



OFFICE OF THE CITY ATTORNEY
Long Beach, California

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February 2, 2016

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HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive supporting documentation into the record, conclude the hearing, and declare ordinance amending the Long Beach Municipal Code by adding Chapter 21.66 and by repealing Chapter 5.89, all relating to Medical Marijuana, read the first time and laid over to the next regular meeting of the City Council for final reading; declaring the urgency thereof; and declaring that this ordinance shall take effect immediately. (Citywide)

DISCUSSION

On December 8, 2015, the City Council requested the City Attorney to prepare a revised draft of a proposed Medical Marijuana regulatory ordinance. As requested, the attached draft Ordinance would permit:

- (1) Up to four (4) medical marijuana businesses in the City providing delivery service only, with no on-site sales;
- (2) To be located in all zones, except those zoned exclusively for residential use; and
- (3) Located no more than one (1) per Council District;

The draft Ordinance also requires City staff to report back to the City Council six (6) months after the first of the four (4) potential "delivery only" medical marijuana businesses becomes operational. At that time, City staff will report on tax revenues collected during the six (6) month operational period, the fiscal impact to the City in terms of enforcement costs, and any public safety issues that have arisen during the initial operational period. After consideration of the staff report, the draft Ordinance requires Council to consider allowing the approved medical marijuana "delivery only" businesses to apply to convert their operations to "storefront" or cultivation facilities, in addition to the medical marijuana delivery services. Six (6) months after the first storefront or cultivation facility becomes operational, City staff will again report to Council regarding the aforementioned issues and fiscal impacts. Council will then consider adding up to three (3) more medical marijuana businesses in the City for a total of seven (7) (no more than one per Council district).

The Draft Ordinance remains consistent with the newly enacted State legislation known as the Medical Marijuana Regulation and Safety Act ("MMRSA"); and, if enacted by the Council, would also be subject to buffers of:

- 1,500 feet from a public or private high school;
- 1,000 feet from a public or private kindergarten, elementary, middle, or junior high school;
- 1,000 feet from a public park;
- 1,000 feet from a State licensed child care facility located on a commercial corridor;
- 1,000 feet from a location identified by the Police Department to be a "human trafficking high crime corridor" (which has now been identified as Pacific Coast Highway between Santa Fe Avenue and Redondo Avenue, Anaheim Street between the 710 Freeway and Redondo Avenue, and Long Beach Blvd. between Victoria Street and the north City limits);
- 1,000 feet from a public library; and
- 1,000 feet from any other medical marijuana business.

The draft Ordinance requires that permitted operators have in place a "labor peace" agreement prior to commencing operations, and that a medical marijuana business apply for and obtain a Conditional Use Permit (CUP) and Business License before engaging in a medical marijuana delivery business in the City. The Ordinance is structured in such a way that an applicant/permittee would be required to obtain all necessary State licenses and permits when the new State regulations are fully implemented, which likely will not occur before March 2018. Failure to obtain required State licensing would subject a City permitted facility to a City initiated suspension or revocation procedure.

The draft Ordinance provides for certain minimum operational standards in order to protect the public from nuisance related activities in and around a licensed medical marijuana premise. These provisions include a requirement to provide a "Neighborhood Safety and Responsibility Plan," a limit on the hours of operation from 8:00 a.m. to 7:00 p.m. (although delivery services could extend to 9:00 p.m.), the presence of security guards during normal business hours, a requirement for worker's compensation and public liability insurance, limitations on both on-site and off-site advertising, requirements related to odor elimination through ventilation requirements, requirements related to the testing of all medical marijuana products to ensure they are pesticide and mold free, and otherwise uncontaminated, video recording systems to deter crime and assist the City in its tax collection efforts, a requirement that a business manager be on the premises during normal business hours, limits on the size of a medical marijuana business (dispensary or delivery site 2,000 square feet or less; cultivation site 5,000 square feet or less), packaging and labeling requirements for medical marijuana products, a requirement to provide fire and security alarm systems, and certain recordkeeping requirements.

The draft Ordinance establishes a "Priority Point System" to ensure the best possible operators in the City. City staff will evaluate, score, and rank those who submit a complete application during a specified application period. Those receiving the highest ranking will have their application processed first until all four (4) CUPs have been allocated. The Priority Point System has twenty (20) separate categories for which points

can be awarded. The categories include such items as proximity to transportation hubs, exceedance of minimum buffer requirements, a superior security plan, a superior business plan, the lack of a criminal history by applicants, demonstration of service to the community, superior odor elimination systems, separation from residential areas, and staffing plans that will ensure safe delivery or dispensing, theft prevention and maintenance of confidential information, and demonstration that the Applicant was a successful lottery entrant in the City's September 2010 medical marijuana lottery. In the event of a tie between applicants, priority processing will be determined by lottery.

The draft Ordinance also allows a CUP holder to provide delivery service both in the City of Long Beach and outside of the City, provided those cities outside of Long Beach do not specifically prohibit such activities within their jurisdictions. Delivery service can be made between 8:00 a.m. and 9:00 p.m. daily, and the permitted operator must verify that the delivery is being made to someone over the age of 21 and that the person requesting the delivery service has a valid doctor's recommendation.

The Ordinance is structured in such a way that if Council exercises its discretion to permit full retail storefront or cultivation operations after six (6) months, all of the necessary regulations and public safety protections are already in place. The Ordinance has been prepared as an "urgency ordinance" because of a provision in the new State law that would essentially "default" to State cultivation regulations if a local government does not have a regulatory ordinance in place by March 1, 2016.


If the attached regulatory Ordinance is passed, it includes a provision that will repeal Chapter 5.89 of the Municipal Code, which was adopted by the City Council in 2012, banning medical marijuana facilities in the City.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

CHARLES PARKIN, City Attorney

By 

MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm

Attach.

A15-03026

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 21.66; AND BY
REPEALING CHAPTER 5.89, ALL RELATING TO
MEDICAL MARIJUANA; DECLARING THE URGENCY
THEREOF AND DECLARING THAT THIS ORDINANCE
SHALL TAKE EFFECT IMMEDIATELY

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 ("State") 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, in 2015, the State of California passed the Medical Marijuana
Regulation and Safety Act ("MMRSA") to provide a State framework for licensure and
regulation of medical marijuana within the State, while continuing to recognize the
authority of local governments to regulate or ban medical marijuana related activity
within their respective jurisdictions; and

WHEREAS, notwithstanding the passage of the CUA and MMPA, and the

1 MMRSA, the cultivation, possession, and distribution of marijuana is prohibited by
2 federal law and specifically by the Controlled Substances Act (“CSA”) (codified in 21
3 U.S.C. Section 841); and Section 841 of the CSA makes it unlawful for a person to
4 manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or
5 dispense marijuana; and

6 WHEREAS, the regulations for medical marijuana uses are not yet
7 adequate at the State level to address the impacts on the City of medical marijuana,
8 making it appropriate for local regulation of the impacts of medical marijuana uses; and

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

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

18 WHEREAS, this Chapter is to be construed to protect the general public’s
19 health, safety and welfare over medical marijuana related interests; and

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

23 WHEREAS, the City has a zero tolerance policy for violations of this
24 Chapter or provisions of the State’s MMRSA; and

25 WHEREAS, the City Council wishes to repeal Chapter 5.89 of the
26 Municipal Code (“Medical Marijuana Dispensary Ban”) in its entirety and at the same
27 time adopt regulations allowing for the limited existence of medical marijuana
28 businesses and related activities in the City of Long Beach in accordance with this

1 Chapter and the State's MMRSA.

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

4 Section 1. Chapter 21.66 is added to the Long Beach Municipal Code
5 to read as follows:

6 Chapter 21.66
7 MEDICAL MARIJUANA

8 21.66.010 Purpose.

9 The primary purpose of this Chapter is to protect the public health,
10 safety, and welfare of the residents and patients of the City by prescribing the
11 manner in which medical marijuana businesses and related activities can
12 operate in the City.

13 Protection of the public shall be the highest priority for the City in
14 exercising its regulatory and discretionary functions under this Chapter.
15 Whenever the protection of the public is inconsistent with other interests
16 sought to be promoted, the protection of the public shall be paramount. The
17 City intends that both this Chapter and the relevant provisions of the State
18 "MMRSA" shall apply in the regulation of medical marijuana businesses in the
19 City.

20 This Chapter regulates the use, acquisition, cultivation, production,
21 delivery, and distribution of medical marijuana in a manner that is consistent
22 with the State Compassionate Use Act ("CUA"), the State Medical Marijuana
23 Program Act ("MMPA"), and the State Medical Marijuana Regulation and
24 Safety Act ("MMRSA"). The following regulations are intended to apply to all
25 medical marijuana business operations in the City whether by a patient or
26 primary caregiver, or a collective of patients, or any medical marijuana related
27 entity allowed under the State law. Medical marijuana delivery, distribution,
28 cultivation, and production can have an impact on health, safety and

1 community resources, and this Chapter is intended to allow medical marijuana
2 distribution and cultivation only where it will have a minimal impact. To do so,
3 the following regulations:

4 A. Provide for a means for cultivation, production, delivery and
5 distribution of marijuana to patients who qualify to obtain, possess, and use
6 marijuana for medical purposes under the CUA, MMPA, and MMRSA;

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

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

14 D. Impose fees to recover the cost to the City of regulating
15 medical marijuana related operations;

16 E. Adopt a mechanism to monitor compliance with the provisions
17 of this Chapter and State law;

18 F. Create regulations that address the particular needs of the
19 residents and patients of the City and coordinate with laws and regulations
20 that have been or may be enacted by the State regarding the same;

21 G. Facilitate the implementation of the CUA, MMPA, and
22 MMRSA without going beyond the authority granted to the City by them;

23 H. Allow medical marijuana related business operations only by
24 individuals and entities that have demonstrated an intent and ability to
25 comply with this Chapter and State law;

26 I. Protect public safety and residential uses by limiting the
27 locations and manner by which medical marijuana businesses may operate.

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21.66.020 Definitions.

A. "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.

B. "Advertise" means the act of drawing the public's attention, whether in print or on the television, internet, cellular network, or radio, or any and all media now known or hereafter devised, to a medical marijuana business in order to promote the sale of medical marijuana by the business.

C. "Applicant" means the following:

1. The owner or owners of a proposed medical marijuana business, including all persons or entities having an ownership interest in the business;

2. If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed business;

3. If the Applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership of five percent or more.

D. "Batch" means a specific quantity of medical marijuana or medical marijuana product that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

E. "Bureau" means the State Bureau of Medical Marijuana Regulation within the State Department of Consumer Affairs.

F. "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

1 property. Business manager shall include any person with managerial
2 authority in the business, and any person that has access to lock or unlock
3 the safe, to unlock or lock the business, or set or disarm the alarm.

4 G. "Cannabinoid" or "phytocannabinoid" means a chemical
5 compound that is unique to and derived from cannabis.

6 H. "Cannabis" means all parts of the plant cannabis sativa,
7 Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not;
8 the seeds thereof; the resin; whether crude or purified, extracted from any
9 part of the plant; and every compound, manufacture, salt, derivative,
10 mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also
11 means the separated resin, whether crude or purified, obtained from
12 marijuana. "Cannabis" also means marijuana as defined in California Health
13 and Safety Code Section 11018. It does not include the mature stalks of
14 the plant, fiber produced from the stalks, oil or cake made from the seeds of
15 the plant, any other compound, manufacture, salt, derivative, mixture, or
16 preparation of the mature stalks (except the resin extracted therefrom),
17 fiber, oil, or cake, or the sterilized seed of the plant which is incapable of
18 germination. "Cannabis" does not mean "industrial hemp" as defined by
19 Section 81000 of the Food and Agricultural Code or Section 11018.5 of the
20 Health and Safety Code.

