



City of Long Beach
Working Together to Serve

Memorandum

Office of the City Attorney

DATE: July 9, 2014

To: Chair Van Horik and Members of the Planning Commission

FROM: Kendra L. Carney, Deputy City Attorney *KC*

SUBJECT: Background Information Pertaining to Medical Marijuana --
Discussion for July 17, 2014 Planning Commission Meeting

Based on the September 10, 2013 request from the City Council, on February 6, 2014, the Planning Commission directed the City Attorney's Office to draft a zoning ordinance regulating the location and operating conditions of medical marijuana businesses in the City for consideration by the Planning Commission.

An agenda item is scheduled for your meeting of July 27, 2014 regarding this issue. As directed, the ordinance requires a Conditional Use Permit for medical marijuana businesses to operate in the City. The draft ordinance from the Office of the City Attorney is provided for your advance review prior to our meeting of July 17, 2014, and includes the following zoning restrictions and operating requirements:

1. All medical marijuana business locations require a Conditional Use Permit (CUP), and are subject to development standards established for consideration of all CUP applications;
2. All medical marijuana businesses are required to submit an application detailing their compliance with City performance standards which include a security plan, background checks, nuisance abatement measures, and record management and retention plans;
3. Medical marijuana businesses have location restrictions within certain zones allowing industrial zones, community automobile-oriented districts ("CCA"), and regional highway districts ("CHW"), but excluding residential and institutional zones;
4. There is a cap of 5 medical marijuana business locations per Council District, and a limit of four medical marijuana businesses in industrial zones per Council District, one medical marijuana business in a CCA or CHW per Council District, and no more than 18 locations citywide;

5. "Buffers" are created between medical marijuana businesses and schools as follows:

- 1000 feet between two (2) medical marijuana business locations in CCA and CHW zones;
- 1000 feet between a medical marijuana business location and an elementary or junior high school;
- 1000 feet between a medical marijuana business location and a park;
- 1500 feet between a medical marijuana location and a high school;

6. Based on the zoning restrictions and limitations on concentration of medical marijuana businesses in the City, to determine the priority of a medical marijuana business application and the proximity of applicants' properties, and the number of medical marijuana businesses allowed in a particular Council District, applicants meeting all application requirements shall have priority based on the accumulation of points based on specific criteria including items such as the security measures, criminal history of the applicant(s) and their business associates, and previous violations of the Long Beach Municipal Code;

7. All medical marijuana businesses are required to maintain records detailing monetary and in-kind transactions, and these records are subject to inspection and audit by the City;

8. The security plan required by all medical marijuana businesses must include video cameras that upload images to an internet location accessible to the Long Beach Police Department, have safe storage of medical marijuana, and incorporate an alarm system;

9. All medical marijuana infused products are required to meet packaging and labeling standards; and

10. The ordinance creates a task force consisting of community members, patients, and medical marijuana business operators to recommend to the City operational and safety standards for medical marijuana businesses.

The City Attorney's Office met with the representatives from the Long Beach Collective Association, community advocates, and neighborhood association representatives prior to the July 17, 2014 meeting.

If you have any questions, please contact me at 562-570-2215. Thank you.

KLC:jp (A13-01921)

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Attachment: Draft Ordinance - LBMC 5.91

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 5.91; AND BY
REPEALING CHAPTER 5.89, ALL RELATING TO
MEDICAL MARIJUANA

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

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

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

WHEREAS, notwithstanding the passage of the CUA and MMPA, the cultivation, possession, and distribution of marijuana is strictly prohibited by federal law and specifically by the Controlled Substances Act ("CSA") (codified in 21 U.S.C. Section 841); and Section 841 of the CSA makes it unlawful for a person to manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense marijuana; and

WHEREAS, the regulations for medical marijuana uses are not adequate at the state level to address the impacts on the City of medical marijuana, making it

1 appropriate for local regulation of the impacts of medical marijuana uses; and

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

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

10 WHEREAS, this Chapter is to be construed to protect the public over
11 medical marijuana related interests; and

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

15 WHEREAS, the City has a zero tolerance policy for violations of this
16 Chapter; and

17 WHEREAS, the City Council wishes to repeal Chapter 5.89 of the Municipal
18 Code ("Medical Marijuana Dispensary Ban") in its entirety and at the same time adopt
19 regulations allowing for the limited existence of medical marijuana dispensaries in the
20 City of Long Beach;

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

23 Section 1. Chapter 5.91 of the Long Beach Municipal Code is added to
24 read as follows:

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26 //

27 //

28 //

Chapter 5.91

MEDICAL MARIJUANA

5.91.010 Purpose.

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

B. This Chapter regulates the use, acquisition, cultivation, production, and distribution of medical marijuana in a manner that is consistent with California Health and Safety Code sections 11357 through 11362.9, also referred to as the Compassionate Use Act ("CUA") and the Medical Marijuana Program Act ("MMPA"). The CUA and MMPA do not provide a legal manner for patients to obtain medical marijuana unless the patient grows the marijuana or the marijuana is grown by the patient's primary caregiver, or the marijuana is grown collectively by patients. The following regulations are intended to apply to all medical marijuana business operations in the City whether by a patient or primary caregiver, or a collective of patients, or any medical marijuana related entity allowed under the state law. Medical marijuana cultivation and production can have an impact on health, safety and community resources, and this Chapter is intended to allow medical marijuana distribution and cultivation only where it will have a minimal impact. To do so, the following regulations:

1. Provide for a means for cultivation, production, and distribution of marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes under the CUA and MMPA;

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

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

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

5. Adopt a mechanism for monitoring compliance with the provisions of this Chapter;

6. Create regulations that address the particular needs of the residents and patients of the City and coordinate with laws that may be enacted by the State regarding the same;

7. Facilitate the implementation of the CUA and MMPA without going beyond the authority granted by it;

8. Allow medical marijuana related operations only by individuals and entities that have demonstrated an intent and ability to comply with this Chapter;

9. Protect public safety and residential areas by limiting the areas of the City where medical marijuana businesses may operate;

C. The provisions in this Chapter that are different from State law are consistent with the City's responsibility to protect the public health, safety, and welfare as authorized by the inherent local police power authority granted to the City by Article XI, § 7 of the California Constitution. The City intends that both State law and this Chapter apply within the City.

