, are excluded from the definition of "Park" or "Public Park."

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, as may be amended, and which define "Primary Caregiver" as an
22 individual, designated by a Qualified Patient, who has consistently
23 assumed responsibility for the housing, health, or safety of that Qualified
24 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

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

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

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

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

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

17 4. Be installed to the satisfaction of the Chief of Police,
18 Director of Technology Services, and Director of Development Services.
19 At the discretion of the Chief of Police, the Medical Marijuana Collective
20 may be required to add additional video cameras. Consent is given by
21 the Medical Marijuana Collective under this subsection to the provision of
22 said recordings or live video feed to the Police Department without
23 requirement for a search warrant, subpoena or court order.

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

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

28 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. 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 nine o'clock (9:00)
15 A.M. and seven o'clock (7:00) 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 //

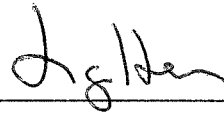
25 //

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of Long Beach at its meeting of January 18, 2011, by the following vote:

Ayes: Councilmembers: Garcia, DeLong, O'Donnell, Schipske,
Lowenthal.

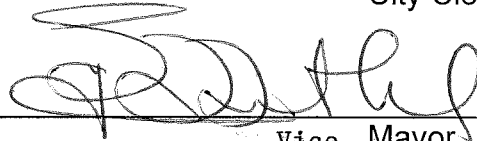
Noes: Councilmembers: Andrews, Johnson, Gabelich, Neal.

Absent: Councilmembers: None.



City Clerk

Approved: 01.19.11



Vice Mayor