21 I. "Cannabis concentrate" means the separated resin, whether
22 crude or purified, obtained from marijuana.

23 J. "Caregiver" or "primary caregiver" means the individual,
24 designated by a qualified patient or by a person possessing a valid
25 physician's written recommendation for medical marijuana, who has
26 consistently assumed responsibility for the housing, health, or safety of that
27 patient or person.

28 K. "Commercial cannabis activity" means cultivation, possession,

1 manufacture, processing, storing, laboratory testing, labeling, transporting,
2 delivery, distribution, or sale of medical cannabis or a medical cannabis
3 product to qualifying patients and primary caregivers.

4 L. "Cultivation" or "cultivate" means any activity involving the
5 planting, growing, harvesting, drying, curing, grading, or trimming of
6 marijuana.

7 M. "Cultivation site" means a facility where medical cannabis is
8 planted, grown, harvested, dried, cured, graded, or trimmed, or that does all
9 or any combination of those activities, that holds a valid State license
10 pursuant to this chapter, and that holds a valid local license or permit.

11 N. "Delivery" means the commercial transfer of medical
12 marijuana or permitted medical marijuana edible products from a medical
13 marijuana business, to a primary caregiver or qualified patient's residence.

14 O. "Dispensary" means a facility where medical marijuana,
15 medical marijuana products, or devices for the use of medical marijuana are
16 offered, either individually or in any combination, for retail sale, including an
17 establishment that delivers medical marijuana and medical marijuana
18 products as part of retail sale.

19 P. "Dispensing" means any activity involving the transfer of title
20 or possession, exchange or barter, conditional or otherwise, in any means
21 whatsoever, of tangible personal property for a consideration including any
22 monetary consideration of medical marijuana or medical marijuana products
23 from a dispensary, including but not limited to, membership dues,
24 reimbursements or total amount of cash or in-kind contributions.

25 Q. "Distribute" or "distribution" means the procurement, sale,
26 delivery, and transport of medical marijuana and medical marijuana
27 products between entities licensed by the State and permitted by the City in
28 accordance with this Chapter.

1 R. “Distributor” means a person licensed by the State to engage
2 in the business of purchasing medical marijuana from a licensed cultivator,
3 or medical marijuana products from a licensed manufacturer, for sale to a
4 licensed or permitted dispensary.

5 S. “Dried flower” means all dead medical cannabis that has been
6 harvested, dried, cured, or otherwise processed, excluding leaves and
7 stems.

8 T. “Edible cannabis product” or “edible” means an edible
9 manufactured product that contains medical cannabis which is intended to
10 be used, in whole or in part, for human consumption.

11 U. “Financier” means any person or entity who lends money,
12 grants, donates, or otherwise provides assets to any person applying for a
13 permit or who has been issued a permit under this Chapter. Financier shall
14 not include a bank, savings and loan association, credit union, or industrial
15 bank supervised and regulated by an agency of the State or federal
16 government.

17 V. “Labor peace agreement” means an agreement between a
18 licensee or permittee and a bona fide labor organization that, at a minimum,
19 prohibits labor organizations and members from engaging in picketing, work
20 stoppages, boycotts, and any other economic interference with the
21 Applicant’s business. This agreement means that the Applicant has agreed
22 not to disrupt efforts by the bona fide labor organization to communicate
23 with, and attempt to organize and represent, the Applicant’s employees.
24 The agreement shall provide a bona fide labor organization access at
25 reasonable times to areas in which the Applicant’s employees work, for the
26 purpose of meeting with employees to discuss their right to representation,
27 employment rights under State law, and terms and conditions of
28 employment. This type of agreement shall not mandate a particular method

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of election or certification of the bona fide labor organization.

W. "Licensee" means a person issued a State and/or City license or permit under this Chapter to engage in commercial cannabis activity.

X. "Licensing authority" means the City of Long Beach or the State agency responsible for the issuance, renewal, or reinstatement of the license or permit, or the State agency authorized to take disciplinary action against the license.

Y. "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

Z. "Lot" means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, "lot" means a specifically identified amount produced in a unit of time or a quantity in a manner that ensures its having uniform character and quality within specified limits.

AA. "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

BB. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid State license, and that holds a valid local license or permit.

CC. "Manufacturing site" means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or

1 medical cannabis products, directly or indirectly, by extraction methods,
2 independently by means of chemical synthesis, or by a combination of
3 extraction and chemical synthesis, and is owned and operated by a
4 licensee for these activities.

5 DD. "Medical marijuana," "medical cannabis," "medical cannabis
6 product," or "cannabis product" means a product, including edible cannabis
7 products, intended to be sold and consumed or used by medical cannabis
8 patients in California pursuant to the Compassionate Use Act of 1996
9 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.
10 For the purposes of this Chapter, "medical cannabis" does not include
11 "industrial hemp" as defined by Section 81000 of the Food and Agricultural
12 Code or Section 11018.5 of the Health and Safety Code.

13 EE. "Medical marijuana business" means:

14 1. Any association of four (4) or more individuals that
15 cultivates, produces, manufactures, sells, distributes, possesses,
16 transports, delivers, or makes available medical marijuana to qualified
17 patients and their designated primary caregivers who associate at a
18 particular location or property within the boundaries of the City of Long
19 Beach to collectively cultivate, deliver, or distribute medical marijuana in
20 accordance with California Health and Safety Code Sections 11362.5, *et*
21 *seq.*, the State MMRSA, or this Chapter. For purposes of this Chapter, the
22 term medical marijuana cooperative, collective, facility, or dispensary shall
23 have the same meaning as medical marijuana business. Medical marijuana
24 business includes, but is not limited to, dispensary storefront locations,
25 delivery services, cultivation facilities, and edible cannabis product and
26 permitted concentrate product manufacturers;

27 2. Any person that cultivates, produces, sells, distributes,
28 possesses, transports or delivers more than six (6) mature marijuana plants

1 or twelve (12) immature marijuana plants, or eight (8) ounces of a useable
2 form of marijuana for medical use, pursuant to California Health and Safety
3 Code Section 11362.5, *et seq.*;

4 3. The term medical marijuana business shall not include
5 personal use cultivation of medical marijuana at the private residence of
6 either a qualified patient or the qualified patient's primary caregiver for use
7 by the qualified patient if such cultivation is conducted pursuant to Health
8 and Safety Code Sections 11362.765 through 11362.775 and is conducted
9 in strict compliance with the following:

10 a. A qualified patient and primary caregiver shall
11 be allowed to cultivate medical marijuana within the private residence of
12 either the qualified patient or the qualified patient's primary caregiver for the
13 qualified patient's personal use;

14 b. The building being used for the cultivation shall
15 remain at all times a residence with legal and functioning cooking, sleeping
16 and sanitation facilities;

17 c. Medical marijuana cultivation shall remain at all
18 times incidental to the residential use of the property;

19 d. The qualified patient or the primary caregiver
20 shall reside in the residence where the medical marijuana cultivation
21 occurs;

22 e. The medical marijuana cultivation area shall be
23 in compliance with all current Building and Fire Codes, including without
24 limitation, the current adopted edition of the California Building Code
25 Section 1203.4 - National Ventilation; or Section 402.3 - Mechanical
26 Ventilation;

27 f. The cultivation shall not adversely affect public
28 health or safety through the creation of mold, mildew, dust, glare, heat,

1 noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts; or
2 be hazardous because of the use or storage of materials, processes,
3 products or wastes, or for any other reason;

4 g. All electrical equipment used in the cultivation of
5 medical marijuana shall be plugged directly into a wall outlet or otherwise
6 hardwired. The use of extension cords to supply power to electrical
7 equipment used in the personal cultivation of medical marijuana is
8 prohibited;

9 h. From a public right-of-way, there shall be no
10 exterior evidence of medical marijuana cultivation occurring at the property;

11 i. Medical marijuana cultivated for personal use as
12 provided herein shall not be distributed to anyone other than the qualified
13 patient;

14 j. All water used in the cultivation of medical
15 marijuana shall be legally obtained and shall be applied in accordance with
16 State and local laws;

17 k. Notwithstanding the number of qualified patients
18 or primary caregivers residing at the private residence, medical marijuana
19 cultivation shall be limited to a single space within a single room that is not
20 a garage. The single space in the single room shall be no larger than fifty
21 (50) square feet and all medical marijuana plants shall be arranged in a
22 single layer;

23 l. Medical marijuana cultivated for personal use by
24 a qualified patient shall be exclusively for his or her personal medical use
25 and shall not be provided, donated, sold, or distributed to any other person
26 or entity;

27 m. Medical marijuana cultivated for personal use by
28 a primary caregiver shall be exclusively for the personal medical use of that

1 primary caregiver's designated qualified patient(s) and shall not be
2 provided, donated, sold, or distributed to any other person or entity;

3 n. The area used for medical marijuana cultivation,
4 processing, manufacturing or storage shall be secured in a manner so as to
5 prevent access by anyone other than a qualified patient or primary
6 caregiver; and

7 o. The extraction or refinement of chemical
8 compounds from medical marijuana by way of a solvent-based extraction
9 method utilizing compressed flammable gasses or alcohol is prohibited.

10 FF. "Permit," "local license," or "local permit" means an official
11 document granted by the City that specifically authorizes a person to
12 conduct commercial cannabis activity in the City.

13 GG. "Person" means an individual, firm, partnership, joint venture,
14 association, corporation, limited liability company, estate, trust, business
15 trust, receiver, syndicate, or any other group or combination acting as a unit
16 and includes the plural as well as the singular number.

17 HH. "Permittee" means the medical marijuana business named on
18 the Conditional Use Permit and business license, and all individuals named
19 in the Conditional Use Permit application or later reported to the City,
20 including without limitation, owners, business managers, financiers, and
21 individuals owning any part of an entity that holds a financial or ownership
22 interest in a medical marijuana business.

23 II. "Place open to the general public" means any property owned,
24 leased, or used by a public entity, and any place on private property open to
25 the public, common areas of buildings, private clubs, vehicles, those
26 portions of any private property upon which the public has an express or
27 implied license to enter or remain, and any place visible from such places.

28 "Place open to the general public" shall not include any fenced area of a

1 private residence regardless of whether it can be seen from a place open to
2 the public.

3 JJ. "Possess" or "possession" means having physical control of
4 an object, or control of the property in which an object is located, or having
5 the power and intent to control an object, without regard to whether the one
6 in possession has ownership of the object. Possession may be held by
7 more than one (1) person at a time. Use of the object is not required for
8 possession. The owner of a medical marijuana business shall be
9 considered in possession of the medical marijuana business at all times.
10 The business manager of a medical marijuana business shall be
11 considered in possession of the medical marijuana business at all times
12 that the business manager is on the property of the business or has been
13 designated by the owner as the business manager in the absence of the
14 owner in accordance with this Chapter.

15 KK. "Property" means a distinct and definite location, which may
16 include a building, a part of a building, a room or any other defined
17 contiguous area.

18 LL. "Produce" or "production" means:

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

25 MM. "Responsible person" means any individual who is the owner,
26 partial owner, or occupant of real property, last registered owner and/or
27 legal owner of a vehicle, the holder, business manager, or the agent of the
28 holder of any permit, or the party or agent of a party to any agreement

1 covered by this Chapter; or the owner or authorized agent of any business,
2 company or entity subject to this Chapter.

3 NN. "Restricted area" means the portion of a medical marijuana
4 business location within which the licensee defines on its application it
5 intends to cultivate, distribute, possess or produce medical marijuana and
6 which area is clearly identified as the restricted area on the floor plan
7 submitted with the medical marijuana business CUP application for the
8 business.

9 OO. "State license," "license," or "registration" means a State
10 license issued by the State of California pursuant to the State's MMRSA for
11 the purpose of engaging in any form of commercial cannabis activity.

12 PP. "Testing laboratory" means a facility, entity, or site in the State
13 that offers or performs tests of medical cannabis or medical cannabis
14 products and that is both of the following:

15 1. Accredited by an accrediting body that is independent
16 from all other persons involved in the medical cannabis industry in the
17 State;

18 2. Registered or licensed by the State pursuant to the
19 State's MMRSA.

20 QQ. "Transport" means the transfer of medical cannabis or medical
21 cannabis products from the permitted business location of one licensee to
22 the permitted business location of another licensee, for the purposes of
23 conducting commercial cannabis activity as authorized by State law and
24 this Chapter.

25 RR. "Transporter" means a person issued a State license to
26 transport medical cannabis or medical cannabis products in an amount
27 above a threshold determined by the State between facilities that have
28 been issued a State license.

1 SS. “Violation of any law” means a conviction, whether by verdict
2 or finding of a violation of any law in a criminal, civil, or administrative
3 proceeding, whether part of a plea agreement, settlement agreement, or
4 determination by an arbitrator, hearing officer, court, or jury.

5
6 21.66.030 Permit required.

7 A. It shall be unlawful for any person or entity to operate, in or
8 upon any property, a medical marijuana business without first obtaining all
9 required State licenses and a Conditional Use Permit and business license
10 issued by the City. Although State issued licenses or permits are not
11 available at the time of the adoption of this Chapter, it is incumbent upon
12 the Applicant to apply for, and obtain, all necessary or relevant State
13 licenses or permits when they become available for issuance by the State.
14 Failure to obtain required State licenses or permits shall be grounds for
15 suspension or revocation of any permit or license issued by the City and for
16 the imposition of any other penalty provided for in this Chapter.

17 The permit requirement set forth in this Chapter shall be in
18 addition to, and not in lieu of any other licensing and permitting requirements
19 imposed by any other federal, State or local law, including, but not limited to,
20 building and occupancy permits, California seller’s permit or other State
21 issued permits or licenses issued for the purpose of engaging in commercial
22 cannabis activities.

23 B. The issuance of any permit or business license pursuant to
24 this Chapter does not create an exception, defense, or immunity to any
25 person or entity from criminal liability for the cultivation, production,
26 distribution, transportation, or possession of marijuana.

27 C. A single Conditional Use Permit shall be required for each
28 property from which an individual medical marijuana business operates.

1 D. A Conditional Use Permit issued pursuant to this Chapter
2 shall become null and void upon the closure of the business for more than
3 thirty (30) days, and/or the relocation of the business to a different location.

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

5 a. Any relocation or expansion that includes a
6 separate parcel of property, building suite, or parcel of land from the initially
7 permitted Property;

8 b. Any expansion of the initially permitted Property
9 which represents a greater than fifty percent (50%) increase in the square
10 footage of space devoted to the medical marijuana business operations,
11 including the restricted areas, unless the medical marijuana business was first
12 permitted as a delivery only facility. In that case, the square footage of the
13 permitted property may be increased beyond fifty percent (50%), provided the
14 square footage limits set forth in Section 21.66.080 are not exceeded.

15 E. The lawful conduct of activity regulated by this Chapter shall
16 be limited to those activities expressly indicated on the medical marijuana
17 Conditional Use Permit or business license.

18 F. The Permittees of a medical marijuana business are only
19 those persons disclosed in the Conditional Use Permit application or
20 subsequently disclosed to the City in accordance with this Chapter. A
21 transfer of a Conditional Use Permit is prohibited. Anytime the transfer of
22 stock, assets, capital contribution and the like results in a change of
23 ownership of a medical marijuana business, a new Conditional Use Permit
24 and business license must be applied for and granted. Upon the date of
25 implementation of regulations by a State licensing authority, no person shall
26 engage in commercial cannabis activity or in the activities of a medical
27 marijuana business without possessing all applicable State licenses and all
28 applicable City permits and licenses. No person shall commence activity

1 under the authority of a State license until the person has obtained, in
2 addition to all applicable State licenses, a Conditional Use Permit and
3 business license from the City in accordance with the requirements of this
4 Chapter. Revocation of a State license shall constitute grounds for the City
5 to suspend or revoke any permit or license issued by the City.

6 G. A medical marijuana business that is operating in compliance
7 with this Chapter and other State and local requirements on or before
8 January 1, 2018, may continue its operations until its application for State
9 licensure is approved or denied pursuant to Business and Professions
10 Code Section 19321(c), or six (6) months from the time licensing
11 procedures are adopted by the State, whichever is first, unless good cause
12 is established by the medical marijuana business that the time periods set
13 forth herein should be extended.

14
15 21.66.040 General permit provisions.

16 A. The general procedures and requirements set forth in Chapter
17 21.25, "Conditional Use Permits," shall apply to Conditional Use Permits
18 issued pursuant to this Chapter. To the extent there is any conflict between
19 the provisions of this Chapter and Chapter 21.25, the provisions of this
20 Chapter shall control for Conditional Use Permits related to medical
21 marijuana businesses.

22 B. Insurance required.

23 The medical marijuana business shall provide proof of insurance to
24 the City as follows:

25 1. Workers' Compensation Insurance. A medical marijuana
26 business must at all times maintain workers' compensation insurance as
27 required by the California Labor Code and employers liability insurance in an
28 amount not less than one million dollars (\$1,000,000). This policy shall be

1 endorsed to state that the insurer waives its right of subrogation against the
2 City, its boards and commission, and its officials, employees, and agents;

3 2. Public Liability Insurance. Public liability insurance with
4 minimum limits of two hundred fifty thousand dollars (\$250,000) for any one
5 person and one million dollars (\$1,000,000) for any one accident, and public
6 property damage insurance with a minimum limit of five hundred thousand
7 (\$500,000) for any one accident, must be maintained at all times;

8 3. Vehicle Insurance. Any vehicle used for the
9 transportation or delivery of medical marijuana must be covered by a liability
10 insurance policy that specifically covers liabilities arising from a driver's use of
11 a vehicle in connection with the transportation or delivery of medical
12 marijuana product. Insurance shall be required in the amount of one million
13 dollars (\$1,000,000) for death, personal injury, and property damage. The
14 requirements for the coverage required herein may be satisfied by any of the
15 following:

- 16 a. insurance maintained by the driver of the vehicle;
- 17 b. insurance maintained by the medical marijuana
18 business; or
- 19 c. any combination of (a) and (b) above.

20 C. Costs to regulate medical marijuana activities.

21 1. The City will incur costs in the administration of medical
22 marijuana activities including the issuance of a permit or license, inspection,
23 enforcement, tax collection, auditing, and costs of litigation, including
24 attorney's fees and related costs to regulate licensed and permitted medical
25 marijuana businesses. One or more regulatory fees in order to recoup said
26 costs from licensed and permitted medical marijuana businesses may be
27 established by the City Council by resolution;

28 2. In the event of failure to pay an established regulatory

1 fee, a Conditional Use Permit or business license may be revoked or
2 suspended.

3 D. Costs of inspection, enforcement, and abatement.

4 1. In the event the City incurs costs in the inspection,
5 enforcement, revocation, abatement, or any other requirements to remove a
6 medical marijuana business or related equipment, the medical marijuana
7 business and all responsible persons shall reimburse the City for all actual
8 costs incurred by the City for such inspection, enforcement, or abatement,
9 including costs of litigation and attorney's fees.

10 2. All actual costs required by this Section shall constitute
11 a lien upon the property upon which the medical marijuana business is
12 situated. The lien for any inspection, enforcement, or abatement costs shall
13 attach thirty (30) days after the responsible parties are notified of the costs,
14 and shall remain until the costs are paid or the property is sold in payment
15 thereof.

16 E. Landlord duty.

17 It shall be unlawful for the owner of a building to lease space or allow
18 the use of any portion of a building by a medical marijuana business unless
19 the tenant has a valid Conditional Use Permit and a valid business license, or
20 has applied for and not been denied, a Conditional Use Permit and/or
21 business license and no marijuana is located on the property until all
22 applicable permits and licenses have been issued by the City.

23
24 21.66.050 Conditional Use Permit application.

25 A. Application requirements.

26 In addition to the general Conditional Use Permit application
27 requirements of Chapter 21.25, an application for a Conditional Use Permit to
28 operate a medical marijuana business shall be submitted to the Department

1 of Development Services (DDS) and shall include completed forms provided
2 by the City for that purpose. During the open application period, an applicant
3 must undergo LiveScan at a location authorized by the State Department of
4 Justice. The request for LiveScan must be filed so that the City is designated
5 as the agency authorized to receive criminal history information from the
6 LiveScan report. The Applicant shall use the application to demonstrate its
7 compliance with this Chapter and any other applicable law, rule, or regulation.
8 The application shall include the following information:

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

11 2. If an owner is a corporation, the name and address of all
12 officers or directors of the corporation and of any person holding issued and
13 outstanding capital stock of the corporation;

14 3. If an owner is a partnership, association, or company, the
15 name and address of any person holding an interest therein and the
16 managing members. If a managing member is an entity rather than an
17 individual, the same disclosure shall be required for each entity with an
18 ownership interest until a managing member that is a natural person is
19 identified;

20 4. If an owner is not a natural person, the organizational
21 documents for all entities identified in the application, identification of the
22 natural person that is authorized to speak for the entity and contact
23 information for that person.

24 5. Name and address of:

25 a. Any business managers of the medical
26 marijuana business, if the business manager is proposed to be someone
27 other than the owner;

28 b. All financiers of the medical marijuana business;

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

- (i) act with managerial authority,
- (ii) provide advice to the medical marijuana business for compensation, or
- (iii) receive periodic compensation totaling one thousand dollars (\$1,000.00) or more in a single year for services related to the medical marijuana business;

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

- a. Denied an application for a Conditional Use Permit pursuant to this Chapter, or any similar State or local licensing or permitting law, rule, or regulation, or had such a license or permit suspended or revoked;
- b. Convicted of violating any law, other than a traffic violation infraction, or completed any portion of a sentence due to a violation of any law;
- c. Convicted of driving or operating other machinery under the influence of alcohol, drugs, or medication, driving while impaired, or any comparable law, or a misdemeanor related to abuse of alcohol or a controlled substance;
- d. Owners, members, business managers, or financiers of any other medical marijuana business in any location, Long Beach or otherwise, at any time, and the status of the other business(es) as of the date the application is submitted;

7. Proof of ownership or legal possession of the Property at

1 which the medical marijuana business will be located. If the medical
2 marijuana business is not the owner of the property of the business, the
3 Applicant shall provide written authorization to the City from the property
4 owner to enter the property for inspection of the property on a form approved
5 by the City as well as an acknowledgement from the owner that the Applicant
6 has the owner's permission and consent to operate a medical marijuana
7 business at the subject property;

8 8. Proof that the Applicant has met the insurance
9 requirements set forth in Section 21.66.040;

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

12 a. A description of all the products and services to
13 be provided by the medical marijuana business.

14 b. A schedule depicting the hours of operation;

15 c. A description of the procedures for cash
16 handling and audits;

17 d. A dimensioned floor plan, clearly labeled, showing:

18 (i) The layout of the facility and the floor plan
19 in which the medical marijuana business is to be located,

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

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

28 (iv) The separation of the areas that are open

1 to persons who are not patients from those areas open to patients, and

2 (v) Any other information required by the City
3 in its review of the application;

4 e. A neighborhood safety and responsibility plan
5 that demonstrates how the Applicant will comply with the requirements of
6 this Chapter and abate associated crime and nuisance conditions in the
7 immediate vicinity of the marijuana business, and how the business will
8 fulfill its responsibilities to the neighborhood including outreach and dispute
9 resolution;

10 f. For cultivation facilities, and medical marijuana
11 businesses that produce edible cannabis products or concentrates, a plan
12 that specifies:

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

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

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

24 (iv) In addition to the above, the Applicant
25 shall also submit a Hazardous Materials Business Emergency Plan
26 (HMPEP) in accordance with State and Federal law and to the satisfaction
27 of the Long Beach Fire and Health Departments, which departments share
28 the oversight of the local Certified Unified Program Agency (CUPA);

1 g. A business plan which must include, but is not
2 limited to, the following information:

3 (i) Information that demonstrates the
4 prospective owner or owners' thorough understanding of medical marijuana
5 business operations, local market conditions, and inherent financial and
6 non-financial risks in operating a medical marijuana business in the City,

7 (ii) Information regarding revenue
8 projections, sales forecast, inventory and timeline for breaking even from
9 initial capital contribution,

10 (iii) Information regarding verifiable capital
11 reserve levels, lines of credit, bank statements showing adequate resources
12 for start-up costs, as well as on- going operations until a break -even point
13 is achieved, and

14 (iv) Information regarding the owner(s) or
15 business manager(s) resume demonstrating skills, knowledge and
16 experience owning and/or managing prior businesses;

17 10. A State seller's permit issued to the Applicant pursuant
18 to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and
19 Taxation Code;

20 11. A lighting plan showing the lighting outside of the
21 marijuana business and compliance with applicable City requirements;

22 12. Color images and a site plan indicating locations of
23 proposed signage;

24 13. A fully legible copy of one valid government issued form
25 of photo identification, such as a State Driver's License or Identification Card.
26 This requirement shall apply to all owners, business managers, financiers,
27 and caregivers employed by, or under contract to provide services to, the
28 medical marijuana business, including all individuals who have an interest as

1 described herein of any portion of the medical marijuana business, directly or
2 as an agent, or a member, partner or officer of a corporation, partnership,
3 association or company;

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

8 15. A plan for ventilation of the medical marijuana business
9 that describes the ventilation systems that will be used to prevent any odor of
10 medical marijuana off the property of the business;

11 16. A description of all toxic, flammable, or other materials
12 regulated by a federal, State, or local government that would have authority
13 over the business if it was not a marijuana business, that will be used or kept
14 at the medical marijuana business, the location of such materials, and how
15 such materials will be stored, subject to review and approval by the Long
16 Beach Fire Department or designee;

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

22 18. A description of the point of sale software the medical
23 marijuana business will utilize to track sales tax, gross receipts, inventory,
24 and sales of medical marijuana;

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

28 20. Proof that the Applicant(s) has undergone a LiveScan

1 criminal history check in accordance with Section 21.66.050;

2 21. Fee required. Any application for a Conditional Use
3 Permit shall be accompanied by the Conditional Use Permit application fee,
4 and any other applicable fees established by the City Council by resolution.

5 B. Investigation.

6 For purposes of this Chapter, the investigation of the application by the
7 City is not complete until the DDS has:

- 8 1. Determined the application is complete;
- 9 2. Determined the medical marijuana business is prepared
10 and able to operate in compliance with all applicable laws;
- 11 3. Obtained all other information the Director determines
12 necessary to make a recommendation whether to approve the permit
13 application with conditions, or deny the permit application; and
- 14 4. Prepared the documentation necessary to support the
15 recommended action to the City's Planning Commission and City Council.

16 C. Approval requirements.

- 17 1. Once the DDS deems an application complete, the
18 matter will be set for hearing in accordance with Chapter 21.21 of the Long
19 Beach Municipal Code.
- 20 2. The Director will deny any application that does not meet
21 the requirements of this Chapter or any other applicable law, rule, or
22 regulation or that contains any false or incomplete information.
- 23 3. The conditions of an approval issued as part of the
24 Conditional Use Permit process shall include, at a minimum, operation of the
25 business in compliance with all of the plans and information made part of the
26 application.

27 D. Prior to accepting applications, DDS shall cause to be posted
28 on its website a public notice of availability. The notice will appear on the

1 DDS website for thirty (30) consecutive days, immediately prior to the
2 opening of the application period. The notice shall specify, at a minimum,
3 the period of time that applications will be received by the DDS for further
4 processing and consideration.

5 E. DDS shall review each application and ensure that the
6 application is complete. Incomplete applications will be rejected and will not
7 be further processed or considered unless the applicant submits a complete
8 application during the period specified by the DDS as the time period to
9 submit applications. Determinations made by DDS as to whether or not an
10 application is complete are final and shall not be appealable to any other
11 person or body.

12 F. Any notices required by this Chapter shall be deemed issued
13 upon the date they appear on the DDS website, they are deposited in the
14 United States mail, or the date upon which personal service of such notice
15 is provided.

16 G. At the conclusion of the application period, DDS shall
17 complete a review of the applications and shall assign points to each
18 Applicant in accordance with Section 21.66.070. No more than sixty (60)
19 days from the date the application period closes, DDS will post the point
20 priority rankings on the its website and mail written notification to each
21 Applicant indicating the total points assigned, and the Applicant's rank.

22 H. Each Applicant will have ten (10) calendar days from the date
23 the notice of point priority ranking is mailed to contact DDS and confirm the
24 Applicant will continue in the CUP process. Should an Applicant fail to
25 contact DDS during this time, the application will be considered null and
26 void. Should and Applicant wish to withdraw its application at this time, the
27 Applicant shall be eligible for a partial refund in accordance with procedures
28 established by DDS.

1 I. Once DDS receives confirmation to proceed with the CUP
2 process from an Applicant, the application for CUP will be set for hearing in
3 accordance with Chapter 21.21 of the Long Beach Municipal Code.
4

5 21.66.060 Persons prohibited as Permittees and business managers.

6 It shall be unlawful for any of the following persons to have an
7 ownership or a financial interest in a medical marijuana business, and no
8 permit provided by this Chapter shall be issued to or held by, and no medical
9 marijuana business shall be managed by:

10 A. Any person until all required fees have been paid;

11 B. Any person who has been convicted within the previous ten
12 (10) years of a felony or a crime of moral turpitude, or who is currently on
13 parole or probation for the sale or distribution of a controlled substance;

14 C. Any person who is under twenty-one (21) years of age;

15 D. Any person who operates or manages or has operated or
16 managed a medical marijuana business contrary to the provisions of this
17 Chapter, any other applicable law, rule or regulation or conditions
18 imposed on land use or license approvals, or contrary to the terms of the
19 plans submitted with the permit application, or amended as permitted by
20 this Chapter;

21 E. A licensed physician making patient recommendations;

22 F. A person permitted to operate pursuant to this Chapter who,
23 while lawfully operating, or who, at the time of application, has failed to
24 remedy an outstanding delinquency for taxes or fees owed, or an
25 outstanding delinquent judgment owed to the City;

26 G. A sheriff, deputy, police officer, prosecuting officer, or an
27 officer or employee of the State or City of Long Beach;

28 H. Any person applying for a Conditional Use Permit to operate a

1 medical marijuana business who is currently permitted to operate another
2 medical marijuana business in the City pursuant to this Chapter.

3
4 21.66.070 Location of medical marijuana businesses.

5 A. Fixed location required.

6 It shall be unlawful to operate a medical marijuana business or to grow
7 medical marijuana outside of an enclosed building. All Conditional Use
8 Permits shall be issued for a specific fixed location in the City of Long Beach
9 within an enclosed building.

10 B. Location – Permitted use in zoning district.

11 No Conditional Use Permit may be issued for a medical marijuana
12 business located in an area zoned exclusively for residential use.

13 C. Conditional Use Permit numerical limits.

14 No more than four (4) medical marijuana business Conditional Use
15 Permits may operate within the City at any one time unless the City Council
16 exercises its discretionary authority to allow the issuance of additional
17 Conditional Use Permits. Initially, the four (4) Conditional Use Permits
18 available pursuant to this Chapter shall be limited to home delivery service
19 only, with no on-site retail type sales, displays of medical marijuana product,
20 or cultivation activities. One hundred eighty (180) days after the first medical
21 marijuana business to obtain a Conditional Use Permit for home delivery
22 services becomes operational, City staff shall report back to the City Council
23 on the tax revenues collected from all permitted medical marijuana
24 businesses in the City, the fiscal impact to the City in terms of enforcement
25 costs, and any public safety issues related to the permitted medical marijuana
26 businesses. At the time City staff presents its report to the City Council, the
27 Council shall consider allowing any holder of a Conditional Use Permit for a
28 home delivery service to apply for a modification of its Conditional Use Permit

1 in accordance with Section 21.21.405 to permit other types of medical
2 marijuana business activities such as retail storefront operations by the permit
3 holder as specified by the City Council, provided the permit holder is able to
4 comply with all of the other provisions of this Chapter. One hundred eighty
5 (180) days after the first retail storefront or other City Council approved
6 medical marijuana business becomes operational, provided the City Council
7 permits such activity, City staff shall once again report back to the City
8 Council based on the criteria set forth herein. At the time City staff presents
9 this report, the City Council shall consider allowing the issuance of up to three
10 (3) additional medical marijuana Conditional Use Permits in the City for a total
11 of seven (7). No more than one (1) medical marijuana business Conditional
12 Use Permit may be issued per City Council District at any given time.

13 D. Priority of medical marijuana business location.

14 1. Each Application submitted and deemed complete by the
15 DDS during the specified application period will be evaluated for priority for
16 processing based on certain criteria set forth in a Priority Point System
17 established pursuant to this Section. All applications so evaluated and scored
18 will be ranked from the most to the least points. Applications for any available
19 Conditional Use Permit will be processed based upon this ranking:

20 a. Suitability of the proposed property:

21 (i) Applicant demonstrates proposed
22 location exceeds all buffer zones established in Subsection (F) by at least
23 five hundred (500) feet (1 point),

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

27 (iii) Proposed property is located within one
28 thousand (1000) feet of a public transportation hub, stop, or station (1 point),

1 (iv) Proposed property is located at least
2 three hundred (300) feet from any residential zones. (1 point);

3 b. Suitability of security plan:

4 (i) The Applicant's security plan includes the
5 presence of security personnel on premises twenty-four (24) hours per day
6 (1 point),

7 (ii) The Applicant's security plan demonstrates
8 a method to track and monitor inventory so as to prevent theft or diversion of
9 marijuana (1 point),

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

14 (iv) The Applicant's security plan includes
15 measures to prevent the diversion of marijuana to persons under the age of
16 twenty-one (21) (1 point),

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

20 c. Suitability of business plan and financial record
21 keeping:

22 (i) The Applicant describes a staffing plan
23 that will provide and ensure safe delivery, dispensing, adequate security,
24 theft prevention, and the maintenance of confidential information (1 point),

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

27 (iii) The Applicant provides a business plan
28 that demonstrates a strong financial plan, industry knowledge and

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experience and adequate resources for start-up costs and ongoing operations (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 by the City against a business or the location of their business (1 point);
- (iii) Applicants were successful lottery entrants in the City's September 10, 2010 application process (1 point);

f. Community service:

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

1 more eligible medical marijuana business applicants results in the same
2 total number of points assigned, the City will utilize a lottery to determine
3 which Applicant receives priority.

4 E. It shall be unlawful to operate a medical marijuana business in
5 a dwelling unit within any zoning district.

6 F. Separation from schools, parks, and other medical marijuana
7 businesses.

8 The property identified in the Conditional Use Permit application must
9 be located in accordance with the following:

10 1. The medical marijuana business is not located within
11 one thousand five hundred (1,500) feet of a public or private high school or
12 Educational Partnership High School ("EPHS"), even if said high school is
13 physically located outside the boundaries of the City of Long Beach; or
14 within one thousand (1,000) feet of a public or private kindergarten,
15 elementary, middle, or junior high school, even if said school is located
16 outside the boundaries of the City of Long Beach; or within one thousand
17 (1,000) feet of a public park; or within one thousand (1,000) feet of State
18 licensed child care facilities located on commercial corridors; or within one
19 thousand (1,000) feet of a public library; or within one thousand (1,000) feet
20 of a location identified by the Police Department to be a human trafficking
21 high crime corridor; or the medical marijuana business is not located within
22 one thousand (1,000) feet of any other medical marijuana business;

23 2. The distances specified in this Subsection shall be
24 determined by the horizontal distance measured in a straight line from the
25 property line of the school, park, medical marijuana business or other
26 buffered use, to the closest property line of the lot on which the medical
27 marijuana business is located, without regard to intervening structures.
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1 21.66.080 Limitations on medical marijuana businesses.

2 The following shall be the minimum requirements for a medical
3 marijuana business:

4 A. The area of a medical marijuana business dispensary is two
5 thousand (2,000) square feet or less and at least five hundred (500) square
6 feet are dedicated to a lobby and/or waiting area, unless said business is
7 permitted as a delivery service only, in which case, a lobby or waiting area
8 is not required;

9 B. The area of a medical marijuana business cultivation site is
10 five thousand (5,000) square feet or less;

11 C. The business distributes, dispenses, delivers or transports
12 medical marijuana only in accordance with this Chapter and State law; and

13 D. Unless said business is permitted as a delivery service only,
14 or cultivation site only, the business includes a secured and locked medical
15 marijuana dispensary room, one or more private rooms for consultation on
16 the medical use of marijuana, and a separate reception area for screening
17 of patients and waiting for non-patients.

18

19 21.66.090 Requirements related to operation of medical marijuana
20 businesses.

21 A. Onsite use prohibited.

22 No marijuana shall be smoked, eaten, or otherwise consumed or
23 ingested upon the medical marijuana business premises.

24 B. Restriction on access to restricted area.

25 No person, other than a patient, caregiver, licensee, employee, or a
26 contractor shall be in the medical marijuana dispensary room. No patient or
27 caregiver shall be allowed entry into the medical marijuana dispensary
28 room without showing a valid physician's recommendation and a State

1 issued picture Driver License or Identification.

2 C. Display of permits required.

3 The name and contact information for the owner or owners and any
4 business manager of the medical marijuana business, the Conditional Use
5 Permit, the business license, and the sales tax seller's permit shall be
6 conspicuously posted in the business.

7 D. Business conducted within building.

8 1. Unless the medical marijuana business is permitted as
9 a delivery service only, any and all cultivation, production, distribution,
10 possession, storage, display, sales or other distribution of marijuana shall
11 occur only within an enclosed area of a medical marijuana business and
12 shall not be visible from the exterior of the business;

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

16 E. Owner or business manager required on property.

17 No medical marijuana business shall be managed by any person
18 other than the Permittee or the business manager listed on the application
19 for the permit or a renewal thereof. Such Permittee or business manager
20 shall be on the property and responsible for all activities within the licensed
21 business as well as all delivery service related activities during all times
22 when the business is operating.

23 F. Hours of operation.

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

27 G. Use of pesticides.

28 No pesticides or insecticides which are prohibited by federal, State,

1 or local law for fertilization or production of edible produce shall be used on
2 any marijuana cultivated, produced or distributed by a medical marijuana
3 business. A medical marijuana business shall comply with all applicable
4 federal, State, and local laws regarding use and disposal of pesticides.

5 H. Ventilation required.

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

9 I. Use of carbon dioxide generators prohibited.

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

14 J. Limitations on inventory.

15 The medical marijuana business shall not maintain any more
16 marijuana within the property than is permitted under applicable State law.
17 The medical marijuana business shall maintain current records evidencing
18 the status and number of patients for whom they cultivate, dispense, or
19 deliver medical marijuana. The medical marijuana business shall maintain
20 current records evidencing the strains of marijuana cultivated or sold.

21 K. Reporting requirements.

22 A medical marijuana business shall report to the City each of the
23 following within the time specified, and if no time is specified, the report
24 shall be provided within twenty-four (24) hours of the event:

25 1. Transfer or change of financial interest, business
26 manager, financier, or primary caregiver in the permit application at least
27 thirty (30) days before the transfer or change (Report to the Director of
28 Development Services or designee);

1 2. Sales and taxable transactions and file sales and use
2 tax reports to the City monthly (Report to the Director of Financial
3 Management or designee);

4 3. A violation of any law by any Permittee or Applicant of
5 a medical marijuana business (Report to the Director of Development
6 Services or designee);

7 4. Diversion, theft, loss, or any criminal activity involving
8 the dispensary or any agent or employee of the dispensary (Report to the
9 Chief of Police or designee);

10 5. The loss or unauthorized alteration of records related to
11 cannabis, registered qualifying patients, primary caregivers, or dispensary
12 employees or agents (Report to the Director of Development Services or
13 designee);

14 6. Any other breach of security (Report to the Director of
15 Development Services or designee).

16 L. Cultivation.

17 1. All medical marijuana distributed from a medical
18 marijuana business must be cultivated in accordance with this Chapter as well
19 as State law;

20 2. Unless otherwise exempt from the provisions of this
21 Chapter, cultivation in the City of Long Beach is permitted subject to the
22 relevant provisions of this Chapter and only if a person or entity is operating a
23 medical marijuana business as defined in this Chapter and a Conditional Use
24 Permit and business license authorizing such activity have first been obtained.
25 At such time that the State issues cultivation licenses pursuant to the State's
26 MMRSA, a permittee must also apply for and obtain all applicable State
27 cultivation licenses. Failure to obtain a State cultivation license shall be
28 grounds for suspending or revoking a Conditional Use Permit issued pursuant

1 to this Chapter.

2 M. Transportation and delivery of medical marijuana.

3 It shall be unlawful for any person to transport medical marijuana,
4 except as specifically permitted by this Chapter and State law. Transport or
5 delivery activities shall comply with all of the following:

6 1. All edible cannabis or concentrates are packaged,
7 sealed and labeled, and the products stored in closed containers that are
8 labeled as provided in this Chapter;

9 2. All medical marijuana in a usable form for medicinal
10 use must be packaged and stored in closed containers that are labeled as
11 provided in this Chapter;

12 3. Each container used to transport or deliver medical
13 marijuana is labeled with the amount of medical marijuana or medical
14 marijuana-infused products, or the number and size of the plants, in the
15 container. The label shall include the name and address of the medical
16 marijuana business that the medical marijuana is being transported or
17 delivered from and the name and address of the medical marijuana
18 business or individual that the medical marijuana is being transported to.
19 The label shall be shown to any law enforcement officer who requests to
20 see the label;

21 4. An individual transporting medical marijuana items
22 must have a valid California Driver's License and shall at all times during
23 any delivery service activities have on his or her person or in the delivery
24 service vehicle, a copy of the medical marijuana business' City issued
25 business license and a copy of the Conditional Use Permit issued in
26 accordance with this Chapter. The business license and or Conditional Use
27 Permit shall be shown to any law enforcement officer upon request;

28 5. A permitted medical marijuana dispensary may deliver

1 medical marijuana only to a residence in Long Beach or to a City outside of
2 the City of Long Beach that does not specifically prohibit, by ordinance, the
3 delivery of medical marijuana to that City by an outside vendor or outside
4 medical marijuana business. For purposes of this rule, "residence" means
5 a dwelling such as a house or apartment but does not include a dormitory,
6 hotel, motel, bed and breakfast or similar commercial business;

7 6. Delivery Approval. The medical marijuana dispensary
8 must specify home delivery services in its application for a Conditional Use
9 Permit and the Conditional Use Permit shall set forth conditions related to
10 the home delivery service;

11 7. Bona Fide Orders.

12 a. A bona fide order must be received by a permitted
13 medical marijuana business from an individual who has been pre-verified as a
14 qualified patient, or person possessing a valid physician's recommendation,
15 or a caregiver for such person, requesting delivery before 4:00 p.m. on the
16 day the delivery is requested. For pre-verification purposes, the pre-
17 verification can be accomplished at the medical marijuana business provided
18 that no medical marijuana product is displayed or transferred at the location,
19 or the pre-qualification can be accomplished via United States mail or by
20 means of electronic transmission;

21 b. The bona fide order must contain:

22 (i) The individual requestor's name, date of
23 birth, the date delivery is requested and the address of the residence where
24 the individual would like the items delivered;

25 (ii) A document that describes the marijuana
26 proposed for delivery and the amounts; and

27 (iii) A written statement that the marijuana is for
28 medical use only and not for the purpose of resale;

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8. Delivery Requirements.

a. Deliveries must be made before 9:00 p.m. local time and may not be made between the hours of 9:00 p.m. and 8:00 a.m. local time;

b. The medical marijuana business may only deliver to the individual who placed the bona fide order and only to individuals who are twenty-one (21) years of age or older, and who are able to provide to the delivery service a valid medical marijuana recommendation from a licensed medical doctor authorized by State law to issue recommendations;

c. At the time of delivery the individual performing delivery must check the identification of the individual to whom delivery is being made in order to determine that it is the same individual who submitted the bona fide order, that the individual is twenty-one (21) years of age or older, and must require the individual to sign a document indicating the medical marijuana products were received;

d. A medical marijuana dispensary may not deliver medical marijuana to an individual who is visibly intoxicated at the time of delivery, or who cannot provide a valid medical marijuana recommendation from a licensed medical doctor authorized by State law to issue recommendations, or to an individual who fails to provide a valid State issued identification verifying that the person is twenty-one (21) years of age or older;

e. Deliveries may not be made more than once per day to, or on behalf of, the same individual;

f. Marijuana items delivered to an individual's residence must:

(i) Comply with all packaging and labeling regulations established by this Chapter or the State of California.

(ii) Be placed in a larger delivery receptacle

1 that has a label that reads: "Contains marijuana: Signature of person 21 years
2 of age or older required for delivery;"

3 g. A retailer may not carry or transport at any one
4 time more than a total of one thousand dollars (\$1,000) in retail value worth of
5 marijuana items designated for retail delivery;

6 h. During transport, all marijuana items must be kept
7 in a lock-box securely affixed and locked inside the delivery vehicle;

8 i. A manifest must be created for each delivery or
9 series of deliveries and unless the dispensary is able to monitor the individual
10 performing the delivery service in real time via global positioning system
11 (CPS) or similar technology, the individual doing the delivery may not make
12 any unnecessary stops between deliveries or deviate substantially from the
13 manifest route.

14 9. Documentation Requirements. A medical marijuana
15 dispensary must document the following regarding deliveries:

16 a. The bona fide order and the date and time it was
17 received by the retailer;

18 b. The date and time the medical marijuana items
19 were delivered;

20 c. A description of the medical marijuana that was
21 delivered, including the weight or volume and price paid by the consumer;

22 d. Who delivered the medical marijuana items;

23 e. The name or unique identifier of the individual to
24 whom the delivery was made and the delivery address;

25 f. A dispensary is required to maintain the name or
26 unique identifier of an individual to whom a delivery was made for eighteen
27 (18) months from the date of delivery.

28 10. Prohibitions. A medical marijuana business may not

1 deliver medical marijuana items to a residence on publicly owned land or to
2 any federally owned property. Home delivery or transportation services
3 originating from within Long Beach city limits, but not from a person having
4 a valid Conditional Use Permit are strictly prohibited. Home delivery or
5 transportation services from outside the City of Long Beach city limits, or
6 from a person or entity who does not have a valid Conditional Use Permit
7 issued by the City of Long Beach are strictly prohibited.

8 N. Disposal of medical marijuana and marijuana byproducts.

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

14 O. Advertisement.

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

22 1. Except as otherwise provided in this paragraph, it shall
23 be unlawful for any person permitted under this Chapter or any other person
24 to advertise any medical marijuana or medical marijuana product anywhere in
25 the city where the advertisement is in plain view of or in a place open to the
26 general public, including advertising utilizing any of the following media:
27 illuminated signs, signs incorporating green crosses or other marijuana
28 related symbol, any billboard or other outdoor general advertising device as

1 defined by the zoning regulations of the City; any sign mounted on a vehicle;
2 any hand-held or other portable sign; or any handbill, leaflet or flier directly
3 handed to any person in a public place, left upon a motor vehicle, or posted
4 upon any public or private property. The prohibition set forth in this paragraph
5 shall not apply to:

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

10 b. Any advertisement contained within a newspaper,
11 magazine, or other periodical of general circulation or on the Internet;

12 c. Advertising which is purely incidental to
13 sponsorship of a charitable event by a medical marijuana business or a
14 medical marijuana products manufacturer;

15 d. No medical marijuana business shall deliver,
16 distribute, or allow the distribution of any marijuana without charge;

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

21 2. No medical marijuana business shall sell, distribute, or
22 provide, or allow the sale, distribution, or providing of, products marked with its
23 name or logo, other than packaging in which medical marijuana is sold or on
24 medical marijuana products. This prohibition shall not prevent employees of
25 the business from wearing uniforms with the name or logo of the medical
26 marijuana business while working for the business on the business property or
27 during delivery service activities. A person shall not distribute any form of
28 advertising for physician recommendations for medical cannabis in the City

1 unless the advertisement bears the following notice to consumers:

2 NOTICE TO CONSUMERS: The Compassionate Use Act of 1996
3 ensures that seriously ill Californians have the right to obtain and use cannabis
4 for medical purposes where medical use is deemed appropriate and has been
5 recommended by a physician who has determined that the person's health
6 would benefit from the use of medical cannabis. Recommendations must
7 come from an attending physician as defined in Section 11362.7 of the Health
8 and Safety Code. Cannabis is a Schedule I drug according to the federal
9 Controlled Substances Act. Activity related to cannabis use is subject to
10 federal prosecution, regardless of the protections provided by State law.

11 Advertising for attending physician recommendations for medical
12 cannabis shall meet all of the requirements in Business and Professions Code
13 Section 651. Price advertising shall not be fraudulent, deceitful, or misleading,
14 including statements or advertisements of bait, discounts, premiums, gifts, or
15 statements of a similar nature.

16 P. Medical marijuana business response time.

17 The owner or manager is required to respond by phone or email within
18 twenty-four hours of contact by a city official concerning their medical
19 marijuana business at the phone number or email address provided to the
20 City as the contact for the business. Each twenty-four (24) hour period during
21 which an owner or manager does not respond to the city official shall be
22 considered a separate violation.

23 Q. Prohibited marijuana.

24 1. Marijuana products produced by means of chemical
25 processing are prohibited unless the medical marijuana business has an
26 approved hazardous materials permit issued by the Long Beach Fire
27 Department or the Long Beach Certified Unified Program Agency (CUPA);

28 2. No medical marijuana business may produce, deliver,
or distribute any form of synthetic or artificial cannabis;

3. No medical marijuana business may use metals,
butane, propane or other highly flammable product, or produce flammable
vapors to process marijuana;

1 4. Edible cannabis products are not prohibited under this
2 Section provided all of the other provisions of this Chapter are adhered to.

3 R. Requirements for packaging, labeling and public health.

4 All dispensed medical marijuana must be packaged in a manner
5 which clearly shows the name of the dispensary providing the medical
6 marijuana, name of the patient or unique identifier of the person receiving
7 the medical marijuana, date the marijuana is dispensed, amount of
8 marijuana dispensed, and amount paid by the patient to obtain the
9 marijuana.

10 The production of any medical marijuana-infused product shall be at a
11 medical marijuana-infused product manufacturer that meets all requirements
12 of a retail food establishment as set forth in Chapter 8.44 of this Code. Edible
13 cannabis products must be produced by a State certified food handler with a
14 valid certificate, a copy of which must be kept on-site where the edible
15 product is distributed, or which must be made available during inspections.
16 The Permittee shall comply with all applicable existing and future State and
17 local health regulations related to the production, testing, preparation,
18 labeling, and sale of prepared food items, and must complete a plan review
19 process through the Long Beach Department of Health and Human Services
20 (Health Department) prior to dispensing any medical marijuana infused edible
21 product.

22 1. Labeling and packaging requirements.

23 a. All medical marijuana sold or otherwise
24 distributed by the Permittee shall be packaged in tamper-proof, single-
25 serving sizes and labeled in a manner that advises the purchaser that it
26 contains marijuana and specifies the amount of marijuana in the product,
27 that the marijuana is intended for medical use solely by the patient to whom
28 it is sold, and that any resale or redistribution of the medical marijuana to a

1 third person is prohibited. In addition, the label shall be in print large enough
2 to be readable and shall include:

3 (i) Potential food allergy ingredients,
4 including but not limited to milk, eggs, fish, shellfish, tree nuts, peanuts,
5 wheat, and soybeans;

6 (ii) All additives used to extract THC,
7 including, without limitation, pesticides, herbicides and fertilizers that were
8 used in the cultivation of the medical marijuana used in the product.

9 (iii) The following warning:
10 THIS PRODUCT CONTAINS MARIJUANA. THIS PRODUCT
11 HAS NOT BEEN TESTED BY LOCAL, STATE OR FEDERAL
12 GOVERNMENTAL AGENCIES FOR HEALTH, SAFETY, OR
13 EFFICACY. THERE MAY BE HEALTH RISKS ASSOCIATED
14 WITH THE INGESTION OR USE OF THIS PRODUCT.

15 2. The product shall be packaged in a single-serving
16 sized, sealed container that cannot be opened without obvious damage to
17 the packaging.

18 S. Drive through operations prohibited.

19 No medical marijuana business shall have a drive through lane or
20 drive up window and no medical marijuana shall be dispensed from a drive
21 through lane or drive up window.

22 T. Regulatory inspection required.

23 All medical marijuana businesses shall be subject to an annual
24 regulatory inspection by the City to insure compliance with all of the
25 applicable provisions of this Chapter and to confirm compliance with the
26 Conditional Use Permit and business license issued by the City.

27 //
28 //

1 21.66.100 Lab testing of medical marijuana required.

2 A. A medical marijuana business must ensure that usable
3 marijuana and plants are tested for pesticides, mold and mildew, and for an
4 analysis of the levels of Tetrahydrocannabinol (THC) and Cannabidiol
5 (CBD) in accordance with this Section prior to the transfer or delivery of
6 marijuana to a consumer. The requirements of this Section remain in full
7 force and effect until the State Department of Public Health issues and
8 enforces testing regulations that supersede this Section.

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

- 13 1. A unique identifier;
14 2. The name of the person who transferred it; and
15 3. The dates the marijuana batch was cultivated and
16 made available for delivery or sale at the dispensary storefront.

17 C. Sampling.

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

22 D. Testing.

23 The medical marijuana business must ensure that each sample is
24 tested for pesticides, mold, and mildew and for an analysis of the levels of
25 THC and CBD.

26 E. Immature Plants.

27 An immature plant may be tested for pesticides, mold, or mildew by
28 conducting a macroscopic or microscopic screening to determine if the plant

1 has visible pesticide residue, mold, or mildew.

2 F. Flowers or other usable marijuana plant material.

3 Medical marijuana in the form of flowers or other plant material
4 must be:

5 1. Tested for pesticides, mold, and mildew using valid
6 testing methodologies and macroscopic or microscopic screening may not
7 be used;

8 2. Tested for pesticides by testing for the following
9 analytes:

- 10 a. Chlorinated Hydrocarbons;
- 11 b. Organophosphates;
- 12 c. Carbamates;
- 13 d. Pyrethroids;

14 3. Analyzed, using valid testing methodologies, to
15 determine the levels of THC and CBD.

16 G. Edible cannabis products.

17 If medical marijuana used in the edible or cannabis product has been
18 tested in accordance with this Section and tested negative for pesticides,
19 mold, or mildew, the edible or liquid does not need to be tested for pesticides,
20 mold, and mildew but must be tested for an analysis of the levels of THC and
21 CBD. If the medical marijuana used in the edible or liquid was not tested in
22 accordance with this Section, the edible or liquid must be tested for
23 pesticides, mold or mildew, and for an analysis of the levels of THC and CBD,
24 in accordance with this Section.

25 H. Laboratory requirements.

26 A medical marijuana business must ensure that all testing, except for
27 testing of immature plants, is done by a third party or laboratory that:

- 28 1. Is properly licensed by the State, when such licensing

1 becomes available;

2 2. Uses valid testing methodologies; and

3 3. Has a Quality System for testing of pesticides, mold,

4 and mildew that is compliant with the:

5 a. 2005 International Organization for
6 Standardization 17025 Standard; or

7 b. 2009 National Environmental Laboratory
8 Accreditation Conference Institute TNI Standards.

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

13 I. Testing results.

14 A laboratory must provide testing results to the medical marijuana
15 business signed by an official of the laboratory who can attest to the accuracy
16 of the results, and that includes the levels of pesticides, mold, or mildew
17 detected and the levels of THC and CBD. The medical marijuana business
18 must maintain these records for a minimum of forty-eight (48) months and
19 must make the same records available to the City upon request.

20 1. If an immature plant has visible pesticide residue, mold,
21 or mildew it must be deemed to test positive and must be destroyed.

22 2. A sample of marijuana shall be deemed to test positive
23 for mold and mildew if the sample has levels that exceed the maximum
24 acceptable counts in the Pharmacopeia, Section 1111 (May 1, 2009).

25 a. A sample of usable marijuana shall be deemed
26 to test positive for pesticides with a detection of more than 0.1 parts per
27 million of any pesticide;

28 b. If an immature plant or sample of marijuana

1 tests positive for pesticides, mold, or mildew based on the standards in this
2 Section, the medical marijuana business must ensure the entire batch from
3 which the sample was taken is destroyed and must document how many or
4 how much was destroyed, and the date of destruction.

5 J. The medical marijuana business may permit laboratory
6 personnel or other persons authorized to test to have access to secure or
7 restricted access areas of the facility where marijuana or immature plants
8 are stored. The medical marijuana business must log the date and time in
9 and out of all such persons.

10
11 21.66.110 Right of entry – records to be maintained.

12 A. Records to be maintained.

13 Each Permittee shall utilize point of sale software to track inventory,
14 delivery, and sales, as well as keep a complete set of books of account,
15 invoices, copies of orders and sales, shipping instructions, bills of lading,
16 weigh bills, correspondence, bank statements including cancelled checks and
17 deposit slips and all other records necessary to show fully the business
18 transactions of such Permittee. Receipts shall be maintained in a computer
19 program or by pre-numbered receipts and used for each sale. All records
20 related to commercial cannabis activity shall be maintained for a minimum of
21 seven years. The records of the business shall clearly track medical
22 marijuana product inventory purchased and/or grown and sales and disposal
23 thereof to clearly track revenue from sales of any medical marijuana from
24 other paraphernalia or services offered by the medical marijuana business.
25 The Permittee shall also maintain inventory records evidencing that no more
26 medical marijuana was within the medical marijuana business than allowed
27 by applicable law for the number of patients who designated the medical
28 marijuana business owners as their primary caregiver. All such records shall

1 be open at all times during business hours for the inspection and examination
2 of the City, or its duly authorized representatives. The City may require any
3 Permittee to furnish such information as it considers necessary for the proper
4 administration of this Chapter. The records shall clearly show the source,
5 amount, price and dates of all marijuana received or purchased, and the
6 amount, price, dates and patient or caregiver (or unique identifier) for all
7 medical marijuana sold or delivered.

8 B. Separate bank accounts.

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

12 C. Disclosure of records.

13 By applying for a Conditional Use Permit, the Permittee provides
14 consent to disclose the information required by this Chapter, including
15 information about patients and caregivers. Any records provided by the
16 Permittee that include patient or caregiver confidential information may be
17 submitted in a manner that maintains the confidentiality of the documents.
18 Any document that the Applicant considers eligible for protection shall be
19 clearly marked as confidential, and the reasons for such confidentiality shall
20 be stated on the document. The City shall not disclose confidential
21 information to other parties who are not agents of the City, except law
22 enforcement agencies who present a lawfully issued search warrant or other
23 court order.

24 D. Audits.

25 The City may require an audit of the books of account and records of a
26 medical marijuana business on such occasions as it may consider necessary,
27 including but not limited to ensuring compliance with LBMC Section
28 3.80.261(H). Such audit may be made by an auditor selected by the City

1 Manager that shall likewise have access to all books and records of the
2 medical marijuana business. The expense of any audit determined
3 necessary by the City shall be paid by the medical marijuana business.

4 E. Consent to inspection.

5 1. Application for a Conditional Use Permit or operation of
6 a medical marijuana business, or leasing property to a medical marijuana
7 business, constitutes consent by the Applicant, and all owners, managers
8 and employees of the business and the owner of the property to permit the
9 City Manager or designee to conduct routine inspections of the medical
10 marijuana business to ensure compliance with this Chapter or any other
11 applicable law, rule, or regulation;

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

20 3. Application for a Conditional Use Permit constitutes
21 consent to inspection of the business as a public property without a search
22 warrant, and consent to seizure of any surveillance records, camera
23 recordings, reports or other materials required as a condition of a medical
24 marijuana permit without a search warrant. Should the owner or business
25 manager refuse to comply with this Section, the City may obtain a search
26 warrant or administrative search warrant.

27 F. Reporting of source, quantity and sales.

28 The records to be maintained by each medical marijuana business

1 shall include the source and quantity of any marijuana distributed, produced,
2 delivered, or possessed within the property. Such reports shall include,
3 without limitation, for both cultivation, acquisitions from wholesalers and
4 transactions to patients or caregivers, the following:

- 5 1. Name and address of grower, seller and purchaser;
- 6 2. Date, weight, type of marijuana and dollar amount or
7 other consideration of transaction; and
- 8 3. For wholesale transactions, the State and City, if any,
9 sales and use tax license number of the seller.

10 G. Privacy.

11 1. Information identifying the names of patients, their
12 medical conditions, or the names of their primary caregivers received and
13 contained in records kept by the City for the purposes of administering this
14 Chapter are confidential and shall not be disclosed pursuant to the
15 California Public Records Act (Chapter 3.5 (commencing with Section 6250)
16 of Division 7 of Title 1 of the Government Code), except as necessary for
17 authorized employees of the State of California or any city, county, or city
18 and county to perform official duties pursuant to this Chapter;

19 2. Information identifying the names of patients, their
20 medical conditions, or the names of their primary caregivers received and
21 contained in records kept by the City for the purposes of administering this
22 Chapter shall be maintained in accordance with Chapter 1 (commencing
23 with Section 123100) of Part 1 of Division 106 of the Health and Safety
24 Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil
25 Code, and other State and federal laws relating to confidential patient
26 information;

27 3. Nothing in this Section precludes the following:

- 28 a. Employees of the City notifying State or local

1 agencies about information submitted to the City that the employee
2 suspects is falsified or fraudulent;

3 b. Notifications from the City or any licensing
4 authorities to State or local agencies about apparent violations of this
5 Chapter or other local, State or federal law;

6 c. Verification of requests by State or local
7 agencies to confirm licenses and certificates issued by the City or other
8 agency;

9 d. Provision of information requested pursuant to a
10 court order or subpoena issued by a court or an administrative agency or
11 local governing body authorized by law to issue subpoenas;

12 4. Information shall not be disclosed by the City beyond
13 what is necessary to achieve the goals of a specific investigation,
14 notification, or the parameters of a specific court order or subpoena;

15 5. To the extent possible, a medical marijuana business
16 should use unique identifiers in place of patient or caregiver names.

17
18 21.66.120 Requirements related to monitoring and security of medical
19 marijuana businesses.

20 All components of the security plan submitted with the application, as it
21 may be amended, shall be in good working order, monitored and secured
22 twenty-four (24) hours per day. A separate security system is required for
23 each business.

24 A licensed dispensary shall implement sufficient security measures to
25 both deter and prevent unauthorized entrance into areas containing medical
26 cannabis or medical cannabis products and theft of medical cannabis or
27 medical cannabis products at the dispensary. These security measures shall
28 include, but not be limited to, all of the following:

1 A. Preventing individuals from remaining on the premises of the
2 dispensary if they are not engaging in activity expressly related to the
3 operations of the dispensary.

4 B. Establishing limited access areas accessible only to
5 authorized dispensary personnel.

6 C. Storing all finished medical cannabis and medical cannabis
7 products in a secured and locked room, safe, or vault, and in a manner as
8 to prevent diversion, theft, and loss, except for limited amounts of cannabis
9 used for display purposes, samples, or immediate sale.

10 D. Video cameras.

11 Prior to exercising the privileges of a Conditional Use Permit or
12 business license issued for a medical marijuana business, such business
13 shall install and maintain a fully operational digital video surveillance and
14 camera recording system that monitors no less than the front and rear of the
15 Property, all points of ingress and egress at the business, all points of sale
16 within the business, all areas within the business where medical marijuana
17 products are displayed for sale, and all limited access areas within the facility.
18 The video and surveillance system shall, at a minimum, meet the following
19 requirements:

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

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

25 3. Record and maintain video for a minimum of ninety (90)
26 days, except as otherwise provided in this Section, and be accessible via the
27 Internet by the Long Beach Police Department and the Director of Financial
28 Management or designee. A Public Internet Protocol (IP) address and user

1 name/password is also required to allow the Long Beach Police Department
2 or the Director of Financial Management or designee to view live and
3 recorded video from these cameras over the Internet. Consent is given by the
4 Medical Marijuana business under this Subsection to the provision of said
5 recordings or live video feed to the Police Department or the Director of
6 Financial Management or designee, without requirement for a search warrant,
7 subpoena or court order. Video surveillance and recording records shall be
8 held in confidence by all employees and representatives of the City, except
9 the City may use said records for the purpose of conducting financial audits of
10 the activities of the facility, and for legitimate law enforcement activity or the
11 prevention of crime;

12 4. Licensees are responsible for ensuring that all video or
13 surveillance equipment is properly functioning and maintained, so that
14 playback quality is suitable for viewing and the equipment is capturing the
15 identity of all individuals and activities in the monitored areas;

16 5. At each point of sale location, camera coverage must
17 enable recording of the customer(s) and employees facial features with
18 sufficient clarity to determine identity;

19 6. The system shall be capable of recording all monitored
20 areas in any lighting conditions and must be housed in a designated, locked,
21 and secured room or other enclosure with access limited to authorized
22 employees. Licensees must keep a current list of all authorized employees
23 and service personnel who have access to the surveillance system and/or
24 room on the licensed premises;

25 7. A sign shall be posted in a conspicuous place near each
26 monitored location on the interior or exterior of the premises which shall be
27 not less than twelve (12) inches wide and twelve (12) inches long, composed
28 of letters not less than one (1) inch in height, stating "All Activities Monitored

1 by Video Camera” or “These Premises are Being Digitally Recorded”, or
2 otherwise advising all persons entering the premises that a video surveillance
3 and camera recording system is in operation at the facility and recording all
4 activity as provided in this Section;

5 8. All exterior camera views must be continuously recorded
6 24 hours a day and all interior cameras views shall be recorded during all
7 hours that the facility is open for business;

8 9. All video surveillance systems must be equipped with a
9 failure notification system that provides prompt notification to the Permittee of
10 any prolonged surveillance interruption and/or complete failure of the
11 surveillance system;

12 10. All point of sale areas shall record video with such clarity
13 and resolution that all sales transactions are clearly recorded. Video or
14 surveillance equipment must be positioned over the cash register or similar
15 device to provide a clear view over the area where the tender type (cash,
16 credit, checks) are exchanged between the Licensee and the medical
17 marijuana patient as well as the register or computer keys utilized to enter
18 sales information. Video records of all sales transactions shall be maintained
19 for a period of eighteen (18) months.

20 E. Use of safe for storage.

21 The medical marijuana business shall install and use a safe for storage
22 of any processed marijuana and cash on the property when the business is
23 closed to the public. The safe shall be incorporated into the building structure
24 or securely attached thereto. For medical marijuana-infused edible products
25 that must be kept refrigerated or frozen, the business shall lock the
26 refrigerated container or freezer in place of using a safe so long as the
27 container is affixed to the building structure.

28 F. Alarm system.

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The medical marijuana business shall install and use a fire and burglar alarm system that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information, and the City shall be updated within seventy-two (72) hours of any change of monitoring company.

G. Security guard.

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

21.66.130 Vacant medical marijuana business application allocation.

A. The Director of Development Services shall determine, at the end of the fourth (4th) calendar quarter following adoption of this Chapter, and each year thereafter, whether additional medical marijuana businesses may be allowed within the City based on the total number of medical marijuana businesses authorized by the City Council pursuant to this Chapter. Additional Conditional Use Permit applications shall be accepted only to the extent the Director of Development Services determines that initiation of the Conditional Use Permit application process will not lead the medical marijuana businesses, as a group, to exceed the restrictions established pursuant to Section 21.66.070.

B. Should the Director of Development Services determine the City can accommodate additional medical marijuana businesses within the restrictions set forth in this Chapter, DDS shall cause to be posted on its website a public notice of availability and the potential number of Conditional Use Permits available. The notice will appear on the DDS

1 website for thirty (30) consecutive days, immediately prior to the opening of
2 the application period. The application process will then proceed in
3 accordance with this Chapter.

4
5 21.66.140 Compliance with other applicable law.

6 A. Application of state and federal law.

7 Except as may be provided otherwise in this Chapter, or rules adopted
8 pursuant to this Chapter or interpretations by the City, any law or regulation
9 adopted by the State governing the cultivation, production, possession or
10 distribution of marijuana for medical use shall also apply to medical marijuana
11 businesses in the City. However, if a State law or regulation permits what this
12 Chapter prohibits, this Chapter shall prevail. Noncompliance with any
13 applicable State law or regulation is unlawful and shall be grounds for
14 revocation or suspension of any license or permit issued under this Chapter.
15 No medical marijuana business shall continue operations in violation of an
16 additional State law or regulation applicable within the City after the effective
17 date of the State law or regulation.

18 B. Revocation of permit upon applicable State or federal
19 prohibition.

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

28 C. Revocable privilege.

1 A Conditional Use Permit is a revocable privilege, and no Applicant
2 therefor or holder thereof shall be deemed to have acquired any property or
3 vested interest therein.
4

5 21.66.150 Drug and alcohol free workplace.

6 This Chapter shall not interfere with an employer's rights and
7 obligations to maintain a drug and alcohol free workplace or require an
8 employer to permit or accommodate the use, consumption, possession,
9 transfer, display, transportation, sale, or growth of cannabis in the workplace
10 or affect the ability of employers to have policies prohibiting the use of
11 cannabis by employees and prospective employees, or prevent employers
12 from complying with local, State, or federal law.
13

14 21.66.160 Prohibited acts.

15 A. It shall be unlawful for any person to:

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

18 2. Smoke, use or ingest on the property of the medical
19 marijuana business:

20 a. Marijuana;

21 b. Alcoholic beverage; or

22 c. A controlled substance, except in compliance with
23 the directions of a legal prescription for the person from a doctor with
24 prescription writing privileges;

25 3. Operate or be in physical control of any medical
26 marijuana business while under the influence of alcohol, medical marijuana,
27 or other intoxicant;

28 4. Possess medical marijuana that is not in a sealed

1 package in a location where the possessor is not authorized to possess or
2 consume medical marijuana;

3 5. Obtain marijuana from a person who is not permitted
4 as a medical marijuana business;

5 6. Possess or operate a medical marijuana business in
6 violation of this Chapter;

7 7. Distribute medical marijuana without a Conditional Use
8 Permit or City issued business license or outside of the restricted area of
9 the medical marijuana business;

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

14 9. Lease any property to a medical marijuana business
15 that has marijuana on the property without a Conditional Use Permit from
16 the City.

17
18 21.66.170 Suspension or revocation of permit.

19 A. A Conditional Use Permit or business license may be
20 suspended or revoked for any violation of this Chapter in accordance with
21 the procedures provided in the Long Beach Municipal Code. In the event a
22 Conditional Use Permit is suspended or revoked in accordance with the
23 procedures established by Title 21 of this Code, then the Business License
24 shall automatically be deemed to have been revoked or suspended until
25 such time as the Conditional Use Permit has been reinstated.

26 B. If the City revokes or suspends a Conditional Use Permit or
27 business license, the business may not move any marijuana from the
28 property except under the direction of the City.

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21.66.180 Term of permit – renewals – expiration of permit.

A. Term of permit.

A Conditional Use Permit shall be valid for five (5) years. The permit shall expire on the last day of the month in which the permit is issued five (5) years following issuance or renewal of the permit.

B. Renewal of permit.

1. The Permittee shall apply for renewal of the Conditional Use Permit at least forty-five (45) days before the expiration of the permit. The Permittee shall apply for renewal using forms provided by the City. If the Applicant fails to apply for renewal at least forty-five days before the expiration of the permit but does apply for renewal prior to expiration of the permit, the City may process the renewal application if the Applicant submits a late filing fee of Five Thousand Dollars (\$5,000) at the time of submittal of the renewal application;

2. The renewal permit fee, and late fee if applicable, shall accompany the renewal application. Such fee is nonrefundable;

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

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

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5. In the event the a Conditional Use Permit has been suspended or revoked or a Permittee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension or revocation;

6. The renewal application shall include proof of payment of all applicable taxes and fees required by the Long Beach Municipal Code and verification that the business has a valid State seller's permit in good standing;

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

8. The City shall not accept renewal applications after the expiration of the permit, but instead shall require the Applicant to file a new permit application;

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

C. Nonpayment of tax.

In the event a medical marijuana business that has been open and operating, and submitting monthly business license tax returns and taxes

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to the City, ceases providing business license returns and taxes to the City for a period of ninety (90) days or longer, the Conditional Use Permit shall be deemed to have expired and the permittee shall cease doing business at the location.

21.66.190 City Manager authorized to issue rules.

The City Manager or designee may adopt reasonable rules and regulations that the City Manager determines are necessary to implement the requirements and administration of this Chapter.

21.66.200 Violation and enforcement.

A. Any person violating any provision of this Chapter or knowingly or intentionally misrepresenting any material fact in procuring a Conditional Use Permit or business license, including a Permittee's agent or employee while acting on behalf of the Permittee shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) 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 business in the City without a business license or Conditional Use Permit shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment.

C. Any person engaging in a medical marijuana business activity without a State or City license or permit shall be subject to civil penalties for each day of violation in accordance with Business and Professions Code Section 19318, and a court may order the destruction of all medical cannabis associated with that violation in accordance with Section 11479 of

1 the Health and Safety Code.

2 D. Each and every violation of this Chapter is hereby deemed
3 unlawful and a public nuisance. As a nuisance per se, any violation of this
4 Chapter shall be subject to injunctive relief, revocation of the certificate of
5 occupancy for the property, disgorgement and payment to the City of any
6 and all monies unlawfully obtained, costs of abatement, costs of
7 investigation, attorney fees, and any other relief or remedy available at law
8 or equity. The City may also pursue any and all remedies and actions
9 available and applicable under local, Federal and State law for any
10 violations related to the operation of a medical marijuana business.

11 E. Any violation of the terms or conditions of the Conditional Use
12 Permit or business license shall be grounds for the suspension or
13 revocation of said permit or license.

14 F. Any person violating any provision of this Chapter may be
15 issued an administrative citation in accordance with the procedures set forth
16 in Chapter 9.65 of this Code. Each day of operation in violation of this
17 Chapter shall constitute a separate violation of this Chapter.

18 G. All remedies set forth in this Chapter are cumulative and may
19 be pursued alternatively or in combination. Provisions of this Chapter are to
20 be supplementary and complementary to all of the City ordinances, the
21 Municipal Code, State law, and any law cognizable at common law or in
22 equity, and nothing herein shall be read, interpreted or construed in any
23 manner so as to limit any existing right or power of the City to enforce the
24 provisions of this Chapter.

25 H. Any violation of this Chapter shall be deemed a public
26 nuisance and is subject to any enforcement process authorized by law or as
27 set forth in this Code. Nothing herein shall be read, interpreted or
28 construed in any manner so as to limit any existing right or power of the City

1 or any other governmental entity to enforce City ordinances, to abate any
2 and all nuisances, or employ any remedy available at law or equity.

3 I. It is unlawful and a violation of this Chapter for any person to
4 permit a public nuisance to exist upon real property in which such person
5 has an ownership or possessory interest. It shall be unlawful and a
6 violation of this Chapter to do anything in contrary to the provisions set forth
7 in this Chapter. Each person violating this Chapter shall be guilty of a
8 separate offense for each and every day, or portion thereof, which any
9 violation of any provision of this Chapter is committed, continued, or
10 permitted by any such person. Any violation which persists for more than
11 one (1) day is deemed a continuing violation.

12 J. A code enforcement official is authorized to enter upon any
13 property or premises, and into any buildings or structures located thereon,
14 to ascertain whether the provisions of this Chapter or applicable State
15 codes are being obeyed, and to make any examinations and surveys as
16 may be necessary in the performance of their enforcement duties. These
17 may include the taking of photographs, samples, or other physical
18 evidence. All inspections, entries, examinations and surveys shall be done
19 in a reasonable manner. If an owner, occupant or agent refuses permission
20 to enter or inspect, the code enforcement official may seek an
21 administrative inspection warrant pursuant to the procedures provided in
22 State law, including California Code of Civil Procedure Section 1822.50 et
23 seq., as it may be amended from time to time.

24 K. In addition to or in the alternative to any other penalties for
25 violation of this Chapter, a person who violates the provisions of this
26 Chapter may be assessed an administrative penalty for each day that a
27 violation exists. For the first five (5) days that a violation exists, a person
28 shall be subject to a fine of one hundred dollars (\$100) per day. Should a

1 violation continue beyond five (5) days, the violator shall be subject to a fine
2 of five hundred dollars (\$500) per day from the sixth (6th) through tenth
3 (10th) days of a violation. Should a violation persist beyond ten (10) days,
4 the violator shall be subject to a fine of one thousand dollars (\$1,000) for
5 each day that the violation continues. The administrative penalties
6 specified above may be enforced either by way of judicial action or by way
7 of administrative action. The due process provisions of Chapter 9.65 of this
8 Code shall be followed if City elects to impose an administrative penalty in
9 accordance with this provision.

10 L. Costs and damages. Any person violating any provisions of
11 this Chapter or any permit or license issued in compliance with this
12 Chapter, shall be liable to the City for the costs incurred and the damages
13 suffered by the City, its agents, and agencies as a direct result of the
14 violation(s) in compliance with this Chapter.

15
16 21.66.210 Establishment of a Medical Marijuana Task Force.

17 A. A Long Beach Medical Marijuana Task Force ("Task Force")
18 may be established. If established, the Task Force shall consist of nine (9)
19 members. Appointments to the Task Force shall be made and vacancies
20 on the Task Force shall be filled by the Mayor and City Council in
21 accordance with the provisions in Chapter 2.18 of this Code. Services of
22 the members of the Task Force shall be voluntary and members will serve
23 without compensation.

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

- 26 1. Three (3) Task Force members shall be representatives
27 from three separate medical marijuana businesses operating in the City;
28 2. Five (5) Task Force members shall be representatives of

1 recognized neighborhood organizations which have at least one (1) medical
2 marijuana business operating within its boundaries; and

3 3. One (1) Task Force member shall be a representative of
4 a local patient advocacy organization with a background in working to protect
5 the interests of medical marijuana patients.

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

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

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

14
15 21.66.220 Severability.

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

21
22 Section 2. Chapter 5.89 of the Long Beach Municipal Code is hereby
23 repealed effective on the first (1st) day after this Chapter becomes effective by operation
24 of law.

25
26 Section 3. Declaration of Urgency. This ordinance is an emergency
27 ordinance within the meaning of Long Beach City Charter Section 211, and it is urgently
28 required for the long term preservation of the public peace, health and welfare of the

1 citizens of Long Beach for the reason that the recently enacted MMRSA currently
2 contains a provision requiring local jurisdictions to adopt their own land use regulations
3 for medical cannabis cultivation by March 1, 2016, or failing that deadline, ceding that
4 responsibility to the State. Although the author of Assembly Bill 243, Assemblyperson
5 Jim Wood, has termed said deadline to be a result of an “inadvertent drafting error,” and
6 has disseminated an “open letter” to County and City government officials indicating his
7 intent to pass urgency legislation repealing said provision, the City desires to insure that
8 the regulations set forth in this Chapter are in fact adopted prior to March 1, 2016, in the
9 event the urgency legislation described by Assemblyperson Wood does not come to
10 pass.

11

12 Section 4. This ordinance is an emergency ordinance duly adopted by
13 the City Council in accordance with Long Beach City Charter Section 211 by a vote of at
14 least five (5) of its members and shall take effect immediately. The City Clerk shall
15 certify to a separate roll call and vote on the question of the emergency of this ordinance
16 and to its passage by the vote of five (5) members of the City Council of the City of Long
17 Beach, and shall cause the same to be posted in three (3) conspicuous places in the City
18 of Long Beach.

19

20 Section 5. This ordinance shall also be adopted by the City Council as a
21 regular ordinance, to the end that in the event of any defect or invalidity in connection
22 with the adoption of this ordinance as an emergency ordinance, the same shall,
23 nevertheless, be and become effective on the thirty-first day after it is approved by the
24 Mayor.

25

26 Section 6. The City Clerk shall certify to the passage of this ordinance by
27 the City Council of the City of Long Beach and shall cause the same to be posted in three
28 conspicuous places in the City of Long Beach.

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

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I hereby certify that on a separate roll call and vote which was taken by the City Council of the City of Long Beach upon the question of the emergency of this ordinance at its meeting of _____, 2016, the ordinance was declared to be an emergency by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

I further certify that thereafter, at the same meeting on _____, 2016, upon a roll call and vote on adoption of the ordinance, it was adopted by the City Council of the City of Long Beach by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

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I further certify that the foregoing ordinance was thereafter adopted on final reading by the City Council of the City of Long Beach at its meeting of _____, 2016, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor