



CITY OF LONG BEACH

OFFICE OF THE CITY MANAGER

C-3

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January 17, 2017

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt a Resolution authorizing state and federal level summary criminal history information for licensing of medical marijuana businesses under Chapter 5.90 of the Long Beach Municipal Code, and authorizing the City Manager, or designee, to execute all necessary agreements and amendments, if any, required for access to such information. (Citywide)

DISCUSSION

On November 8, 2016, the citizens of Long Beach voted to approve Measure MM, which permits and regulates medical marijuana businesses in the City of Long Beach (City), by repealing Chapter 5.89 and adding Chapter 5.90 to the Long Beach Municipal Code (LBMC). Chapter 5.90 of the LBMC (Chapter 5.90) allows for licensed medical marijuana dispensaries, manufacturing facilities, cultivation sites, distribution facilities, and laboratory testing to operate in the City.

In order for a medical marijuana business to be issued a marijuana business license, Chapter 5.90 requires all business owners, managers, and employees to undergo Live Scan fingerprint imaging, and to provide criminal history information to the Long Beach Police Department.

Chapter 5.90 specifically prohibits medical marijuana business owners and managers from, among other things, being convicted within the previous ten years of any violent or serious felony conviction specified in Penal Code Sections 667.5 and 1192.7, having any felony conviction involving fraud, deceit or embezzlement, or being currently on parole or probation for the sale or distribution of a controlled substance. A medical marijuana business is also prohibited from hiring employees with any type of violent or serious felony, any felony conviction involving fraud, deceit or embezzlement, and/or any narcotic drug related misdemeanor conviction, if that business certifies on its application that, as a condition of its business license, it will not hire employees with the aforementioned criminal histories.

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For the City to verify that marijuana business applicants satisfy these conditions, the Police Department will require access to state and federal level summary criminal history information. In order to receive this level of access from the Department of Justice, the City Council must formally authorize the Police Department access to summary criminal history information for employment, licensing, or certification purposes.

This matter was reviewed by Deputy City Attorney Monica J. Kilaita and by Budget Management Officer Rhutu Amin Gharib on January 6, 2017.

TIMING CONSIDERATIONS

City Council action is requested on January 17, 2017, to facilitate the opening of the application process for dispensary licenses on January 23, 2017. The application period for all other medical marijuana business types is still to be determined.

FISCAL IMPACT

There is no fiscal impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



PATRICK H. WEST
CITY MANAGER

PHW:AK

Attachment

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LONG BEACH AUTHORIZING STATE AND FEDERAL LEVEL
SUMMARY CRIMINAL HISTORY INFORMATION FOR
LICENSING OF MEDICAL MARIJUANA BUSINESSES
UNDER CHAPTER 5.90 OF THE LONG BEACH MUNICIPAL
CODE, AND AUTHORIZING THE CITY MANAGER, OR
DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS
AND AMENDMENTS, IF ANY, REQUIRED FOR ACCESS TO
SUCH INFORMATION

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize
cities to access state and local summary criminal history information for employment,
licensing or certification purposes; and

WHEREAS, Penal Code Section 11105(b)(11) also authorizes cities to
access federal level criminal history information by transmitting fingerprint images and
related information to the Department of Justice to be transmitted to the Federal Bureau
of Investigation; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require
that there be a requirement or exclusion from employment, licensing, or certification
based on specific criminal conduct on the part of the subject of the record; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require
the governing body, such as a city council, to specifically authorize access to summary
criminal history information for employment, licensing, or certification purposes; and

WHEREAS, Chapter 5.90 of the Long Beach Municipal Code ("LBMC")
allows for the licensing of medical marijuana businesses for operation in the City of Long
Beach; and

1 WHEREAS, in order for a medical marijuana business to be issued and/or
2 maintain a medical marijuana business license, Chapter 5.90 of the LBMC requires all
3 business owners, managers, and employees to undergo Live Scan fingerprint imaging, of
4 which results shall be provided to the City of Long Beach Police Department; and

5 WHEREAS, Section 5.90.050 of the LBMC specifically prohibits medical
6 marijuana business owners and managers from, among other things, being convicted
7 within the previous ten (10) years of any violent or serious felony as specified in Sections
8 667.5 and 1192.7 of the Penal Code, having any felony conviction involving fraud, deceit
9 or embezzlement, and/or being currently on parole or probation for the sale or distribution
10 of a controlled substance; and

11 WHEREAS, Section 5.90.070 of the LBMC, establishing a Priority Point
12 System for certain Medical Marijuana Dispensary Applicants, allows said Applicants to
13 certify that, as a condition of maintaining their medical marijuana business license permit,
14 if issued, they will not employ anyone with any violent or serious felony conviction(s) as
15 specified in Sections 667.5 and 1192.7 of the Penal Code, any felony conviction involving
16 fraud, deceit or embezzlement, and/or any narcotic drug related misdemeanor conviction;

17 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
18 follows:

19 Section 1. The City of Long Beach is hereby authorized to access state
20 and federal level summary criminal history information for all medical marijuana business
21 license applicants/owners and management employees for the purposes of licensing
22 medical marijuana businesses under LBMC Chapter 5.90.

23 Section 2. The City of Long Beach is hereby authorized to access state
24 and federal level summary criminal history information for all employees of medical
25 marijuana businesses if the business has certified that, as a condition of maintaining its
26 business license, no employee will have any type of violent or serious felony conviction(s)
27 as specified in Sections 667.5 and 1192.7 of the Penal Code, any felony conviction
28 involving fraud, deceit or embezzlement, and/or any narcotic drug related misdemeanor

1 conviction, for the purposes of licensing under LBMC Chapter 5.90.

2 Section 3. The City of Long Beach may not disseminate any of the
3 criminal history information to a private entity.

4 Section 4. This resolution shall take effect immediately upon its adoption
5 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

6 I hereby certify that the foregoing resolution was adopted by the City
7 Council of the City of Long Beach at its meeting of _____, 2017,
8 by the following vote:

9

10 Ayes: Councilmembers: _____

11 _____

12 _____

13 _____

14 Noes: Councilmembers: _____

15 _____

16 Absent: Councilmembers: _____

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18 _____

19 _____

20 City Clerk

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