

ORDINANCE NO. ORD-10-0039

AN INTERIM ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF LONG BEACH ADOPTED AS AN  
URGENCY MEASURE ESTABLISHING A TEMPORARY  
MORATORIUM ON THE ISSUANCE OF PERMITS,  
ENTITLEMENTS, LICENSES, AND APPROVALS  
REGARDING MEDICAL MARIJUANA COLLECTIVES; AND  
DECLARING THAT THIS ORDINANCE SHALL TAKE  
EFFECT IMMEDIATELY

WHEREAS, in 1996, the voters of the State of California approved  
Proposition 215, which was codified as Health and Safety Code Section 11362.5, et seq.,  
and entitled, the *Compassionate Use Act of 1996* ("the Act"); and

WHEREAS, the intent of Proposition 215 was to enable persons who are in  
need of marijuana for medical purposes to obtain and use it under limited, specified  
circumstances; and

WHEREAS, on January 1, 2004, Senate Bill 420 became effective to clarify  
the scope of the Act and to allow cities and counties to adopt and enforce rules and  
regulations consistent with SB 420 and the Act; and

WHEREAS, as a result of Proposition 215, individuals have established  
medical marijuana dispensaries in various cities in California, including Long Beach;

WHEREAS, on March 23, 2010, the City Council of the City of Long Beach  
adopted Ordinance No. ORD-10-0007, adding Chapter 5.87 to the Long Beach Municipal  
Code to implement the State Compassionate Use Act and State Medical Marijuana  
Program Act;

WHEREAS, between June 1, 2010 and June 18, 2010, the City accepted  
applications from various individuals and entities seeking permits pursuant to Chapter

1 5.87, to operate medical marijuana collectives and cultivation sites in the City;

2 WHEREAS, on September 20, 2010, the City conducted a lottery involving  
3 medical marijuana permit applicants which resulted in thirty-seven (37) successful lottery  
4 winners, which included both cultivation and dispensary sites located throughout the City;

5 WHEREAS, on November 16, 2010, the City Council requested the City  
6 Attorney's office to prepare, for Council's consideration, amendments to Chapter 5.87  
7 due in part to concerns expressed by citizens regarding the number of potential collective  
8 sites in the City, and their proximity to sensitive areas such as public parks.

9 WHEREAS, on December 14, 2010, the City Council did consider the  
10 proposed amendments to Chapter 5.87, and did vote to adopt said amendments in order  
11 to address community concerns, and to better protect the health, safety and welfare of  
12 the citizens of the City of Long Beach, including those individuals frequenting medical  
13 marijuana collectives for their medical marijuana needs;

14 WHEREAS, since the adoption of Chapter 5.87 in March of 2010,  
15 community and statewide concerns have been expressed regarding the proliferation of  
16 medical marijuana collective sites, and the potential negative secondary effects of such  
17 sites, including the potential for an increase in crime and other nuisance related activities;

18 WHEREAS, the City desires to continue to process the applications of the  
19 successful lottery winners mentioned above (other than those successful lottery winners  
20 who will, or may, be disqualified due to the adopted amendments to Chapter 5.87);

21 WHEREAS, the City likewise desires to implement a moratorium against  
22 the acceptance or processing of additional new medical marijuana collective applications  
23 for a period of one year, in order to better study and evaluate the actual and potential  
24 secondary impacts of said facilities on the community upon the public health, safety and  
25 welfare.

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

28 Section 1. The above recitals and findings are true and correct.

1                   Section 2.   Findings and Declaration of Urgency. The City Council of the  
2 City of Long Beach hereby finds and declares that there is a need to enact an Urgency  
3 Ordinance as permitted by City Charter Section 211 establishing a moratorium on all new  
4 medical marijuana collective applications, on an interim basis, subject to the findings and  
5 conditions contained in this Ordinance. If additional new medical marijuana collectives  
6 are allowed to apply and proceed without appropriate review and study of location,  
7 operational criteria and standards, the additional collectives could have a potential  
8 serious adverse effect on neighborhoods that would present a clear and immediate  
9 danger to the public's health, safety and welfare. The City finds that if the establishment  
10 or development of additional medical marijuana collectives were allowed to proceed while  
11 the City is studying the actual and possible secondary negative effects of those  
12 collectives that have already applied for, and may receive, a medical marijuana collective  
13 permit, it may result in a significant irreversible change to neighborhoods and community  
14 character. Based on the foregoing, the City Council does hereby declare that this  
15 Urgency Ordinance is necessary to protect the public health, safety, and welfare while  
16 the City further studies this complicated issue and considers potential further revisions to  
17 Chapter 5.87 related to the regulation of medical marijuana collectives.

18                   Section 3.   Adoption as Urgency Interim Ordinance. This ordinance is  
19 adopted as an urgency ordinance pursuant to the provisions of Section 211 of the  
20 Charter of the City of Long Beach, and shall be effective immediately upon its adoption.  
21 Based on the findings set forth herein, the City Council finds and determines that the  
22 adoption of this ordinance as an urgency ordinance is necessary for the immediate  
23 preservation of the public peace, health or safety pursuant to the requirements of Charter  
24 Section 211, and is necessary to protect the public safety, health, and welfare of the  
25 residents and businesses residing and operating within the City.

26                   Section 4.   Temporary Moratorium. The City Council hereby declares a  
27 moratorium commencing on the effective date of this ordinance and continuing for a  
28 period of one year, through and including December 14, 2011. During the period of the

1 moratorium the City shall not accept or process any new application or permit whatsoever  
2 that would lead to the entitlement or establishment of a Medical Marijuana Collective as  
3 that term is currently defined in Chapter 5.87 of the Long Beach Municipal Code.

4           Section 5.   Exemptions. This temporary moratorium shall not prohibit the  
5 City from continuing to process any application for a medical marijuana collective permit  
6 for any medical marijuana collective that was a winner at the City's September 20, 2010  
7 lottery, unless said lottery winner's place of operation ("Property" as defined in Chapter  
8 5.87) is located within a designated buffer zone as described in Chapter 5.87 or in any  
9 amendment to Chapter 5.87.

10           Section 6.   Studies. City staff shall promptly commence or continue any  
11 studies they may deem necessary and appropriate in order to make a recommendation to  
12 the City Council regarding the further structuring of necessary regulatory controls over  
13 the location and operation of medical marijuana collectives in the City to cause such uses  
14 to be beneficial uses, rather than uses that are detrimental to or which may cause crime  
15 or nuisance activities to occur within the City.

16           Section 7.   CEQA. The City Council hereby finds, in the exercise of its  
17 independent judgment and analysis, that this ordinance is exempt from the California  
18 Environmental Quality Act of 1970 ("CEQA"), as amended, because it can be seen with  
19 certainty that this urgency ordinance has no likelihood of causing a significant negative  
20 effect on the environment and accordingly both the City Council's action of adopting this  
21 ordinance and the effects derivative from that adoption are exempt from the application of  
22 CEQA, pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 Cal. Code  
23 Regs. § 15061(b)(3)). The City Council further finds, in the exercise of its independent  
24 judgment and analysis, that the adoption of this urgency ordinance is exempt from  
25 CEQA, pursuant to Section 15060(c)(2) of the State CEQA Guidelines (14 Cal. Code  
26 Regs. § 15060(c)(2), because it will not result in a direct or reasonably foreseeable  
27 indirect physical change in the environment. These findings are premised on the fact that  
28 the adoption of this urgency interim ordinance will maintain the current environmental

1 conditions arising from the current regulatory structure as adopted by the City without  
2 change or alteration

3           Section 8.   Severability. If any section, subsection, subdivision,  
4 sentence, clause, phrase, or portion of this ordinance or the application thereof to any  
5 person or place, is for any reason held to be invalid or unconstitutional by the decision of  
6 any court of competent jurisdiction, such decision shall not affect the validity of the  
7 remainder of this ordinance. The City Council hereby declares that it would have  
8 adopted this ordinance, and each and every section, subsection, subdivision, sentence,  
9 clause, phrase, or portion thereof, irrespective of the fact that any one or more sections,  
10 subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared  
11 invalid or unconstitutional.

12           Section 9.   This ordinance is an emergency ordinance duly adopted by  
13 the City Council on December 14, 2010, by a vote of at least five (5) of its members and  
14 shall take effect immediately. The City Clerk shall certify to a separate roll call and vote  
15 on the question of the emergency of this ordinance and to its passage by the vote of five  
16 members of the City Council of the City of Long Beach, and cause the same to be posted  
17 in three conspicuous places in the City of Long Beach.

18           Section 10. This ordinance shall also be adopted by the City Council as a  
19 regular ordinance, to the end that in the event of any defect or invalidity in connection  
20 with the adoption of this ordinance as an emergency ordinance, the same shall,  
21 nevertheless, be and become effective on the thirty-first day after it is approved by the  
22 Mayor.

23           Section 11. The City Clerk shall certify to the passage of this ordinance by  
24 the City Council of the City of Long Beach and shall cause the same to be posted in three  
25 (3) conspicuous places in the City of Long Beach.

26           I hereby certify that on a separate roll call and vote which was taken by the  
27 City Council of the City of Long Beach upon the question of emergency of this ordinance  
28 at its meeting of December 14, 2010, the ordinance was declared to be an

emergency by the following vote:

Ayes: Councilmembers: Garcia, DeLong, O'Donnell, Schipske,  
Andrews, Johnson, Gabelich, Neal, Low  
Lowenthal.

Noes: Councilmembers: None.

Absent: Councilmembers: None.

I further certify that thereafter, at the same meeting, upon a roll call and  
vote on adoption of the ordinance, it was adopted by the City Council of the City of Long  
Beach by the following vote:

Ayes: Councilmembers: Garcia, DeLong, O'Donnell, Schipske,  
Andrews, Johnson, Gabelich, Neal,  
Lowenthal,

Noes: Councilmembers: None.

Absent: Councilmembers: None.

I further hereby certify that the foregoing ordinance was adopted on final reading  
by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 20\_\_\_\_,  
by the following vote:

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

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

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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

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City Clerk

Approved: \_\_\_\_\_  
(Date)

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Mayor