



OFFICE OF THE CITY ATTORNEY  
Long Beach, California

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City Attorney

December 14, 2010

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HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

RECOMMENDATION:

Recommendation to receive supporting documentation into the record, conclude the hearing and declare ordinance amending the Long Beach Municipal Code by amending and restating Chapter 5.87 relating to Medical Marijuana Collectives read the first time and laid over to the next regular meeting of the City Council for final reading; and

Declare ordinance establishing a temporary moratorium on the issuance of permits, entitlements, licenses, and approvals regarding medical marijuana collectives 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

Pursuant to the request of the City Council at its meeting of November 16, 2010, this office has prepared the attached amended ordinance relating to Medical Marijuana Collectives. If adopted, the ordinance would amend Chapter 5.87 of the Municipal Code which was adopted by this Council in March 2010. The amended ordinance would:

1. Create an additional "buffer zone" so that a Collective could not locate within 1,000 feet of a public park. The term "Park" is defined to include those areas of the City that are zoned for park use as well as all areas that have been designated or dedicated for park use. (The current regulations prohibit Collectives from locating within 1500 feet of a public or private high school, 1,000 feet of public or private kindergarten, elementary, middle or junior high school, or within 1,000 feet of another legally established Collective.) The amended ordinance also clarifies that, for the purpose of the Collective regulations, an Educational Partnership High School ("EPHS") is considered a public high school.

2. Create a 45-day comment period whereby members of the public and other interested persons could submit comments to the City regarding the propriety of issuing a Medical Marijuana Collective Permit for a particular location. Following the 45-day comment period, a hearing would be held by the City Council within 60 days where the Council would determine if a permit will be issued. The amended ordinance also

PRINCIPAL DEPUTY:

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establishes noticing requirements relating to the 45-day comment period, the City Council hearing, and the issuance of a permit. The new noticing requirements parallel those currently contained in the City's Zoning Code.

3. Establish a requirement that each Medical Marijuana Collective install and maintain a video surveillance system that would allow the Police Department to monitor the exterior grounds of a collective for the purpose of detecting criminal or nuisance activity occurring at the premises.

4. Limit the operations of a collective to the hours between 9:00 A.M. and 7:00 P.M.

5. Require each collective to prepare and submit an annual audited report prepared by a CPA that would detail, among other things, the revenue and operational costs and expenditures of the Collective for the calendar year.

In addition to the above, the amended ordinance also clarifies that it is illegal to operate a Collective in the City without first obtaining a valid Medical Marijuana Collective Permit and, likewise, clarifies that Collectives must adhere to the City's zoning regulations regarding parking and signage requirements. The amended ordinance would also require a permitted Collective to comply with the on-site cultivation requirements within 120 days of permit issuance, and would authorize appropriate City staff to develop fair and reasonable regulations in order to implement the Medical Marijuana Collective ordinance.

Also provided for Council's consideration is an ordinance that would implement a one (1) year moratorium that would prohibit City staff from accepting any new applications for a Medical Marijuana Collective permit. The moratorium would not apply to applications currently in the "pipeline" unless the property is located within an established buffer zone. During the moratorium period staff will be better able to study the direct and indirect effects of legally permitted collectives operating in the City. At the end of the one year moratorium period further recommendations will be made regarding any need to revise the City's current regulatory structure related to medical marijuana.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By

  
MICHAEL J. MAIS,  
Assistant City Attorney

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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 AMENDING AND RESTATING ~~ADDING~~ CHAPTER 5.87 RELATING TO MEDICAL MARIJUANA COLLECTIVES TO IMPLEMENT THE STATE COMPASSIONATE USE ACT AND STATE MEDICAL MARIJUANA PROGRAM ACT.

WHEREAS, California voters approved the Compassionate Use Act (“CUA”) in 1996 to exempt seriously ill patients and their primary caregivers from criminal liability for possession and cultivation of marijuana for medical purposes; and

WHEREAS, the Medical Marijuana Program Act of 2003 (“MMPA”) provides for the association of primary caregivers and qualified patients to cultivate marijuana for specified medical purposes and also authorizes local governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, there have been recent reports from the Long Beach Police Department and the media of increasing numbers of medical marijuana dispensaries operating in the City of Long Beach; and

WHEREAS, medical marijuana that has not been collectively or personally grown may constitute a unique health hazard to the public because, unlike all other ingestibles, marijuana is not regulated, inspected, or analyzed for contamination by state or federal government and may contain harmful chemicals that could further endanger the health of persons already seriously ill; and

WHEREAS, the City of Long Beach has a compelling interest in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which medical marijuana collectives operate,

1 and in providing compassionate access to medical marijuana to its seriously ill  
2 residents;

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

5  
6 Section 1. Chapter 5.87 is added to the Long Beach Municipal Code to  
7 read as follows:

8 Chapter 5.87

9 MEDICAL MARIJUANA COLLECTIVES

10  
11 5.87.010 Purpose and intent.

