

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;

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

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

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

7 B. "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 C. "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 D. "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 E. "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

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 G. "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 H. "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 I. "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.

28

1 J. "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 locations or Propertyies in the City of Long Beach to
8 collectively or cooperatively cultivate Marijuana for medical purposes or
9 and distribute said Medical Marijuana to Collective members and
10 Management Members, in accordance with California Health and Safety
11 Code Sections 11362.5, *et seq.* For purposes of this Chapter, the term
12 Medical Marijuana "cooperative" shall have the same meaning as Medical
13 Marijuana Collective.

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

20 M. "Property" as used in this Chapter means the location or
21 locations within the City of Long Beach at which the Medical Marijuana
22 Collective members and Management Members associate to collectively
23 or cooperatively cultivate or and distribute Medical Marijuana exclusively
24 for the Collective members and Management Members.

25 N. "Qualified Patient" means a person who is entitled to the
26 protections of Health and Safety Code Section 11362.5 for patients who
27 obtain and use marijuana for medical purposes upon the recommendation
28 of an Attending Physician, whether or not that person applied for and

1 received a valid Identification Card issued pursuant to State Law.

2 O. "Reasonable Compensation" means compensation
3 commensurate with reasonable wages and benefits paid to employees of
4 IRS-qualified non-profit organizations who have similar job descriptions
5 and duties, required level of education and experience, prior individual
6 earnings history, and number of hours worked. The payment of a bonus
7 shall not be considered "Reasonable Compensation."

8 P. "State Law" means the state regulations set forth in the
9 Compassionate Use Act and the Medical Marijuana Program Act, codified
10 in California Health and Safety Code Sections 11362.5, *et seq.*

11
12 5.87.020 Medical Marijuana Collective – Permit required.

13 No Medical Marijuana Collective, Management Member or member
14 shall carry on, maintain or conduct any Medical Marijuana Collective
15 related operations in the City without first obtaining a Medical Marijuana
16 Collective Permit from the Department of Financial Management.

17
18 5.87.030 Medical Marijuana Collective – Permit application process.

19 Any Medical Marijuana Collective desiring a Permit required by this
20 Chapter shall, prior to initiating operations, complete and file an
21 application on a form supplied by the Department of Financial
22 Management, and shall submit with the completed application payment of
23 a nonrefundable processing and notification fee, as established by the City
24 Council by resolution. The Medical Marijuana Collective Permit application
25 is established to provide a review process for each proposed Medical
26 Marijuana Collective operation within the City.

27 A. Filing. The Medical Marijuana Collective shall provide the
28 following information:

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1. The address of the Property or Properties where the proposed Medical Marijuana Collective will operate.
2. A site plan describing the Property or Properties with fully dimensioned interior and exterior floor plans including electrical, mechanical, plumbing, and disabled access compliance pursuant to Title 24 of the State of California Code of Regulations and the federally mandated Americans with Disabilities Act.
3. Exterior photographs of the entrance(s), exit(s), street frontage(s), parking, front, rear and side(s) of the proposed Property or Properties.
4. Photographs depicting the entire interior of the proposed Property or Properties.
5. If the Property or Properties is are being rented or leased or is being purchased under contract, a copy of such leases or contracts.
6. If the Property or Properties is are being rented or leased, written proof that the Property owner(s), and landlord(s) if applicable, were given notice that the Property or Properties will be used as a Medical Marijuana Collective, and that the Property owner(s), and landlord(s) if applicable, agree(s) to said operations.
7. The name, address, telephone number, title and function(s) of each Management Member.
8. For each Management Member, a fully legible copy of one (1) valid government issued form of photo identification, such as a State Driver's License or Identification Card.
9. Written confirmation as to whether the Medical Marijuana Collective previously operated in this or any other county, city or state under a similar license/permit, and whether the Collective applicant ever had such a license/permit revoked or suspended and the

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1 reason(s) therefore.

2 10. If the Medical Marijuana Collective is a corporation, a
3 certified copy of the Collective's Secretary of State Articles of
4 Incorporation, Certificate(s) of Amendment, Statement(s) of Information
5 and a copy of the Collective's By laws.

