



OFFICE OF THE CITY ATTORNEY
Long Beach, California

H-2

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December 8, 2015

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HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive supporting documentation into the record, conclude the hearing, and declare ordinance amending the Long Beach Municipal Code by adding Chapter 21.66; and by repealing Chapter 5.89, all relating to Medical Marijuana, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

On September 22, 2015, the City Council requested the City Attorney to draft a Medical Marijuana Ordinance that would be consistent with the newly enacted State legislation known as the Medical Marijuana Regulation and Safety Act ("MMRSA"). Council also requested that the Ordinance provide for:

- (1) Up to 9 dispensaries in the City;
- (2) Located in all zones, except those zoned exclusively for residential use; and
- (3) Subject to buffers of:
 - 1,500 feet from a public or private high school;
 - 1,000 feet from a public or private kindergarten, elementary, middle, or junior high school;
 - 1,000 feet from a public park;
 - 1,000 feet from a State licensed child care facility located on a commercial corridor;
 - 1,000 feet from a location identified by the Police Department to be a "human trafficking high crime corridor" (which has now been identified as Pacific Coast Highway between Santa Fe Avenue and Redondo Avenue, Anaheim Street between the 710 Freeway and Redondo Avenue, and Long Beach Blvd. between Victoria Street and the north City limits);
 - 1,000 feet from a public library; and
 - 1,000 feet from any other medical marijuana business.

The Ordinance was also to allow for medical marijuana cultivation in the City, although cultivation would not be a requirement, permit delivery services by a medical marijuana business that was otherwise permitted in the City, require a permittee to have in

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place a "labor peace" agreement prior to commencing operations, and would require that a medical marijuana business apply for and obtain a Conditional Use Permit and Business License before engaging in a medical marijuana business in the City.

The Ordinance presented as part of this Agenda item does incorporate all of the provisions described above. In addition, the Ordinance is structured in such a way that an applicant/permittee would be required to obtain all necessary State licenses and permits when the new State regulations are fully implemented, which likely will not occur before March 2018. Failure to obtain required State licensing would subject a City permitted facility to a City initiated suspension or revocation procedure.

The draft Ordinance also provides for certain minimum operational standards in order to protect the public from nuisance related activities in and around a licensed medical marijuana premise. These provisions include a requirement to provide a "Neighborhood Safety and Responsibility Plan," a limit on the hours of operation from 8:00 a.m. to 7:00 p.m. (although delivery services could extend to 9:00 p.m.), the presence of security guards during normal business hours, a requirement for worker's compensation and public liability insurance, certain limitations on both on-site and off-site advertising, requirements related to odor elimination through ventilation requirements, requirements related to the testing of all medical marijuana products to ensure that they are pesticide and mold free, and otherwise uncontaminated, video recording systems to deter crime and assist the City in its tax collection efforts, a requirement that a business manager be on the premises during normal business hours, limits on the size of a medical marijuana business (dispensary site 2,000 square feet or less; cultivation site 5,000 square feet or less), packaging and labeling requirements for medical marijuana products, a requirement to provide fire and security alarm systems, and certain recordkeeping requirements.

In order to ensure the best possible operators in the City, the draft Ordinance establishes a "Priority Point System." This system will be used by City staff to evaluate, score, and rank all those who submit a complete application during a specified application period. Those receiving the highest ranking will have their application processed first, until the City established nine (9) Conditional Use Permits have been allocated. The "Priority Point System" has twenty (20) separate categories for which "points" can be awarded. The categories include such items as proximity to transportation hubs, exceedance of minimum buffer requirements, a superior security plan, a superior business plan, the lack of a criminal history by applicants, demonstration of service to the community, superior odor elimination systems, separation from residential areas, and staffing plans that will ensure safe dispensing, theft prevention and maintenance of confidential information, and demonstration that the Applicant was a successful lottery entrant in the City's September 2010 medical marijuana lottery. In the event of a tie between an applicant or applicants, priority processing will be determined by lottery.

The draft Ordinance will allow both residents and non-residents to obtain medical marijuana from a City permitted medical marijuana business provided that the patient is over the age of 21 and produces a recommendation from a State licensed medical provider. The Ordinance would also allow a CUP holder to provide delivery service both in the City of Long Beach and outside of the City, provided that deliveries outside the City could only be made in those cities that specifically allow such activities within their jurisdictions.

At the September 22, 2015, City Council meeting, Council also asked the City Attorney to "report back" as to whether any tax revenues generated by the sale of medical marijuana could be used to support parks and after school programs. In April 2014, the voters passed Measure "A" as a general business license tax on the sale or cultivation of

medical marijuana. This tax is now codified at Section 3.80.261 of the Municipal Code and will become effective if the Council repeals the ban on medical marijuana in the City and instead adopts a regulatory Ordinance. As a "general" as opposed to a "special" tax, revenues cannot be earmarked in advance for specific purposes such as park enhancements or after school programs. However, as general fund revenue to the City, the City Council may employ the funds generated by the medical marijuana tax on an annual basis for any general fund purpose, which could include park enhancements or after school programs among many other general fund purposes.

If the attached regulatory Ordinance is passed, it includes a provision that will repeal Chapter 5.89 of the Municipal Code, which was adopted by the City Council in 2012, in order to ban medical marijuana facilities in the City.

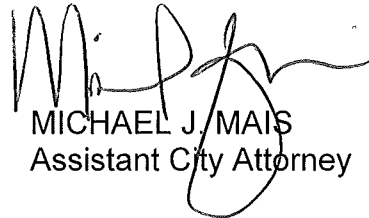
SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

CHARLES PARKIN, City Attorney

By



MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm

Attach.

A15-02587

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 21.66; AND BY
REPEALING CHAPTER 5.89, ALL RELATING TO
MEDICAL MARIJUANA

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

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

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

WHEREAS, in 2015, the State of California passed the Medical Marijuana Regulation and Safety Act (“MMRSA”) to provide a State framework for licensure and regulation of medical marijuana within the State, while continuing to recognize the authority of local governments to regulate or ban medical marijuana related activity within their respective jurisdictions; and

WHEREAS, notwithstanding the passage of the CUA and MMPA, and the MMRSA, the cultivation, possession, and distribution of marijuana is prohibited by federal law and specifically by the Controlled Substances Act (“CSA”) (codified in 21

1 U.S.C. Section 841); and Section 841 of the CSA makes it unlawful for a person to
2 manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or
3 dispense marijuana; and

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

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

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

16 WHEREAS, this Chapter is to be construed to protect the general public's
17 health, safety and welfare over medical marijuana related interests; and

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

21 WHEREAS, the City has a zero tolerance policy for violations of this
22 Chapter or provisions of the State's MMRSA ; and

23 WHEREAS, the City Council wishes to repeal Chapter 5.89 of the
24 Municipal Code ("Medical Marijuana Dispensary Ban") in its entirety and at the same
25 time adopt regulations allowing for the limited existence of medical marijuana
26 dispensaries and related activities in the City of Long Beach in accordance with this
27 Chapter and the State's MMRSA.

28 NOW, THEREFORE, the City Council of the City of Long Beach ordains

1 as follows:

2 Section 1. Chapter 21.66 of the Long Beach Municipal Code is added
3 to read as follows:

4 Chapter 21.66

5 MEDICAL MARIJUANA

6
7 21.66.010 Purpose.

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

12 Protection of the public shall be the highest priority for the City in
13 exercising its regulatory and disciplinary functions under this Chapter.
14 Whenever the protection of the public is inconsistent with other interests
15 sought to be promoted, the protection of the public shall be paramount. The
16 City intends that both this Chapter and the relevant provisions of the State
17 "MMRSA" shall apply in the regulation of medical marijuana activities in the
18 City.

19 This Chapter regulates the use, acquisition, cultivation, production, and
20 distribution of medical marijuana in a manner that is consistent with the State
21 Compassionate Use Act ("CUA"), the State Medical Marijuana Program Act
22 ("MMPA"), and the State Medical Marijuana Regulation and Safety Act
23 ("MMRSA"). The following regulations are intended to apply to all medical
24 marijuana business operations in the City whether by a patient or primary
25 caregiver, or a collective of patients, or any medical marijuana related entity
26 allowed under the State law. Medical marijuana distribution, cultivation, and
27 production can have an impact on health, safety and community resources,
28 and this Chapter is intended to allow medical marijuana distribution and

1 cultivation only where it will have a minimal impact. To do so, the following
2 regulations:

3 A. Provide for a means for cultivation, production, and
4 distribution of marijuana to patients who qualify to obtain, possess, and use
5 marijuana for medical purposes under the CUA, MMPA, and MMRSA.

6 B. Protect public health and safety through reasonable limitations
7 on medical marijuana business operations as they relate to noise, air, and
8 water quality, food safety, neighborhood and patient safety, security for the
9 dispensary location and its personnel, nuisance conditions, and other health
10 and safety concerns;

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

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

16 E. Adopt a mechanism to monitor compliance with the provisions
17 of this Chapter and State law;

18 F. Create regulations that address the particular needs of the
19 residents and patients of the City and coordinate with laws and regulations
20 that have been or may be enacted by the State regarding the same;

21 G. Facilitate the implementation of the CUA, MMPA, and
22 MMRSA without going beyond the authority granted to the City by them;

23 H. Allow medical marijuana related operations only by individuals
24 and entities that have demonstrated an intent and ability to comply with this
25 Chapter and State law;

26 I. Protect public safety and residential uses by limiting the
27 locations in the City where medical marijuana businesses may operate.
28

1 21.66.020 Definitions.

2 A. "Accrediting body" means a nonprofit organization that
3 requires conformance to ISO/IEC 17025 requirements and is a signatory to
4 the International Laboratory Accreditation Cooperation Mutual Recognition
5 Arrangement for Testing.

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

10 C. "Applicant" means the following:

11 1. The owner or owners of a proposed medical marijuana
12 facility, including all persons or entities having an ownership interest in the
13 facility.

