

ORDINANCE NO. ORD-05-0008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH TEMPORARILY PROHIBITING THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

The City Council of the City of Long Beach ordains as follows:

Section 1. Purpose and findings. Currently medical marijuana dispensaries are not a permitted use in any zoning district under the City's zoning ordinance. In other cities, issues and concerns have occurred related to the establishment of medical marijuana dispensaries in close proximity to residentially zoned properties and sensitive uses such as day care centers and schools. The City has received several inquiries about the establishment of a dispensary in the City. As a result, it is necessary to formulate regulations, consistent with State law, governing the location and operation of medical marijuana dispensaries in order to protect residents and businesses from potential harmful secondary effects of these establishments. Due to the recent proliferation of such establishments in other cities and because time will be required to prepare and adopt regulations regarding the operation of such facilities, this Ordinance is intended to place an interim moratorium on the establishment of any medical marijuana dispensaries as of the date of adoption hereof, until new regulations are prepared and adopted by the City Council.

Sec. 2. Moratorium established. A prohibition is hereby established on the licensing or development of medical marijuana dispensaries in the City. Notwithstanding any provision of the Long Beach Municipal Code to the contrary, no medical marijuana

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1 dispensary shall be established in the City, whether or not a permit of any kind is required
2 from the City; further, no application for a permit of any kind (including a business license
3 or building permit) will be processed or considered during the pendency of this ordinance,
4 or any extension thereof, for establishment of a medical marijuana dispensary. This
5 Ordinance and the moratorium established herein applies to any site, facility, location, use,
6 or business that distributes, dispenses, stores, sells, exchanges, processes, delivers, or
7 gives away marijuana for medical purposes to a qualified patient pursuant to Health and
8 Safety Code Section 11362.5 et seq. (adopted as Proposition 215, the "Compassionate
9 Use Act of 1996") or any State regulations adopted in furtherance thereof. This
10 moratorium shall be in effect for six months or until the effective date of an ordinance
11 permanently adopting regulations relating to the establishment of medical marijuana
12 facilities in the City, whichever occurs first.

13 Sec. 3. Definitions. For the purposes of this Ordinance, a "medical
14 marijuana dispensary" means a facility where marijuana is made available for medical
15 purposes in accordance with Health & Safety Code Section 11362.5. The word
16 "marijuana" shall have the same meaning as the definition of that word in Health & Safety
17 Code Section 11018.

18 Sec. 4. Penalties. Violation of any provision of this Ordinance shall
19 constitute a misdemeanor and shall be punishable by a fine not to exceed one thousand
20 dollars (\$1,000) or by imprisonment in County jail for not to exceed six (6) months, or by
21 both such fine and imprisonment. Each and every day such violation exists shall constitute
22 a separate and distinct violation of this Ordinance. In addition to the foregoing, any
23 violation of this Ordinance shall constitute a public nuisance and shall be subject to
24 abatement as provided by all applicable provisions of law.

25 Sec. 5. Severability. If any part or provision of this Ordinance or the
26 application to any person or circumstance is held invalid, the remainder of this Ordinance,
27 including the application of such part or provision to other persons or circumstances, shall
28 not be affected and shall continue in full force and effect. To this end, the provisions of this

1 Ordinance are severable.

2 Sec. 6. Urgency. Based upon the findings set forth in Section 1 hereof, the
3 recent proliferation of medical marijuana dispensaries in other cities, the interest in opening
4 such establishments within the City of Long Beach, and the potential secondary effects of
5 those dispensaries, a current and immediate threat to the public health, safety and welfare
6 exists. This Ordinance is necessary to alleviate and address that threat until permanent
7 regulations can be established.

8 Sec. 7. This ordinance is an emergency ordinance duly adopted by the City
9 Council by a vote of five of its members and shall take effect immediately. The City Clerk
10 shall certify to a separate roll call and vote on the question of the emergency of this
11 ordinance and to its passage by the vote of five members of the City Council of the City of
12 Long Beach, and cause the same to be posted in three conspicuous places in the City of
13 Long Beach.

14 This ordinance shall also be adopted by the City Council as a regular
15 ordinance, to the end that in the event of any defect or invalidity in connection with the
16 adoption of this ordinance as an emergency ordinance, the same shall, nevertheless, be
17 and become effective on the thirty-first day after it is approved by the Mayor. The City
18 Clerk shall certify to the passage of this ordinance by the City Council of the City of Long
19 Beach and shall cause the same to be posted in three conspicuous places in the City of
20 Long Beach.

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1 I hereby certify that on a separate roll call and vote which was taken by the
2 City Council of the City of Long Beach upon the question of emergency of this ordinance
3 at its meeting of May 10, 2005, the ordinance was declared to be an
4 emergency by the following vote:

5 Ayes: Councilmembers: Lowenthal, Baker, Colonna,
6 Richardson, Reyes Uranga,
7 Gabelich, Lerch, Kell.
8 Noes: Councilmembers: None.
9 _____
10 Absent: Councilmembers: O'Donnell.
11 _____
12 _____

13 I further certify that thereafter, at the same meeting, upon a roll call and vote
14 on adoption of the ordinance, it was adopted by the City Council of the City of Long Beach
15 by the following vote:

16 Ayes: Councilmembers: Lowenthal, Baker, Colonna,
17 Richardson, Reyes Uranga,
18 Gabelich, Lerch, Kell.
19 Noes: Councilmembers: None.
20 _____
21 Absent: Councilmembers: O'Donnell.
22 _____
23 _____

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I further certify that the foregoing ordinance was thereafter adopted on final reading by the City Council of the City of Long Beach at its meeting of _____, 2005, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor

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