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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 21.XX; AND BY REPEALING CHAPTER 5.89, ALL RELATING TO MEDICAL MARIJUANA.

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

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

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

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

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
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possess with intent to manufacture, distribute, or dispense marijuana; and

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

WHEREAS, pursuant to the City’s police powers authorized in Article XI, Section 7, of the California Constitution, the Long Beach Municipal Code, and other provisions of California law including, but not limited to California Government Code Section 38771, the City has the power through its City Council to determine, for purposes of the public health, safety, and welfare, the appropriate uses of land within a local jurisdiction’s borders; and

WHEREAS, nothing in this Chapter is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law; and

WHEREAS, this Chapter is to be construed to protect the public over medical marijuana related interests; and

WHEREAS, operation of a medical marijuana dispensary is a revocable privilege and not a right in the City. There is no property right for an individual or entity to have a medical marijuana business in the City; and

WHEREAS, the City has a zero tolerance policy for violations of this Chapter; and

WHEREAS, the City Council wishes to repeal Chapter 5.89 of the Municipal Code (“Medical Marijuana Dispensary Ban”) in its entirety and at the same time adopt regulations allowing for the limited existence of medical marijuana dispensaries in the City of Long Beach;

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

1 Section 1. Chapter 21.XX of the Long Beach Municipal Code is added to
2 read as follows:

3 Chapter 21.XX
4 MEDICAL MARIJUANA

5
6 21.XX. 010 Purpose.

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

11 This Chapter regulates the use, acquisition, cultivation,
12 production, and distribution of medical marijuana in a manner that is
13 consistent with California Health and Safety Code sections 11357 through
14 11362.9, also referred to as the Compassionate Use Act (“CUA”) and the
15 Medical Marijuana Program Act (“MMPA”). The CUA and MMPA do not
16 provide a legal manner for patients to obtain medical marijuana unless the
17 patient grows the marijuana or the marijuana is grown by the patient's primary
18 caregiver, or the marijuana is grown collectively by patients. The following
19 regulations are intended to apply to all medical marijuana business operations
20 in the City whether by a patient or primary caregiver, or a collective of
21 patients, or any medical marijuana related entity allowed under the state law.
22 Medical marijuana cultivation and production can have an impact on health,
23 safety and community resources, and this Chapter is intended to allow
24 medical marijuana distribution and cultivation only where it will have a minimal
25 impact. To do so, the following regulations:

- 26 A. Provide for a means for cultivation, production, and
27 distribution of marijuana to patients who qualify to obtain, possess, and use
28 marijuana for medical purposes under the CUA and MMPA;

1 B. Protect public health and safety through reasonable limitations
2 on medical marijuana business operations as they relate to noise, air, and
3 water quality, food safety, neighborhood and patient safety, security for the
4 dispensary location and its personnel, nuisance conditions, and other health
5 and safety concerns;

6 C. Promote lively street life and high quality neighborhoods by
7 limiting the concentration of any medical marijuana businesses in the City;

8 D. Impose fees to cover the cost to the City of regulating medical
9 marijuana related operations in an amount sufficient for the City to recover
10 its related costs;

11 E. Adopt a mechanism for monitoring compliance with the
12 provisions of this Chapter;

13 F. Create regulations that address the particular needs of the
14 residents and patients of the City and coordinate with laws that may be
15 enacted by the State regarding the same;

16 G. Facilitate the implementation of the CUA and MMPA without
17 going beyond the authority granted by it;

18 H. Allow medical marijuana related operations only by individuals
19 and entities that have demonstrated an intent and ability to comply with this
20 Chapter;

21 I. Protect public safety and residential areas by limiting the
22 areas of the City where medical marijuana businesses may operate;

23 The provisions in this Chapter that are different from State law are
24 consistent with the City's responsibility to protect the public health, safety, and
25 welfare as authorized by the inherent local police power authority granted to
26 the City by Article XI, § 7 of the California Constitution. The City intends that
27 both State law and this Chapter apply within the City.

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21.XX.020 Definitions.

A. "Advertise" means the act of drawing the public's attention, whether in print or on the television, internet, cellular network, or radio, or any and all media now known or hereafter devised, to a medical marijuana business in order to promote the sale of medical marijuana by the business.

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

C. "Cultivation" or "Cultivate" means:

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

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

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

F. "Financier" means any person or entity who lends money, grants, donates, or otherwise provides assets to any person applying for a permit or who has been issued a permit under this Chapter. Financier shall not include a bank, savings and loan association, credit union, or industrial bank supervised and regulated by an agency of the State or federal

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government.

G. "Marijuana" means the same as the term "marijuana" as set forth in California Health and Safety Code section 11018 which defines "marijuana" as all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

H. "Medical Marijuana" means marijuana used for medical purposes in accordance with California Health and Safety Code Sections 11362.5, *et seq.*

I. "Medical Marijuana Business" means:

1. Any association of four (4) or more individuals that cultivates, produces, sells, distributes, possesses, transports or makes available medical marijuana to qualified patients and their designated primary caregivers who associate at a particular location or Property within the boundaries of the City of Long Beach to collectively cultivate or distribute medical marijuana in accordance with California Health and Safety Code Sections 11362.5, *et seq.* For purposes of this Chapter, the term medical marijuana cooperative, collective, or dispensary shall have the same meaning as medical marijuana business. Medical marijuana business includes, but is not limited to, dispensary storefront locations, cultivation facilities, and medical marijuana-infused product manufacturers.

2. Any person that cultivates, produces, sells, distributes,

1 possesses, transports more than six mature marijuana plants or twelve (12)
2 immature marijuana plants, or eight (8) ounces of a useable form of
3 marijuana for medical use, pursuant to California Health and Safety Code
4 section 11362.5, *et seq.*

5 3. The term medical marijuana business shall not include
6 the private possession, production, or medical use of no more than six (6)
7 mature marijuana plants or twelve (12) immature marijuana plants, or eight
8 (8) ounces of a useable form of marijuana by a patient or caregiver in the
9 residence of the patient.

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

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

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

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

27 N. "Place Open To The General Public" means any property
28 owned, leased, or used by a public entity, and any place on private property

1 open to the public, common areas of buildings, private clubs, vehicles,
2 those portions of any private property upon which the public has an express
3 or implied license to enter or remain, and any place visible from such
4 places. "Place open to the general public" shall not include any fenced area
5 of a private residence regardless of whether it can be seen from a place
6 open to the public.

7 O. "Possess" or "Possession" means having physical control of
8 an object, or control of the property in which an object is located, or having
9 the power and intent to control an object, without regard to whether the one
10 in possession has ownership of the object. Possession may be held by
11 more than one (1) person at a time. Use of the object is not required for
12 possession. The owner of a medical marijuana business shall be
13 considered in possession of the medical marijuana business at all times.
14 The business manager of a medical marijuana business shall be
15 considered in possession of the medical marijuana business at all times
16 that the business manager is on the property of the business or has been
17 designated by the owner as the business manager in the absence of the
18 owner in accordance with this Chapter.

19 P. "Property" means a distinct and definite location, which may
20 include a building, a part of a building, a room or any other defined
21 contiguous area.

22 Q. "Primary Caregiver" means the same as that term in California
23 Health and Safety Code Sections 11362.5 and 11362.7 which define
24 "primary caregiver" as an individual, designated by a qualified patient, who
25 has consistently assumed responsibility for the housing, health, or safety of
26 that qualified patient.

27 R. "Produce" or "Production" means:

- 28 1. Preparing, compounding, processing, encapsulating,

1 packaging or repackaging, labeling or relabeling of marijuana or its
2 derivatives, whether alone or mixed with any amount of any other
3 substance; or

4 2. Combining marijuana with any other substance for
5 distribution, including storage and packaging for resale.

6 S. "Responsible person" means any individual who is the owner,
7 partial owner, or occupant of real property, last registered owner and/or
8 legal owner of a vehicle, the holder, business manager, or the agent of the
9 holder of any permit, or the party or agent of a party to any agreement
10 covered by this Chapter; or the owner or authorized agent of any business,
11 company or entity subject to this Chapter.

12 T. "Restricted Area" means the portion of a medical marijuana
13 business location within which the licensee defines on its application it
14 intends to cultivate, distribute, possess or produce medical marijuana and
15 which area is clearly identified as the restricted area on the floor plan
16 submitted with the medical marijuana business CUP application for the
17 business.

18 U. "Violation of Any Law" means a conviction, whether by verdict
19 or finding of a violation of any law in a criminal, civil, or administrative
20 proceeding, whether part of a plea agreement, settlement agreement, or
21 determination by an arbitrator, hearing officer, court, or jury.

22
23 21.XX.030 Permit required.

24 A. It shall be unlawful for any person or entity to operate, in or
25 upon any property, a medical marijuana business without obtaining a
26 conditional use permit pursuant to the requirements of this Chapter and
27 Chapter 21.25.

28 The permit requirement set forth in this Chapter shall be in

1 addition to, and not in lieu of, a Long Beach business license and any other
2 licensing and permitting requirements imposed by any other federal, state or
3 local law, including, but not limited to, a California seller's permit and building
4 and occupancy permits.

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

9 C. A single conditional use permit shall be required for each
10 property or combination of properties from which an individual medical
11 marijuana business operates.

12 D. A conditional use permit issued pursuant to this Chapter shall
13 become null and void upon the closure of the business for more than five
14 (5) days, and/or the relocation of the business to a different location.

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

16 a. Any relocation or expansion that includes a
17 separate piece of property, building suite, or parcel of land from the initially
18 permitted Property;

19 b. Any expansion of the initially permitted Property
20 which represents a greater than fifty percent (50%) increase in the square
21 footage of space devoted to the medical marijuana business operations,
22 including the restricted areas;

23 E. The lawful conduct of activity regulated by this Chapter by a
24 Permittee shall be limited to those activities expressly indicated on the
25 Medical Marijuana Business Permit application.

26 F. The Permittees of a medical marijuana business are only
27 those persons disclosed in the application or subsequently disclosed to the
28 City in accordance with this Chapter. A transfer of a conditional use permit

1 is prohibited unless the incoming medical marijuana business and its
2 owners, business managers, financiers, and any individuals owning any
3 part of an entity that holds a financial or ownership interest in the medical
4 marijuana business submit the application information required by section
5 21.XX.050 of this Chapter.

6
7 21.XX.040 General permit provisions.

8 A. The general procedures and requirements of conditional use
9 permits, as more fully set forth in Chapter 21.25, "Conditional Use Permits,"
10 shall apply to conditional use permits. To the extent there is any conflict
11 between the provisions of this Chapter and Chapter 21.25, the provisions of
12 this Chapter shall control for conditional use permits related to medical
13 marijuana businesses.

14 B. Insurance required.

15 A medical marijuana business must at all times maintain
16 workers' compensation insurance as required by the California Labor Code
17 and employers liability insurance in an amount not less than \$1,000,000. This
18 policy shall be endorsed to state that the insurer waives its right of
19 subrogation against City, its boards and commission, and their officials,
20 employees, and agents, public liability insurance with minimum limits of
21 \$250,000 for any one person and \$1,000,000 for any one accident, and public
22 property damage insurance with a minimum limit of \$500,000 for any one
23 accident.

24 C. Costs of inspection, enforcement, and abatement.

25 1. In the event the City incurs costs in the inspection,
26 enforcement, abatement, surrender, or any other requirements to remove
27 medical marijuana or related equipment or property from any medical
28 marijuana business, or any person cultivating, producing, distributing or

1 possessing marijuana, the business and responsible persons shall
2 reimburse the City all actual costs incurred by the City for such inspection,
3 enforcement, or abatement.

4 2. All actual costs required by this section shall constitute
5 a lien upon the property upon which the medical marijuana business is
6 situated. The lien for any inspection, enforcement, or abatement costs shall
7 attach thirty (30) days after the responsible parties are notified of the costs,
8 and shall remain until the fee is paid or the property sold in payment
9 thereof.

10 D. Landlord duty.

11 It shall be unlawful for the owner of a building to lease space or
12 allow the use of any portion of the building by a medical marijuana business
13 unless the tenant has a valid conditional use permit and a valid business
14 license or has applied for and not been denied a conditional use permit and/or
15 business license and no marijuana is located on the property until a permit
16 has been issued by the City.

17 21.XX.050 Conditional use permit application.

18 A. Application requirements.

19 In addition to the general conditional use permit application
20 requirements of Chapter 21.25, an application for a conditional use permit to
21 operate a medical marijuana business shall include completed forms provided
22 by the City for that purpose. The applicant shall use the application to
23 demonstrate its compliance with this Chapter and any other applicable law,
24 rule, or regulation. The application shall include the following information:

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

27 2. If an owner is a corporation, the name and address of all
28

1 officers or directors of the corporation and of any person holding issued and
2 outstanding capital stock of the corporation.

3 3. If an owner is a partnership, association, or company, the
4 name and address of any person holding an interest therein and the
5 managing members. If a managing member is an entity rather than an
6 individual, the same disclosure shall be required for each entity with an
7 ownership interest until a managing member that is a natural person is
8 identified.

9 4. If an owner is not a natural person, the organizational
10 documents for all entities identified in the application, identification of the
11 natural person that is authorized to speak for the entity and contact
12 information for that person.

13 5. Name and address of:

14 a. Any business managers of the medical
15 marijuana business, if the business manager is proposed to be someone
16 other than the owner;

17 b. All financiers of the medical marijuana business;
18 and

19 c. All agents of the medical marijuana business who
20 either:

21 (i) act with managerial authority,

22 (ii) provide advice to the medical marijuana
23 business for compensation, or

24 (iii) receive periodic compensation totaling
25 \$1,000.00 or more in a single year for services related to the medical
26 marijuana business.

27 6. A statement indicating whether any of the named owners,
28 members, business managers, financiers, primary caregivers, or persons

1 named on the application have been:

2 a. Denied an application for a conditional use permit
3 pursuant to this Chapter, or any similar state or local licensing or permitting
4 law, rule, or regulation, or had such a license or permit suspended or
5 revoked.

6 b. Convicted of violating any law, other than a traffic
7 violation infraction, or completed any portion of a sentence due to a violation
8 of any law.

9 c. Convicted of driving or operating other machinery
10 under the influence of alcohol, drugs, or medication, driving while impaired, or
11 any comparable law, or a misdemeanor related to abuse of alcohol or a
12 controlled substance.

13 d. Owners, members, business managers, or
14 financiers of any other medical marijuana business in any location, Long
15 Beach or otherwise, at any time, and the status of the other business(es) as
16 of the date the application is submitted.

17 7. Proof of ownership or legal possession of the Property at
18 which the medical marijuana business will be located. If the medical
19 marijuana business is not the owner of the property of the business, the
20 applicant shall provide written authorization to the City from the property
21 owner to enter the property for inspection of the property on a form approved
22 by the City.

23 8. A certificate for proof of insurance signed by a qualified
24 agent of an insurance company evidencing the existence of valid and
25 effective policies of workers' compensation and public liability and property
26 damage insurance naming the City and its officers and employees as an
27 additional named insured on the liability policy at least to the limits required by
28 section 21.XX.040(A) of this Chapter, the limits of each policy, the policy

1 number(s), the name of the insurer, the effective date, and expiration date of
2 each policy, and a copy of an endorsement placed on each policy requiring
3 ten days' notice by mail owner or business manager before the insurer may
4 cancel the policy for any reason.

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

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

9 b. A schedule depicting the hours of operation.

10 c. A description of the procedures for cash
11 handling and audits.

12 d. A dimensioned floor plan, clearly labeled, showing:

13 (i) The layout of the facility and the floor plan
14 in which the medical marijuana business is to be located;

15 (ii) The principal uses of the floor area depicted
16 on the floor plan, including but not limited to the areas where non-patients will
17 be permitted, private consulting areas, storage areas, retail areas, areas for
18 cash handling and storage, and restricted areas where medical marijuana will
19 be located; and

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

23 (iv) The separation of the areas that are open
24 to persons who are not patients from those areas open to patients; and

25 (v) Any other information required by the City
26 in its review of the application.

27 e. A neighborhood safety and responsibility plan
28 that demonstrates how the applicant will comply with the requirements of

1 this Chapter and abate associated crime and nuisance conditions in the
2 immediate vicinity of the marijuana business, and how the business will
3 fulfill its responsibilities to the neighborhood including outreach and dispute
4 resolution.

5 f. For cultivation facilities, and medical marijuana
6 businesses that produce medical marijuana-infused products, a plan that
7 specifies:

8 (i) The methods to be used to prevent the
9 growth of harmful mold and compliance with limitations on discharge into
10 the wastewater system of the city as set forth in Long Beach Municipal
11 Code Chapter 15.16, "Industrial Waste and Wastewater."

12 (ii) A minimum of a one-hour fire separation
13 wall between the cultivation facility and any adjacent business.

14 (iii) All ventilation systems used to control the
15 environment for the plants that describes how such systems operate with
16 the systems preventing any odor leaving the property. Such plan shall also
17 include all ventilation systems used to mitigate noxious gases or other
18 fumes used or created as part of the production process.

19 B. Additional requirements.

20 1. A lighting plan showing the lighting outside of the
21 marijuana business and compliance with applicable City requirements.

22 2. Color images and a site plan indicating locations of
23 proposed signage.

24 3. A fully legible copy of one valid government issued form
25 of photo identification, such as a State Driver's License or Identification Card
26 and Livescan fingerprinting completed at the Long Beach Police Department.

27 This requirement shall apply to all owners, business managers, financiers,
28 and caregivers employed by or under contract to provide services to the

1 medical marijuana business, including all individuals who have an interest as
2 described herein of any portion of the medical marijuana business, directly or
3 as an agent, or a member, partner or officer of a corporation, partnership,
4 association or company.

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

9 5. A plan for ventilation of the medical marijuana business
10 that describes the ventilation systems that will be used to prevent any odor of
11 medical marijuana off the property of the business.

12 6. A description of all toxic, flammable, or other materials
13 regulated by a federal, state, or local government that would have authority
14 over the business if it was not a marijuana business, that will be used or kept
15 at the medical marijuana business, the location of such materials, and how
16 such materials will be stored, subject to review and approval by the Fire
17 Marshall.

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

23 8. A description of the point of sale software the medical
24 marijuana business will utilize to track inventory and sales of medical
25 marijuana.

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

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C. Fee required.

Any application for a conditional use permit shall be accompanied by the conditional use permit application fee, criminal background check fee, and any other applicable fees.

1. Investigation.

For purposes of this Chapter, the investigation of the application by the City is not complete until the Department of Development Services has:

- a. Determined the application is complete;
- b. Determined the medical marijuana business is prepared and able to operate in compliance with all applicable laws;
- c. Obtained all other information the Director determines necessary to make a recommendation whether to approve the permit application with conditions or deny the permit application; and
- d. Prepared the documentation necessary to support the recommended action to the City's Planning Commission.

2. Approval requirements.

- a. Once the Department of Development Services deems an application complete, the matter will be set for hearing in accordance with Chapter 21.21 of the Long Beach Municipal Code.
- b. The Director will deny any application that does not meet the requirements of this Chapter or any other applicable law, rule, or regulation or that contains any false or incomplete information.
- c. The conditions of an approval of a conditional use permit shall include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

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21.XX.060 Persons prohibited as permittees and business managers.

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

1. Any person until the annual inspection fee has been paid;
2. Any person who has been convicted within the previous ten (10) years of a felony or a crime of moral turpitude, or who is currently on parole or probation for the sale or distribution of a controlled substance;
3. Any person who is under twenty-one (21) years of age; or
4. Any person who operates or manages or has operated or managed a medical marijuana business contrary to the provisions of this Chapter, any other applicable law, rule or regulation or conditions imposed on land use or license approvals, or contrary to the terms of the plans submitted with the permit application, or amended as permitted by this Chapter, or has operated a medical marijuana business in violation of any law.
5. A licensed physician making patient recommendations;
6. A person permitted to operate pursuant to this Chapter who, while lawfully operating, or who, at the time of application, has failed to remedy an outstanding delinquency for taxes owed, or an outstanding delinquency for judgments owed to a government;
7. A sheriff, deputy, police officer, or prosecuting officer, or an officer or employee of the state or local governing authority;
8. Any person applying for a conditional use permit to operate a medical marijuana business who has been permitted to operate another medical marijuana business in the City pursuant to this Chapter.

21.XX.070 Location of medical marijuana businesses.

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A. Fixed location required.

It shall be unlawful to operate a medical marijuana business or to grow medical marijuana outside of an enclosed building. All conditional use permits shall be issued for a specific fixed location within an enclosed building.

B. Location – permitted use in zoning district.

A conditional use permit may be issued only if the medical marijuana business is located in an area zoned for the following:

1. As "Community Automobile-Oriented District ("CCA"), Regional Highway District ("CHW"), or "Industrial" for a medical marijuana business dispensary only;

2. As "industrial" for a medical marijuana business cultivation site only;

a. As "industrial" for a medical marijuana business dispensary and cultivation site; or

b. As "industrial" for a medical marijuana-infused product manufacturer.

C. Location – total per council district.

No more than one (1) medical marijuana business dispensary and four (4) medical marijuana business shared dispensary and cultivation sites or stand-alone medical marijuana business cultivation sites may operate in any council district. No more than eighteen (18) medical marijuana business conditional use permits may operate within the City.

D. Priority of medical marijuana business location.

1. Based on the zoning restrictions and limitations on concentration of medical marijuana businesses in the City, to determine the priority of a medical marijuana business application and the proximity of applicants' properties, applicants meeting all application requirements shall

1 have priority based on the accumulation of points based on the following
2 criteria:

3 a. Suitability of the proposed property:

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

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

10 (iii) Proposed property is located within 1000
11 feet of a public transportation hub, stop, or station (1 point);

12 (iv) Proposed property is located at least 300
13 feet from any residential zones.

14 b. Suitability of security plan:

15 (i) The applicant's security plan includes the
16 presence of security personnel on premises twenty-four (24) hours per day
17 (1 point);

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

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

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

28 (v) Applicant demonstrates security measures

1 exceeding the requirements of this Chapter, including but not limited to brick
2 or concrete construction or additional fire and/or security alarms (1 point);

3 c. Suitability of business plan and financial record
4 keeping:

5 (i) The applicant describes a staffing plan
6 that will provide and ensure safe dispensing, adequate security, theft
7 prevention, and the maintenance of confidential information (1 point);

8 (ii) Applicant provides an operations manual
9 that demonstrates compliance with this Chapter (1 point);

10 d. Criminal history:

11 (i) Applicants without any felony
12 conviction(s) (1 point);

13 (ii) Applicants without any misdemeanor
14 conviction(s) (1 point);

15 (iii) Applicants without any pending criminal
16 complaint(s) (1 point);

17 (iv) Applicants certify as a condition of
18 maintaining the revocable conditional use permit that they will not employ any
19 person with any type of felony conviction (1 point);

20 (v) Applicants certify as a condition of
21 maintaining the revocable conditional use permit that they will not employ as
22 managers or employees any person with any narcotics related misdemeanor
23 conviction (1 point).

24 e. Regulatory compliance history:

25 (i) Applicants and financiers have not had a
26 permit or license revoked by the City of Long Beach (1 point);

27 (ii) Applicants have not had administrative
28 penalties assessed against their business or the location of their business (1

1 point);

2 (iii) Applicants were successful lottery
3 entrants in the City's September 10, 2010 application process (1 point).

4 f. Community service:

5 (i) Applicants demonstrate involvement in
6 the community, other non-profit association, or neighborhood association (1
7 point).

8 2. In the event review of the applications of two (2) or
9 more eligible medical marijuana business applicants within the same district
10 results in the same total number of points assigned, the City will utilize a
11 lottery to determine which applicant receives priority.

12 E. No medical marijuana business may be located in residential
13 or institutional zoning districts.

14 F. It shall be unlawful to operate a medical marijuana business in
15 a building which contains a residence, within a dwelling unit within any
16 zoning district, or within a residential zoning district or within a mixed-use
17 development that includes a residence.

18 G. Separation from schools, parks, and other medical marijuana
19 uses.

20 The property identified in the conditional use permit application
21 must be located in accordance with the following:

22 1. The medical marijuana business is not located within
23 one thousand five hundred (1,500) feet of a public or private high school or
24 Educational Partnership High School ("EPHS") or within one thousand
25 (1,000) feet of a public park or a public or private kindergarten, elementary,
26 middle, or junior high school.

27 2. The medical marijuana business is not located within
28 one thousand (1,000) feet of any other medical marijuana business, unless

1 it is located in an industrial zone.

2 3. The distances specified in this subsection shall be
3 determined by the horizontal distance measured in a straight line from the
4 property line of the school, park, or other medical marijuana business to the
5 closest property line of the lot on which the medical marijuana business is
6 located, without regard to intervening structures.

7
8 21.XX.080 Limitations on medical marijuana businesses.

9 The following shall be the minimum requirements for a medical
10 marijuana business:

11 A. The area of a medical marijuana business dispensary is two
12 thousand (2,000) square feet or less and at least five hundred (500) square
13 feet are dedicated to a lobby and/or waiting area;

14 B. The area of a medical marijuana business cultivation site is
15 five thousand (5,000) square feet or less;

16 C. The business distributes medical marijuana only in
17 accordance with this Chapter and California law; and

18 D. The business includes a secured and locked medical
19 marijuana dispensary room, one or more private rooms for consultation on
20 the medical use of marijuana, and a separate reception area for screening
21 of patients and waiting for non-patients.

22 21.XX.090 Requirements related to operation of medical marijuana
23 businesses.

24 A. Onsite use prohibited.

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

27 B. Restriction on access to restricted area.
28

1 No person, other than a patient, licensee, employee, or a
2 contractor shall be in the medical marijuana dispensary room. No patient shall
3 be allowed entry into the medical marijuana dispensary room without showing
4 their valid picture ID.

5 C. Display of permits required.

6 The name and contact information for the owner or owners and
7 any business manager of the medical marijuana business, the conditional use
8 permit, the business license, and the sales tax seller's permit shall be
9 conspicuously posted in the business.

10 D. Business conducted within building.

11 1. Any and all cultivation, production, distribution,
12 possession, storage, display, sales or other distribution of marijuana shall
13 occur only within an enclosed area of a medical marijuana business and
14 shall not be visible from the exterior of the business.

15 2. Consultations by medical professionals shall not be
16 permitted at a medical marijuana business nor as a permitted accessory use
17 at a medical marijuana business.

18 3. Owner or business manager required on property.

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

24 F. Hours of operation.

25 1. A medical marijuana business shall be closed to the
26 public, and no sale or other distribution of marijuana shall occur upon the
27 property between the hours of seven o'clock (7:00) p.m. and eight o'clock
28 (8:00) a.m.

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G. Use of pesticides.

1. No pesticides or insecticides which are prohibited by federal, state, or local law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced or distributed by a medical marijuana business. A medical marijuana business shall comply with all applicable federal, state, and local law regarding use and disposal of pesticides.

H. Ventilation required.

1. A medical marijuana business shall be ventilated so that the odor of marijuana cannot be detected at the exterior of the medical marijuana business or at any adjoining use or property.

I. Use of carbon dioxide generators prohibited.

The medical marijuana business shall not use carbon dioxide generators, burners, or converters of any kind. Medical marijuana businesses are prohibited from altering normal air composition in any manner.

J. Limitations on inventory.

The medical marijuana business shall not maintain any more marijuana within the property than is permitted under applicable state law. The medical marijuana business shall not maintain any more marijuana than the amount stated on the business' permit application to the City. The medical marijuana business shall maintain current records evidencing the status and number of patients for whom they cultivate or dispense medical marijuana. The medical marijuana business shall maintain current records evidencing the strains of marijuana cultivated and sold.

K. City residency requirement.

Patients obtaining medical marijuana from medical marijuana businesses must bona fide residents of the City of Long Beach. Patients must provide proof of City residency upon joining the membership of a

1 medical marijuana business. Medical marijuana businesses must verify and
2 maintain patient proof of residency.