14 2. If the owner is an entity, "owner" includes within the entity
15 each person participating in the direction, control, or management of, or
16 having a financial interest in, the proposed facility.

17 3. If the Applicant is a publicly traded company, "owner"
18 means the chief executive officer or any person or entity with an aggregate
19 ownership of five percent or more.

20 D. "Batch" means a specific quantity of medical marijuana or
21 medical marijuana products that is intended to have uniform character and
22 quality, within specified limits, and is produced according to a single
23 manufacturing order during the same cycle of manufacture.

24 E. "Bureau" means the State Bureau of Medical Marijuana
25 Regulation within the State Department of Consumer Affairs.

26 F. "Business manager" means the individual designated by the
27 owner of the medical marijuana business as the person responsible for all
28 operations of the business in the absence of the owner from the business

1 property. Business manager shall include any person with managerial
2 authority in the business, and any person that has access to lock or unlock
3 the safe, to unlock or lock the business, or set or disarm the alarm.

4 G. "Cannabinoid" or "phytocannabinoid" means a chemical
5 compound that is unique to and derived from cannabis.

6 H. "Cannabis" means all parts of the plant cannabis sativa,
7 Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not;
8 the seeds thereof; the resin; whether crude or purified, extracted from any
9 part of the plant; and every compound, manufacture, salt, derivative,
10 mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also
11 means the separated resin, whether crude or purified, obtained from
12 marijuana. "Cannabis" also means marijuana as defined in California Health
13 and Safety Code Section 11018. It does not include the mature stalks of
14 the plant, fiber produced from the stalks, oil or cake made from the seeds of
15 the plant, any other compound, manufacture, salt, derivative, mixture, or
16 preparation of the mature stalks (except the resin extracted therefrom),
17 fiber, oil, or cake, or the sterilized seed of the plant which is incapable of
18 germination. "Cannabis" does not mean "industrial hemp" as defined by
19 Section 81000 of the Food and Agricultural Code or Section 11018.5 of the
20 Health and Safety Code.

21 I. "Cannabis concentrate" means manufactured cannabis that
22 has undergone a process to concentrate the cannabinoid active ingredient,
23 thereby increasing the product's potency. An edible medical cannabis
24 product is not considered food, as defined by Section 109935 of the Health
25 and Safety Code, or a drug, as defined by Section 109925 of the Health
26 and Safety Code.

27 J. "Caregiver" or "primary caregiver" means the individual,
28 designated by a qualified patient or by a person possessing a valid

1 physician's written recommendation for medical marijuana, who has
2 consistently assumed responsibility for the housing, health, or safety of that
3 patient or person.

4 K. "Commercial cannabis activity" means cultivation, possession,
5 manufacture, processing, storing, laboratory testing, labeling, transporting,
6 distribution, or sale of medical cannabis or a medical cannabis product,
7 except as set forth in Business and Professions Code Section 19319,
8 related to qualifying patients and primary caregivers.

9 L. "Cultivation" or "cultivate" means any activity involving the
10 planting, growing, harvesting, drying, curing, grading, or trimming of
11 marijuana.

12 M. "Cultivation site" means a facility where medical cannabis is
13 planted, grown, harvested, dried, cured, graded, or trimmed, or that does all
14 or any combination of those activities, that holds a valid State license
15 pursuant to this chapter, and that holds a valid local license or permit.

16 N. "Delivery" means the commercial transfer of medical
17 marijuana or medical marijuana products from a dispensary, to a primary
18 caregiver or qualified patient, or a testing laboratory. "Delivery" also
19 includes the use by a dispensary of any technology platform owned and
20 controlled by the dispensary, or independently licensed under this Chapter,
21 that enables qualified patients or primary caregivers to arrange for or
22 facilitate the commercial transfer by a licensed dispensary of medical
23 marijuana or medical marijuana products.

24 O. "Dispensary" means a facility where medical marijuana,
25 medical marijuana products, or devices for the use of medical marijuana are
26 offered, either individually or in any combination, for retail sale, including an
27 establishment that delivers medical marijuana and medical marijuana
28 products as part of retail sale.

1 P. “Dispensing” means any activity involving the transfer of title
2 or possession, exchange or barter, conditional or otherwise, in any means
3 whatsoever, of tangible personal property for a consideration including any
4 monetary consideration of medical marijuana or medical marijuana products
5 from a dispensary, including but not limited to, membership dues,
6 reimbursements or total amount of cash or in-kind contributions.

7 Q. “Distribute” or “distribution” means the procurement, sale, and
8 transport of medical marijuana and medical marijuana products between
9 entities licensed by the State and permitted by the City in accordance with
10 this Chapter.

11 R. “Distributor” means a person licensed by the State to engage
12 in the business of purchasing medical marijuana from a licensed cultivator,
13 or medical marijuana products from a licensed manufacturer, for sale to a
14 licensed or permitted dispensary.

15 S. “Dried flower” means all dead medical cannabis that has been
16 harvested, dried, cured, or otherwise processed, excluding leaves and
17 stems.

18 T. “Edible cannabis product” means manufactured cannabis that
19 is intended to be used, in whole or in part, for human consumption,
20 including, but not limited to, chewing gum. An edible medical cannabis
21 product is not considered food as defined by Section 109935 of the Health
22 and Safety Code or a drug as defined by Section 109925 of the Health and
23 Safety Code.

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

1 government.

2 V. "Labor peace agreement" means an agreement between a
3 licensee or permittee and a bona fide labor organization that, at a minimum,
4 prohibits labor organizations and members from engaging in picketing, work
5 stoppages, boycotts, and any other economic interference with the
6 Applicant's business. This agreement means that the Applicant has agreed
7 not to disrupt efforts by the bona fide labor organization to communicate
8 with, and attempt to organize and represent, the Applicant's employees.
9 The agreement shall provide a bona fide labor organization access at
10 reasonable times to areas in which the Applicant's employees work, for the
11 purpose of meeting with employees to discuss their right to representation,
12 employment rights under State law, and terms and conditions of
13 employment. This type of agreement shall not mandate a particular method
14 of election or certification of the bona fide labor organization.

15 W. "Licensee" means a person issued a State and/or City license
16 or permit under this Chapter to engage in commercial cannabis activity.

17 X. "Licensing authority" means the City of Long Beach or the
18 State agency responsible for the issuance, renewal, or reinstatement of the
19 license, or the State agency authorized to take disciplinary action against
20 the license.

21 Y. "Live plants" means living medical cannabis flowers and
22 plants, including seeds, immature plants, and vegetative stage plants.

23 Z. "Lot" means a batch, or a specifically identified portion of a
24 batch, having uniform character and quality within specified limits. In the
25 case of medical cannabis or a medical cannabis product produced by a
26 continuous process, "lot" means a specifically identified amount produced in
27 a unit of time or a quantity in a manner that ensures its having uniform
28 character and quality within specified limits.

1 AA. "Manufactured cannabis" means raw cannabis that has
2 undergone a process whereby the raw agricultural product has been
3 transformed into a concentrate, an edible product, or a topical product.

4 BB. "Manufacturer" means a person that conducts the production,
5 preparation, propagation, or compounding of manufactured medical
6 cannabis, or medical cannabis products either directly or indirectly or by
7 extraction methods, or independently by means of chemical synthesis or by
8 a combination of extraction and chemical synthesis at a fixed location that
9 packages or repackages medical cannabis or medical cannabis products or
10 labels or relabels its container, that holds a valid State license, and that
11 holds a valid local license or permit.

12 CC. "Manufacturing site" means a location that produces,
13 prepares, propagates, or compounds manufactured medical cannabis or
14 medical cannabis products, directly or indirectly, by extraction methods,
15 independently by means of chemical synthesis, or by a combination of
16 extraction and chemical synthesis, and is owned and operated by a
17 licensee for these activities.

18 DD. "Medical cannabis," "medical cannabis product," or "cannabis
19 product" means a product, including edible or food type products,
20 containing cannabis, including, but not limited to, concentrates and
21 extractions, intended to be sold and consumed or used by medical
22 cannabis patients in California pursuant to the Compassionate Use Act of
23 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety
24 Code or the relevant provisions of the State MMRSA. For the purposes of
25 this Chapter, "medical cannabis" does not include "industrial hemp" as
26 defined by Section 81000 of the Food and Agricultural Code or
27 Section 11018.5 of the Health and Safety Code.

28 EE. "Medical marijuana business" means:

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

2. Any person that cultivates, produces, sells, distributes, possesses, transports or delivers more than six (6) mature marijuana plants or twelve (12) immature marijuana plants, or eight (8) ounces of a useable form of marijuana for medical use, pursuant to California Health and Safety Code Section 11362.5, *et seq.*

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

FF. "Medical marijuana-infused product" means a marijuana-infused, edible, ingestible, or inhalable product, including but not limited to topical solutions and vaporizers.

GG. "Permit," "local license," or "local permit" means an official document granted by the City that specifically authorizes a person to conduct commercial cannabis activity in the City.

1 HH. "Person" means an individual, firm, partnership, joint venture,
2 association, corporation, limited liability company, estate, trust, business
3 trust, receiver, syndicate, or any other group or combination acting as a unit
4 and includes the plural as well as the singular number.

5 II. "Permittee" means the medical marijuana business named on
6 the Conditional Use Permit and business license, and all individuals named
7 in the Conditional Use Permit application or later reported to the City,
8 including without limitation, owners, business managers, financiers, and
9 individuals owning any part of an entity that holds a financial or ownership
10 interest in a medical marijuana business.

11 JJ. "Place open to the general public" means any property owned,
12 leased, or used by a public entity, and any place on private property open to
13 the public, common areas of buildings, private clubs, vehicles, those
14 portions of any private property upon which the public has an express or
15 implied license to enter or remain, and any place visible from such places.
16 "Place open to the general public" shall not include any fenced area of a
17 private residence regardless of whether it can be seen from a place open to
18 the public.