5.91.020 Definitions.

A. "Advertise" means the act of drawing the public's attention, whether in print or on the television, internet, or radio, to a medical marijuana business in order to promote the sale of medical marijuana by the business.

B. "Business Manager" means the individual designated by the owner of the medical marijuana business as the person responsible for all operations of the business in the absence of the owner from the business property. Business manager shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to unlock or lock the business, or set or disarm the alarm.

C. "Cultivation" or "Cultivate" means:

1. All phases of growth of marijuana from seed to harvest;
- or
2. Preparing, packaging or repackaging, labeling or relabeling of a usable form of marijuana.

D. "Cultivation Facility" means a permitted medical marijuana business that is authorized to cultivate, produce, and harvest marijuana plants for a medical use for distribution by such medical marijuana business.

E. "Distribute" or "Distribution" means the actual, constructive or attempted transfer, delivery, sale, or dispensing to another, with or without remuneration.

F. "Financier" means any person or entity who lends money or otherwise provides assets to any person applying for a permit or who has been issued a permit under this Chapter. Financier shall not include a bank,

savings and loan association, credit union, or industrial bank supervised and regulated by an agency of the State or federal government.

G. "Marijuana" means the same as the term "marijuana" as set forth in California Health and Safety Code section 11018 which defines "marijuana" as all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

H. "Medical Marijuana" means marijuana used for medical purposes in accordance with California Health and Safety Code Sections 11362.5, *et seq.*

I. "Medical Marijuana Business" means:

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

2. Any person that cultivates, produces, sells, distributes,

1 possesses, transports more than six mature marijuana plants or twelve (12)
2 immature marijuana plants, or eight (8) ounces of a useable form of marijuana
3 for medical use, pursuant to California Health and Safety Code section
4 11362.5, *et seq.*

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

10 J. "Medical Marijuana-Infused Product" means a marijuana-
11 infused, edible, ingestible, or inhalable product, including but not
12 limited to topical solutions and vaporizers.

13 K. "Medical Marijuana-Infused Product Manufacturer"
14 means a licensed and permitted marijuana-infused product
15 manufacturer.

16 L. "Medical Marijuana Plant" means a marijuana seed that
17 is germinated and all parts of the growth therefrom including, without
18 limitation, roots, stalks and leaves. For purposes of this Chapter, the
19 portion of a medical marijuana plant harvested from the plant or
20 converted to a usable form of medical marijuana for medical use is not
21 considered part of the plant upon harvesting.

22 M. "Permittee" means the medical marijuana business
23 named on the conditional use permit, and all individuals named in the
24 conditional use permit application or later reported to the City, including
25 without limitation, owners, business managers, financiers, and
26 individuals owning any part of an entity that holds a financial or
27 ownership interest in a medical marijuana business.

28 N. "Place Open To The General Public" means any property

1 owned, leased, or used by a public entity, and any place on private
2 property open to the public, common areas of buildings, private clubs,
3 vehicles, those portions of any private property upon which the public
4 has an express or implied license to enter or remain, and any place
5 visible from such places. "Place open to the general public" shall not
6 include any fenced area of a private residence regardless of whether it
7 can be seen from a place open to the public.

8 O. "Possess" or "Possession" means having physical control
9 of an object, or control of the property in which an object is located, or
10 having the power and intent to control an object, without regard to
11 whether the one in possession has ownership of the object.

12 Possession may be held by more than one (1) person at a time. Use
13 of the object is not required for possession. The owner of a medical
14 marijuana business shall be considered in possession of the medical
15 marijuana business at all times. The business manager of a medical
16 marijuana business shall be considered in possession of the medical
17 marijuana business at all times that the business manager is on the
18 property of the business or has been designated by the owner as the
19 business manager in the absence of the owner in accordance with this
20 Chapter.

21 P. "Property" means a distinct and definite location, which
22 may include a building, a part of a building, a room or any other
23 defined contiguous area.

24 Q. "Primary Caregiver" means the same as that term in
25 California Health and Safety Code Sections 11362.5 and 11362.7
26 which define "primary caregiver" as an individual, designated by a
27 qualified patient, who has consistently assumed responsibility for the
28 housing, health, or safety of that qualified patient.

R. "Produce" or "Production" means:

1. Preparing, compounding, processing, encapsulating, packaging or repackaging, labeling or relabeling of marijuana or its derivatives, whether alone or mixed with any amount of any other substance; or
2. Combining marijuana with any other substance for distribution, including storage and packaging for resale.

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

T. "Restricted Area" means the portion of a medical marijuana business location within which the licensee defines on its application it intends to cultivate, distribute, possess or produce medical marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the medical marijuana business license application for the business.

U. "Violation of Any Law" means a plea or finding of a violation of any law in a criminal, civil, or administrative proceeding, whether part of a plea agreement, settlement agreement, or determination by an arbitrator, hearing officer, court, or jury.

5.91.030 Permit required.

A. It shall be unlawful for any person or entity to operate, in or upon any property, a medical marijuana business without obtaining a conditional use permit pursuant to the requirements of this Chapter

1 and Chapter 21.25.

2 B. The permit requirement set forth in this Chapter shall be
3 in addition to, and not in lieu of, a Long Beach business license and
4 any other licensing and permitting requirements imposed by any other
5 federal, state or local law, including, but not limited to, a California
6 seller's permit and building and occupancy permits.

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

11 D. A single conditional use permit shall be required for each
12 property or combination of properties from which a medical marijuana
13 business operates.

14 E. A conditional use permit issued pursuant to this Chapter
15 shall become null and void upon the closure of the business for more
16 than seven days and/or the relocation of the business to a different
17 location.

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

19 a. Any relocation or expansion that includes a
20 separate piece of property or parcel of land from the initially permitted
21 Property;

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

25 c. The lawful conduct of activity regulated by this
26 Chapter by a Permittee shall be limited to those activities expressly indicated
27 on the Medical Marijuana Collective Permit application.

28 F. The Permittees of a medical marijuana business are only

those persons disclosed in the application or subsequently disclosed to the City in accordance with this Chapter. A transfer of a conditional use permit is prohibited unless the incoming medical marijuana business and its owners, business managers, financiers, and any individuals owning any part of an entity that holds a financial or ownership interest in the medical marijuana business submit the application information required by section 5.91.050 of this Chapter.

5.91.040 General permit provisions.

The general procedures and requirements of conditional use permits, as more fully set forth in Chapter 21.25, "Conditional Use Permits," shall apply to conditional use permits. To the extent there is any conflict between the provisions of this Chapter and Chapter 21.25, the provisions of this Chapter shall control for conditional use permits related to medical marijuana businesses.

A. Insurance required. A medical marijuana business must at all times maintain workers' compensation insurance, public liability insurance with minimum limits of One Hundred Fifty Thousand Dollars (\$150,000) for any one person and Six Hundred Thousand Dollars (\$600,000) for any one accident, and public property damage insurance with a minimum limit of One Hundred Thousand Dollars (\$100,000) for any one accident.

B. Costs of inspection, enforcement, and abatement.

In the event the City incurs costs in the inspection, enforcement, abatement, surrender, or any other requirements to remove medical marijuana or related equipment or property from any medical marijuana business, or any person cultivating, producing, distributing or possessing marijuana, the business and responsible persons shall reimburse the City all

1 actual costs incurred by the City for such inspection, enforcement, or
2 abatement.

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

8 C. Landlord duty.

9 It shall be unlawful for the owner of a building to lease space or
10 allow the use of any portion of the building by a medical marijuana business
11 unless the tenant has a valid conditional use permit or has applied for and not
12 been denied a conditional use permit and no marijuana is located on the
13 property until a permit has been issued by the City.

14
15 5.91.050 Conditional use permit application.

16 A. Application requirements.

17 In addition to the general conditional use permit application
18 requirements of Chapter 21.25, an application for a conditional use permit
19 shall include completed forms provided by the City for that purpose. The
20 applicant shall use the application to demonstrate its compliance with this
21 Chapter and any other applicable law, rule, or regulation. The application
22 shall include the following information:

23 1. Name and address of the owner or owners of the medical
24 marijuana business in whose name the permit is proposed to be issued.

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

28 3. If an owner is a partnership, association, or company, the

1 name and address of any person holding an interest therein and the
2 managing members. If a managing member is an entity rather than an
3 individual, the same disclosure shall be required for each entity with an
4 ownership interest until a managing member that is a natural person is
5 identified.

6 4. If an owner is not a natural person, the organizational
7 documents for all entities identified in the application, identification of the
8 natural person that is authorized to speak for the entity and contact
9 information for that person.

10 5. Name and address of:

11 a. Any business managers of the medical marijuana
12 business, if the business manager is proposed to be someone other than the
13 owner;

14 b. All financiers of the medical marijuana business;
15 and

16 c. All agents of the medical marijuana business who
17 either:

18 (i) act with managerial authority,
19 (ii) provide advice to the medical marijuana
20 business for compensation, or
21 (iii) receive periodic compensation totaling
22 \$1,000.00 or more in a single year for services related to the medical
23 marijuana business.

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

27 a. Denied an application for a conditional use permit
28 pursuant to this Chapter, or any similar state or local licensing or permitting

1 law, rule, or regulation, or had such a license or permit suspended or
2 revoked.

3 b. Convicted of violating any law, other than a traffic
4 violation infraction, or completed any portion of a sentence due to a violation
5 of any law.

6 c. Convicted of driving or operating other machinery
7 under the influence of alcohol, drugs, or medication, driving while impaired, or
8 any comparable law, or a misdemeanor related to abuse of alcohol or a
9 controlled substance.

10 7. Proof of ownership or legal possession of the Property at
11 which the medical marijuana business will be located. If the medical
12 marijuana business is not the owner of the property of the business, the
13 applicant shall provide written authorization to the City from the property
14 owner to enter the property for inspection of the property on a form approved
15 by the City.

16 8. A certificate for proof of insurance signed by a qualified
17 agent of an insurance company evidencing the existence of valid and
18 effective policies of workers' compensation and public liability and property
19 damage insurance naming the City and its officers and employees as an
20 additional named insured on the liability policy at least to the limits required by
21 section 5.91.040(A) of this Chapter, the limits of each policy, the policy
22 number(s), the name of the insurer, the effective date, and expiration date of
23 each policy, and a copy of an endorsement placed on each policy requiring
24 ten days' notice by mail owner or business manager before the insurer may
25 cancel the policy for any reason.

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

28 a. A description of all the products and services to be

provided by the medical marijuana business.

b. A dimensioned floor plan, clearly labeled, showing:

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

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

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

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

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

c. A neighborhood safety and responsibility plan that demonstrates how the applicant will comply with the requirements of this Chapter and abate associated crime and nuisance conditions in the immediate vicinity of the marijuana business, and how the business will fulfill its responsibilities to the neighborhood including outreach and dispute resolution.

d. For cultivation facilities, and medical marijuana businesses that produce medical marijuana-infused products, a plan that specifies:

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

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

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

B. Additional requirements for cultivation.

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

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

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

a. A plan for disposal of any medical marijuana or medical marijuana-infused product that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal.

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

c. A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that would have authority over the business if it was not a marijuana business, that will be used or kept at the medical marijuana business, the location of such materials, and how such materials will be stored.

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

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

4. Fee required.

Any application for a conditional use permit shall be accompanied by the conditional use permit application fee, criminal background check fee, and any other applicable fees.

5. Investigation.

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

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

1 the recommended action to the City's Planning Commission.

2 6. Approval requirements.

3 Once the Department of Development Services deems
4 an application complete, the matter will be set for hearing in accordance with
5 Chapter 21.21 of the Long Beach Municipal Code.

6 The City Manager or his designee will deny any application that
7 does not meet the requirements of this Chapter or any other applicable law,
8 rule, or regulation or that contains any false or incomplete information.

9 The conditions of an approval of a conditional use permit shall
10 include, at a minimum, operation of the business in compliance with all of the
11 plans and information made part of the application.

12
13 5.91.060 Persons prohibited as permittees and business managers.

14 A. It shall be unlawful for any of the following persons to
15 have an ownership or a financial interest in a medical marijuana
16 business, and no permit provided by this Chapter shall be issued to or
17 held by, and no medical marijuana business shall be managed by:

- 18 1. Any person until the annual inspection fee has been paid;
- 19 2. Any person who has been convicted within the previous
20 ten (10) years of a felony or a crime of moral turpitude, or who is currently on
21 parole or probation for the sale or distribution of a controlled substance;
- 22 3. Any natural person who is under twenty-one (21) years of
23 age; or
- 24 4. Any person who operates or manages or has operated or
25 managed a medical marijuana business contrary to the provisions of this
26 Chapter, any other applicable law, rule or regulation or conditions imposed on
27 land use or license approvals, or contrary to the terms of the plans submitted
28 with the permit application, or amended as permitted by this Chapter, or has

1 operated a business in violation of any law.

2 5. A licensed physician making patient recommendations;

3 6. A person permitted to operate pursuant to this Chapter
4 who, while lawfully operating, or who, at the time of application, has failed to
5 remedy an outstanding delinquency for taxes owed, or an outstanding
6 delinquency for judgments owed to a government;

7 7. A sheriff, deputy, police officer, or prosecuting officer, or
8 an officer or employee of the state or local governing authority;

9 8. Any person applying for a conditional use permit to
10 operate a medical marijuana business who has been permitted to operate
11 another medical marijuana business in the City pursuant to this Chapter.

12 5.91.070 Location of medical marijuana businesses.

13 A. Fixed location required.

14 It shall be unlawful to operate a medical marijuana business or
15 to grow medical marijuana outside of an enclosed building. All conditional use
16 permits shall be issued for a specific fixed location within an enclosed
17 building.

18 B. Location – permitted use in zoning district.

19 C. A conditional use permit may be issued only if the
20 medical marijuana business is located in an area zoned for the
21 following:

22 (1) As "Community Automobile-Oriented District ("CCA"),
23 Regional Highway District ("CHW"), or "Industrial" for a medical
24 marijuana business dispensary only;

25 (2) As "industrial" for a medical marijuana business
26 cultivation site only;

27 (3) As "industrial" for a medical marijuana business
28

dispensary and cultivation site; or

(4) As “industrial” for a medical marijuana-infused product manufacturer.

D. Location – total per council district.

No more than one (1) medical marijuana business dispensary and four (4) medical marijuana business shared dispensary and cultivation sites or stand-alone medical marijuana business cultivation sites may operate in any council district. No more than eighteen (18) medical marijuana business conditional use permits may operate within the City.

E. Priority of medical marijuana business location.

1. Based on the zoning restrictions and limitations on concentration of medical marijuana businesses in the City, to determine the priority of a medical marijuana business application and the proximity of applicants’ properties, applicants meeting all application requirements shall have priority based on the accumulation of points based on the following criteria:

a. Suitability of the proposed property:

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

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

(iii) Proposed property is located within 1000 feet of a public transportation hub, stop, or station;

b. Suitability of security plan:

(i) The applicant’s security plan includes the presence of security personnel on premises twenty-four (24) hours per day (1

point);

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

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

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

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

c. Suitability of business plan and financial record keeping:

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

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

d. Criminal history:

(i) Applicants without any felony conviction(s) (1 point);

(ii) Applicants without any misdemeanor conviction(s) (1 point);

(iii) Applicants without any pending criminal complaint(s) (1 point);

(iv) Applicants certify as a condition of maintaining the revocable conditional use permit that they will not employ any person with any type of felony conviction (1 point);

(v) Applicants certify as a condition of maintaining the revocable conditional use permit that they will not employ as managers or employees any person with any narcotics related misdemeanor conviction (1 point).

e. Regulatory compliance history:

(i) Applicants and financiers have not had a permit or license revoked by the City of Long Beach (1 point);

(ii) Applicants have not had administrative penalties assessed against their business or the location of their business (1 point);

(iii) Applicants have not operated a medical marijuana business in violation of any provision of the Long Beach Municipal Code within five (5) years (1 point);

(iv) Applicants operated a medical marijuana business in violation of any provision of the Long Beach Municipal Code within five (5) years (-5 points).

f. Community service:

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

2. In the event review of the applications of two (2) or more eligible medical marijuana business applicants within the same district results in the same total number of points assigned, the City will utilize a lottery to determine which applicant receives priority.

F. No medical marijuana business may be located in

1 residential zoning districts.

2 It shall be unlawful to operate a medical marijuana business in a
3 building which contains a residence, within a dwelling unit within any zoning
4 district, or within a residential zoning district or within a mixed-use
5 development that includes a residence.

6 G. Separation from schools, parks, and other medical
7 marijuana uses.

8 The property identified in the conditional use permit application
9 must be located in accordance with the following:

10 1. The medical marijuana business is not located within one
11 thousand five hundred (1,500) feet of a public or private high school or
12 Educational Partnership High School ("EPHS") or within one thousand (1,000)
13 feet of a public park or a public or private kindergarten, elementary, middle, or
14 junior high school.

15 2. The medical marijuana business is not located within one
16 thousand (1,000) feet of any other medical marijuana business.

17 3. The distances specified in this subsection shall be
18 determined by the horizontal distance measured in a straight line from the
19 property line of the school, park, or other medical marijuana business to the
20 closest property line of the lot on which the medical marijuana business is
21 located, without regard to intervening structures.

22 H. Limitations on medical marijuana businesses.

23 The following shall be the minimum requirements for a medical
24 marijuana business:

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

28 2. The area of a medical marijuana business cultivation site

1 is five thousand (5,000) square feet or less;

2 3. The business distributes medical marijuana only in
3 accordance with this Chapter and California law; and

4 4. The business includes a secured and locked medical
5 marijuana dispensary room, one or more private rooms for consultation on the
6 medical use of marijuana, and a separate reception area for screening of
7 patients and waiting for non-patients.

8
9 5.91.080 Requirements related to operation of medical marijuana
10 businesses.

11 A. Onsite use prohibited.

12 No marijuana shall be smoked, eaten, or otherwise consumed
13 or ingested within the medical marijuana business.

14 B. Restriction on access to restricted area.

15 No person, other than a patient, licensee, employee, or a
16 contractor shall be in the medical marijuana dispensary room. No patient shall
17 be allowed entry into the medical marijuana dispensary room without showing
18 their valid picture ID.

19 C. Display of permits required.

20 The name and contact information for the owner or owners and
21 any business manager of the medical marijuana business, the conditional use
22 permit and the sales tax seller's permit shall be conspicuously posted in the
23 business.

24 D. Business conducted within building.

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

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

E. Owner or business manager required on property.

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

F. Hours of operation.

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

G. Use of pesticides.

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

H. Ventilation required.

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

I. Use of carbon dioxide generators prohibited.

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

J. Limitations on inventory.

1 The medical marijuana business shall not maintain any more
2 marijuana within the property than is permitted under applicable state law.
3 The medical marijuana business shall not maintain any more marijuana than
4 the amount stated on the business' permit application to the City. The
5 medical marijuana business shall maintain current records evidencing the
6 status and number of patients for whom they cultivate or dispense medical
7 marijuana. The medical marijuana business shall maintain current records
8 evidencing the strains of marijuana cultivated and sold.

9 K. City residency requirement.

10 Patients obtaining medical marijuana from medical marijuana
11 businesses must bona fide residents of the City of Long Beach. Patients must
12 provide proof of City residency upon joining the membership of a medical
13 marijuana business. Medical marijuana businesses must verify and maintain
14 patient proof of residency.

15 L. Reporting requirements.

16 A medical marijuana business shall report to the City Manager
17 or his designee each of the following within the time specified. If no time is
18 specified, the report shall be provided within seventy-two hours of the event.

19 1. Transfer or change of financial interest, business
20 manager, financier, or primary caregiver in the permit application at least
21 thirty days before the transfer or change.

22 2. Sales and taxable transactions and file sales and use tax
23 reports to the City monthly.

24 3. A violation of any law by any Permittee or applicant of a
25 medical marijuana business.

26 4. Reports of all criminal activity or attempts of violation of
27 any law at the medical marijuana business or related thereto shall be reported
28 to the Long Beach Police Department within twelve hours of occurrence.

1 M. Cultivation within the City required.

2 1. All medical marijuana distributed from a medical
3 marijuana business must be cultivated within the City of Long Beach.

4 2. Medical marijuana cultivated within in the City boundaries
5 may not be transported or disseminated out of the City of Long Beach.

6 3. Medical marijuana cultivation shall be limited to single
7 level growing areas, all stacks or multi-story growing methods are
8 prohibited.

9 N. Delivery between medical marijuana businesses.

10 It shall be unlawful for any person to transport medical
11 marijuana, except as specifically allowed by applicable law, unless the
12 medical marijuana being transported meets the following requirements:

13 1. All medical marijuana-infused products are hand-
14 packaged, sealed and labeled as provided in this Chapter and the products
15 stored in closed containers that are labeled as provided in this section.

16 2. All medical marijuana in a usable form for medicinal use
17 is packaged and stored in closed containers that are labeled as provided in
18 this section.

19 3. Each container used to transport medical marijuana is
20 labeled with the amount of medical marijuana or medical marijuana-infused
21 products, or the number and size of the plants, in the container. The label
22 shall include the name and address of the medical marijuana business that
23 the medical marijuana is being transported from and the name and address of
24 the medical marijuana business that the medical marijuana is being
25 transported to. The label shall be shown to any law enforcement officer who
26 requests to see the label.

27 4. Unless otherwise specifically allowed by applicable law,
28 medical marijuana may be transported only:

a. From a medical marijuana cultivation facility to a medical marijuana business; and

b. Which medical marijuana business is owned by the same person as owns the cultivation facility; and

c. When determining and reporting the route to take, Permittees should select the most direct route that provides safety and efficiency.

O. Disposal of medical marijuana and marijuana byproducts.

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

P. Possession of mature flowering plants.

No more than one-half of the medical marijuana plants within a medical marijuana business may be mature, flowering plants producing a usable form of marijuana.

Q. Advertisement.

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

1. Except as otherwise provided in this paragraph, it shall be unlawful for any person permitted under this Chapter or any other person to advertise any medical marijuana or medical marijuana-infused product anywhere in the city where the advertisement is in plain view of or in a place

1 open to the general public, including advertising utilizing any of the following
2 media: illuminated signs, signs incorporating green crosses or other
3 marijuana related symbol, any billboard or other outdoor general advertising
4 device as defined by the zoning regulations of the City; any sign mounted on
5 a vehicle; any hand-held or other portable sign; or any handbill, leaflet or flier
6 directly handed to any person in a public place, left upon a motor vehicle, or
7 posted upon any public or private property. The prohibition set forth in this
8 paragraph shall not apply to:

9 a. Any sign located on the same lot as a medical
10 marijuana business which exists solely for the purpose of identifying the
11 location of the medical marijuana business and which otherwise complies with
12 this Chapter and any other applicable city laws and regulations;

13 b. Any advertisement contained within a newspaper,
14 magazine, or other periodical of general circulation within the City or on the
15 Internet; or

16 c. Advertising which is purely incidental to
17 sponsorship of a charitable event by a medical marijuana business or a
18 medical marijuana-infused products manufacturer.

19 d. No medical marijuana business shall distribute or
20 allow the distribution of any marijuana without charge within a marijuana
21 business or any place open to the public for the purpose of promotion or
22 advertising.

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

27 f. No medical marijuana business shall sell,
28 distribute, or provide, or allow the sale, distribution, or provision of, products

1 marked with its name or logo, other than packaging in which medical
2 marijuana is sold or on medical marijuana products. This prohibition shall not
3 prevent employees of the business from wearing uniforms with the name or
4 logo of the medical marijuana business while working for the business on the
5 business property.

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

12 S. Additional requirements for production of medical
13 marijuana.

14 1. No medical marijuana business may produce or distribute
15 concentrated cannabis.

16 2. No medical marijuana business may use metals, butane,
17 propane or other flammable product, or produce flammable vapors to process
18 marijuana. No medical marijuana business may utilize an extraction method
19 of any kind.

20 T. Packaging at a medical marijuana business. All
21 dispensed medical marijuana must be packaged in a manner which
22 clearly shows the name of the dispensary providing the medical
23 marijuana, name of the patient receiving the medical marijuana, date
24 the marijuana is dispensed, amount of marijuana dispensed, and
25 amount paid by the patient to obtain the marijuana.

26 U. No medical marijuana business shall operate for profit.
27 Cash and in-kind contributions, reimbursements, and
28 reasonable compensation provided by patients toward the medical marijuana

business' actual expense to grow, cultivate, and provide 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 accordance with Section _____ of this Chapter.

5.91.090 Lab testing of medical marijuana required.

(A) A medical marijuana business must ensure that usable marijuana and plants are tested for pesticides, mold and mildew, and THC percentages in accordance with this section prior to the transfer of marijuana to a consumer.

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

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

(C) Sampling. The medical marijuana business must ensure that random samples from each batch are separated in an amount necessary to conduct the applicable test, that the samples are labeled with the batch's unique identifier, and are properly submitted for testing.

(D) Testing. The medical marijuana business must ensure that each sample is tested for pesticides, mold, and mildew and for an analysis of the levels of tetrahydrocannabinol (THC) and Cannabidiol (CBD).

- (1) Immature Plants. An immature plant may be tested for pesticides, mold, or mildew by conducting a macroscopic or microscopic screening to determine if the plant has visible pesticide residue, mold, or mildew.

(2) Flowers or other usable marijuana plant material. Medical marijuana in the form of flowers or other plant material must be:

(a) Tested for pesticides, mold, and mildew using valid testing methodologies and macroscopic or microscopic screening may not be used;

(b) Tested for pesticides by testing for the following analytes:

(i) Chlorinated Hydrocarbons;

(ii) Organophosphates;

(iii) Carbamates; and

(iv) Pyrethroids; and

(c) Analyzed, using valid testing methodologies, to determine the levels of THC and CBD.

(3) Edibles and liquids. If medical marijuana used in the edible or liquid has been tested in accordance with this section and tested negative for pesticides, mold, or mildew, the edible or liquid does not need to be tested for pesticides, mold, and mildew but does need to be tested for an analysis of the levels of THC and CBD. If the medical marijuana used in the edible or liquid was not tested in accordance with this section, the edible or liquid must be tested for pesticides, mold or mildew in accordance with this section.

(D) Laboratory Requirements. A medical marijuana business must ensure that all testing, except for testing of immature plants, is done by a third party or laboratory that:

(1) Uses valid testing methodologies; and

(2) Has a Quality System for testing of pesticides, mold, and mildew that is compliant with the:

(a) 2005 International Organization for Standardization 17025 Standard; or

(b) 2009 National Environmental Laboratory Accreditation
Conference Institute TNI Standards.

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

(4) Testing Results. A laboratory must provide testing results to the medical marijuana business signed by an official of the laboratory who can attest to the accuracy of the results, and that includes the levels of pesticides, mold, or mildew detected and the levels of THC and CBD.

(a) If an immature plant has visible pesticide residue, mold, or mildew it must be deemed to test positive and must be destroyed.

(b) A sample of marijuana shall be deemed to test positive for mold and mildew if the sample has levels that exceed the maximum acceptable counts in the Pharmacopeia, Section 1111 (May 1, 2009), incorporated by reference Appendix A.

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

(5) If an immature plant or sample of marijuana tests positive for pesticides, mold, or mildew based on the standards in this section, the medical marijuana business must ensure the entire batch from which the sample was taken is destroyed and must document how many or how much was destroyed, and the date of destruction.

(E) In-house testing. A medical marijuana business may perform its own testing as long as the testing complies with this section.

(F) The medical marijuana business may permit laboratory personnel or other

persons authorized to test access to secure or restricted access areas of the facility where marijuana or immature plants are stored. The medical marijuana business must log the date and time in and out of all such persons.

5.91.100 Right of entry – records to be maintained.

A. Records to be maintained.

Each Permittee shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, correspondence, bank statements including cancelled checks and deposit slips and all other records necessary to show fully the business transactions of such Permittee. Receipts shall be maintained in a computer program or by pre-numbered receipts and used for each sale. The records of the business shall clearly track medical marijuana product inventory purchased and/or grown and sales and disposal thereof to clearly track revenue from sales of any medical marijuana from other paraphernalia or services offered by the medical marijuana business. The Permittee shall also keep and maintain records documenting proof of Long Beach residency for each patient procuring medical marijuana at a medical marijuana business. The Permittee shall also maintain inventory records evidencing that no more medical marijuana was within the medical marijuana business than allowed by applicable law for the number of patients who designated the medical marijuana business owners as their primary caregiver. All such records shall be open at all times during business hours for the inspection and examination of the City or its duly authorized representatives. The City may require any Permittee to furnish such information as it considers necessary for the proper administration of this Chapter. The records shall clearly show the source, amount, price and dates of all marijuana received or purchased, and the amount, price, dates and patient or caregiver for all medical marijuana sold.

1 B. Separate bank accounts.

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

5 C. Disclosure of records.

6 By applying for a conditional use permit, the Permittee provides
7 consent to disclose the information required by this Chapter, including
8 information about patients and caregivers. Any records provided by the
9 Permittee that include patient or caregiver confidential information may be
10 submitted in a manner that maintains the confidentiality of the documents.
11 Any document that the applicant considers eligible for protection shall be
12 clearly marked as confidential, and the reasons for such confidentiality shall
13 be stated on the document. In the event that the licensee does appropriately
14 submit documents so as not to be disclosed, the City shall not disclose it to
15 other parties who are not agents of the City, except law enforcement
16 agencies. If the City finds that such documents are subject to inspection, it
17 will provide at least twenty-four (24) hour notice to the applicant prior to such
18 disclosure.

19 D. Audits.

20 The City may require an audit of the books of account and
21 records of a medical marijuana business on such occasions as it may
22 consider necessary. Such audit may be made by an auditor selected by the
23 City Manager that shall likewise have access to all books and records of the
24 medical marijuana business. The expense of any audit determined
25 necessary by the City shall be paid by the medical marijuana business.

26 E. Consent to Inspection.

27 Application for a conditional use permit or operation of a medical
28 marijuana business, or leasing property to a medical marijuana business,

1 constitutes consent by the applicant, and all owners, managers and
2 employees of the business and the owner of the property to permit the City
3 Manager to conduct routine inspections of the medical marijuana business to
4 ensure compliance with this Chapter or any other applicable law, rule or
5 regulation.

6 The owner or business manager on duty shall retrieve and
7 provide the records of the business pertaining to the inspection. For purposes
8 of this Chapter, inspections of medical marijuana businesses and recordings
9 from security cameras in such businesses are required to be produced as
10 part of the routine policy of inspection and enforcement of this Chapter for the
11 purpose of protecting the public safety, individuals operating and using the
12 services of the medical marijuana business, and the adjoining properties and
13 neighborhood.

14 Application for a conditional use permit constitutes consent to
15 inspection of the business as a public property without a search warrant, and
16 consent to seizure of any surveillance records, camera recordings, reports or
17 other materials required as a condition of a medical marijuana permit without
18 a search warrant. Should the owner or business manager refuse to comply
19 with this section, the City will obtain an administrative search warrant.

20 F. Reporting of source, quantity and sales.

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

- 26 1. Name and address of grower, seller and purchaser;
- 27 2. Date, weight, type of marijuana and dollar amount or
- 28 other consideration of transaction; and

1 3. For wholesale transactions, the state and City, if any,
2 sales and use tax license number of the seller.

3
4 5.91.100 Requirements related to monitoring and security of medical
5 marijuana businesses.

6 All components of the security plan submitted with the application, as it
7 may be amended, shall be in good working order, monitored and secured
8 twenty-four hours per day. A separate security system is required for each
9 business. The security plan must include, at a minimum, the following security
10 measures:

11 A. Video cameras.

12 A medical marijuana business shall install and maintain a video
13 surveillance system that monitors no less than the front and rear of the
14 Property, and all points of ingress and egress at the business. The
15 surveillance system shall:

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

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

21 3. Record and maintain video for a minimum of thirty (30)

22 days and be accessible via the Internet by the Long Beach Police
23 Department. A Public Internet Protocol (IP) address and user
24 name/password is also required to allow the Long Beach Police Department
25 to view live and recorded video from these cameras over the Internet.

26 Consent is given by the Medical Marijuana Collective under this subsection to
27 the provision of said recordings or live video feed to the Police Department
28 without requirement for a search warrant, subpoena or court order;

1 B. Use of safe for storage.

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

9 C. Alarm system.

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

16 D. Security guard.

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

21
22 5.91.110 Requirements for public health and labeling.

23 A. Medical marijuana-infused products.

24 The production of any medical marijuana-infused product shall
25 be at a medical marijuana-infused product manufacturer that meets all
26 requirements of a retail food establishment as set forth in Chapter 8.45 of this
27 Code. The Permittee shall comply with all applicable state and local health
28 regulations related to the production, preparation, labeling, and sale of

1 prepared food items.

2 B. Labeling and packaging requirements.

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

10 1. Potential food allergy ingredients, including but not
11 limited to milk, eggs, fish, shellfish, tree nuts, peanuts, wheat, and soybeans.

12 2. All additives used to extract THC, including, without
13 limitation, pesticides, herbicides and fertilizers that were used in the
14 cultivation of the medical marijuana used in the product.

15 a. The following warning:

16 THIS PRODUCT CONTAINS MARIJUANA. THIS PRODUCT IS
17 MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR
18 HEALTH, SAFETY OR EFFICACY. THERE MAY BE HEALTH RISKS
19 ASSOCIATED WITH THE INGESTION OR USE OF THIS PRODUCT.

20 C. The product shall be packaged in a sealed container that
21 cannot be opened without obvious damage to the packaging.

22
23 5.91.120 Medical marijuana business permit application process.

24 (A) Any medical marijuana business desiring a conditional use permit required
25 by this Chapter shall, prior to initiating operations, complete and file an application on a
26 form supplied by the City, and shall submit the completed application to the Department
27 of Development Services with payment of a nonrefundable processing and notification
28 fee, as established by the City Council by resolution.

1 (B)

2
3 5.91.130 Compliance with other applicable law.

4 A. Application of state and federal law.

5 Except as may be provided otherwise in this Chapter, or rules
6 adopted pursuant to this Chapter or interpretations by the City, any law or
7 regulation adopted by the state governing the cultivation, production,
8 possession or distribution of marijuana for medical use shall also apply to
9 medical marijuana businesses in the City. Provided however, if a state law or
10 regulation permits what this Chapter prohibits, this Chapter shall prevail.
11 Compliance with any applicable state law or regulation that does not permit
12 what this Chapter prohibits shall be deemed an additional requirement for
13 issuance or denial of any license under this Chapter, and noncompliance with
14 any applicable state law or regulation is unlawful and shall be grounds for
15 revocation or suspension of any license issued under this Chapter. No
16 medical marijuana business shall continue operations in violation of an
17 additional state law or regulation, which does not permit what this Chapter
18 prohibits, applicable within the City after the effective date of the state law or
19 regulation.

20 B. Revocation of permit upon applicable state or federal
21 prohibition.

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

1 behalf of the Permittee.

2 C. Revocable privilege.

3 A conditional use permit is a revocable privilege, and no
4 applicant therefor or holder thereof shall be deemed to have acquired any
5 property interest therein.

6
7 5.91.130 Prohibited acts.

8 It shall be unlawful for any person to:

9 1. Cultivate, distribute, possess, or produce marijuana in
10 plain view of, or in a place open to the general public.

11 2. Smoke, use or ingest on the property of the medical
12 marijuana business:

13 a. Marijuana,

14 b. Alcoholic beverage, or

15 c. A controlled substance, except in compliance with
16 the directions of a legal prescription for the person from a doctor with
17 prescription writing privileges.

18 d. Operate or be in physical control of any medical
19 marijuana business, liquor establishment, vehicle, aircraft, or motorboat while
20 under the influence of alcohol, medical marijuana, or other intoxicant.

21 e. Possess medical marijuana that is not in a sealed
22 package in a location where the possessor is not authorized to possess or
23 consume medical marijuana.

24 f. Possess more than six (6) mature marijuana
25 plants or twelve (12) immature marijuana plants, or two (2) ounces of
26 marijuana without a conditional use permit. It shall be an affirmative defense
27 to this charge if a legitimate recommendation from a qualified physician of the
28 patient for whom the marijuana is being grown includes a recommendation for

an increased amount of marijuana as medically necessary to address the patient's debilitating medical condition.

g. Obtain marijuana from a person who is not permitted as a medical marijuana business.

h. Possess or operate a medical marijuana business in violation of this Chapter.

i. Distribute medical marijuana without a conditional use permit or outside of the restricted area of the medical marijuana business.

j. Deliver or transport medical marijuana to a patient.

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

l. Lease any property to a medical marijuana business that has marijuana on the property without a conditional use permit from the City.

5.91.140 Suspension or revocation of permit.

A. A conditional use permit may be suspended or revoked for any violation of this Chapter in accordance with the procedures provided in Long Beach Municipal Code Chapter 21.21.

B. If the City revokes or suspends a permit, the business may not move any marijuana from the property except under the supervision of the Long Beach Police Department.

5.91.150 Term of permit – renewals – expiration of permit.

A. Term of permit.

A conditional use permit shall be valid for five (5) years. The

1 permit shall expire on the last day of the month in which the permit is issued
2 of the year following issuance or renewal of the permit.

3 B. Renewal of permit.

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

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

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

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

26 4. In the event the business permit has been suspended or
27 revoked or a Permittee has received any notice of violation of any law, the
28 renewal application shall include a copy of the notice, suspension or

1 revocation.

2 5. The renewal application shall include verification that the
3 business has a valid state seller's permit in good standing.

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

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

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

21 C. Nonpayment of tax.

22 In the event a medical marijuana business that has been open
23 and operating and submitting monthly sales and use tax returns to the City
24 ceases providing sales and use tax returns to the City for a period of three (3)
25 months or longer, the conditional use permit shall be deemed to have expired
26 and a new permit shall be required prior to reopening at the property.

27
28 5.91.160 City manager authorized to issue rules.

1 The City Manager or his designee may adopt rules and regulations that
2 the City Manager determines are reasonably necessary to implement the
3 requirements of this Chapter.

4
5 5.91.170 Violation and enforcement.

6 A. Any person violating any provision of this Chapter or
7 knowingly or intentionally misrepresenting any material fact in
8 procuring a conditional use permit, shall be deemed guilty of a
9 misdemeanor punishable by a fine of not more than one thousand
10 dollars (\$1,000) or by imprisonment for not more than twelve (12)
11 months, or by both such fine and imprisonment.

12 B. Any person who engages in any medical marijuana
13 business operations without a conditional use permit, or after a
14 conditional use permit application has been denied, or a medical
15 marijuana permit has been suspended or revoked, shall be guilty of a
16 misdemeanor.

17 C. As a nuisance per se, any violation of this Chapter shall
18 be subject to injunctive relief, revocation of the certificate of occupancy
19 for the property, disgorgement and payment to the City of any and all
20 monies unlawfully obtained, costs of abatement, costs of investigation,
21 attorney fees, and any other relief or remedy available at law or equity.
22 The City may also pursue any and all remedies and actions available
23 and applicable under local and state law for any violations related to
24 the operation of a medical marijuana business.

25 D. Any violation of the terms and conditions of the
26 conditional use permit, of this Chapter, or of applicable local or state
27 regulations and laws shall be grounds for permit suspension or
28 revocation.

5.91.180 Establishment of a Medical Marijuana Task Force.

A. A Long Beach Medical Marijuana Task Force is established.

The Task Force shall consist of seven (7) members. Appointments to the Task Force shall be made and vacancies on the Task Force shall be filled by the Mayor and City Council in accordance with the provisions in Chapter 2.18 of this Code. Services of the members of the Task Force shall be voluntary and members will serve without compensation.

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

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

2. Three Task Force members shall be representatives of recognized neighborhood organizations which have at least one medical marijuana business operating within its boundaries; and

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

C. The Medical Marijuana Task Force shall have the power and duty to:

1. Recommend to the City operational and safety standards for medical marijuana businesses operating in the City;

2. Hold hearings and take testimony regarding medical marijuana issues and related matters; and

3. Develop and make recommendations for a mediation process to be used by operators of medical dispensaries, patients, and neighbors of dispensaries to address community concerns and nuisance issues and resolve conflicts and disputes.

D. Sunset provision.

The Medical Marijuana Task Force shall terminate by operation of law on December 31, 2017, and after that date, the City Attorney shall cause this section to be removed from the Code.

5.91.190 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.

5.91.200 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. Chapter 5.89 of the Long Beach Municipal Code is hereby repealed.

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

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

Ayes: Councilmembers: _____

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Noes: Councilmembers:

Absent: Councilmembers:

City Clerk

Approved: _____
(Date)

Mayor