

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

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.

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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

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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).

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

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

1. Within ~~seven (7)~~ ten (10) business days of receipt of a Medical Marijuana Collective ~~Administrative Use~~ Permit application, except where circumstances beyond the control of the City justifiably delay such response, the Director 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 ~~receipt~~ 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 ~~five (5)~~ 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 ~~five (5)~~ ten (10) business days, except

1 where circumstances beyond the control of the City justifiably delay such
2 response, of that fact.

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

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

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

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

1 of the credibility of witnesses where there is conflicting testimony and a
2 recommended decision. A copy of the report shall be served on all parties.

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

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

19
20 5.87.040 Medical Marijuana Collective ~~Administrative Use~~ Permit
21 approval and operating conditions.

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

27 A. The Property is not located in an area zoned in the City for
28 exclusive residential use. Medical Marijuana Collectives are not permitted

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1 to operate in exclusive residential zones as established pursuant to Title
2 21 of this Code.

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

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

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

22 E. Any exterior or interior signs visible from the exterior of the
23 Property shall be unlighted.

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

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

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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 ~~federal~~, state and local laws.

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

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

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

1 accordance with Section 5.87.060 of this Chapter.

2
3 5.87.050 Medical Marijuana Collective ~~Administrative Use~~ Permit –
4 Non transferable.

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

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

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

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

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

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

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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 whether in-cash or in-kind, by the Collective members to the Collective, and all expenditures and costs incurred by the Collective for the cultivation of Medical Marijuana.
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.

///

1 7. Proof of a valid Medical Marijuana Collective

2 ~~Administrative Use~~ Permit issued by the Department of Financial
3 Management in conformance with this Chapter.

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

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

12 5.87.070 Inspection authority.

13 City representatives may enter and inspect the Property of every
14 Medical Marijuana Collective between the hours of ten o'clock (10:00)
15 A.M. and eight o'clock (8:00) P.M., or at any reasonable time to ensure
16 compliance and enforcement of the provisions of this Chapter, except that
17 the inspection and copying of private medical records shall be made
18 available to the Police Department only pursuant to a properly executed
19 search warrant, subpoena, or court order. It is unlawful for any Property
20 owner, landlord, lessee, Medical Marijuana Collective member or
21 Management Member or any other person having any responsibility over
22 the operation of the Medical Marijuana Collective to refuse to allow,
23 impede, obstruct or interfere with an inspection.
24

25 5.87.080 Existing Medical Marijuana operations.

26 Any existing Medical Marijuana Collective, dispensary, operator,
27 establishment, or provider that does not comply with the requirements of
28

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1 this Chapter must immediately cease operation until such time, if any,
2 when it complies fully with the requirements of this Chapter. No Medical
3 Marijuana Collective, dispensary, operator, establishment, or provider that
4 existed prior to the enactment of this Chapter shall be deemed to be a
5 legally established use or a legal non-conforming use under the provisions
6 of this Chapter or the Code.

7
8 5.87.090 Prohibited activity.

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

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

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

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

26 E. No Medical Marijuana Collective, Management Member or
27 member shall allow or permit the commercial sale of any product, good or
28 service, including but not limited to drug paraphernalia identified in Health

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1 and Safety Code Section 11364, on or at the Medical Marijuana
2 Collective, in the parking area of the Property. An exception shall be
3 made for persons who are not Collective members or Management
4 Members and who possess a valid City issued business license which
5 authorizes the “place to place” sale of soil and nutrients to the Collective,
6 Management Members or members for the collective cultivation of
7 Medical Marijuana by Management Members and members of the
8 Collective.

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

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

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

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

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

27 K. No Medical Marijuana Collective shall possess Marijuana
28 that was not cultivated by its Management Members or members either at

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1 the Property or at its predecessor location fully permitted in accordance
2 with this Chapter.

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

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

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

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

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

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

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expenses of the Collective.

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 ~~or federal~~ 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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1 5.87.120 Operative date.

2 This ordinance will be come effective ~~ninety (90)~~ one-hundred-
3 and-twenty (120) days following its passage and adoption. The
4 Department of Financial Management will accept completed Medical
5 Marijuana Collective permit applications ~~ninety (90)~~ one-hundred-and-
6 twenty (120) days prior to the effective date of this ordinance.

7
8 5.87.130 Severability.

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

14
15 5.87.140 Review of Regulations.

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

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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 (31st) 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

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