

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 5.87 TO IMPLEMENT THE STATE COMPASSIONATE USE ACT AND STATE MEDICAL MARIJUANA PROGRAM ACT.

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

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

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

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

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

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

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

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

Chapter 5.87  
MEDICAL MARIJUANA COLLECTIVE

5.87.010 Purpose and intent.

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

5.87.015 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.87.020 Medical Marijuana Collective – Permit required.

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

5.87.030 Medical Marijuana Collective – Permit application process.

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

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

- 1. The address of the Property where the proposed Medical

1 Marijuana Collective will operate.

2 2. A site plan describing the Property with fully  
3 dimensioned interior and exterior floor plans including electrical,  
4 mechanical, plumbing, and disabled access compliance pursuant to Title  
5 24 of the State of California Code of Regulations and the federally  
6 mandated Americans with Disabilities Act.

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

9 4. Photographs depicting the entire interior of the proposed  
10 Property.

11 5. If the Property is being rented or leased or is being  
12 purchased under contract, a copy of such lease or contract.

13 6. If the Property is being rented or leased, written proof  
14 that the Property owner, and landlord if applicable, were given notice that  
15 the Property will be used as a Medical Marijuana Collective, and that the  
16 Property owner, and landlord if applicable, agree(s) to said operations.

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

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

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

27 10. If the Medical Marijuana Collective is a corporation, a  
28 certified copy of the Collective's Secretary of State Articles of

1 Incorporation, Certificate(s) of Amendment, Statement(s) of Information  
2 and a copy of the Collective's By laws.

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

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

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

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

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

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

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

26 1. Within ten (10) business days of receipt of a Medical  
27 Marijuana Collective Permit application, except where circumstances  
28 beyond the control of the City justifiably delay such response, the Director



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of Financial Management shall determine whether the application is complete.

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

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

4. Within ten (10) business days following the receipt of an amended application or supplemental information, except where circumstances beyond the control of the City justifiably delay such response, the Director of Financial Management shall again determine whether the application is complete in accordance with the procedures set forth above. Evaluation and notification shall occur as provided above until such time as the application is found to be complete or in the alternative null and void.

5. Once the application is found to be complete, the applicant shall be notified within ten (10) business days, except where circumstances beyond the control of the City justifiably delay such response, of that fact.

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

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

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

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

F. The decision of the Director of Financial Management may be appealed to the City Council within ten (10) calendar days from the date the written notice of Permit decision was mailed. The request for appeal shall be in writing, shall set forth the specific ground(s) on which it

1 is based and shall be submitted to the Director of Financial Management  
2 along with an appeal deposit in an amount determined by the City Council  
3 by resolution.

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

12  
13 5.87.040 Medical Marijuana Collective Permit approval and operating  
14 conditions.

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

19 A. The Property is not located in an area zoned in the City for  
20 exclusive residential use. Medical Marijuana Collectives are not permitted  
21 to operate in exclusive residential zones as established pursuant to Title  
22 21 of this Code.

23 B. The Medical Marijuana Collective is not located within a one  
24 thousand five hundred foot (1,500') radius of a public or private high  
25 school or within a five hundred foot (500') radius of a public or private  
26 kindergarten, elementary, middle or junior high school. The distances  
27 specified in this subdivision shall be determined by the horizontal distance  
28 measured in a straight line from the property line of the school to the

1 closest property line of the lot on which the Medical Marijuana Collective  
2 is located, without regard to intervening structures.

3 C. The Medical Marijuana Collective is not located within a one  
4 thousand foot (1,000') radius of any other Medical Marijuana Collective.  
5 The distance specified in this subdivision shall be determined by the  
6 horizontal distance measured in a straight line from the property line of  
7 any other Medical Marijuana Collective, to the closest property line of the  
8 lot on which the permitted Medical Marijuana Collective is located, without  
9 regard to intervening structures.

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

12 E. Any exterior or interior signs visible from the exterior of the  
13 Property shall be unlighted.

14 F. Windows and roof hatches at the Property shall be secured  
15 so as to prevent unauthorized entry, and are equipped with latches that  
16 may be released quickly from the inside to allow exit in the event of  
17 emergency and are in compliance with all applicable building code  
18 provisions.

19 G. The Property provides sufficient sound absorbing insulation  
20 so that noise generated inside the premises is not audible anywhere on  
21 the adjacent property or public rights-of-way, or within any other building  
22 or other separate unit within the same building as the Medical Marijuana  
23 Collective.

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

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

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

K. A sign is posted in a conspicuous location inside the Property advising:

1. "The diversion of marijuana for non-medical purposes is a violation of State law.
2. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.
3. Loitering at the location of a Medical Marijuana Collective for an illegal purpose is prohibited by California Penal Code Section 647(h).
4. This Medical Marijuana Collective is permitted in accordance with the laws of the City of Long Beach.
5. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of State Law."

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

M. The Medical Marijuana Collective meets all applicable state and local laws to ensure that the operations of the Collective are

1 consistent with the protection of the health, safety and welfare of the  
2 community, Qualified Patients and their Primary Caregivers, and will not  
3 adversely affect surrounding uses.

4 N. No Collective shall operate for profit. Cash and in-kind  
5 contributions, reimbursements, and reasonable compensation provided by  
6 Management Members and members towards the Collective's actual  
7 expenses of the growth, cultivation, and provision of Medical Marijuana  
8 shall be allowed provided that they are in strict compliance with State Law.  
9 All such cash and in-kind amounts and items shall be fully documented in  
10 accordance with Section 5.87.060 of this Chapter.

11  
12 5.87.050 Medical Marijuana Collective Permit – Non transferable.

13 A Medical Marijuana Collective Permit issued pursuant to this  
14 Chapter shall become null and void upon the cessation of the Collective  
15 and/or the relocation of the Collective to a different Property

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

17 1. Any relocation or expansion that includes a separate  
18 piece of property or parcel of land from the initially permitted Property.

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

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

25 C. The holder of a Medical Marijuana Collective Permit shall  
26 not allow others to use or rent the permitted Property. An exception shall  
27 be made for persons who are not Collective members or Management  
28 Members and who possess a valid City issued business license which

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authorizes the "place to place" sale of soil and nutrients to the Collective members or Management Members for the collective cultivation of Medical Marijuana by members and/or Management Members of the Collective.

5.87.060 Maintenance of records.

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

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

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

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

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

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

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

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

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

B. These records shall be maintained by the Medical Marijuana Collective for a period of five (5) years and shall be made available by the Collective to the City upon request, subject to the authority set forth in Section 5.87.070.

5.87.070 Inspection authority.

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



1           5.87.080     Existing Medical Marijuana operations.

2                   Any existing Medical Marijuana Collective, dispensary, operator,  
3 establishment, or provider that does not comply with the requirements of  
4 this Chapter must immediately cease operation until such time, if any,  
5 when it complies fully with the requirements of this Chapter. No Medical  
6 Marijuana Collective, dispensary, operator, establishment, or provider that  
7 existed prior to the enactment of this Chapter shall be deemed to be a  
8 legally established use or a legal non-conforming use under the provisions  
9 of this Chapter or the Code.

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11           5.87.090     Prohibited activity.

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

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

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

24                   D.     No Medical Marijuana Collective, Management Member or  
25 member shall cause or permit the sale, distribution or exchange of  
26 Medical Marijuana cultivated at the Property or of any Edible Medical  
27 Marijuana product manufactured at the Property to any non Collective  
28 Management Member or member.

1           E.     No Medical Marijuana Collective, Management Member or  
2 member shall allow or permit the commercial sale of any product, good or  
3 service, including but not limited to drug paraphernalia identified in Health  
4 and Safety Code Section 11364, on or at the Medical Marijuana  
5 Collective, in the parking area of the Property. An exception shall be  
6 made for persons who are not Collective members or Management  
7 Members and who possess a valid City issued business license which  
8 authorizes the "place to place" sale of soil and nutrients to the Collective,  
9 Management Members or members for the collective cultivation of  
10 Medical Marijuana by Management Members and members of the  
11 Collective.

12           F.     No cultivation of Medical Marijuana at the Property shall be  
13 visible with the naked eye from any public or other private property, nor  
14 shall cultivated Medical Marijuana or dried Medical Marijuana be visible  
15 from the building exterior. No cultivation shall occur at the Property  
16 unless the area devoted to the cultivation is secured from public access  
17 by means of a locked gate and any other security measures necessary to  
18 prevent unauthorized entry.

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

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

24           I.     No sale of Medical Marijuana in any form including Edible  
25 Medical Marijuana products, shall be permitted.

26           J.     No person under the age of eighteen (18) shall be allowed  
27 at the Property, unless that minor is a Qualified Patient and is  
28 accompanied by his or her licensed Attending Physician, parent(s) or

1 documented legal guardian.

2 K. No Medical Marijuana Collective shall possess Marijuana  
3 that was not cultivated by its Management Members or members either at  
4 the Property or at its predecessor location fully permitted in accordance  
5 with this Chapter.

6 L. No Medical Marijuana Collective, Management Member or  
7 member shall cause or permit the sale, dispensing, or consumption of  
8 alcoholic beverages on the Property or in the parking area of the Property.

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

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

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

23 O. Medical Marijuana Collective membership and Management  
24 Membership, established pursuant to this Chapter, shall be limited to one  
25 Collective fully permitted in accordance with this Chapter.

26 P. No person who has been convicted within the previous ten  
27 (10) years of a felony or a crime of moral turpitude, or who is currently on  
28 parole or probation for the sale or distribution of a controlled substance,

1 shall be engaged directly or indirectly in the management of the Medical  
2 Marijuana Collective nor, further, shall manage or handle the receipts and  
3 expenses of the Collective.

4  
5 5.87.100 Violation and enforcement.

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

12 B. Any person who engages in any Medical Marijuana  
13 Collective operations after a Medical Marijuana Collective Permit  
14 application has been denied, or a Medical Marijuana Collective Permit has  
15 been suspended or revoked, and before a new permit is issued, shall be  
16 guilty of a misdemeanor.

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

26 D. Any violation of the terms and conditions of the Medical  
27 Marijuana Collective permit, of this Chapter, or of applicable local or state  
28 regulations and laws shall be grounds for permit suspension or

1 revocation.

2 5.87.110 Appeal process.

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

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

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

25 D. Whenever a Medical Marijuana Collective Permit has been  
26 revoked or suspended, no other such permit application shall be  
27 considered for a period of one (1) year from either the date notice of the  
28 revocation or suspension was mailed, or the date of the final decision of

1 the City Council, whichever is later.

2 5.87.120 Operative date.

3 This ordinance will be come effective one-hundred-and-twenty  
4 (120) days following its passage and adoption. The Department of  
5 Financial Management will accept completed Medical Marijuana Collective  
6 permit applications one-hundred-and-twenty (120) days prior to the  
7 effective date of this ordinance.

8  
9 5.87.130 Severability.

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

15  
16 5.87.140 Review of Regulations.

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

20  
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22 ///

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

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2010, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor





ORDINANCE NO.

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

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

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

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

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

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

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

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

6 Chapter 5.87

7 MEDICAL MARIJUANA COLLECTIVE

8  
9 5.87.010 Purpose and intent.

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

25  
26 5.87.015 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

28 ///

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

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

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

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

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

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

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

10  
11       5.87.020     Medical Marijuana Collective – ~~Administrative Use Permit~~ required.

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

17  
18       5.87.030     Medical Marijuana Collective – ~~Administrative Use Permit~~  
19                 application process.

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

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

1 applicant ever had such a license/permit revoked or suspended and the  
2 reason(s) therefore.

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

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

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

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

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

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

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

28 B. The Director of Financial Management shall ensure that the



1 application is complete as follows:

2 1. Within ~~seven (7)~~ ten (10) business days of receipt of  
3 a Medical Marijuana Collective Administrative Use Permit application,  
4 except where circumstances beyond the control of the City justifiably  
5 delay such response, the Director of Financial Management shall  
6 determine whether the application is complete.

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

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

18 4. Within ~~five (5)~~ ten (10) business days following the  
19 receipt of an amended application or supplemental information, except  
20 where circumstances beyond the control of the City justifiably delay such  
21 response, the Director of Financial Management shall again determine  
22 whether the application is complete in accordance with the procedures set  
23 forth above. Evaluation and notification shall occur as provided above  
24 until such time as the application is found to be complete or in the  
25 alternative null and void.

26 5. Once the application is found to be complete, the  
27 applicant shall be notified within ~~five (5)~~ ten (10) business days, except  
28 where circumstances beyond the control of the City justifiably delay such

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response, of that fact.

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

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

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

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

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1 recommended decision. A copy of the report shall be served on all parties.

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

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

17  
18 5.87.040 Medical Marijuana Collective ~~Administrative Use Permit~~ approval  
19 and operating conditions.

20 The Director of Financial Management shall approve and issue a  
21 Medical Marijuana Collective ~~Administrative Use Permit~~ if the application  
22 and evidence submitted in the hearing, conducted pursuant to Section  
23 5.87.030, Subdivisions (D) and (E) as set forth above, sufficiently  
24 demonstrate that:

25 A. The Property is not located in an area zoned in the City for  
26 exclusive residential use. Medical Marijuana Collectives are not permitted  
27 to operate in exclusive residential zones as established pursuant to Title  
28 21 of this Code.

REDLINED VERSION

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

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

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

20           E.     Any exterior or interior signs visible from the exterior of the  
21 Property shall be unlighted.

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

27           G.     The Property provides sufficient sound absorbing insulation  
28 so that noise generated inside the premises is not audible anywhere on

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the adjacent property or public rights-of-way, or within any other building or other separate unit within the same building as the Medical Marijuana Collective.

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

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

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

K. A sign is posted in a conspicuous location inside the Property advising:

1. "The diversion of marijuana for non-medical purposes is a violation of State law.
2. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.
3. Loitering at the location of a Medical Marijuana Collective for an illegal purpose is prohibited by California Penal Code Section 647(h).
4. This Medical Marijuana Collective is permitted in accordance with the laws of the City of Long Beach.

///

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

3                   L.     Each applicant manufacturing Edible Medical Marijuana shall  
4     manufacture the Edible Medical Marijuana products at the Property for the  
5     sole consumption by Qualified Patient members and Qualified Patient  
6     Management Members of the Collective, in compliance with all applicable  
7     federal, state and local laws.

8                   M.     ~~The Medical Marijuana Collective possesses a valid Los~~  
9     ~~Angeles County Sanitation District, Industrial Waste Permit for the~~  
10    ~~Property.~~

11                  NM.    The Medical Marijuana Collective meets all applicable South  
12    Coast Air Quality Management District rules and regulations; Los Angeles  
13    County Sanitation District rules and regulations; City of Long Beach  
14    Departments of Police, Fire, Health and Human Services, Development  
15    Services, Code Enforcement, and Financial Management rules,  
16    regulations, requirements and conditions; as well as all federal state and  
17    local laws to ensure that the operations of the Collective are consistent  
18    with the protection of the health, safety and welfare of the community,  
19    Qualified Patients and their Primary Caregivers, and will not adversely  
20    affect surrounding uses.

21                  N.     No Collective shall operate for profit. Cash and in-kind  
22    contributions, reimbursements, and reasonable compensation provided by  
23    Management Members and members towards the Collective’s actual  
24    expenses of the growth, cultivation, and provision of Medical Marijuana  
25    shall be allowed provided that they are in strict compliance with State Law.  
26    All such cash and in-kind amounts and items shall be fully documented in  
27    accordance with Section 5.87.060 of this Chapter.  
28

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1 5.87.050 Medical Marijuana Collective ~~Administrative Use Permit –~~  
2 Non transferable.

3 A Medical Marijuana Collective ~~Administrative Use Permit~~ issued  
4 pursuant to this Chapter shall become null and void upon the cessation of  
5 the Collective, ~~upon and/or~~ the relocation of the Collective to a different  
6 Property, ~~or upon a violation by the Collective or any of its members of a~~  
7 ~~provision of this Chapter.~~

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

9 1. Any relocation or expansion that includes a separate  
10 piece of property or parcel of land from the initially permitted Property.

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

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

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

25  
26 5.87.060 Maintenance of records.

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

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- 1                   1.     The full name, address, and telephone number(s) of  
2     the owner, landlord and/or lessee of the Property.
- 3                   2.     The full name, address, and telephone number(s) of  
4     each Collective member engaged in the management of the Collective  
5     and the exact nature of the participation in the management of the  
6     Collective.
- 7                   3.     The full name, address, and telephone number(s) of  
8     each Collective member and Management Member who participates in  
9     the Collective cultivation of Medical Marijuana.
- 10                  4.     The full name, date of birth, residential address, and  
11     telephone number(s) of each Collective member and Management  
12     Member; the date each member and Management Member joined the  
13     Collective; the exact nature of each member's and Management  
14     Member's participation in the Collective; and the status of each member  
15     and Management Member as a Qualified Patient or Primary Caregiver.
- 16                  5.     A written accounting of all cash and in-kind  
17     contributions, reimbursements, and reasonable compensation provided by  
18     the Collective Management Members and members whether in cash or in  
19     kind, by the Collective members to the Collective, and all expenditures  
20     and costs incurred by the Collective ~~for the cultivation of Medical~~  
21     Marijuana.
- 22                  6.     An inventory record documenting the dates and  
23     amounts of Medical Marijuana cultivated at the Property, and the daily  
24     amounts of Marijuana stored on the Property.
- 25                  7.     Proof of a valid Medical Marijuana Collective  
26     ~~Administrative Use~~ Permit issued by the Department of Financial  
27     Management in conformance with this Chapter.

28     ///



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

5                   B.     These records shall be maintained by the Medical Marijuana  
6     Collective for a period of five (5) years and shall be made available by the  
7     Collective to the City upon request, subject to the authority set forth in  
8     Section 5.87.070.

9  
10    5.87.070     Inspection authority.

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

22  
23    5.87.080     Existing Medical Marijuana operations.

24                  Any existing Medical Marijuana Collective, dispensary, operator,  
25    establishment, or provider that does not comply with the requirements of  
26    this Chapter must immediately cease operation until such time, if any,  
27    when it complies fully with the requirements of this Chapter. No Medical  
28    Marijuana Collective, dispensary, operator, establishment, or provider that

1 existed prior to the enactment of this Chapter shall be deemed to be a  
2 legally established use or a legal non-conforming use under the provisions  
3 of this Chapter or the Code.

4  
5 5.87.090 Prohibited activity.

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

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

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

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

23 E. No Medical Marijuana Collective, Management Member or  
24 member shall allow or permit the commercial sale of any product, good or  
25 service, including but not limited to drug paraphernalia identified in Health  
26 and Safety Code Section 11364, on or at the Medical Marijuana  
27 Collective, in the parking area of the Property. An exception shall be  
28 made for persons who are not Collective members or Management

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Members and who possess a valid City issued business license which authorizes the “place to place” sale of soil and nutrients to the Collective, Management Members or members for the collective cultivation of Medical Marijuana by Management Members and members of the Collective.

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

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

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

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

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

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

///

1 L. No Medical Marijuana Collective, Management Member or  
2 member shall cause or permit the sale, dispensing, or consumption of  
3 alcoholic beverages on the Property or in the parking area of the Property.

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

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

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

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

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

28 ///

1 5.87.100 Violation and enforcement.

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

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

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

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

26 ///

27 ///

28 ///

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1           5.87.110     Appeal process.

2                    A.     If a City department determines that the permittee failed to

3                    comply with any provision of this Chapter, or with any other provision or

4                    requirement of law, the Director of Financial Management shall revoke or

5                    suspend the Medical Marijuana Collective Permit in accordance with the

6                    provisions set forth in Section 5.06.020, Subsection A, of this Code.

7                    B.     The Director of Financial Management shall notify the

8                    permittee of the permit revocation or suspension by dated written notice.

9                    Said notice shall advise the permittee of the right to appeal the decision to

10                   the City Council. The request for appeal shall be in writing, shall set forth

11                   the specific ground(s) on which it is based and shall be submitted to the

12                   Director of Financial Management within ten (10) calendar days from the

13                   date the notice was mailed along with an appeal deposit in an amount

14                   determined by the City Council by resolution.

15                   C.     The City Council shall conduct a hearing on the appeal or

16                   refer the matter to a hearing officer, pursuant to Chapter 2.93 of this

17                   Code, within thirty (30) business days from the date the completed

18                   request for appeal was received by the Director of Financial Management,

19                   except where good cause exists to extend this period. The appellant shall

20                   be given at least ten (10) business days written notice of such hearing.

21                   The hearing and rules of evidence shall be conducted pursuant to

22                   Chapter 2.93 of this Code. The determination of the City Council on the

23                   appeal shall be final.

24                   D.     Whenever a Medical Marijuana Collective Permit has been

25                   revoked or suspended, no other such permit application shall be

26                   considered for a period of one (1) year from either the date notice of the

27                   revocation or suspension was mailed, or the date of the final decision of

28                   the City Council, whichever is later.



1 Section 2. The City Clerk shall certify to the passage of this Ordinance  
2 by the City Council and cause it to be posted in three conspicuous places in the City of  
3 Long Beach, and it shall take effect on the thirty-first (31<sup>st</sup>) day after it is approved by  
4 the Mayor.

5 I hereby certify that the foregoing Ordinance was adopted by the City  
6 Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2010, by the  
7 following vote:

8  
9 Ayes:Councilmembers: \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_

13 Noes:Councilmembers: \_\_\_\_\_  
14 \_\_\_\_\_

15 Absent:Councilmembers: \_\_\_\_\_  
16 \_\_\_\_\_

17  
18  
19 \_\_\_\_\_  
City Clerk

20  
21 Approved: \_\_\_\_\_  
Mayor

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