



OFFICE OF THE CITY ATTORNEY
Long Beach, California

R-16

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January 19, 2010

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Enclosed for your review and consideration is a revised draft ordinance relating to the regulation of Medical Marijuana establishments. This document has been prepared after consultation with the Long Beach Police and Health Departments and incorporates their suggestions, as well as those changes requested by the City Council on November 10, 2009.

SUGGESTED ACTION:

Receive public input and discuss draft ordinance.

Very truly yours,

ROBERT E. SHANNON
City Attorney

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ORDINANCE NO.

1
2
3 AN ORDINANCE OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH AMENDING THE LONG BEACH
5 MUNICIPAL CODE BY ADDING CHAPTER 5.87 TO
6 IMPLEMENT THE STATE COMPASSIONATE USE ACT
7 AND STATE MEDICAL MARIJUANA PROGRAM ACT.
8

9 WHEREAS, California voters approved the Compassionate Use Act
10 ("CUA") in 1996 to exempt seriously ill patients and their primary caregivers from
11 criminal liability for possession and cultivation of marijuana for medical purposes; and

12 WHEREAS, the Medical Marijuana Program Act of 2003 ("MMPA")
13 provides for the association of primary caregivers and qualified patients to cultivate
14 marijuana for specified medical purposes and also authorizes local governing bodies to
15 adopt and enforce laws consistent with its provisions; and

16 WHEREAS, there have been recent reports from the Long Beach Police
17 Department and the media of increasing numbers of medical marijuana dispensaries
18 operating in the City of Long Beach; and

19 WHEREAS, medical marijuana that has not been collectively or
20 personally grown may constitute a unique health hazard to the public because, unlike
21 all other ingestibles, marijuana is not regulated, inspected, or analyzed for
22 contamination by state or federal government and may contain harmful chemicals that
23 could further endanger the health of persons already seriously ill; and

24 WHEREAS, the City of Long Beach has a compelling interest in protecting
25 the public health, safety and welfare of its residents and businesses, in preserving the
26 peace and quiet of the neighborhoods in which medical marijuana collectives operate,
27 and in providing compassionate access to medical marijuana to its seriously ill
28 residents;

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

3
4 Section 1. Chapter 5.87 is added to the Long Beach Municipal Code to
5 read as follows:

6 Chapter 5.87

7 MEDICAL MARIJUANA COLLECTIVE

8
9 5.87.010 Purpose and intent.

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

25
26 5.87.015 Definitions.

27 Unless the particular provision or the context otherwise requires,
28 the definitions and provisions contained in this Section shall govern the

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1 construction, meaning, and application of words and phrases as used in
2 this Chapter:

3 A. “Administrative Use Permit” as used in this Chapter is
4 defined to mean the permit issued by the Director of Financial
5 Management following a public hearing to allow a Medical Marijuana
6 Collective land use.

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

18 BC. “Chief of Police” as used in this Chapter is defined to mean
19 the Chief of the Long Beach Police Department or her/his designee.

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

24 DE. “Director of Financial Management” as used in this Chapter
25 is defined to mean the Director of Financial Management for the City of
26 Long Beach or her/his designee.

27 F. “Edible Medical Marijuana” as used in this Chapter is
28 defined to mean any article used for food, drink, confectionery, condiment

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1 or chewing gum by human beings whether such article is simple, mixed or
2 compound, which contains physician recommended quantities of Medical
3 Marijuana, and is produced on-site at a Collective permitted pursuant to
4 this Chapter within the City of Long Beach.

5 EG. "Identification Card" shall have the same definition as given
6 such term in California Health and Safety Code Section 11362.7, as may
7 be amended, and which defines "Identification Card" as a document
8 issued by the State Department of Health Services which identifies a
9 person authorized to engage in the medical use of marijuana, and
10 identifies the person's designated primary caregiver, if any.

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

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

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1 HJ. “Medical Marijuana” means Marijuana used for medical
2 purposes in accordance with California Health and Safety Code Sections
3 11362.5, *et seq.*

4 K. “Medical Marijuana Collective” (“Collective”) means an
5 incorporated or unincorporated association, composed of four (4) or more
6 Qualified Patients and their designated Primary Caregivers who associate
7 at a particular location or Property to collectively or cooperatively cultivate
8 Marijuana for medical purposes, in accordance with California Health and
9 Safety Code Sections 11362.5, *et seq.* For purposes of this Chapter, the
10 term Medical Marijuana “cooperative” shall have the same meaning as
11 Medical Marijuana Collective.

12 L. “Primary Caregiver” shall have the same definition as given
13 such term in California Health and Safety Code Sections 11362.5 and
14 11362.7 (as set forth in Appendix A of this Chapter), as may be amended,
15 and which define “Primary Caregiver” as an individual, designated by a
16 Qualified Patient, who has consistently assumed responsibility for the
17 housing, health, or safety of that Qualified Patient.

18 M. “Property” as used in this Chapter means the location at
19 which the Medical Marijuana Collective members associate to collectively
20 or cooperatively cultivate and distribute Medical Marijuana exclusively for
21 the Collective members.

22 N. “Qualified Patient” means a person who is entitled to the
23 protections of Health and Safety Code Section 11362.5 for patients who
24 obtain and use marijuana for medical purposes upon the recommendation
25 of an Attending Physician, whether or not that person applied for and
26 received a valid Identification Card issued pursuant to State Law.

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1 MO. "State Law" means the state regulations set forth in the
2 Compassionate Use Act and the Medical Marijuana Program Act, codified
3 in California Health and Safety Code Sections 11362.5, *et seq.*

4
5 5.87.020 Medical Marijuana Collective – Administrative Use Permit required.

6 No Medical Marijuana Collective or member shall carry on, maintain
7 or conduct any Medical Marijuana Collective related operations in the City
8 without first obtaining a Medical Marijuana Collective Administrative Use
9 Permit from the Department of Financial Management.

10
11 5.87.030 Medical Marijuana Collective – Administrative Use Permit
12 application process.

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

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

- 24 1. The address of the Property where the proposed Medical
25 Marijuana Collective will operate;
- 26 2. A site plan describing the Property with fully
27 dimensioned interior and exterior floor plans including electrical,
28 mechanical, plumbing, and disabled access compliance pursuant to Title

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1 24 of the State of California Code of Regulations and the federally
2 mandated Americans with Disabilities Act;_

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

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

7 35. If the Property is being rented or leased or is being
8 purchased under contract, a copy of such lease or contract;_

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

13 ~~5. The name, address and telephone number of each~~
14 ~~Medical Marijuana Collective member, whether the member is a Qualified~~
15 ~~patient or designated Primary Caregiver, and the name of the member(s)~~
16 ~~making the designation(s);~~

17 67. The name, address, telephone number, title and
18 function(s) of each Management Member;_

19 78. For each Management Member, a fully legible copy
20 of one (1) valid government issued form of photo identification, such as a
21 State Driver's License or Identification Card;_

22 89. Written confirmation as to whether the Medical
23 Marijuana Collective previously operated in this or any other county, city
24 or state under a similar license/permit, and whether the Collective
25 applicant ever had such a license/permit revoked or suspended and the
26 reason(s) therefore;_

27 910. If the Medical Marijuana Collective is a corporation,

28 a. a certified copy of the Collective's Secretary of

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State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information;

b. and a copy of the Collective's By laws.

c. ~~Written verification of the Collective's~~

~~California tax exempt status;~~

d. ~~Written verification of the Collective's federal~~

~~tax exempt status; and~~

e. ~~Written verification that the Collective is~~

~~registered with the California Office of the Attorney General as a non profit entity;~~

4011. If the Medical Marijuana Collective is an unincorporated association, a copy of the Articles of Association;

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

4113. A copy of the Medical Marijuana Collective operating conditions, listed in Section 5.87.040, containing a statement dated and signed by each Management Member, under penalty of perjury, that they read, understand and shall ensure compliance with the aforementioned operating conditions;

4214. A copy of the Prohibited Activity, listed in Section 5.87.090, containing a statement dated and signed by each Management Member, under penalty of perjury, that they read, understand and shall ensure that neither the Collective nor its members shall not engage in the aforementioned prohibited activity; and

4315. A statement dated and signed by each ~~Medical Marijuana Collective~~ Management Member, under penalty of perjury, that the Management Member has personal knowledge of the information contained in the application, that the information contained therein is true

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and correct, and that the application has been completed under the supervision of the Management Member(s);.

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

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

1. Within seven (7) business days of receipt of a Medical Marijuana Collective Administrative Use Permit application, except where circumstances beyond the control of the City justifiably delay such response, the Director of Financial Management shall determine whether the application is complete.

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

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

4. Within five (5) business days following the receipt of an amended application or supplemental information, except where circumstances beyond the control of the City justifiably delay such response, the Director of Financial Management shall again determine whether the application is complete in accordance with the procedures set forth above. Evaluation and notification shall occur as provided above

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1 until such time as the application is found to be complete or in the
2 alternative null and void.

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

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

10 C. On receipt of the completed Medical Marijuana Collective
11 Administrative Use Permit application, the Director of Financial
12 Management shall refer the application to all concerned City departments,
13 including, but not limited to, Police, Fire, Health, Development Services
14 and Code Enforcement for investigation. Such departments shall file a
15 report providing recommendations regarding the approval or denial of the
16 permit with the Director of Financial Management within sixty (60)
17 calendar days after the completed application is filed, except where
18 circumstances beyond the control of the City justifiably delay such
19 response.

20 D. The Director of Financial Management shall cause a hearing
21 to be conducted not later than thirty (60) days from the date the completed
22 Administrative Use Permit application was submitted, except where
23 circumstances beyond the control of the City justifiably delay said
24 timeframe, and shall cause the owners of property located within seven-
25 hundred-and-fifty-feet (750') of the proposed Property to be sent advance
26 notice of the date, time, and place of the hearing. The applicant shall be
27 given at least ten (10) business days written notice of such hearing.

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

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

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

5.87.040 Medical Marijuana Collective Administrative Use Permit approval and operating conditions.

The Director of Financial Management shall approve and issue a Medical Marijuana Collective Administrative Use Permit if the application and evidence submitted in the hearing, conducted pursuant to Section

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1 5.87.030, Subdivisions (D) and (E) as set forth above, sufficiently
2 demonstrate that:

3 A. The Property is not located in an area zoned in the City for
4 ~~either exclusive commercial or exclusive industrial~~ residential use.
5 Medical Marijuana Collectives are not permitted to operate in exclusive
6 residential zones ~~or mixed-use zones having a residential component~~ as
7 established pursuant to Title 21 of this Code;

8 ~~B. The Medical Marijuana Collective does not abut and is not~~
9 ~~located across the street or alley from or have a common corner with a~~
10 ~~property zoned for residential use as set forth in Title 21 of this Code;~~

11 ~~C.~~ B. The Medical Marijuana Collective is not located within a one
12 thousand five hundred foot (1,0500') radius of a school, ~~public park, public~~
13 ~~library, state licensed child care facility, playground, youth center or other~~
14 ~~Medical Marijuana Collective.~~ The distance specified in this subdivision
15 shall be determined by the horizontal distance measured in a straight line
16 from the property line of the school, ~~public park, public library, state~~
17 ~~licensed child care facility, playground, youth center or other Medical~~
18 ~~Marijuana Collective,~~ to the closest property line of the lot on which the
19 Medical Marijuana Collective is located, without regard to intervening
20 structures;

21 C. The Medical Marijuana Collective is not located within a one
22 thousand foot (1,000') radius of a state licensed child care facility,
23 playground, youth center or other Medical Marijuana Collective. The
24 distance specified in this subdivision shall be determined by the horizontal
25 distance measured in a straight line from the property line of the state
26 licensed child care facility, playground, youth center or other Medical
27 Marijuana Collective, to the closest property line of the lot on which the

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1 Medical Marijuana Collective is located, without regard to intervening
2 structures.

3 D. Exterior building lighting and parking area lighting for the at
4 the Property on which the Medical Marijuana Collective is located are in
5 compliance with all applicable provisions of this Code;

6 E. Any exterior signs or interior signs visible from the exterior of
7 the Property where the Medical Marijuana Collective is located are shall
8 be unlighted.

9 F. Windows and roof hatches at the Property where the
10 Medical Marijuana Collective is located are shall be secured so as to
11 prevent unauthorized entry, and are equipped with latches that may be
12 released quickly from the inside to allow exit in the event of emergency
13 and are in compliance with all applicable building code provisions.

14 G. The Property within which the Medical Marijuana Collective
15 is located provides sufficient sound absorbing insulation so that noise
16 generated inside the premises is not audible anywhere on the adjacent
17 property or public rights-of-way, or within any other building or other
18 separate unit within the same building as the Medical Marijuana
19 Collective.

20 H. The Property within which the Medical Marijuana Collective
21 is located provides a sufficient odor absorbing ventilation and exhaust
22 system so that odor generated inside the Property is not detected outside
23 the Property, anywhere on adjacent property or public rights-of-way, or
24 within any other unit located within the same building as the Medical
25 Marijuana Collective.

26 I. The location and Property is monitored at all times by web-
27 based closed-circuit television for security purposes. The camera and
28 recording system must be of adequate quality, color rendition and

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1 resolution to allow the ready identification of an individual on or adjacent
2 to the Property. The recordings shall be maintained at the Property for a
3 period of not less than thirty (30) days, ~~and shall be made available by the~~
4 ~~Collective to the Long Beach Police Department upon request. Consent is~~
5 ~~given by the Collective under this Chapter to provide said recordings to~~
6 ~~the Police Department without requirement for a search warrant,~~
7 ~~subpoena or court order.~~

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

10 K. A sign is posted in a conspicuous location inside the ~~Medical~~
11 ~~Marijuana Collective~~ Property advising:

12 1. "The diversion of marijuana for non-medical purposes
13 is a violation of State law.

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

16 3. Loitering at the location of a Medical Marijuana
17 Collective for an illegal purpose is prohibited by California Penal Code
18 Section 647(h)."

19 L. Each applicant manufacturing Edible Medical Marijuana shall
20 manufacture the Edible Medical Marijuana products at the Property for the
21 sole consumption by Qualified Patient members of the Collective, in
22 compliance with all applicable federal, state and local laws.

23 M. The Medical Marijuana Collective possesses a valid Los
24 Angeles County Sanitation District, Industrial Waste Permit for the
25 Property.

26 LN. The Medical Marijuana Collective meets specific, additional
27 operating procedures and/or measures imposed as conditions of approval
28 by City departments all applicable South Coast Air Quality Management

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1 District rules and regulations; Los Angeles County Sanitation District rules
2 and regulations; City of Long Beach Departments of Police, Fire, Health
3 and Human Services, Development Services, Code Enforcement, and
4 Financial Management rules, regulations, requirements and conditions; as
5 well as all federal state and local laws to ensure that the operations of the
6 Collective are consistent with the protection of the health, safety and
7 welfare of the community, Qualified Patients and their Primary Caregivers,
8 and will not adversely affect surrounding uses.

9
10 5.87.050 Medical Marijuana Collective Administrative Use Permit – Non
11 transferable.

12 A Medical Marijuana Collective Administrative Use Permit issued
13 pursuant to this Chapter shall become null and void upon the cessation of
14 the Collective, upon the relocation of the Collective to a different Property,
15 or upon a violation by the Collective or any of its members of a provision
16 of this Chapter.

17
18 5.87.060 Maintenance of records.

19 A. A Medical Marijuana Collective shall maintain the following
20 accurate and truthful records on the Property ~~accurately and truthfully~~
21 ~~documenting~~:

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

24 2. The full name, address, and telephone number(s) of
25 each Collective member engaged in the management of the Collective
26 and the exact nature of the participation in the management of the
27 Collective;

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1 3. The full name, address, and telephone number(s) of
2 each Collective member who participates in the Collective cultivation of
3 Medical Marijuana, ~~the date each member joined the Collective and the~~
4 ~~exact nature of each member's participation;~~

5 4. ~~The full name, address, and telephone number(s) of each~~
6 ~~member to whom the Collective provides medical marijuana;~~

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

12 65. A written accounting of all contributions, whether in
13 cash or in kind, by the Collective members to the Collective, and all
14 expenditures incurred by the Collective for the cultivation of Medical
15 Marijuana;

16 76. An inventory record documenting the dates and
17 amounts of Medical Marijuana cultivated on at the Property, and including
18 the daily amounts of Marijuana stored on the Property at any given time;

19 87. Proof of a valid Medical Marijuana Collective
20 Administrative Use Permit issued by the Department of Financial
21 Management in conformance with this Chapter.

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

26 B. These records shall be maintained by the Medical Marijuana
27 Collective for a period of five (5) years and shall be made available by the
28 Collective to the City upon request, subject to the authority set forth in

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~~Section 5.87.070. Consent is given by the Medical Marijuana Collective and its members pursuant to this Chapter to provide said records to the City without requirement for a search warrant, subpoena or court order.~~

5.87.070 Inspection authority.

City representatives may enter and inspect the Property and records of every Medical Marijuana Collective between the hours of ten o'clock (10:00) A.M. and eight o'clock (8:00) P.M., or at any reasonable time to ensure compliance and enforcement of the provisions of this Chapter, except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. It is unlawful for any Property owner, landlord, lessee, Medical Marijuana Collective member or any other person having any responsibility over the operation of the Medical Marijuana Collective to refuse to allow, impede, obstruct or interfere with an inspection, ~~review or copying of records and closed-circuit monitoring authorized and required under this Chapter, including but not limited to, the concealment, destruction, and falsification of any records or monitoring.~~

5.87.080 Existing Medical Marijuana operations.

Any existing Medical Marijuana Collective, dispensary, operator, establishment, or provider that does not comply with the requirements of this Chapter must immediately cease operation until such time, if any, when it complies fully with the requirements of this Chapter. No Medical Marijuana Collective, dispensary, operator, establishment, or provider that existed prior to the enactment of this Chapter shall be deemed to be a

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1 legally established use or a legal non-conforming use under the provisions
2 of this Chapter or the Code.

3
4 5.87.090 Prohibited activity.

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

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

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

17 D. No Medical Marijuana Collective or member shall cause or
18 permit the sale, distribution or exchange of Medical Marijuana cultivated
19 at the Property or of any Edible Medical Marijuana product manufactured
20 at the Property to any non Collective member;

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

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1 members of the Collective.

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

9 G. No manufacture of Concentrated Cannabis in violation of
10 California Health and Safety Code Section 11379.6 is allowed;.

11 H. No Medical Marijuana Collective shall be open to or provide
12 Medical Marijuana to its members between the hours of eight o'clock
13 (8:00) P.M. and ten o'clock (10:00) A.M.;.

14 I. ~~No sale of Medical Marijuana or of edible products~~
15 ~~containing Marijuana shall be allowed, nor shall the manufacturing of~~
16 ~~these products for sale be permitted~~, in any form including Edible Medical
17 Marijuana products, shall be permitted;.

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

22 ~~K. No Medical Marijuana Collective shall possess more than~~
23 ~~five (5) pounds of dried marijuana or more than one hundred (100) plants~~
24 ~~of any size at the property;~~

25 ~~L.K.~~ No Medical Marijuana Collective shall possess Marijuana
26 that was not cultivated by its members either at the Property or at its
27 predecessor location fully permitted in accordance with this Chapter;.

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ML. No Medical Marijuana Collective or member shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on the Property or in the parking area of the Property;

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

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

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

O. Medical Marijuana Collective membership, established pursuant to this Chapter, shall be limited to one Collective fully permitted in accordance with this Chapter.

P. No 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, shall be engaged directly or indirectly in the management of the Medical Marijuana Collective nor, further, shall manage or handle the receipts and expenses of the Collective.

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1 5.87.100 Violation and enforcement.

2 A. Any person violating any provision of this Chapter or
3 knowingly or intentionally misrepresenting any material fact in procuring
4 the permit herein provided for, shall be deemed guilty of a misdemeanor
5 punishable by a fine of not more than one thousand dollars (\$1,000.00) or
6 by imprisonment for not more than twelve (12) months, or by both such
7 fine and imprisonment.

8 B. Any person who engages in any Medical Marijuana
9 Collective operations after a Medical Marijuana Collective permit
10 application has been denied, or a Medical Marijuana Collective permit has
11 been suspended or revoked, and before a new permit is issued, shall be
12 guilty of a misdemeanor.

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

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

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5.87.110 Appeal process.

~~A. If a City department determines that the applicant does not fulfill applicable requirements of this Chapter, the Director of Financial Management shall deny said permit application in accordance with the provisions set forth in Section 5.06.020, Subsection A, of this Code.~~

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

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

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

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

7
8 5.87.120 Operative date.

9 ~~No Medical Marijuana Collective permit application shall be~~
10 ~~accepted by the Department of Financial Management prior to the~~
11 ~~effective date of this ordinance.~~ This ordinance will be come effective
12 ninety (90) days following its passage and adoption. The Department of
13 Financial Management will accept completed Medical Marijuana Collective
14 permit applications ninety (90) days prior to the effective date of this
15 ordinance.

16
17 5.87.130 Severability.

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

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

28 I hereby certify that the foregoing Ordinance was adopted by the City

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1 Council of the City of Long Beach at its meeting of _____, 2010, by the
2 following vote:

3 Ayes: Councilmembers:

7 Noes: Councilmembers:

9 Absent: Councilmembers:

13 _____
City Clerk

15 Approved: _____

Mayor

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