6 11. If the Medical Marijuana Collective is an unincorporated
7 association, a copy of the Articles of Association.

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

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

15 14. A copy of the Prohibited Activity, listed in Section 5.87.090,
16 containing a statement dated and signed by each Management Member, under
17 penalty of perjury, that they read, understand and shall ensure that neither the
18 Collective nor its members and Management Members shall engage in the
19 aforementioned prohibited activity.

20 15. A statement dated and signed by each Management
21 Member, under penalty of perjury, that the Management Member has
22 personal knowledge of the information contained in the application, that the
23 information contained therein is true and correct, and that the application
24 has been completed under the supervision of the Management Member(s);

25 16. Whether Edible Medical Marijuana will be prepared at the
26 proposed Property or Properties.

27 17. The Property address(es) where any and all Medical
28 Marijuana will be cultivated by the Collective within the boundaries of the City of

1 Long Beach.

2 18. The Property address(es) where any and all Medical
3 Marijuana will be distributed to the Collective members and Management
4 Members.

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

7 1. Within ten (10) business days of receipt of a Medical
8 Marijuana Collective Permit application, except where circumstances
9 beyond the control of the City justifiably delay such response, the Director
10 of Financial Management shall determine whether the application is
11 complete.

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

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

23 4. Within ten (10) business days following the receipt of
24 an amended application or supplemental information, except where
25 circumstances beyond the control of the City justifiably delay such
26 response, the Director of Financial Management shall again determine
27 whether the application is complete in accordance with the procedures set
28 forth above. Evaluation and notification shall occur as provided above

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

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

27 E. The Director of Financial Management shall render her/his
28 decision not later than fifteen (15) days after the hearing is closed. The

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1 report shall be in writing and shall include findings of fact, including but not
2 limited to each operating condition set forth in Section 5.87.040, a
3 summary of the relevant evidence, a statement of the issues, a resolution
4 of the credibility of witnesses where there is conflicting testimony and a
5 recommended decision. A copy of the report shall be served on all parties.

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

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

21
22 5.87.040 Medical Marijuana Collective Permit approval and operating
23 conditions.

24 The Director of Financial Management shall approve and issue a
25 Medical Marijuana Collective Permit if the application and evidence
26 submitted in the hearing, conducted pursuant to Section 5.87.030,
27 Subdivisions (D) and (E) as set forth above, sufficiently demonstrate that:

28 A. The Property or Properties is are not located in an area

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1 zoned in the City for exclusive residential use. Medical Marijuana
2 Collectives are not permitted to operate in exclusive residential zones as
3 established pursuant to Title 21 of this Code.

4 B. The Medical Marijuana Collective is not located within a one
5 thousand five hundred foot (1,500') radius of a public or private high
6 school or within a five hundred foot (500') radius of a public or private
7 kindergarten, elementary, middle or junior high school. The distances
8 specified in this subdivision shall be determined by the horizontal distance
9 measured in a straight line from the property line of the school to the
10 closest property line of the lot on which the Medical Marijuana Collective
11 is located, without regard to intervening structures.

12 C. The Medical Marijuana Collective is not located within a one
13 thousand foot (1,000') radius of any other Medical Marijuana Collective.
14 The distance specified in this subdivision shall be determined by the
15 horizontal distance measured in a straight line from the property line of
16 any other Medical Marijuana Collective, to the closest property line of the
17 lot on which the permitted Medical Marijuana Collective is located, without
18 regard to intervening structures.

19 D. Exterior building and parking area lighting at the Property
20 are in compliance with all applicable provisions of this Code.

21 E. Any exterior or interior sign visible from the exterior of the
22 Property shall be unlighted.

23 F. Windows and roof hatches at the Property shall be secured
24 so as to prevent unauthorized entry, and are equipped with latches that
25 may be released quickly from the inside to allow exit in the event of
26 emergency and are in compliance with all applicable Building Code
27 provisions.

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1 G. The Property or Properties provides sufficient sound
2 absorbing insulation so that noise generated inside the premises is not
3 audible anywhere on the adjacent property or public rights-of-way, or
4 within any other building or other separate unit within the same building as
5 the Medical Marijuana Collective.

6 H. The Property or Properties provides a sufficient odor
7 absorbing ventilation and exhaust system so that odor generated inside
8 the Property or Properties is not detected outside the Property or
9 Properties, anywhere on adjacent property or public rights-of-way, or
10 within any other unit located within the same building as the Medical
11 Marijuana Collective.

12 I. The Property or Properties is are monitored at all times by
13 closed-circuit television for security purposes. The camera and recording
14 system must be of adequate quality, color rendition and resolution to allow
15 the ready identification of an individual on or adjacent to the Property or
16 Properties. The recordings shall be maintained at the Property or
17 Properties for a period of not less than thirty (30) days.

18 J. The Property or Properties hasve a centrally-monitored fire
19 and burglar alarm system.

20 K. A sign is posted in a conspicuous location inside the
21 Property or Properties advising:

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

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

26 3. Loitering at the location of a Medical Marijuana
27 Collective for an illegal purpose is prohibited by California Penal Code
28 Section 647(h).

1 4. This Medical Marijuana Collective is permitted in
2 accordance with the laws of the City of Long Beach.

3
4 5. The sale of marijuana and the diversion of marijuana
5 for non-medical purposes are violations of State Law.”

6 L. Each applicant ~~electing to manufacture manufacturing~~ Edible
7 Medical Marijuana shall manufacture the Edible ~~products Medical~~
8 ~~Marijuana products at the Property~~ for the sole consumption by Qualified
9 Patient members and Qualified Patient Management Members of the
10 Collective, in compliance with all applicable state and local laws.

11 M. The Medical Marijuana Collective meets all applicable state
12 and local laws to ensure that the operations of the Collective are
13 consistent with the protection of the health, safety and welfare of the
14 community, Qualified Patients and their Primary Caregivers, and will not
15 adversely affect surrounding uses.

16 N. No Collective shall operate for profit. Cash and in-kind
17 contributions, reimbursements, and reasonable compensation provided by
18 Management Members and members towards the Collective’s actual
19 expenses of the growth, cultivation, and provision of Medical Marijuana
20 shall be allowed provided that they are in strict compliance with State Law.
21 All such cash and in-kind amounts and items shall be fully documented in
22 accordance with Section 5.87.060 of this Chapter.

23 O. If the cultivation of Marijuana by the Medical Marijuana
24 Collective is to take place within the City of Long Beach at a location other
25 than the location where the medical marijuana is distributed, then the
26 location of cultivation shall likewise fully comply with the provisions of
27 Section 5.87.040 and all of its subsections.

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1 P. Every Medical Marijuana Collective shall maintain, on-site at
2 the Property or Properties, cultivation records, signed under penalty of
3 perjury by each Management Member, identifying the location(s) within
4
5 the City of Long Beach at which the Medical Marijuana was cultivated, and
6 the total number of said plants cultivated at each location;

7 Q. Representative samples of Medical Marijuana distributed by
8 the Collective shall be analyzed by an independent laboratory to ensure it
9 is free of harmful pesticides and other contaminants regulated by local,
10 state or federal regulatory or statutory standards;

11 R. Any Medical Marijuana from which the representative
12 sample tested positive for a harmful pesticide or other contaminant at a
13 level which exceeds the local, state, or federal regulatory or statutory
14 standards shall be destroyed forthwith; and

15 S. Any Medical Marijuana provided to Collective members shall
16 be properly labeled in strict compliance with state and local laws; and

17 T. Each City Council District shall be limited to not more than
18 two (2) City permitted Medical Marijuana Collectives.

19
20 5.87.050 Medical Marijuana Collective Permit – Non transferable.

21 A Medical Marijuana Collective Permit issued pursuant to this
22 Chapter shall become null and void upon the cessation of the Collective
23 and/or the relocation of the Collective to a different Property or Properties.

24 A. The following shall be deemed a change in location:

25 1. Any relocation or expansion that includes a separate
26 piece of property or parcel of land from the initially permitted Property or
27 Properties.

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2. Any expansion of the initially permitted Property or Properties which represents a greater than fifty percent (50%) increase in the square footage of space devoted to public access or occupancy.

B. The lawful conduct of activity regulated by this Chapter by a permittee shall be limited to those activities expressly indicated on the Medical Marijuana Collective Permit application.

C. The holder of a Medical Marijuana Collective Permit shall not allow others to use or rent the permitted Property or Properties. An exception shall be made for persons who are not Collective members or Management Members and who possess a valid City issued business license which authorizes the "place to place" sale of soil and nutrients to the Collective members or Management Members for the collective cultivation of Medical Marijuana by members and/or Management Members of the Collective.

5.87.060 Maintenance of records.

A. A Medical Marijuana Collective shall maintain the following accurate and truthful records on the Property or Properties:

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

2. The full name, address, and telephone number(s) and a fully legible copy of a government issued form of identification of each Collective member engaged in the management of the Collective and a description of the exact nature of the participation in the management of the Collective. Acceptable forms of government issued identification include, but are not limited to: Drivers licenses or photo identity cards issued by state Department of Motor Vehicles (or equivalent) that meets REAL ID benchmarks, a passport issued by the

1 United States or by a foreign government, U.S. Military ID cards (active
2 duty or retired military and their dependents), or a Permanent Resident
3 Card.

4 3. The full name, address, and telephone number(s) of
5 each Collective member and Management Member who participates in
6 the Collective cultivation of Medical Marijuana.

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

13 5. A written accounting of all cash and in-kind
14 contributions, reimbursements, and reasonable compensation provided by
15 the Collective Management Members and members to the Collective, and
16 all expenditures and costs incurred by the Collective.

17 6. An inventory record documenting the dates and
18 amounts of Medical Marijuana cultivated at the Property or Properties,
19 and the daily amounts of Marijuana stored on the Property or Properties.

20 7. Proof of a valid Medical Marijuana Collective Permit
21 issued by the Department of Financial Management in conformance with
22 this Chapter.

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

27 B. These records shall be maintained by the Medical Marijuana
28 Collective for a period of five (5) years and shall be made available by the

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1 Collective to the City upon request, subject to the authority set forth in
2 Section 5.87.070.

3
4 5.87.070 Inspection authority.

5 City representatives may enter and inspect the Property or
6 Properties of every Medical Marijuana Collective between the hours of ten
7 o'clock (10:00) A.M. and eight o'clock (8:00) P.M., or at any reasonable
8 time to ensure compliance and enforcement of the provisions of this
9 Chapter, except that the inspection and copying of private medical records
10 shall be made available to the Police Department only pursuant to a
11 properly executed search warrant, subpoena, or court order. It is unlawful
12 for any Property owner, landlord, lessee, Medical Marijuana Collective
13 member or Management Member or any other person having any
14 responsibility over the operation of the Medical Marijuana Collective to
15 refuse to allow, impede, obstruct or interfere with an inspection.

16
17 5.87.080 Existing Medical Marijuana operations.

18 Any existing Medical Marijuana Collective, dispensary, operator,
19 establishment, or provider that does not comply with the requirements of
20 this Chapter must immediately cease operation until such time, if any,
21 when it complies fully with the requirements of this Chapter. No Medical
22 Marijuana Collective, dispensary, operator, establishment, or provider that
23 existed prior to the enactment of this Chapter shall be deemed to be a
24 legally established use or a legal non-conforming use under the provisions
25 of this Chapter or the Code.

26
27 5.87.090 Prohibited activity.

28 A. It is unlawful for any person to cause, permit or engage in

1 the cultivation, possession, distribution, exchange or giving away of
2 Marijuana for medical or non medical purposes except as provided in this
3 Chapter, and pursuant to any and all other applicable local and state law.

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

8 C. It is unlawful for any person to knowingly make any false,
9 misleading or inaccurate statement or representation in any form, record,
10 filing or documentation required to be maintained, filed or provided to the
11 City under this Chapter.

12 D. No Medical Marijuana Collective, Management Member or
13 member shall cause or permit the sale, distribution or exchange of
14 Medical Marijuana ~~cultivated at the Property~~ or of any Edible Medical
15 Marijuana product ~~manufactured at the Property~~ to any non Collective
16 Management Member or member.

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

28

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

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

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

13 ~~I. No sale of Medical Marijuana in any form including Edible
14 Medical Marijuana products, shall be permitted.~~

15 ~~J.I.~~ No person under the age of eighteen (18) shall be allowed
16 at the Property or Properties, unless that minor is a Qualified Patient and
17 is accompanied by his or her licensed Attending Physician, parent(s) or
18 documented legal guardian.

19 ~~K. No Medical Marijuana Collective shall possess Marijuana
20 that was not cultivated by its Management Members or members either at
21 the Property or at its predecessor location fully permitted in accordance
22 with this Chapter.~~

23 J. No Medical Marijuana Collective shall possess or distribute to its
24 Management Members or members Medical Marijuana that was not cultivated by
25 its Management Members of members in the City of Long Beach.

26 ~~K.J.L.~~ No Medical Marijuana Collective, Management Member or
27 member shall cause or permit the sale, dispensing, or consumption of
28 alcoholic beverages on the Property or Properties, or in the parking area

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1 of the Property or Properties.

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

6 MLN. Medical Marijuana may not be inhaled, smoked, eaten,
7 ingested, or otherwise consumed on the Property or Properties, in the
8 parking areas of the Property or Properties, or in those areas restricted
9 under the provisions of California Health and Safety Code Section
10 11362.79, which include:

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

17 NMO. Medical Marijuana Collective membership and Management
18 Membership, established pursuant to this Chapter, shall be limited to one
19 Collective fully permitted in accordance with this Chapter.

20 ONP. No person who has been convicted within the previous ten
21 (10) years of a felony or a crime of moral turpitude, or who is currently on
22 parole or probation for the sale or distribution of a controlled substance,
23 shall be engaged directly or indirectly in the management of the Medical
24 Marijuana Collective nor, further, shall manage or handle the receipts and
25 expenses of the Collective.

26
27 5.87.100 Violation and enforcement.

28 A. Any person violating any provision of this Chapter or

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

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

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

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

24
25 5.87.110 Appeal process.

26 A. If a City department determines that the permittee failed to
27 comply with any provision of this Chapter, or with any other provision or
28 requirement of law, the Director of Financial Management shall revoke or

1 suspend the Medical Marijuana Collective Permit in accordance with the
2 provisions set forth in Section 5.06.020, Subsection A, of this Code.

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

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

20 D. Whenever a Medical Marijuana Collective Permit has been
21 revoked or suspended, no other such permit application shall be
22 considered for a period of one (1) year from either the date notice of the
23 revocation or suspension was mailed, or the date of the final decision of
24 the City Council, whichever is later.

25
26 5.87.120 Operative date.

27 This ordinance will be come effective one-hundred-and-twenty
28 (120) days following its passage and adoption. The Department of

1 Financial Management will accept completed Medical Marijuana Collective
2 permit applications one-hundred-and-twenty (120) days prior to the
3 effective date of this ordinance.

4
5 5.87.130 Severability.

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

11
12 5.87.140 Review of Regulations.

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

16
17 Section 2. The City Clerk shall certify to the passage of this Ordinance
18 by the City Council and cause it to be posted in three conspicuous places in the City of
19 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by
20 the Mayor.

21
22 I hereby certify that the foregoing Ordinance was adopted by the City
23 Council of the City of Long Beach at its meeting of _____, 2010, by the
24 following vote:

25 Ayes: Councilmembers:

26 _____
27 _____
28 _____

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Noes: Councilmembers:

Absent: Councilmembers:

City Clerk

Approved: _____

Mayor

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