19 KK. "Possess" or "possession" means having physical control of
20 an object, or control of the property in which an object is located, or having
21 the power and intent to control an object, without regard to whether the one
22 in possession has ownership of the object. Possession may be held by
23 more than one (1) person at a time. Use of the object is not required for
24 possession. The owner of a medical marijuana business shall be
25 considered in possession of the medical marijuana business at all times.
26 The business manager of a medical marijuana business shall be
27 considered in possession of the medical marijuana business at all times
28 that the business manager is on the property of the business or has been

1 designated by the owner as the business manager in the absence of the
2 owner in accordance with this Chapter.

3 LL. "Property" means a distinct and definite location, which may
4 include a building, a part of a building, a room or any other defined
5 contiguous area.

6 MM. "Produce" or "production" means:

7 1. Preparing, compounding, processing, encapsulating,
8 packaging or repackaging, labeling or relabeling of marijuana or its
9 derivatives, whether alone or mixed with any amount of any other
10 substance; or

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

13 NN. "Responsible person" means any individual who is the owner,
14 partial owner, or occupant of real property, last registered owner and/or
15 legal owner of a vehicle, the holder, business manager, or the agent of the
16 holder of any permit, or the party or agent of a party to any agreement
17 covered by this Chapter; or the owner or authorized agent of any business,
18 company or entity subject to this Chapter.

19 OO. "Restricted area" means the portion of a medical marijuana
20 business location within which the licensee defines on its application it
21 intends to cultivate, distribute, possess or produce medical marijuana and
22 which area is clearly identified as the restricted area on the floor plan
23 submitted with the medical marijuana business CUP application for the
24 business.

25 PP. "State license," "license," or "registration" means a State
26 license issued by the State of California pursuant to the State's MMRSA for
27 the purpose of engaging in any form of commercial cannabis activity.

28 QQ. "Testing laboratory" means a facility, entity, or site in the State

1 that offers or performs tests of medical cannabis or medical cannabis
2 products and that is both of the following:

3 1. Accredited by an accrediting body that is independent
4 from all other persons involved in the medical cannabis industry in
5 the state.

6 2. Registered or licensed by the State pursuant to the
7 State's MMRSA.

8 RR. "Transport" means the transfer of medical cannabis or medical
9 cannabis products from the permitted business location of one licensee to
10 the permitted business location of another licensee, for the purposes of
11 conducting commercial cannabis activity as authorized by State law and
12 this Chapter.

13 SS. "Transporter" means a person issued a State license to
14 transport medical cannabis or medical cannabis products in an amount
15 above a threshold determined by the State between facilities that have
16 been issued a State license.

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

21
22 21.66.030 Permit required.

23 A. It shall be unlawful for any person or entity to operate, in or
24 upon any property, a medical marijuana business without first obtaining all
25 required State licenses and a Conditional Use Permit and business license
26 issued by the City. Although State issued licenses or permits are not
27 available at the time of the adoption of this Chapter, it is incumbent upon
28 the Applicant to apply for, and obtain, all necessary or relevant State

1 licenses or permits when they become available for issuance by the State.
2 Failure to obtain required State licenses or permits shall be grounds for
3 suspension or revocation of any permit or license issued by the City.

4 The permit requirement set forth in this Chapter shall be in
5 addition to, and not in lieu of any other licensing and permitting requirements
6 imposed by any other federal, State or local law, including, but not limited to,
7 building and occupancy permits, California seller's permit or other State
8 issued permits or licenses issued for the purpose of engaging in commercial
9 cannabis activities.

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

14 C. A single Conditional Use Permit shall be required for each
15 property from which an individual medical marijuana business operates.

16 D. A Conditional Use Permit issued pursuant to this Chapter
17 shall become null and void upon the closure of the business for more than
18 thirty (30) days, and/or the relocation of the business to a different location.

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

20 a. Any relocation or expansion that includes a
21 separate parcel of property, building suite, or parcel of land from the initially
22 permitted Property;

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

27 E. The lawful conduct of activity regulated by this Chapter shall
28 be limited to those activities expressly indicated on the medical marijuana

1 Conditional Use Permit application.

2 F. The Permittees of a medical marijuana business are only
3 those persons disclosed in the Conditional Use Permit application or
4 subsequently disclosed to the City in accordance with this Chapter. A
5 transfer of a Conditional Use Permit is prohibited. Anytime the transfer of
6 stock, assets, capital contribution and the like results in a change of
7 ownership of a medical marijuana business, a new Conditional Use Permit
8 and business license must be applied for and granted. Upon the date of
9 implementation of regulations by a State licensing authority, no person shall
10 engage in commercial cannabis activity or in the activities of a medical
11 marijuana business without possessing all applicable State licenses and all
12 applicable City permits and licenses. No person shall commence activity
13 under the authority of a State license until the person has obtained, in
14 addition to all applicable State licenses, a Conditional Use Permit and
15 business license from the City in accordance with the requirements of this
16 Chapter. Revocation of a State license shall constitute grounds for the City
17 to suspend or revoke any permit or license issued by the City.

18 G. A medical marijuana business that is operating in compliance
19 with this Chapter and other State and local requirements on or before
20 January 1, 2018, may continue its operations until its application for State
21 licensure is approved or denied pursuant to Business and Professions
22 Code Section 19321(c), or six (6) months from the time licensing
23 procedures are adopted by the State, whichever is first, unless good cause
24 is established by the medical marijuana business that the time periods set
25 forth herein should be extended.

26
27 21.66.035 General permit provisions.

28 A. The general procedures and requirements set forth in Chapter

1 21.25, "Conditional Use Permits," shall apply to Conditional Use Permits
2 issued pursuant to this Chapter. To the extent there is any conflict between
3 the provisions of this Chapter and Chapter 21.25, the provisions of this
4 Chapter shall control for Conditional Use Permits related to medical
5 marijuana businesses.

6 B. Insurance required.

7 A medical marijuana business must at all times maintain workers'
8 compensation insurance as required by the California Labor Code and
9 employers liability insurance in an amount not less than \$1,000,000. This
10 policy shall be endorsed to state that the insurer waives its right of
11 subrogation against the City, its boards and commission, and its officials,
12 employees, and agents. Public liability insurance with minimum limits of
13 \$250,000 for any one person and \$1,000,000 for any one accident, and public
14 property damage insurance with a minimum limit of \$500,000 for any one
15 accident, must be maintained at all times.

16 C. Costs to regulate medical marijuana activities.

17 1. The City will incur costs in the administration of medical
18 marijuana activities including the issuance of a permit or license, inspection,
19 enforcement, tax collection, auditing, and costs of litigation, including
20 attorney's fees and related costs to regulate licensed and permitted medical
21 marijuana businesses. A regulatory fee in order to recoup said costs from
22 licensed and permitted medical marijuana businesses may be established
23 by the City Council by resolution.

24 2. In the event of failure to pay an established regulatory
25 fee, a Conditional Use Permit or business license may be revoked or
26 suspended.

27 D. Costs of inspection, enforcement, and abatement.

28 1. In the event the City incurs costs in the inspection,

1 enforcement, revocation, abatement, or any other requirements to remove a
2 medical marijuana business or related equipment, the medical marijuana
3 business and all responsible persons shall reimburse the City for all actual
4 costs incurred by the City for such inspection, enforcement, or abatement,
5 including costs of litigation and attorney's fees.

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

12 E. Landlord duty.

13 It shall be unlawful for the owner of a building to lease space or allow
14 the use of any portion of a building by a medical marijuana business unless
15 the tenant has a valid Conditional Use Permit and a valid business license, or
16 has applied for and not been denied, a Conditional Use Permit and/or
17 business license and no marijuana is located on the property until all
18 applicable permits have been issued by the City.

19
20 21.66.040 Conditional Use Permit application.

21 A. Application requirements.

22 In addition to the general Conditional Use Permit application
23 requirements of Chapter 21.25, an application for a Conditional Use Permit to
24 operate a medical marijuana business shall include completed forms provided
25 by the City for that purpose. The Applicant shall use the application to
26 demonstrate its compliance with this Chapter and any other applicable law,
27 rule, or regulation. The application shall include the following information:

28 1. Name and address of the owner or owners of the medical

1 marijuana business in whose name the permit is proposed to be issued.

2 2. If an owner is a corporation, the name and address of all
3 officers or directors of the corporation and of any person holding issued and
4 outstanding capital stock of the corporation.

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

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

15 5. Name and address of:

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

19 b. All financiers of the medical marijuana business;
20 and

21 c. All agents of the medical marijuana business who
22 either:

23 (i) act with managerial authority,
24 (ii) provide advice to the medical marijuana
25 business for compensation, or
26 (iii) receive periodic compensation totaling
27 one thousand dollars (\$1,000.00) or more in a single year for services related
28 to the medical marijuana business.

1 6. A statement indicating whether any of the named owners,
2 members, business managers, financiers, primary caregivers, or persons
3 named on the application have been:

4 a. Denied an application for a Conditional Use Permit
5 pursuant to this Chapter, or any similar state or local licensing or permitting
6 law, rule, or regulation, or had such a license or permit suspended or
7 revoked.

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

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

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

19 7. Proof of ownership or legal possession of the Property at
20 which the medical marijuana business will be located. If the medical
21 marijuana business is not the owner of the property of the business, the
22 Applicant shall provide written authorization to the City from the property
23 owner to enter the property for inspection of the property on a form approved
24 by the City as well as an acknowledgement from the owner that the Applicant
25 has the owner's permission and consent to operate a medical marijuana
26 business at the subject property.

27 8. A certificate for proof of insurance signed by a qualified
28 agent of an insurance company evidencing the existence of valid and

1 effective policies of workers' compensation and public liability and property
2 damage insurance naming the City and its officers and employees as an
3 additional named insured on the liability policy at least to the limits required by
4 Section 21.66.035(B) of this Chapter, the limits of each policy, the policy
5 number(s), the name of the insurer, the effective date, and expiration date of
6 each policy, and a copy of an endorsement placed on each policy requiring
7 ten days' notice by mail to the owner or business manager before the insurer
8 may cancel the policy for any reason.

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

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

13 b. A schedule depicting the hours of operation.

14 c. A description of the procedures for cash
15 handling and audits.

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

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

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

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

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

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

3 e. A neighborhood safety and responsibility plan
4 that demonstrates how the Applicant will comply with the requirements of
5 this Chapter and abate associated crime and nuisance conditions in the
6 immediate vicinity of the marijuana business, and how the business will
7 fulfill its responsibilities to the neighborhood including outreach and dispute
8 resolution.

9 f. For cultivation facilities, and medical marijuana
10 businesses that produce medical marijuana-infused products, a plan that
11 specifies:

12 (i) The methods to be used to prevent the
13 growth of harmful mold and compliance with limitations on discharge into
14 the wastewater system of the City as set forth in Long Beach Municipal
15 Code Chapter 15.16, "Industrial Waste and Wastewater."

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

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

23 g. A business plan which must include, but is not
24 limited to, the following information.

25 (i) Information that demonstrates the
26 prospective owner or owners' thorough understanding of medical marijuana
27 business operations, local market conditions, and inherent financial and
28 non-financial risks in operating a medical marijuana business in the City.

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(ii) Information regarding revenue projections, sales forecast, inventory and timeline for breaking even from initial capital contribution.

(iii) Information regarding verifiable capital reserve levels, lines of credit, bank statements showing adequate resources for start-up costs, as well as on- going operations until a break -even point is achieved.

(iv) Information regarding the owner(s) or business manager(s) resume demonstrating skills, knowledge and experience owning and/or managing prior businesses.

10. A State seller's permit issued to the Applicant pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

B. Additional requirements.

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

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

3. A fully legible copy of one valid government issued form of photo identification, such as a State Driver's License or Identification Card and Livescan fingerprinting completed at the Long Beach Police Department. This requirement shall apply to all owners, business managers, financiers, and caregivers employed by, or under contract to provide services to, the medical marijuana business, including all individuals who have an interest as described herein of any portion of the medical marijuana business, directly or as an agent, or a member, partner or officer of a corporation, partnership, association or company.

4. A plan for disposal of any medical marijuana or medical

1 marijuana-infused product that is not sold to a patient or primary caregiver in
2 a manner that protects any portion thereof from being possessed or ingested
3 by any person or animal.

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

7 6. A description of all toxic, flammable, or other materials
8 regulated by a federal, State, or local government that would have authority
9 over the business if it was not a marijuana business, that will be used or kept
10 at the medical marijuana business, the location of such materials, and how
11 such materials will be stored, subject to review and approval by the Long
12 Beach Fire Department or designee.

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

18 8. A description of the point of sale software the medical
19 marijuana business will utilize to track inventory and sales of medical
20 marijuana.

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

24 C. Fee required.

25 Any application for a Conditional Use Permit shall be accompanied by
26 the Conditional Use Permit application fee, criminal background check ("Live
27 Scan") fee, and any other applicable fees established by the City Council by
28 resolution.

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1. Investigation.

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

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

2. Approval requirements.

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

21.66.050 Persons prohibited as Permittees and business managers.

It shall be unlawful for any of the following persons to have an ownership or a financial interest in a medical marijuana business, and no

1 permit provided by this Chapter shall be issued to or held by, and no medical
2 marijuana business shall be managed by:

- 3 1. Any person until all required fees have been paid;
- 4 2. Any person who has been convicted within the previous
5 ten (10) years of a felony or a crime of moral turpitude, or who is currently on
6 parole or probation for the sale or distribution of a controlled substance;
- 7 3. Any person who is under twenty-one (21) years of age; or
- 8 4. Any person who operates or manages or has operated or
9 managed a medical marijuana business contrary to the provisions of this
10 Chapter, any other applicable law, rule or regulation or conditions imposed on
11 land use or license approvals, or contrary to the terms of the plans submitted
12 with the permit application, or amended as permitted by this Chapter.
- 13 5. A licensed physician making patient recommendations;
- 14 6. A person permitted to operate pursuant to this Chapter
15 who, while lawfully operating, or who, at the time of application, has failed to
16 remedy an outstanding delinquency for taxes or fees owed, or an outstanding
17 delinquent judgment owed to the City;
- 18 7. A sheriff, deputy, police officer, or prosecuting officer, or
19 an officer or employee of the State or City of Long Beach;
- 20 8. Any person applying for a Conditional Use Permit to
21 operate a medical marijuana business who is currently permitted to operate
22 another medical marijuana business in the City pursuant to this Chapter.

23
24 21.66.060 Location of medical marijuana businesses.

25 A. Fixed location required.

26 It shall be unlawful to operate a medical marijuana business or to grow
27 medical marijuana outside of an enclosed building. All Conditional Use
28 Permits shall be issued for a specific fixed location within an enclosed

1 building.

2 B. Location – permitted use in zoning district.

3 No Conditional Use Permit may be issued for a medical marijuana
4 business located in an area zoned exclusively for residential use.

5 C. Conditional Use Permit Numerical Limits.

6 No more than nine (9) medical marijuana business Conditional Use
7 Permits may operate within the City at any one time.

8 D. Priority of medical marijuana business location.

9 1. Each Application submitted and deemed complete by the
10 Department of Development Services during a specified application period
11 will be evaluated for priority for processing based on certain criteria set forth
12 in a Priority Point System established pursuant to this Section. All
13 applications so evaluated and scored will be ranked from the most to the least
14 points. Applications for any available Conditional Use Permit will be
15 processed based upon this ranking.

16 a. Suitability of the proposed property:

17 (i) Applicant demonstrates proposed
18 location exceeds all buffer zones established in Subsection (F) by at least
19 five hundred (500) feet (1 point);

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

23 (iii) Proposed property is located within one
24 thousand (1000) feet of a public transportation hub, stop, or station (1 point);

25 (iv) Proposed property is located at least
26 three hundred (300) feet from any residential zones. (1 point)

27 b. Suitability of security plan:

28 (i) The Applicant's security plan includes the

1 presence of security personnel on premises twenty-four (24) hours per day
2 (1 point);

3 (ii) The Applicant's security plan demonstrates
4 a method to track and monitor inventory so as to prevent theft or diversion of
5 marijuana (1 point);

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

10 (iv) The Applicant's security plan includes
11 measures to prevent the diversion of marijuana to persons under the age of
12 twenty-one (21) (1 point);

13 (v) Applicant demonstrates security measures
14 exceeding the requirements of this Chapter, including but not limited to brick
15 or concrete construction or additional fire and/or security alarms (1 point);

16 c. Suitability of business plan and financial record
17 keeping:

18 (i) The Applicant describes a staffing plan
19 that will provide and ensure safe dispensing, adequate security, theft
20 prevention, and the maintenance of confidential information (1 point);

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

23 (iii) The Applicant provides a business plan
24 that demonstrates a strong financial plan, industry knowledge and
25 experience and adequate resources for start-up costs and ongoing
26 operations (1 point).

27 d. Criminal history:

28 (i) Applicants without any felony

- 1 conviction(s) (1 point);
- 2 (ii) Applicants without any misdemeanor
- 3 conviction(s) (1 point);
- 4 (iii) Applicants without any pending criminal
- 5 complaint(s) (1 point);
- 6 (iv) Applicants certify as a condition of
- 7 maintaining the revocable Conditional Use Permit that they will not employ
- 8 any person with any type of felony conviction (1 point);
- 9 (v) Applicants certify as a condition of
- 10 maintaining the revocable Conditional Use Permit that they will not employ as
- 11 managers or employees any person with any narcotics related misdemeanor
- 12 conviction (1 point).

13 e. Regulatory compliance history:

- 14 (i) Applicants and financiers have not had a
- 15 permit or license revoked by the City of Long Beach (1 point);
- 16 (ii) Applicants have not had administrative
- 17 penalties assessed against their business or the location of their business (1
- 18 point);
- 19 (iii) Applicants were successful lottery
- 20 entrants in the City's September 10, 2010 application process (1 point).

21 f. Community service:

- 22 (i) Applicants demonstrate involvement in
- 23 the community, other non-profit association, or neighborhood association (1
- 24 point).

25 2. In the event review of the applications of two (2) or

26 more eligible medical marijuana business applicants results in the same

27 total number of points assigned, the City will utilize a lottery to determine

28 which Applicant receives priority.

1 E. It shall be unlawful to operate a medical marijuana business in
2 a dwelling unit within any zoning district.

3 F. Separation from schools, parks, and other medical marijuana
4 uses.

5 The property identified in the Conditional Use Permit application must
6 be located in accordance with the following:

7 1. The medical marijuana business is not located within
8 one thousand five hundred (1,500) feet of a public or private high school or
9 Educational Partnership High School ("EPHS"), even if said high school is
10 physically located outside the boundaries of the City of Long Beach; or
11 within one thousand (1,000) feet of a public or private kindergarten,
12 elementary, middle, or junior high school, even if said school is located
13 outside the boundaries of the City of Long Beach; or within one thousand
14 (1,000) feet of a public park; or within one thousand (1,000) feet of State
15 licensed child care facilities located on commercial corridors; or within one
16 thousand (1,000) feet of a public library; or within one thousand (1,000) feet
17 of a location identified by the Police Department to be a human trafficking
18 high crime corridor; or the medical marijuana business is not located within
19 one thousand (1,000) feet of any other medical marijuana business;

20 2. The distances specified in this Subsection shall be
21 determined by the horizontal distance measured in a straight line from the
22 property line of the school, park, medical marijuana business or other
23 buffered use, to the closest property line of the lot on which the medical
24 marijuana business is located, without regard to intervening structures.

25
26 21.66.070 Limitations on medical marijuana businesses.

27 The following shall be the minimum requirements for a medical
28 marijuana business:

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

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

6 C. The business distributes, dispenses, delivers or transports
7 medical marijuana only in accordance with this Chapter and State law; and

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

12
13 21.66.080 Requirements related to operation of medical marijuana
14 businesses.

15 A. Onsite use prohibited.
16 No marijuana shall be smoked, eaten, or otherwise consumed or
17 ingested within the medical marijuana business.

18 B. Restriction on access to restricted area.
19 No person, other than a patient, licensee, employee, or a contractor
20 shall be in the medical marijuana dispensary room. No patient shall be
21 allowed entry into the medical marijuana dispensary room without showing
22 a valid State issued picture Driver License or Identification.

23 C. Display of permits required.
24 The name and contact information for the owner or owners and any
25 business manager of the medical marijuana business, the Conditional Use
26 Permit, the business license, and the sales tax seller's permit shall be
27 conspicuously posted in the business.

28 D. Business conducted within building.

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

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

E. Owner or business manager required on property.

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

F. Hours of operation.

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

G. Use of pesticides.

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

H. Ventilation required.

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

I. Use of carbon dioxide generators prohibited.

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

5 J. Limitations on inventory.

6 The medical marijuana business shall not maintain any more
7 marijuana within the property than is permitted under applicable State law.
8 The medical marijuana business shall maintain current records evidencing
9 the status and number of patients for whom they cultivate or dispense
10 medical marijuana. The medical marijuana business shall maintain current
11 records evidencing the strains of marijuana cultivated or sold.

12 K. Reporting requirements.

13 A medical marijuana business shall report to the City each of the
14 following within the time specified. If no time is specified, the report shall be
15 provided within twenty-four (24) hours of the event.

16 1. Transfer or change of financial interest, business
17 manager, financier, or primary caregiver in the permit application at least
18 thirty (30) days before the transfer or change. (Report to the Director of
19 Development Services or designee.)

20 2. Sales and taxable transactions and file sales and use
21 tax reports to the City monthly. (Report to the Director of Financial
22 Management or designee.)

23 3. A violation of any law by any Permittee or Applicant of
24 a medical marijuana business. (Report to the Director of Development
25 Services or designee.)

26 4. Diversion, theft, loss, or any criminal activity involving
27 the dispensary or any agent or employee of the dispensary. (Report to the
28 Chief of Police or designee.)

1 5. The loss or unauthorized alteration of records related to
2 cannabis, registered qualifying patients, primary caregivers, or dispensary
3 employees or agents. (Report to the Director of Development Services or
4 designee.)

5 6. Any other breach of security. (Report to the Director of
6 Development Services or designee.)

7 L. Cultivation.

8 1. All medical marijuana distributed from a medical
9 marijuana business must be cultivated in accordance with State law.

10 2. Cultivation in the City of Long Beach is permitted subject
11 to the relevant provisions of this Chapter and only if a Conditional Use Permit
12 authorizing such activity has been obtained. At such time that the State issues
13 cultivation licenses pursuant to the State's MMRSA, a permittee must also
14 apply for and obtain all applicable State cultivation licenses. Failure to obtain
15 a State cultivation license shall be grounds for suspending or revoking a
16 Conditional Use Permit issued pursuant to this Chapter.

17 3. This Section does not apply to a qualified patient
18 cultivating marijuana pursuant to Health and Safety Code Section 11362.5 if
19 the area he or she uses to cultivate marijuana does not exceed twenty (20)
20 square feet and he or she cultivates marijuana for his or her personal medical
21 use and does not sell, distribute, donate, or provide marijuana to any other
22 person or entity. This Section does not apply to a primary caregiver
23 cultivating marijuana pursuant to Section 11362.5 if the area he or she uses
24 to cultivate marijuana does not exceed fifty (50) square feet and he or she
25 cultivates marijuana exclusively for the personal medical use of no more than
26 five (5) specified qualified patients for whom he or she is the primary
27 caregiver within the meaning of Health and Safety Code Section 11362.7 and
28 does not receive remuneration for these activities, except for compensation

1 provided in full compliance with subdivision (c) of Health and Safety Code
2 Section 11362.765.

3 M. Transportation and delivery of medical marijuana.

4 It shall be unlawful for any person to transport medical marijuana,
5 except as specifically allowed by this Chapter and State law. Transport or
6 delivery activities shall comply with all of the following:

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

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

13 3. Each container used to transport or deliver medical
14 marijuana is labeled with the amount of medical marijuana or medical
15 marijuana-infused products, or the number and size of the plants, in the
16 container. The label shall include the name and address of the medical
17 marijuana business that the medical marijuana is being transported or
18 delivered from and the name and address of the medical marijuana
19 business or individual that the medical marijuana is being transported to.
20 The label shall be shown to any law enforcement officer who requests to
21 see the label.

22 4. An individual transporting medical marijuana items
23 must have a valid California Driver's License and shall use a vehicle for
24 transport that is insured at or above the legal requirement in California;
25 capable of securing (locking) the medical marijuana during transportation;
26 and capable of being temperature controlled if perishable medical
27 marijuana is being transported.

28 5. A permitted medical marijuana dispensary may deliver

1 medical marijuana only to a residence in Long Beach or to a City outside of
2 the City of Long Beach that specifically permits, by ordinance, the delivery
3 of medical marijuana to that City by an outside vendor or outside medical
4 marijuana business. For purposes of this rule, "residence" means a
5 dwelling such as a house or apartment but does not include a dormitory,
6 hotel, motel, bed and breakfast or similar commercial business.

7 6. Delivery Approval. The medical marijuana dispensary
8 must specify home delivery services in its application for a Conditional Use
9 Permit and the Conditional Use Permit shall set forth conditions related to
10 the home delivery service.

11 7. Bona Fide Orders.

12 a. A bona fide order must be received by a permitted
13 dispensary from the individual requesting delivery, before 4:00 p.m. on the
14 day the delivery is requested;

15 b. The bona fide order must contain:

16 i. The individual requestor's name, date of
17 birth, the date delivery is requested and the address of the residence where
18 the individual would like the items delivered;

19 ii. A document that describes the marijuana
20 proposed for delivery and the amounts; and

21 iii. A written statement that the marijuana is for
22 medical use only and not for the purpose of resale.

23 8. Delivery Requirements.

24 a. Deliveries must be made before 9:00 p.m. local
25 time and may not be made between the hours of 9:00 p.m. and 8:00 a.m.
26 local time;

27 b. The medical marijuana dispensary may only
28 deliver to the individual who placed the bona fide order and only to individuals

1 who are twenty-one (21) years of age or older, and who are able to provide to
2 the delivery service a valid medical marijuana recommendation from a
3 licensed medical doctor authorized by State law to issue recommendations;

4 c. At the time of delivery the individual performing
5 delivery must check the identification of the individual to whom delivery is
6 being made in order to determine that it is the same individual who submitted
7 the bona fide order, that the individual is twenty-one (21) years of age or
8 older, and must require the individual to sign a document indicating the
9 medical marijuana products were received;

10 d. A medical marijuana dispensary may not deliver
11 medical marijuana to an individual who is visibly intoxicated at the time of
12 delivery, or who cannot provide a valid medical marijuana recommendation
13 from a licensed medical doctor authorized by State law to issue
14 recommendations, or to an individual who fails to provide a valid State issued
15 identification verifying that the person is twenty-one (21) years of age or older;

16 e. Deliveries may not be made more than once per
17 day to the same physical address or to the same individual;

18 f. Marijuana items delivered to an individual's
19 residence must:

20 i. Comply with all packaging and labeling
21 regulations established by this Chapter or the State of California.

22 ii. Be placed in a larger delivery receptacle
23 that has a label that reads: "Contains marijuana: Signature of person
24 21 years of age or older required for delivery."

25 g. A retailer may not carry or transport at any one
26 time more than a total of one thousand dollars (\$1,000) in retail value worth of
27 marijuana items designated for retail delivery;

28 h. All marijuana items must be kept in a lock-box

1 securely affixed inside the delivery vehicle;

2 i. A manifest must be created for each delivery or
3 series of deliveries and the individual doing the delivery may not make any
4 unnecessary stops between deliveries or deviate substantially from the
5 manifest route.

6 9. Documentation Requirements. A medical marijuana
7 dispensary must document the following regarding deliveries:

8 a. The bona fide order and the date and time it was
9 received by the retailer;

10 b. The date and time the medical marijuana items
11 were delivered;

12 c. A description of the medical marijuana that was
13 delivered, including the weight or volume and price paid by the consumer;

14 d. Who delivered the medical marijuana items; and

15 e. The name of the individual to whom the delivery
16 was made and the delivery address;

17 f. A dispensary is required to maintain the name of
18 an individual to whom a delivery was made for eighteen (18) months from
19 the date of delivery.

20 10. Prohibitions. A medical marijuana business may not
21 deliver medical marijuana items to a residence on publicly owned land or to
22 any federally owned property. Home delivery or transportation services
23 originating from within the City of Long Beach city limits, but not from a
24 person having a valid Conditional Use Permit are strictly prohibited. Home
25 delivery or transportation services from outside the City of Long Beach city
26 limits, or from a person or entity who does not have a valid Conditional Use
27 Permit issued by the City of Long Beach are strictly prohibited.

28 N. Disposal of medical marijuana and marijuana byproducts.

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

6 O. Advertisement.

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

14 1. Except as otherwise provided in this paragraph, it shall
15 be unlawful for any person permitted under this Chapter or any other person
16 to advertise any medical marijuana or medical marijuana-infused product
17 anywhere in the city where the advertisement is in plain view of or in a place
18 open to the general public, including advertising utilizing any of the following
19 media: illuminated signs, signs incorporating green crosses or other
20 marijuana related symbol, any billboard or other outdoor general advertising
21 device as defined by the zoning regulations of the City; any sign mounted on
22 a vehicle; any hand-held or other portable sign; or any handbill, leaflet or flier
23 directly handed to any person in a public place, left upon a motor vehicle, or
24 posted upon any public or private property. The prohibition set forth in this
25 paragraph shall not apply to:

26 a. Any sign located on the same lot as a medical
27 marijuana business which exists solely for the purpose of identifying the
28 location of the medical marijuana business and which otherwise complies with

1 this Chapter and any other applicable city laws and regulations;

2 b. Any advertisement contained within a newspaper,
3 magazine, or other periodical of general circulation or on the Internet; or

4 c. Advertising which is purely incidental to
5 sponsorship of a charitable event by a medical marijuana business or a
6 medical marijuana-infused products manufacturer;

7 d. No medical marijuana business shall distribute or
8 allow the distribution of any marijuana without charge within a marijuana
9 business or any place open to the public for the purpose of promotion or
10 advertising;

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

15 2. No medical marijuana business shall sell, distribute, or
16 provide, or allow the sale, distribution, or provision of, products marked with its
17 name or logo, other than packaging in which medical marijuana is sold or on
18 medical marijuana products. This prohibition shall not prevent employees of
19 the business from wearing uniforms with the name or logo of the medical
20 marijuana business while working for the business on the business property.
21 A person shall not distribute any form of advertising for physician
22 recommendations for medical cannabis in the City unless the advertisement
23 bears the following notice to consumers:

24 NOTICE TO CONSUMERS: The Compassionate Use Act of 1996
25 ensures that seriously ill Californians have the right to obtain and use
26 cannabis for medical purposes where medical use is deemed appropriate
27 and has been recommended by a physician who has determined that the
28 person's health would benefit from the use of medical cannabis. Recommendations must come from an attending physician as defined in Section 11362.7 of the Health and Safety Code. Cannabis is a Schedule I drug according to the federal Controlled Substances Act. Activity related to

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cannabis use is subject to federal prosecution, regardless of the protections provided by State law.

Advertising for attending physician recommendations for medical cannabis shall meet all of the requirements in Business and Professions Code Section 651. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discounts, premiums, gifts, or statements of a similar nature.

P. Medical marijuana business response time.

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

Q. Concentrated, synthetic, and extracted marijuana products prohibited.

1. No medical marijuana business may produce or distribute concentrated or any form of synthetic cannabis.
2. No medical marijuana business may use metals, butane, propane or other flammable product, or produce flammable vapors to process marijuana. No medical marijuana business may utilize an extraction method of any kind.

R. Packaging at a medical marijuana business.

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

1 S. Drive through operations prohibited.

2 No medical marijuana business shall have a drive through lane or
3 drive up window and no medical marijuana shall be dispensed from a drive
4 through lane or drive up window.

5 T. Regulatory inspection required.

6 All medical marijuana businesses shall be subject to an annual
7 regulatory inspection by the City to insure compliance with all of the
8 applicable provisions of this Chapter and to confirm compliance with the
9 Conditional Use Permit and business license issued by the City.

10
11 21.66.090 Lab testing of medical marijuana required.

12 A. A medical marijuana business must ensure that usable
13 marijuana and plants are tested for pesticides, mold and mildew, and for an
14 analysis of the levels of Tetrahydrocannabinol (THC) and Cannabidiol
15 (CBD) in accordance with this Section prior to the transfer of marijuana to a
16 consumer. The requirements of this Section remain in full force and effect
17 until the State Department of Public Health issues and enforces testing
18 regulations that supersede this Section.

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

- 23 1. A unique identifier;
24 2. The name of the person who transferred it; and
25 3. The dates the marijuana batch was cultivated and
26 made available for sale at the dispensary storefront.

27 C. Sampling.

28 The medical marijuana business must ensure that random samples

1 from each batch are separated in an amount necessary to conduct the
2 applicable test, that the samples are labeled with the batch's unique identifier,
3 and are properly submitted for testing.

4 D. Testing.

5 The medical marijuana business must ensure that each sample is
6 tested for pesticides, mold, and mildew and for an analysis of the levels of
7 THC and CBD.

8 E. Immature Plants.

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

12 F. Flowers or other usable marijuana plant material.

13 Medical marijuana in the form of flowers or other plant material
14 must be:

15 1. Tested for pesticides, mold, and mildew using valid
16 testing methodologies and macroscopic or microscopic screening may not
17 be used;

18 2. Tested for pesticides by testing for the following
19 analytes:

- 20 a. Chlorinated Hydrocarbons;
- 21 b. Organophosphates;
- 22 c. Carbamates; and
- 23 d. Pyrethroids; and

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

26 G. Edibles and liquids.

27 If medical marijuana used in the edible or liquid has been tested in
28 accordance with this Section and tested negative for pesticides, mold, or

1 mildew, the edible or liquid does not need to be tested for pesticides, mold,
2 and mildew but must be tested for an analysis of the levels of THC and CBD.
3 If the medical marijuana used in the edible or liquid was not tested in
4 accordance with this Section, the edible or liquid must be tested for
5 pesticides, mold or mildew, and for an analysis of the levels of THC and CBD,
6 in accordance with this Section.

7 H. Laboratory requirements.

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

10 1. Is properly licensed by the State, when such licensing
11 becomes available;

12 2. Uses valid testing methodologies; and

13 3. Has a Quality System for testing of pesticides, mold,
14 and mildew that is compliant with the:

15 a. 2005 International Organization for
16 Standardization 17025 Standard; or

17 b. 2009 National Environmental Laboratory
18 Accreditation Conference Institute TNI Standards.

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

23 I. Testing results.

24 A laboratory must provide testing results to the medical marijuana
25 business signed by an official of the laboratory who can attest to the accuracy
26 of the results, and that includes the levels of pesticides, mold, or mildew
27 detected and the levels of THC and CBD. The medical marijuana business
28 must maintain these records for a minimum of forty-eight (48) months and

1 must make the same records available to the City upon request.

2 1. If an immature plant has visible pesticide residue, mold,
3 or mildew it must be deemed to test positive and must be destroyed.

4 2. A sample of marijuana shall be deemed to test positive
5 for mold and mildew if the sample has levels that exceed the maximum
6 acceptable counts in the Pharmacopeia, Section 1111 (May 1, 2009).

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

10 b. If an immature plant or sample of marijuana
11 tests positive for pesticides, mold, or mildew based on the standards in this
12 Section, the medical marijuana business must ensure the entire batch from
13 which the sample was taken is destroyed and must document how many or
14 how much was destroyed, and the date of destruction.

15 J. The medical marijuana business may permit laboratory
16 personnel or other persons authorized to test to have access to secure or
17 restricted access areas of the facility where marijuana or immature plants
18 are stored. The medical marijuana business must log the date and time in
19 and out of all such persons.

20
21 21.66.100 Right of entry – records to be maintained.

22 A. Records to be maintained.

23 Each Permittee shall utilize point of sale software to track inventory
24 and sales as well as keep a complete set of books of account, invoices,
25 copies of orders and sales, shipping instructions, bills of lading, weigh bills,
26 correspondence, bank statements including cancelled checks and deposit
27 slips and all other records necessary to show fully the business transactions
28 of such Permittee. Receipts shall be maintained in a computer program or by

1 pre-numbered receipts and used for each sale. All records related to
2 commercial cannabis activity shall be maintained for a minimum of seven
3 years. The records of the business shall clearly track medical marijuana
4 product inventory purchased and/or grown and sales and disposal thereof to
5 clearly track revenue from sales of any medical marijuana from other
6 paraphernalia or services offered by the medical marijuana business. The
7 Permittee shall also maintain inventory records evidencing that no more
8 medical marijuana was within the medical marijuana business than allowed
9 by applicable law for the number of patients who designated the medical
10 marijuana business owners as their primary caregiver. All such records shall
11 be open at all times during business hours for the inspection and examination
12 of the City, or its duly authorized representatives. The City may require any
13 Permittee to furnish such information as it considers necessary for the proper
14 administration of this Chapter. The records shall clearly show the source,
15 amount, price and dates of all marijuana received or purchased, and the
16 amount, price, dates and patient or caregiver for all medical marijuana sold.

17 B. Separate bank accounts.

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

21 C. Disclosure of records.

22 By applying for a Conditional Use Permit, the Permittee provides
23 consent to disclose the information required by this Chapter, including
24 information about patients and caregivers. Any records provided by the
25 Permittee that include patient or caregiver confidential information may be
26 submitted in a manner that maintains the confidentiality of the documents.
27 Any document that the Applicant considers eligible for protection shall be
28 clearly marked as confidential, and the reasons for such confidentiality shall

1 be stated on the document. The City shall not disclose confidential
2 information to other parties who are not agents of the City, except law
3 enforcement agencies who present a lawfully issued search warrant or other
4 court order.

5 D. Audits.

6 The City may require an audit of the books of account and records of a
7 medical marijuana business on such occasions as it may consider necessary,
8 including but not limited to ensuring compliance with LBMC Section
9 3.80.261(H). Such audit may be made by an auditor selected by the City
10 Manager that shall likewise have access to all books and records of the
11 medical marijuana business. The expense of any audit determined
12 necessary by the City shall be paid by the medical marijuana business.

13 E. Consent to inspection.

14 1. Application for a Conditional Use Permit or operation of
15 a medical marijuana business, or leasing property to a medical marijuana
16 business, constitutes consent by the Applicant, and all owners, managers
17 and employees of the business and the owner of the property to permit the
18 City Manager or designee to conduct routine inspections of the medical
19 marijuana business to ensure compliance with this Chapter or any other
20 applicable law, rule, or regulation.

21 2. The owner or business manager on duty shall retrieve
22 and provide the records of the business pertaining to the inspection. For
23 purposes of this Chapter, inspections of medical marijuana businesses and
24 recordings from security cameras in such businesses are required to be
25 produced as part of the routine policy of inspection and enforcement of this
26 Chapter for the purpose of protecting the public safety, individuals operating
27 and using the services of the medical marijuana business, and the adjoining
28 properties and neighborhood.

1 3. Application for a Conditional Use Permit constitutes
2 consent to inspection of the business as a public property without a search
3 warrant, and consent to seizure of any surveillance records, camera
4 recordings, reports or other materials required as a condition of a medical
5 marijuana permit without a search warrant. Should the owner or business
6 manager refuse to comply with this Section, the City may obtain a search
7 warrant or administrative search warrant.

8 F. Reporting of source, quantity and sales.

9 The records to be maintained by each medical marijuana business
10 shall include the source and quantity of any marijuana distributed, produced
11 or possessed within the property. Such reports shall include, without
12 limitation, for both cultivation, acquisitions from wholesalers and transactions
13 to patients or caregivers, the following:

- 14 1. Name and address of grower, seller and purchaser;
15 2. Date, weight, type of marijuana and dollar amount or
16 other consideration of transaction; and
17 3. For wholesale transactions, the State and City, if any,
18 sales and use tax license number of the seller.

19 G. Privacy.

20 1. Information identifying the names of patients, their
21 medical conditions, or the names of their primary caregivers received and
22 contained in records kept by the City for the purposes of administering this
23 Chapter are confidential and shall not be disclosed pursuant to the
24 California Public Records Act (Chapter 3.5 (commencing with Section 6250)
25 of Division 7 of Title 1 of the Government Code), except as necessary for
26 authorized employees of the State of California or any city, county, or city
27 and county to perform official duties pursuant to this Chapter.

- 28 2. Information identifying the names of patients, their

1 medical conditions, or the names of their primary caregivers received and
2 contained in records kept by the City for the purposes of administering this
3 Chapter shall be maintained in accordance with Chapter 1 (commencing
4 with Section 123100) of Part 1 of Division 106 of the Health and Safety
5 Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil
6 Code, and other State and federal laws relating to confidential patient
7 information.

8 3. Nothing in this Section precludes the following:

9 a. Employees of the City notifying State or local
10 agencies about information submitted to the City that the employee
11 suspects is falsified or fraudulent.

12 b. Notifications from the City or any licensing
13 authorities to State or local agencies about apparent violations of this
14 Chapter or other local, State or federal law.

15 c. Verification of requests by State or local
16 agencies to confirm licenses and certificates issued by the City or other
17 agency.

18 d. Provision of information requested pursuant to a
19 court order or subpoena issued by a court or an administrative agency or
20 local governing body authorized by law to issue subpoenas.

21 4. Information shall not be disclosed by the City beyond
22 what is necessary to achieve the goals of a specific investigation,
23 notification, or the parameters of a specific court order or subpoena.

24
25 21.66.110 Requirements related to monitoring and security of medical
26 marijuana businesses.

27 All components of the security plan submitted with the application, as it
28 may be amended, shall be in good working order, monitored and secured

1 twenty-four (24) hours per day. A separate security system is required for
2 each business.

3 A licensed dispensary shall implement sufficient security measures to
4 both deter and prevent unauthorized entrance into areas containing medical
5 cannabis or medical cannabis products and theft of medical cannabis or
6 medical cannabis products at the dispensary. These security measures shall
7 include, but not be limited to, all of the following:

8 A. Preventing individuals from remaining on the premises of the
9 dispensary if they are not engaging in activity expressly related to the
10 operations of the dispensary.

11 B. Establishing limited access areas accessible only to
12 authorized dispensary personnel.

13 C. Storing all finished medical cannabis and medical cannabis
14 products in a secured and locked room, safe, or vault, and in a manner as
15 to prevent diversion, theft, and loss, except for limited amounts of cannabis
16 used for display purposes, samples, or immediate sale.

17 D. Video cameras.

18 Prior to exercising the privileges of a Conditional Use Permit or
19 business license issued for a medical marijuana business, such business
20 shall install and maintain a fully operational digital video surveillance and
21 camera recording system that monitors no less than the front and rear of the
22 Property, all points of ingress and egress at the business, all points of sale
23 within the business, all areas within the business where medical marijuana
24 products are displayed for sale, and all limited access areas within the facility.
25 The video and surveillance system shall, at a minimum, meet the following
26 requirements:

27 1. Capture a full view of the public right-of-ways and any
28 parking lot under the control of the medical marijuana business;

1 2. Be of adequate quality, color rendition and resolution to
2 allow the ready identification of any individual committing a crime anywhere
3 on or adjacent to the exterior of the property;

4 3. Record and maintain video for a minimum of ninety (90)
5 days, except as otherwise provided in this Section, and be accessible via the
6 Internet by the Long Beach Police Department and the Director of Financial
7 Management or designee. A Public Internet Protocol (IP) address and user
8 name/password is also required to allow the Long Beach Police Department
9 or the Director of Financial Management or designee to view live and
10 recorded video from these cameras over the Internet. Consent is given by the
11 Medical Marijuana business under this Subsection to the provision of said
12 recordings or live video feed to the Police Department or the Director of
13 Financial Management or designee, without requirement for a search warrant,
14 subpoena or court order. Video surveillance and recording records shall be
15 held in confidence by all employees and representatives of the City, except
16 the City may use said records for the purpose of conducting financial audits of
17 the activities of the facility, and for legitimate law enforcement activity or the
18 prevention of crime;

19 4. Licensees are responsible for ensuring that all video or
20 surveillance equipment is properly functioning and maintained, so that
21 playback quality is suitable for viewing and the equipment is capturing the
22 identity of all individuals and activities in the monitored areas.

23 5. At each point of sale location, camera coverage must
24 enable recording of the customer(s) and employees facial features with
25 sufficient clarity to determine identity.

26 6. The system shall be capable of recording all monitored
27 areas in any lighting conditions and must be housed in a designated, locked,
28 and secured room or other enclosure with access limited to authorized

1 employees. Licensees must keep a current list of all authorized employees
2 and service personnel who have access to the surveillance system and/or
3 room on the licensed premises.

4 7. A sign shall be posted in a conspicuous place near each
5 monitored location on the interior or exterior of the premises which shall be
6 not less than twelve (12) inches wide and twelve (12) inches long, composed
7 of letters not less than one (1) inch in height, stating "All Activities Monitored
8 by Video Camera" or "These Premises are Being Digitally Recorded", or
9 otherwise advising all persons entering the premises that a video surveillance
10 and camera recording system is in operation at the facility and recording all
11 activity as provided in this Section.

12 8. All exterior camera views must be continuously recorded
13 24 hours a day and all interior cameras views shall be recorded during all
14 hours that the facility is open for business.

15 9. All video surveillance systems must be equipped with a
16 failure notification system that provides prompt notification to the Permittee of
17 any prolonged surveillance interruption and/or complete failure of the
18 surveillance system.

19 10. All point of sale areas shall record video with such clarity
20 and resolution that all sales transactions are clearly recorded. Video or
21 surveillance equipment must be positioned over the cash register or similar
22 device to provide a clear view over the area where the tender type (cash,
23 credit, checks) are exchanged between the Licensee and the medical
24 marijuana patient as well as the register or computer keys utilized to enter
25 sales information. Video records of all sales transactions shall be maintained
26 for a period of eighteen (18) months.

27 E. Use of safe for storage.

28 The medical marijuana business shall install and use a safe for storage

1 of any processed marijuana and cash on the property when the business is
2 closed to the public. The safe shall be incorporated into the building structure
3 or securely attached thereto. For medical marijuana-infused products that
4 must be kept refrigerated or frozen, the business shall lock the refrigerated
5 container or freezer in place of using a safe so long as the container is affixed
6 to the building structure.

7 F. Alarm system.

8 The medical marijuana business shall install and use a fire and burglar
9 alarm system that is monitored by a company that is staffed twenty-four hours
10 (24) a day, seven (7) days a week. The security plan submitted to the City
11 shall identify the company monitoring the alarm, including contact information,
12 and the City shall be updated within seventy-two (72) hours of any change of
13 monitoring company.

14 G. Security guard.

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

19
20 21.66.120 Requirements for public health and labeling.

21 A. Medical marijuana-infused products.

22 The production of any medical marijuana-infused product shall be at a
23 medical marijuana-infused product manufacturer that meets all requirements
24 of a retail food establishment as set forth in Chapter 8.45 of this Code. Edible
25 cannabis products must be produced by a State certified food handler with a
26 valid certificate, a copy of which must be kept on-site where the edible
27 product is distributed, or which must be made available during inspections.

28 The Permittee shall comply with all applicable existing and future State and

1 local health regulations related to the production, testing, preparation,
2 labeling, and sale of prepared food items.

3 B. Labeling and packaging requirements.

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

12 a. Potential food allergy ingredients, including but
13 not limited to milk, eggs, fish, shellfish, tree nuts, peanuts, wheat, and
14 soybeans.

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

18 c. The following warning:

19 THIS PRODUCT CONTAINS MARIJUANA. THIS PRODUCT
20 HAS NOT BEEN TESTED BY LOCAL, STATE OR FEDERAL
21 GOVERNMENTAL AGENCIES FOR HEALTH, SAFETY, OR
22 EFFICACY. THERE MAY BE HEALTH RISKS ASSOCIATED
23 WITH THE INGESTION OR USE OF THIS PRODUCT.

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

27
28 21.66.130 Medical marijuana business permit application process.

1 A. Any medical marijuana business desiring a Conditional Use
2 Permit required by this Chapter shall, prior to initiating operations, complete
3 and file an application on a form supplied by the City, and shall submit the
4 completed application to the Department of Development Services (“DDS”)
5 with payment of a nonrefundable processing and notification fee, as
6 established by the City Council by resolution.

7 B. Prior to accepting applications, DDS shall cause to be posted
8 on its website a public notice of availability. The notice will appear on the
9 DDS website for thirty (30) consecutive days, immediately prior to the
10 opening of the application period. The notice shall specify, at a minimum,
11 the period of time that applications will be received by the DDS for further
12 processing and consideration.

13 C. DDS shall review each application and ensure that the
14 application is complete. Incomplete applications will be rejected and will not
15 be further processed or considered unless the applicant submits a complete
16 application during the period specified by the DDS as the time period to
17 submit applications. Determinations made by DDS as to whether or not an
18 application is complete are final and shall not be appealable to any other
19 person or body.

20 D. Any notices required by this Chapter shall be deemed issued
21 upon the date they are either deposited in the United States mail or the date
22 upon which personal service of such notice is provided.

23 E. At the conclusion of the application period, DDS shall
24 complete a review of the applications and shall assign points to each
25 Applicant in accordance with Section 21.66.060. Sixty (60) days from the
26 date the application period closes, DDS will post the point priority rankings
27 on the its website and mail written notification to each Applicant indicating
28 the total points assigned, and the Applicant's rank.

1 F. Each Applicant will have ten (10) calendar days from the date
2 the notice of point priority ranking is mailed to contact DDS and confirm the
3 Applicant will continue in the CUP process. Should an Applicant fail to
4 contact DDS during this time, the application will be considered null and
5 void. Should and Applicant wish to withdraw its application at this time, the
6 Applicant shall be eligible for a partial refund in accordance with procedures
7 established by DDS.

8 G. Once DDS receives confirmation to proceed with the CUP
9 process from an Applicant, the application for CUP will be set for hearing in
10 accordance with Chapter 21.21 of the Long Beach Municipal Code.

11
12 21.66.140 Vacant medical marijuana business application allocation.

13 A. The Director shall determine, at the end of the fourth (4th)
14 calendar quarter following implementation of this Chapter, and each year
15 thereafter, whether additional medical marijuana businesses may be
16 allowed within the City based on the total number of medical marijuana
17 businesses authorized pursuant to this Chapter. Additional Conditional Use
18 Permit applications above those medical marijuana businesses already
19 permitted shall be accepted only to the extent the Director of Development
20 Services determines that initiation of the Conditional Use Permit application
21 process will not lead the medical marijuana businesses, as a group, to
22 exceed the restrictions established pursuant to Section 21.66.060.

23 B. Should the Director of Development Services determine the
24 City can accommodate additional medical marijuana businesses within the
25 restrictions set forth in this Chapter, DDS shall cause to be posted on its
26 website a public notice of availability and the potential number of
27 Conditional Use Permits available. The notice will appear on the DDS
28 website for thirty (30) consecutive days, immediately prior to the opening of

1 the application period. The application process will then proceed in
2 accordance with this Chapter.

3
4 21.66.150 Compliance with other applicable law.

5 A. Application of State and federal law.

6 Except as may be provided otherwise in this Chapter, or rules adopted
7 pursuant to this Chapter or interpretations by the City, any law or regulation
8 adopted by the State governing the cultivation, production, possession or
9 distribution of marijuana for medical use shall also apply to medical marijuana
10 businesses in the City. Provided however, if a State law or regulation permits
11 what this Chapter prohibits, this Chapter shall prevail. Noncompliance with
12 any applicable State law or regulation is unlawful and shall be grounds for
13 revocation or suspension of any license or permit issued under this Chapter.
14 No medical marijuana business shall continue operations in violation of an
15 additional State law or regulation applicable within the City after the effective
16 date of the State law or regulation.

17 B. Revocation of permit upon applicable State or federal
18 prohibition.

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

27 C. Revocable privilege.

28 A Conditional Use Permit is a revocable privilege, and no Applicant

1 therefor or holder thereof shall be deemed to have acquired any property or
2 vested interest therein.

3
4 21.66.160 Drug and alcohol free workplace.

5 This Chapter shall not interfere with an employer's rights and
6 obligations to maintain a drug and alcohol free workplace or require an
7 employer to permit or accommodate the use, consumption, possession,
8 transfer, display, transportation, sale, or growth of cannabis in the workplace
9 or affect the ability of employers to have policies prohibiting the use of
10 cannabis by employees and prospective employees, or prevent employers
11 from complying with local, State, or federal law.

12
13 21.66.170 Prohibited acts.

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

- 15 1. Cultivate, distribute, possess, or produce marijuana in
16 plain view of, or in a place open to the general public.
- 17 2. Smoke, use or ingest on the property of the medical
18 marijuana business:
- 19 a. Marijuana,
20 b. Alcoholic beverage, or
21 c. A controlled substance, except in compliance with
22 the directions of a legal prescription for the person from a doctor with
23 prescription writing privileges.
- 24 3. Operate or be in physical control of any medical
25 marijuana business while under the influence of alcohol, medical marijuana,
26 or other intoxicant.
- 27 4. Possess medical marijuana that is not in a sealed
28 package in a location where the possessor is not authorized to possess or

1 consume medical marijuana.

2 5. Obtain marijuana from a person who is not permitted
3 as a medical marijuana business.

4 6. Possess or operate a medical marijuana business in
5 violation of this Chapter.

6 7. Distribute medical marijuana without a Conditional Use
7 Permit or outside of the restricted area of the medical marijuana business.

8 8. Permit any other person to violate any provision of this
9 Chapter or any condition of an approval granted pursuant to this Chapter, or
10 any law, rule or regulation applicable to the use of medical marijuana or the
11 operation of a medical marijuana business.

12 9. Lease any property to a medical marijuana business
13 that has marijuana on the property without a Conditional Use Permit from
14 the City.

15
16 21.66.180 Suspension or revocation of permit.

17 A. A Conditional Use Permit or business license may be
18 suspended or revoked for any violation of this Chapter in accordance with
19 the procedures provided in the Long Beach Municipal Code.

20 B. If the City revokes or suspends a Conditional Use Permit or
21 business license, the business may not move any marijuana from the
22 property except under the supervision of the Long Beach Police
23 Department.

24
25 21.66.190 Term of permit – renewals – expiration of permit.

26 A. Term of permit.

27 A Conditional Use Permit shall be valid for five (5) years. The
28 permit shall expire on the last day of the month in which the permit is issued

1 five (5) years following issuance or renewal of the permit.

2 B. Renewal of permit.

3 1. The Permittee shall apply for renewal of the Conditional
4 Use Permit at least forty-five (45) days before the expiration of the permit.
5 The Permittee shall apply for renewal using forms provided by the City. If
6 the Applicant fails to apply for renewal at least forty-five days before the
7 expiration of the permit but does apply for renewal prior to expiration of the
8 permit, the City may process the renewal application if the Applicant
9 submits a late filing fee of Five Thousand Dollars (\$5,000) at the time of
10 submittal of the renewal application.

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

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

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

25 5. In the event the a Conditional Use Permit has been
26 suspended or revoked or a Permittee has received any notice of violation of
27 any law, the renewal application shall include a copy of the notice,
28 suspension or revocation.

1 6. The renewal application shall include proof of payment of
2 all applicable taxes and fees required by the Long Beach Municipal Code and
3 verification that the business has a valid State seller's permit in good
4 standing.

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

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

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

22 C. Nonpayment of tax.

23 In the event a medical marijuana business that has been open
24 and operating, and submitting monthly business license tax returns and taxes
25 to the City, ceases providing business license returns and taxes to the City for
26 a period of ninety (90) days or longer, the Conditional Use Permit shall be
27 deemed to have expired and the permittee shall cease doing business at the
28 location.

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21.66.200 City manager authorized to issue rules.

The City Manager or his designee may adopt reasonable rules and regulations that the City Manager determines are necessary to implement the requirements and administration of this Chapter.

21.66.210 Violation and enforcement.

A. Any person violating any provision of this Chapter or knowingly or intentionally misrepresenting any material fact in procuring a Conditional Use Permit, including a Permittee's agent or employee while acting on behalf of the Permittee or engaged in commercial cannabis activity, shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment.

B. Any person who engages in any medical marijuana business operations without a business license issued by the City or Conditional Use Permit, or after a Conditional Use Permit application has been denied, or a medical marijuana permit has been suspended or revoked, shall be guilty of a misdemeanor.

C. Any person engaging in commercial cannabis activity without a State license shall be subject to civil penalties of up to twice the amount of the license fee for each violation in accordance with Business and Professions Code Section 19318, and a court may order the destruction of all medical cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code.

D. As a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, revocation of the certificate of occupancy for the property, disgorgement and payment to the City of any and all monies

1 unlawfully obtained, costs of abatement, costs of investigation, attorney
2 fees, and any other relief or remedy available at law or equity. The City
3 may also pursue any and all remedies and actions available and applicable
4 under local and State law for any violations related to the operation of a
5 medical marijuana business.

6 E. Any violation of the terms and conditions of the Conditional
7 Use Permit, of this Chapter, or of applicable local or State regulations and
8 laws shall be grounds for permit suspension or revocation.

9
10 21.66.220 Establishment of a Medical Marijuana Task Force.

11 A. A Long Beach Medical Marijuana Task Force ("Task Force")
12 may be established. If established, the Task Force shall consist of nine (9)
13 members. Appointments to the Task Force shall be made and vacancies
14 on the Task Force shall be filled by the Mayor and City Council in
15 accordance with the provisions in Chapter 2.18 of this Code. Services of
16 the members of the Task Force shall be voluntary and members will serve
17 without compensation.

18 B. All members of the Task Force shall be residents of the City.
19 The Task Force shall be comprised of the following members:

20 1. Three (3) Task Force members shall be representatives
21 from three separate medical marijuana businesses operating in the City;

22 2. Five (5) Task Force members shall be representatives of
23 recognized neighborhood organizations which have at least one (1) medical
24 marijuana business operating within its boundaries; and

25 3. One (1) Task Force member shall be a representative of
26 a local patient advocacy organization with a background in working to protect
27 the interests of medical marijuana patients.

28 C. The Medical Marijuana Task Force shall have the power and

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duty to:

1. Recommend to the City operational and safety standards for medical marijuana businesses operating in the City;
2. Develop and make recommendations for a mediation process to be used by operators of medical dispensaries, patients, and neighbors of dispensaries to address community concerns and nuisance issues and resolve conflicts and disputes.

21.66.230 Severability.

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

Section 2. Chapter 5.89 of the Long Beach Municipal Code is repealed effective on the first (1st) day after this Chapter becomes effective by operation of law.

Section 3. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

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