3
4 L. Reporting requirements.

5 A medical marijuana business shall report to the Director each
6 of the following within the time specified. If no time is specified, the report
7 shall be provided within seventy-two hours of the event.

8 1. Transfer or change of financial interest, business
9 manager, financier, or primary caregiver in the permit application at least
10 thirty days before the transfer or change.

11 2. Sales and taxable transactions and file sales and use
12 tax reports to the City monthly.

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

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

19
20 M. Cultivation within the City required.

21 1. All medical marijuana distributed from a medical
22 marijuana business must be cultivated within the City of Long Beach.

23 2. Medical marijuana cultivated within in the City
24 boundaries may not be transported or disseminated out of the City of Long
25 Beach.

26 3. Medical marijuana cultivation shall be limited to single
27 level growing areas, all stacks or multi-story growing methods are
28 prohibited.

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N. Delivery between medical marijuana businesses.

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

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

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

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

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

a. From a medical marijuana cultivation facility to a medical marijuana business dispensary storefront; and

b. Which medical marijuana business dispensary storefront is owned by the same person as owns the cultivation facility; and

c. When determining and reporting the route to take, Permittees should select the most direct route that provides safety and efficiency.

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O. Disposal of medical marijuana and marijuana byproducts.

All medical marijuana and any product containing a usable form of marijuana must be made unusable and unrecognizable prior to removal from the business in compliance with all applicable laws. This provision shall not apply to licensed law enforcement acting in the course of their duties.

P. Possession of mature flowering plants.

No more than one-half of the medical marijuana plants within a medical marijuana business may be mature, flowering plants producing a usable form of marijuana.

Q. Advertisement.

A medical marijuana business may not advertise in a manner that is inconsistent with the medicinal use of medical marijuana. A medical marijuana business may not advertise in a manner that is misleading, deceptive, false, or is designed to appeal to minors. Advertisement that promotes medical marijuana for recreational or any use other than for medicinal purposes shall be a violation of this Chapter. The following conditions shall apply:

1. Except as otherwise provided in this paragraph, it shall be unlawful for any person permitted under this Chapter or any other person to advertise any medical marijuana or medical marijuana-infused product anywhere in the city where the advertisement is in plain view of or in a place open to the general public, including advertising utilizing any of the following media: illuminated signs, signs incorporating green crosses or other marijuana related symbol, any billboard or other outdoor general advertising device as defined by the zoning regulations of the City; any sign mounted on a vehicle; any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or

1 posted upon any public or private property. The prohibition set forth in this
2 paragraph shall not apply to:

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

7 b. Any advertisement contained within a newspaper,
8 magazine, or other periodical of general circulation within the City or on the
9 Internet; or

10 c. Advertising which is purely incidental to
11 sponsorship of a charitable event by a medical marijuana business or a
12 medical marijuana-infused products manufacturer.

13 d. No medical marijuana business shall distribute or
14 allow the distribution of any marijuana without charge within a marijuana
15 business or any place open to the public for the purpose of promotion or
16 advertising.

17 e. No medical marijuana business shall distribute or
18 allow the distribution of any coupon or similar writing, electronically or on
19 paper, which purports to allow the bearer to exchange the same for any
20 marijuana product, either free or at a discount.

21 f. No medical marijuana business shall sell,
22 distribute, or provide, or allow the sale, distribution, or provision of, products
23 marked with its name or logo, other than packaging in which medical
24 marijuana is sold or on medical marijuana products. This prohibition shall not
25 prevent employees of the business from wearing uniforms with the name or
26 logo of the medical marijuana business while working for the business on the
27 business property.

28 R. Medical marijuana business response time.

1 The owner or manager is required to respond by phone or email
2 within twenty-four hours of contact by a city official concerning their medical
3 marijuana business at the phone number or email address provided to the
4 City as the contact for the business. Each twenty-four (24) hour period during
5 which an owner or manager does not respond to the city official shall be
6 considered a separate violation.

7 S. Concentrated, synthetic, and extracted marijuana products
8 prohibited.

9 1. No medical marijuana business may produce or
10 distribute concentrated or any form of synthetic cannabis.

11 2. No medical marijuana business may use metals,
12 butane, propane or other flammable product, or produce flammable vapors
13 to process marijuana. No medical marijuana business may utilize an
14 extraction method of any kind.

15 T. Packaging at a medical marijuana business.

16 All dispensed medical marijuana must be packaged in a
17 manner which clearly shows the name of the dispensary providing the
18 medical marijuana, name of the patient receiving the medical marijuana,
19 date the marijuana is dispensed, amount of marijuana dispensed, and
20 amount paid by the patient to obtain the marijuana.

21 U. No medical marijuana business shall operate for profit.

22 No medical marijuana business shall operate for profit. Cash
23 and in-kind contributions, reimbursements, and reasonable compensation
24 provided by patients toward the medical marijuana business' actual expense
25 to grow, cultivate, and provide medical marijuana shall be allowed provided
26 that they are in strict compliance with State Law. All such cash and in-kind
27 amounts and items shall be fully documented in accordance with Section
28 _____ of this Chapter.

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21.XX.100 Lab testing of medical marijuana required.

A. A medical marijuana business must ensure that usable marijuana and plants are tested for pesticides, mold and mildew, and THC percentages in accordance with this section prior to the transfer of marijuana to a consumer.

B. As part of the cultivation process, medical marijuana businesses must ensure marijuana is segregated into batches, that each batch is placed in an individual container or bag, and that a label is attached to the container or bag that includes at least the following information:

1. A unique identifier;
2. The name of the person who transferred it; and
3. The dates the marijuana batch was cultivated and

made available for sale at the dispensary storefront.

C. Sampling.

The medical marijuana business must ensure that random samples from each batch are separated in an amount necessary to conduct the applicable test, that the samples are labeled with the batch's unique identifier, and are properly submitted for testing.

D. Testing.

The medical marijuana business must ensure that each sample is tested for pesticides, mold, and mildew and for an analysis of the levels of tetrahydrocannabinol (THC) and Cannabidiol (CBD).

E. Immature Plants.

An immature plant may be tested for pesticides, mold, or mildew by conducting a macroscopic or microscopic screening to determine if the plant has visible pesticide residue, mold, or mildew.

F. Flowers or other usable marijuana plant material.

1 Medical marijuana in the form of flowers or other plant material must
2 be:

3 1. Tested for pesticides, mold, and mildew using valid
4 testing methodologies and macroscopic or microscopic screening may not
5 be used;

6 2. Tested for pesticides by testing for the following
7 analytes:

- 8 a. Chlorinated Hydrocarbons;
- 9 b. Organophosphates;
- 10 c. Carbamates; and
- 11 d. Pyrethroids; and

12 3. Analyzed, using valid testing methodologies, to
13 determine the levels of THC and CBD.

14 G. Edibles and liquids.

15 If medical marijuana used in the edible or liquid has been tested in
16 accordance with this section and tested negative for pesticides, mold, or
17 mildew, the edible or liquid does not need to be tested for pesticides, mold,
18 and mildew but does need to be tested for an analysis of the levels of THC
19 and CBD. If the medical marijuana used in the edible or liquid was not tested
20 in accordance with this section, the edible or liquid must be tested for
21 pesticides, mold or mildew in accordance with this section.

22 H. Laboratory Requirements.

23 A medical marijuana business must ensure that all testing, except for
24 testing of immature plants, is done by a third party or laboratory that:

- 25 1. Uses valid testing methodologies; and
- 26 2. Has a Quality System for testing of pesticides, mold,
27 and mildew that is compliant with the:
 - 28 a. 2005 International Organization for

1 Standardization 17025 Standard; or

2 b. 2009 National Environmental Laboratory
3 Accreditation Conference Institute TNI Standards.

4 c. Macroscopic or microscopic screening of
5 immature plants must be conducted by a person who has a minimum of a
6 bachelor's degree in horticulture, botany, plant pathology, microbiology, or
7 an equivalent degree but is not required to be done by a laboratory.

8 I. Testing Results.

9 A laboratory must provide testing results to the medical marijuana
10 business signed by an official of the laboratory who can attest to the accuracy
11 of the results, and that includes the levels of pesticides, mold, or mildew
12 detected and the levels of THC and CBD. The medical marijuana business
13 must maintain these records for a minimum of forty-eight (48) months and
14 must make the same records available to the City upon request.

15 1. if an immature plant has visible pesticide residue, mold,
16 or mildew it must be deemed to test positive and must be destroyed.

17 2. A sample of marijuana shall be deemed to test positive
18 for mold and mildew if the sample has levels that exceed the maximum
19 acceptable counts in the Pharmacopeia, Section 1111 (May 1, 2009),
20 incorporated by reference Appendix A.

21 a. A sample of usable marijuana shall be deemed
22 to test positive for pesticides with a detection of more than 0.1 parts per
23 million of any pesticide.

24 b. If an immature plant or sample of marijuana
25 tests positive for pesticides, mold, or mildew based on the standards in this
26 section, the medical marijuana business must ensure the entire batch from
27 which the sample was taken is destroyed and must document how many or
28 how much was destroyed, and the date of destruction.

1 J. In-house testing. A medical marijuana business may perform
2 its own testing as long as the testing complies with this section.

3 K. The medical marijuana business may permit laboratory
4 personnel or other persons authorized to test access to secure or restricted
5 access areas of the facility where marijuana or immature plants are stored.
6 The medical marijuana business must log the date and time in and out of all
7 such persons.

8

9 21.XX.110 Right of entry – records to be maintained.

10 A. Records to be maintained.

11 Each Permittee shall utilize point of sale software to track
12 inventory and sales as well as keep a complete set of books of account,
13 invoices, copies of orders and sales, shipping instructions, bills of lading,
14 weigh bills, correspondence, bank statements including cancelled checks and
15 deposit slips and all other records necessary to show fully the business
16 transactions of such Permittee Receipts shall be maintained in a computer
17 program or by pre-numbered receipts and used for each sale. The records of
18 the business shall clearly track medical marijuana product inventory
19 purchased and/or grown and sales and disposal thereof to clearly track
20 revenue from sales of any medical marijuana from other paraphernalia or
21 services offered by the medical marijuana business. The Permittee shall also
22 keep and maintain records documenting proof of Long Beach residency for
23 each patient procuring medical marijuana at a medical marijuana business.
24 The Permittee shall also maintain inventory records evidencing that no more
25 medical marijuana was within the medical marijuana business than allowed
26 by applicable law for the number of patients who designated the medical
27 marijuana business owners as their primary caregiver. All such records shall
28 be open at all times during business hours for the inspection and examination

1 of the City or its duly authorized representatives. The City may require any
2 Permittee to furnish such information as it considers necessary for the proper
3 administration of this Chapter. The records shall clearly show the source,
4 amount, price and dates of all marijuana received or purchased, and the
5 amount, price, dates and patient or caregiver for all medical marijuana sold.

6 B. Separate bank accounts.

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

10 C. Disclosure of records.

11 By applying for a conditional use permit, the Permittee provides
12 consent to disclose the information required by this Chapter, including
13 information about patients and caregivers. Any records provided by the
14 Permittee that include patient or caregiver confidential information may be
15 submitted in a manner that maintains the confidentiality of the documents.
16 Any document that the applicant considers eligible for protection shall be
17 clearly marked as confidential, and the reasons for such confidentiality shall
18 be stated on the document. In the event that the licensee does appropriately
19 submit documents so as not to be disclosed, the City shall not disclose it to
20 other parties who are not agents of the City, except law enforcement
21 agencies. If the City finds that such documents are subject to inspection, it
22 will provide at least twenty-four (24) hour notice to the applicant prior to such
23 disclosure.

24 D. Audits.

25 The City may require an audit of the books of account and
26 records of a medical marijuana business on such occasions as it may
27 consider necessary, including but not limited to ensuring compliance with
28 LBMC section 3.80.261(H). Such audit may be made by an auditor selected

1 by the City Manager that shall likewise have access to all books and records
2 of the medical marijuana business. The expense of any audit determined
3 necessary by the City shall be paid by the medical marijuana business.

4 E. Consent to Inspection.

5 1. Application for a conditional use permit or operation of
6 a medical marijuana business, or leasing property to a medical marijuana
7 business, constitutes consent by the applicant, and all owners, managers
8 and employees of the business and the owner of the property to permit the
9 City Manager to conduct routine inspections of the medical marijuana
10 business to ensure compliance with this Chapter or any other applicable
11 law, rule or regulation.

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

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

27 F. Reporting of source, quantity and sales.

28 The records to be maintained by each medical marijuana business

1 shall include the source and quantity of any marijuana distributed, produced
2 or possessed within the property. Such reports shall include, without
3 limitation, for both cultivation, acquisitions from wholesalers and transactions
4 to patients or caregivers, the following:

- 5 1. Name and address of grower, seller and purchaser;
- 6 2. Date, weight, type of marijuana and dollar amount or
7 other consideration of transaction; and
- 8 3. For wholesale transactions, the state and City, if any,
9 sales and use tax license number of the seller.

10
11 21.XX.120 Requirements related to monitoring and security of medical
12 marijuana businesses.

13 All components of the security plan submitted with the application, as it
14 may be amended, shall be in good working order, monitored and secured
15 twenty-four hours per day. A separate security system is required for each
16 business. The security plan must include, at a minimum, the following security
17 measures:

- 18 A. Video cameras.

19 A medical marijuana business shall install and maintain a video
20 surveillance system that monitors no less than the front and rear of the
21 Property, and all points of ingress and egress at the business. The
22 surveillance system shall:

- 23 1. Capture a full view of the public right-of-ways and any
24 parking lot under the control of the medical marijuana business;
- 25 2. Be of adequate quality, color rendition and resolution to
26 allow the ready identification of any individual committing a crime anywhere
27 on or adjacent to the exterior of the property;
- 28 3. Record and maintain video for a minimum of thirty (30)

1 days and be accessible via the Internet by the Long Beach Police
2 Department. A Public Internet Protocol (IP) address and user
3 name/password is also required to allow the Long Beach Police Department
4 to view live and recorded video from these cameras over the Internet.
5 Consent is given by the Medical Marijuana Collective under this subsection to
6 the provision of said recordings or live video feed to the Police Department
7 without requirement for a search warrant, subpoena or court order;

8 B. Use of safe for storage.

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

16 C. Alarm system.

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

23 D. Security guard.

24 The medical marijuana business shall hire and maintain an
25 armed guard, licensed by the State of California, generally located at an
26 indoor guard station, during all hours of operation. The security guard should
27 only be engaged in activities related to providing security for the facility.
28

1 21.XX.130 Requirements for public health and labeling.

2 A. Medical marijuana-infused products.

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

9 B. Labeling and packaging requirements.

10 1. All medical marijuana sold or otherwise distributed by
11 the Permittee shall be packaged in single-serving sizes and labeled in a
12 manner that advises the purchaser that it contains marijuana and specifies
13 the amount of marijuana in the product, that the marijuana is intended for
14 medical use solely by the patient to whom it is sold, and that any resale or
15 redistribution of the medical marijuana to a third person is prohibited. In
16 addition, the label shall be in print large enough to be readable and shall
17 include:

18 a. Potential food allergy ingredients, including but
19 not limited to milk, eggs, fish, shellfish, tree nuts, peanuts, wheat, and
20 soybeans.

21 b. All additives used to extract THC, including,
22 without limitation, pesticides, herbicides and fertilizers that were used in the
23 cultivation of the medical marijuana used in the product.

24 c. The following warning:

25 THIS PRODUCT CONTAINS MARIJUANA. THIS PRODUCT IS
26 MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR
27 HEALTH, SAFETY OR EFFICACY. THERE MAY BE HEALTH RISKS
28 ASSOCIATED WITH THE INGESTION OR USE OF THIS PRODUCT.

1 2. The product shall be packaged in a single-serving
2 sized, sealed container that cannot be opened without obvious damage to
3 the packaging.

4
5 21.XX.140 Medical Marijuana Business Permit Application Process.

6 A. Any medical marijuana business desiring a conditional use
7 permit required by this Chapter shall, prior to initiating operations, complete
8 and file an application on a form supplied by the City, and shall submit the
9 completed application to the Department of Development Services with
10 payment of a nonrefundable processing and notification fee, as established
11 by the City Council by resolution.

12 B. Prior to accepting preliminary applications, the Department of
13 Development Services (“DDS”) shall cause to be posted on its website a
14 public notice of availability. The notice will appear on the DDS website for
15 thirty (30) consecutive days, immediately prior to the opening of the
16 preliminary application period.

17 C. DDS shall review each preliminary application and ensure that
18 the application is complete. To be considered complete, the preliminary
19 application must provide a street address for a medical marijuana business
20 that adheres to the location requirements in accordance with this Chapter.

21 D. Within ten (10) calendar days of receipt of a preliminary
22 application, DDS shall determine whether the application is complete and
23 notify the applicant accordingly.

24 E. If the preliminary application is incomplete, the applicant shall
25 be notified in writing within ten (10) calendar days of receipt of the
26 preliminary application, that the application is not complete and the reasons
27 therefore, including any additional information necessary to render the
28 application complete.

1 F. The medical marijuana business shall have five (5) calendar
2 days from the date of notice set forth above to complete the application.
3 The complete preliminary application must be submitted prior to the closing
4 of the preliminary application period. Failure to do so within the time
5 allotted shall render the application null and void.

6 G. Within ten (10) calendar days following the receipt of an
7 amended application or supplemental information, except where
8 circumstances beyond the control of the City justifiably delay such
9 response, DDS shall again determine whether the application is complete in
10 accordance with the procedures set forth above. Evaluation and notification
11 shall occur as provided above until such time as the application is found to
12 be complete or in the alternative null and void.

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

16 I. Upon notice that the applicant's preliminary application is
17 complete, the applicant shall have thirty (30) days to submit the a complete
18 CUP application as required by Chapter 21.25.

19 J. DDS shall complete an initial review of the applications and
20 assign points to each applicant in accordance with section _____. Sixty
21 (60) days from the date the preliminary application period closes, DDS will
22 post the point priority rankings on the its website and mail written
23 notification to each applicant indicating the total points assigned, and the
24 applicant's rank in the council district in which the proposed medical
25 marijuana business is located.

26 K. Each applicant will have ten (10) calendar days from the date
27 the notice of point priority ranking is mailed to contact DDS and confirm the
28 applicant will continue in the CUP process. Should an applicant fail to

1 contact DDS during this time, the application will be considered null and
2 void. Should and applicant wish to withdraw its application at this time, the
3 applicant may be eligible for a partial refund in accordance with procedures
4 established by DDS.

5 L. Once DDS receives confirmation to proceed with the CUP
6 process from an applicant, the application for CUP will be set for hearing in
7 accordance with Chapter 21.21 of the Long Beach Municipal Code, in order
8 of priority based on the point priority rank.

9
10 21.XX.150 Vacant Medical Marijuana Business Application Allocation.

11 A. The Director shall determine, at the end of the fourth calendar
12 quarter following implementation of this Chapter, and each year thereafter,
13 whether additional medical marijuana businesses may be allowed within the
14 City based on the total number of medical marijuana businesses per district.
15 Additional conditional use permit applications above those medical
16 marijuana businesses already permitted shall be accepted only to the
17 extent the Director of Development Services determines that initiation of the
18 conditional use permit application process will not lead the medical
19 marijuana businesses, as a group, to exceed the caps established pursuant
20 to Section 21.XX.XXX.

21 B. Should the Director of Development Services determine the
22 City can accommodate additional medical marijuana businesses within the
23 caps provided by this Chapter, DDS shall cause to be posted on its website
24 a public notice of availability and the potential number of conditional use
25 permits available. The notice will appear on the DDS website for thirty (30)
26 consecutive days, immediately prior to the opening of the preliminary
27 application period. The application process will then proceed in accordance
28 with section 21.XX.XXX of this Chapter.

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21.XX.160 Compliance with other applicable law.

A. Application of state and federal law.

Except as may be provided otherwise in this Chapter, or rules adopted pursuant to this Chapter or interpretations by the City, any law or regulation adopted by the state governing the cultivation, production, possession or distribution of marijuana for medical use shall also apply to medical marijuana businesses in the City. Provided however, if a state law or regulation permits what this Chapter prohibits, this Chapter shall prevail. Compliance with any applicable state law or regulation that does not permit what this Chapter prohibits shall be deemed an additional requirement for issuance or denial of any license under this Chapter, and noncompliance with any applicable state law or regulation is unlawful and shall be grounds for revocation or suspension of any license issued under this Chapter. No medical marijuana business shall continue operations in violation of an additional state law or regulation, which does not permit what this Chapter prohibits, applicable within the City after the effective date of the state law or regulation.

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

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

C. Revocable privilege.

1 A conditional use permit is a revocable privilege, and no applicant
2 therefor or holder thereof shall be deemed to have acquired any property
3 interest therein.

4
5 21.XX.170 Prohibited acts.

6 A. It shall be unlawful for any person to:

7 1. Cultivate, distribute, possess, or produce marijuana in
8 plain view of, or in a place open to the general public.

9 2. Smoke, use or ingest on the property of the medical
10 marijuana business:

11 a. Marijuana,

12 b. Alcoholic beverage, or

13 c. A controlled substance, except in compliance with
14 the directions of a legal prescription for the person from a doctor with
15 prescription writing privileges.

16 3. Operate or be in physical control of any medical
17 marijuana business, liquor establishment, vehicle, aircraft, or motorboat
18 while under the influence of alcohol, medical marijuana, or other intoxicant.

19 4. Possess medical marijuana that is not in a sealed
20 package in a location where the possessor is not authorized to possess or
21 consume medical marijuana.

22 5. Possess more than six (6) mature marijuana plants or
23 twelve (12) immature marijuana plants, or two (2) ounces of marijuana
24 without a conditional use permit. It shall be an affirmative defense to this
25 charge if a legitimate recommendation from a qualified physician of the
26 patient for whom the marijuana is being grown includes a recommendation
27 for an increased amount of marijuana as medically necessary to address
28 the patient's debilitating medical condition.

- 1 6. Obtain marijuana from a person who is not permitted
- 2 as a medical marijuana business.
- 3 7. Possess or operate a medical marijuana business in
- 4 violation of this Chapter.
- 5 8. Distribute medical marijuana without a conditional use
- 6 permit or outside of the restricted area of the medical marijuana business.
- 7 9. Deliver or transport medical marijuana to a patient.
- 8 10. Permit any other person to violate any provision of this
- 9 Chapter or any condition of an approval granted pursuant to this Chapter, or
- 10 any law, rule or regulation applicable to the use of medical marijuana or the
- 11 operation of a medical marijuana business.

12 11. Lease any property to a medical marijuana business

13 that has marijuana on the property without a conditional use permit from the

14 City.

15

16 21.XX.180 Suspension or revocation of permit.

17 A. A conditional use permit may be suspended or revoked for

18 any violation of this Chapter in accordance with the procedures provided in

19 Long Beach Municipal Code Chapter 21.21.

20 B. If the City revokes or suspends a permit, the business may

21 not move any marijuana from the property except under the supervision of

22 the Long Beach Police Department.

23

24 21.XX.190 Term of permit – renewals – expiration of permit.

25 A. Term of permit.

26 A conditional use permit shall be valid for five (5) years. The

27 permit shall expire on the last day of the month in which the permit is issued

28 of the year following issuance or renewal of the permit.

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B. Renewal of permit.

1. The Permittee shall apply for renewal of the conditional use permit at least forty-five days before the expiration of the permit. The Permittee shall apply for renewal using forms provided by the City. If the applicant fails to apply for renewal at least forty-five days before the expiration of the permit but does apply for renewal prior to expiration of the permit, the City may process the renewal application if the applicant submits a late filing fee of Five Thousand Dollars (\$5,000) at the time of submittal of the renewal application.

2. The renewal permit fee, and late fee if applicable, shall accompany the renewal application. Such fee is nonrefundable.

3. In the event there has been a change to any of the plans identified in the permit application which were submitted to and approved by the City with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.

4. In the event any person who has an interest as described in the disclosures made to the City pursuant to this Chapter, or any business manager, financier, agent as defined herein or employee has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed and the disposition of the violation with the renewal application.

5. In the event the business permit has been suspended or revoked or a Permittee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension or revocation.

6. The renewal application shall include proof of payment of

1 all applicable taxes required by the LBMC and verification that the business
2 has a valid state seller's permit in good standing.

3 7. The renewal application shall include a summary report
4 for the previous twelve (12) months showing the amount of marijuana
5 purchased, the amount of marijuana sold, the forms in which marijuana was
6 sold, the number of patients and the number of primary caregivers who
7 received marijuana, the police report numbers or case numbers of all police
8 calls to the medical marijuana business and for calls resulting in a charge of a
9 violation of any law, the charge, case number and disposition of any of the
10 charges.

11 8. The City shall not accept renewal applications after the
12 expiration of the permit, but instead shall require the applicant to file a new
13 permit application.

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

20 C. Nonpayment of tax.

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

26
27 21.XX.200 City manager authorized to issue rules.

28 The City Manager or his designee may adopt rules and regulations that

1 the City Manager determines are reasonably necessary to implement the
2 requirements of this Chapter.

3
4 21.XX.210 Violation and enforcement.

5 A. Any person violating any provision of this Chapter or
6 knowingly or intentionally misrepresenting any material fact in procuring a
7 conditional use permit, shall be deemed guilty of a misdemeanor
8 punishable by a fine of not more than one thousand dollars (\$1,000) or by
9 imprisonment for not more than twelve (12) months, or by both such fine
10 and imprisonment.

11 B. Any person who engages in any medical marijuana business
12 operations without a conditional use permit, or after a conditional use permit
13 application has been denied, or a medical marijuana permit has been
14 suspended or revoked, shall be guilty of a misdemeanor.

15 C. As a nuisance per se, any violation of this Chapter shall be
16 subject to injunctive relief, revocation of the certificate of occupancy for the
17 property, disgorgement and payment to the City of any and all monies
18 unlawfully obtained, costs of abatement, costs of investigation, attorney
19 fees, and any other relief or remedy available at law or equity. The City
20 may also pursue any and all remedies and actions available and applicable
21 under local and state law for any violations related to the operation of a
22 medical marijuana business.

23 D. Any violation of the terms and conditions of the conditional
24 use permit, of this Chapter, or of applicable local or state regulations and
25 laws shall be grounds for permit suspension or revocation.

26
27 21.XX.220 Establishment of a Medical Marijuana Task Force.

28 A. A Long Beach Medical Marijuana Task Force is established.

1 The Task Force shall consist of nine (9) members. Appointments to the
2 Task Force shall be made and vacancies on the Task Force shall be filled
3 by the Mayor and City Council in accordance with the provisions in Chapter
4 2.18 of this Code. Services of the members of the Task Force shall be
5 voluntary and members will serve without compensation.

6 B. All members of the Task Force shall be residents of the City.

7 The Task Force shall be comprised of the following members:

8 1. Three Task Force members shall be representatives from
9 three separate medical marijuana businesses operating in the City;

10 2. Five Task Force members shall be representatives of
11 recognized neighborhood organizations which have at least one medical
12 marijuana business operating within its boundaries; and

13 3. One Task Force member shall be a representative of a
14 local patient advocacy organization with a background in working to protect
15 the interests of medical marijuana patients.

16 C. The Medical Marijuana Task Force shall have the power and
17 duty to:

18 1. Recommend to the City operational and safety
19 standards for medical marijuana businesses operating in the City;

20 2. Develop and make recommendations for a mediation
21 process to be used by operators of medical dispensaries, patients, and
22 neighbors of dispensaries to address community concerns and nuisance
23 issues and resolve conflicts and disputes.

24 D. Sunset provision.

25 The Medical Marijuana Task Force shall terminate by operation
26 of law on December 31, 2017, and after that date, the City Attorney shall
27 cause this section to be removed from the Code.

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21.XX.230 Severability.

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

21.XX.240 Review of regulations.

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

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

Section 3. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) 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__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

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

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Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor