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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 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;

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

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

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

27  
28 N. "Qualified Patient" means a person who is entitled to the

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1 protections of Health and Safety Code Section 11362.5 for patients who  
2 obtain and use marijuana for medical purposes upon the recommendation  
3 of an Attending Physician, whether or not that person applied for and  
4 received a valid Identification Card issued pursuant to State Law.

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

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

14  
15 5.87.020 Medical Marijuana Collective – Permit required.

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

20  
21 5.87.030 Medical Marijuana Collective – Permit application process.

22 Any Medical Marijuana Collective desiring a Permit required by this  
23 Chapter shall, prior to initiating operations, complete and file an  
24 application on a form supplied by the Department of Financial  
25 Management, and shall submit with the completed application payment of  
26 a nonrefundable processing and notification fee, as established by the City  
27 Council by resolution. The Medical Marijuana Collective Permit application  
28

1 is established to provide a review process for each proposed Medical  
2 Marijuana Collective operation within the City.

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

5 1. The address of the Property or Properties where the  
6 proposed Medical Marijuana Collective will operate.

7 2. A site plan describing the Property or Properties with  
8 fully dimensioned interior and exterior floor plans including electrical,  
9 mechanical, plumbing, and disabled access compliance pursuant to Title  
10 24 of the State of California Code of Regulations and the federally  
11 mandated Americans with Disabilities Act.

12 3. Exterior photographs of the entrance(s), exit(s), street  
13 frontage(s), parking, front, rear and side(s) of the proposed Property or  
14 Properties.

15 4. Photographs depicting the entire interior of the proposed  
16 Property or Properties.

17 5. If the Property or Properties ~~is~~ are being rented or leased or  
18 is being purchased under contract, a copy of such leases or contracts.

19 6. If the Property or Properties ~~is~~ are being rented or  
20 leased, written proof that the Property owner(s), and landlord(s) if  
21 applicable, were given notice that the Property or Properties will be used  
22 as a Medical Marijuana Collective, and that the Property owner(s), and  
23 landlord(s) if applicable, agree(s) to said operations.

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

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

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

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

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

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

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

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

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

1                   16. Whether Edible Medical Marijuana will be prepared at the  
2 proposed Property or Properties.

3                   17. The Property address(es) where any and all Medical  
4 Marijuana will be cultivated by the Collective within the boundaries of the City of  
5 Long Beach.

6                   18. The Property address(es) where any and all Medical  
7 Marijuana will be distributed to the Collective members and Management  
8 Members.

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

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

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

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

27                   4. Within ten (10) business days following the receipt of  
28 an amended application or supplemental information, except where

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1 circumstances beyond the control of the City justifiably delay such  
2 response, the Director of Financial Management shall again determine  
3 whether the application is complete in accordance with the procedures set  
4 forth above. Evaluation and notification shall occur as provided above  
5 until such time as the application is found to be complete or in the  
6 alternative null and void.

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

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

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

23 D. The Director of Financial Management shall cause a hearing  
24 to be conducted not later than sixty (60) days from the date the completed  
25 Permit application was submitted, except where circumstances beyond  
26 the control of the City justifiably delay said timeframe, and shall cause the  
27 owners of property located within seven-hundred-and-fifty-feet (750') of  
28 the proposed Property or Properties to be sent advance notice of the date,

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1 time, and place of the hearing. The applicant shall be given at least ten  
2 (10) business days written notice of such hearing.

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

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

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

25  
26 5.87.040 Medical Marijuana Collective Permit approval and operating  
27 conditions.

28 The Director of Financial Management shall approve and issue a

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1 Medical Marijuana Collective Permit if the application and evidence  
2 submitted in the hearing, conducted pursuant to Section 5.87.030,  
3 Subdivisions (D) and (E) as set forth above, sufficiently demonstrate that:

4 A. The Property or Properties ~~is~~ are not located in an area  
5 zoned in the City for exclusive residential use. Medical Marijuana  
6 Collectives are not permitted to operate in exclusive residential zones as  
7 established pursuant to Title 21 of this Code.

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

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

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

25 E. Any exterior or interior sign visible from the exterior of the  
26 Property shall be unlighted.

27 F. Windows and roof hatches at the Property shall be secured  
28 so as to prevent unauthorized entry, and are equipped with latches that

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1 may be released quickly from the inside to allow exit in the event of  
2 emergency and are in compliance with all applicable Building Code  
3 provisions.

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

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

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

21 J. The Property or Properties ~~has~~ have a centrally-monitored fire  
22 and burglar alarm system.

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

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

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

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

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

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

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

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

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

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

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1 Section 5.87.040 and all of its subsections.

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

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

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

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

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

20  
21 5.87.050 Medical Marijuana Collective Permit – Non transferable.

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

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

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

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

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

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

15  
16    5.87.060     Maintenance of records.

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

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

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

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

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

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

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

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

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

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

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

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

3  
4 5.87.070 Inspection authority.

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

16  
17 5.87.080 Existing Medical Marijuana operations.

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

26  
27 5.87.090 Prohibited activity.

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

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

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

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

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

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

28

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

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

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

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

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

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

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

27 ~~K~~J. No Medical Marijuana Collective, Management Member or  
28 member shall cause or permit the sale, dispensing, or consumption of

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1 alcoholic beverages on the Property or Properties, or in the parking area  
2 of the Property or Properties.

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

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

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

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

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

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5.87.100 Violation and enforcement.

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

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

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

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

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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.

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5.87.120 Operative date.

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

5.87.130 Severability.

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

5.87.140 Review of Regulations.

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

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:

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Ayes: Councilmembers:

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Noes: Councilmembers:

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Absent: Councilmembers:

\_\_\_\_\_  
\_\_\_\_\_

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

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

\_\_\_\_\_  
Mayor

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