12 A. It is the purpose and intent of this Chapter to regulate the  
13 collective cultivation of medical marijuana in order to ensure the health,  
14 safety and welfare of the residents of the City of Long Beach. The  
15 regulations in this Chapter, in compliance with the State Compassionate  
16 Use Act and the State Medical Marijuana Program Act ("State Law"), do  
17 not interfere with a patient's right to use medical marijuana as authorized  
18 under State Law, nor do they criminalize the possession or cultivation of  
19 Medical Marijuana by specifically defined classifications of persons, as  
20 authorized under State Law. Under State Law, only qualified patients,  
21 persons with identification cards, and primary caregivers may legally  
22 cultivate medical marijuana collectively. Medical marijuana collectives  
23 shall comply with all provisions of the Long Beach City Municipal Code  
24 ("LBMC"), State Law, and all other applicable local and state laws.  
25 Nothing in this Chapter purports to permit activities that are otherwise  
26 illegal under federal, state, or local law.

27  
28 5.87.015 Definitions.

1           Unless the particular provision or the context otherwise requires,  
2 the definitions and provisions contained in this Section shall govern the  
3 construction, meaning, and application of words and phrases as used in  
4 this Chapter:

5           A.     “Attending Physician” shall have the same definition as given  
6 such term in California Health and Safety Code Section 11362.7, as may  
7 be amended, and which defines “Attending Physician” as an individual  
8 who possesses a license in good standing to practice medicine or  
9 osteopathy issued by the Medical Board of California or the Osteopathic  
10 Medical Board of California and who has taken responsibility for an aspect  
11 of the medical care, treatment, diagnosis, counseling, or referral of a  
12 patient and who has conducted a medical examination of that patient  
13 before recording in the patient's medical record the physician's  
14 assessment of whether the patient has a serious medical condition and  
15 whether the medical use of marijuana is appropriate.

16           B.     “Chief of Police” as used in this Chapter is defined to mean  
17 the Chief of the Long Beach Police Department or her/his designee.

18           C.     “Concentrated Cannabis” shall have the same definition as  
19 given such term in California Health and Safety Code Section 11006.5, as  
20 may be amended, and which defines “Concentrated Cannabis” as the  
21 separated resin, whether crude or purified, obtained from marijuana.

22           D.     “Director of Financial Management” as used in this Chapter  
23 is defined to mean the Director of Financial Management for the City of  
24 Long Beach or her/his designee.

25           E.     “Edible Medical Marijuana” as used in this Chapter is  
26 defined to mean any article used for food, drink, confectionery, condiment  
27 or chewing gum by human beings whether such article is simple, mixed or  
28 compound, which contains physician recommended quantities of Medical

1 Marijuana, and is produced on-site at a Collective permitted pursuant to  
2 this Chapter within the City of Long Beach.

3 F. "Identification Card" shall have the same definition as given  
4 such term in California Health and Safety Code Section 11362.7, as may  
5 be amended, and which defines "Identification Card" as a document  
6 issued by the State Department of Health Services which identifies a  
7 person authorized to engage in the medical use of marijuana, and  
8 identifies the person's designated primary caregiver, if any.

9 G. "Management Member" means a Medical Marijuana  
10 Collective member with responsibility for the establishment, organization,  
11 registration, supervision, or oversight of the operation of a Collective,  
12 including but not limited to members who perform the functions of  
13 president, vice president, director, operating officer, financial officer,  
14 secretary, treasurer, or manager of the Collective.

15 H. "Marijuana" shall have the same definition as given such  
16 term in California Health and Safety Code Section 11018, as may be  
17 amended, and which defines "Marijuana" as all parts of the plant  
18 *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin  
19 extracted from any part of the plant; and every compound, manufacture,  
20 salt, derivative, mixture, or preparation of the plant, its seeds or resin. It  
21 does not include the mature stalks of the plant, fiber produced from the  
22 stalks, oil or cake made from the seeds of the plant, any other compound,  
23 manufacture, salt, derivative, mixture, or preparation of the mature stalks  
24 (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized  
25 seed of the plant which is incapable of germination.

26 I. "Medical Marijuana" means Marijuana used for medical  
27 purposes in accordance with California Health and Safety Code Sections  
28 11362.5, *et seq.*

1 J. "Medical Marijuana Collective" ("Collective") means an  
2 incorporated or unincorporated association, composed of four (4) or more  
3 Qualified Patients and their designated Primary Caregivers who associate  
4 at a particular location or Property within the boundaries of the City of  
5 Long Beach to collectively or cooperatively cultivate Marijuana for medical  
6 purposes or distribute said Medical Marijuana to Collective members and  
7 Management Members, in accordance with California Health and Safety  
8 Code Sections 11362.5, *et seq.* For purposes of this Chapter, the term  
9 Medical Marijuana "cooperative" shall have the same meaning as Medical  
10 Marijuana Collective.

11 K. "Medical Marijuana Collective Permit" as used in this  
12 Chapter is defined to mean the permit issued by the Director of Financial  
13 Management following a public hearing to allow a Medical Marijuana  
14 Collective operation.

15 L. "Park" or "Public Park" shall mean publicly owned natural or  
16 open areas owned or maintained by the City of Long Beach and set aside  
17 for active and passive public use for recreational, cultural or community  
18 service activities. Included in the definition of "Parks" are all of those  
19 areas in the City that have been dedicated, designated, or zoned as "Park"  
20 in Chapter 21.35 of the Long Beach Municipal Code.

21 M.L. "Primary Caregiver" shall have the same definition as given  
22 such term in California Health and Safety Code Sections 11362.5 and  
23 11362.7 (as set forth in Appendix A of this Chapter), as may be amended,  
24 and which define "Primary Caregiver" as an individual, designated by a  
25 Qualified Patient, who has consistently assumed responsibility for the  
26 housing, health, or safety of that Qualified Patient.

27 N.M. "Property" as used in this Chapter means the location or  
28 locations within the boundaries of the City of Long Beach at which the

1 Medical Marijuana Collective members and Management Members  
2 associate to collectively or cooperatively cultivate or distribute Medical  
3 Marijuana exclusively for the Collective members and Management  
4 Members.

5 O.N. "Qualified Patient" means a person who is entitled to the  
6 protections of Health and Safety Code Section 11362.5 for patients who  
7 obtain and use marijuana for medical purposes upon the recommendation  
8  
9 of an Attending Physician, whether or not that person applied for and  
10 received a valid Identification Card issued pursuant to State Law.

11 P.O. "Reasonable Compensation" means compensation  
12 commensurate with reasonable wages and benefits paid to employees of  
13 IRS-qualified non-profit organizations who have similar job descriptions  
14 and duties, required level of education and experience, prior individual  
15 earnings history, and number of hours worked. The payment of a bonus  
16 shall not be considered "Reasonable Compensation."

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

20 R. "Surrounding properties" as used in this Chapter is defined  
21 to mean all owners of real property as shown on the latest equalized  
22 assessment roll within seven hundred and fifty feet (750') of the proposed  
23 site(s), and all tenant households or commercial tenants of real property  
24 that are located within seven hundred and fifty feet (750') of the proposed  
25 site(s). Measurement of the distance for notification pursuant to this  
26 Chapter shall begin at the property boundary of the real property that is  
27 the subject of the hearing.  
28

1           5.87.020       Medical Marijuana Collective – Permit required.

2                   It shall be unlawful for any person or entity to engage in, operate,  
3                   conduct or carry on, in or upon any premises, a Medical Marijuana  
4                   Collective as that term is defined in this Ordinance unless that person or  
5                   entity first obtains and continues to maintain in full force and effect a  
6                   Medical Marijuana Collective Permit issued by the City as required by this  
7                   Chapter. No Medical Marijuana Collective, Management Member or  
8                   member shall carry on, maintain or conduct any Medical Marijuana  
9                   Collective related operations in the City without first obtaining a Medical  
10                   Marijuana Collective Permit from the Department of Financial  
11                   Management.

12  
13           5.87.030       Medical Marijuana Collective – Permit application process.

14                   Any Medical Marijuana Collective desiring a Permit required by this  
15                   Chapter shall, prior to initiating operations, complete and file an  
16                   application on a form supplied by the Department of Financial  
17                   Management, and shall submit with the completed application payment of  
18                   a nonrefundable processing and notification fee, as established by the City  
19                   Council by resolution. The Medical Marijuana Collective Permit application  
20                   is established to provide a review process for each proposed Medical  
21                   Marijuana Collective operation within the City.

22  
23                   A.       Filing. The Medical Marijuana Collective shall provide the  
24                   following information:

- 25                           1.       The address of the Property or Properties where the  
26                           proposed Medical Marijuana Collective will operate.
- 27                           2.       A site plan describing the Property with fully  
28                           dimensioned interior and exterior floor plans including electrical,

1 mechanical, plumbing, and disabled access compliance pursuant to Title  
2 24 of the State of California Code of Regulations and the federally  
3 mandated Americans with Disabilities Act.

4 3. Exterior photographs of the entrance(s), exit(s), street  
5 frontage(s), parking, front, rear and side(s) of the proposed Property.

6 4. Photographs depicting the entire interior of the proposed  
7 Property.

8 5. If the Property is being rented or leased or is being  
9 purchased under contract, a copy of such lease or contract.

10 6. If the Property is being rented or leased, written proof  
11 that the Property owner, and landlord if applicable, were given notice that  
12 the Property will be used as a Medical Marijuana Collective, and that the  
13 Property owner, and landlord if applicable, agree(s) to said operations.

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

16 8. For each Management Member, a fully legible copy  
17 of one (1) valid government issued form of photo identification, such as a  
18 State Driver's License or Identification Card. Acceptable forms of  
19 government issued identification include, but are not limited to: Drivers  
20 licenses or photo identity cards issued by state Department of Motor  
21 vehicles (or equivalent) that meet REAL ID benchmarks, a passport  
22 issued by the United States or by a foreign government, U.S. Military ID  
23 cards (active duty or retired military and their dependents), or a  
24 Permanent Resident card.

25 9. Written confirmation as to whether the Medical  
26 Marijuana Collective previously operated in this or any other county, city  
27 or state under a similar license/permit, and whether the Collective  
28 applicant ever had such a license/permit revoked or suspended and the

1 reason(s) therefore.

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

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

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

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

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

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

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

27 17. The Property address where any and all Medical Marijuana  
28 will be collectively cultivated by the Collective members and Management

1 Members within the City of Long Beach.

2 18. The Property address where any and all collectively  
3 cultivated Medical Marijuana will be distributed to the Collective members and  
4 Management Members.

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

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

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

19 3. The Collective shall have thirty (30) business  
20 ~~calendar~~ days from the date of notice set forth above in Subsection  
21 5.87.030(B), Subsection (2) to complete the application. Failure to do so  
22 within the time allotted ~~thirty (30) day period~~ shall render the application  
23 null and void.

24 4. Within ten (10) business days following the receipt of  
25 an amended application or supplemental information, except where  
26 circumstances beyond the control of the City justifiably delay such  
27 response, the Director of Financial Management shall again determine  
28 whether the application is complete in accordance with the procedures set

1           forth above. Evaluation and notification shall occur as provided above  
2           until such time as the application is found to be complete or in the  
3           alternative null and void.

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

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

11                      C.       ~~On~~Upon receipt of the completed Medical Marijuana  
12          Collective Permit application, the Director of Financial Management shall:

13                      \_\_\_\_\_ 1.       ~~Refer~~ the application to all concerned City  
14          departments, including, but not limited to, Police, Fire, Health,  
15          Development Services and Code Enforcement for investigation. Such  
16          departments shall file a report providing recommendations regarding the  
17          approval or denial of the permit with the Director of Financial Management  
18          within ~~sixty (60)~~ forty-five (45) calendar business days after the completed  
19          application is filed, except where good cause exists to extend this period.  
20          ~~circumstances beyond the control of the City justifiably delay such~~  
21          ~~response.~~

22                      \_\_\_\_\_ 2.       Post the application to the City's website for public review  
23          and comment for a period of forty-five (45) business days. During the  
24          formal comment process, the City will receive comments from the public  
25          via the City's website, email, or regular mail, and by a form that will be  
26          available for download for the duration of the formal comment process  
27          from the City's website.

28                      \_\_\_\_\_ 3.       Notice of the formal comment process shall also be

1 mailed or delivered to all surrounding properties. The notice shall include  
2 instructions for said property owners to provide written comments via the  
3 City's website, email, or regular mail. The public noticing mailer will also  
4 include a form that may be filled in and submitted as public comment.

5 D. The Director of Financial Management shall review and  
6 assemble all public input received during the formal comment process  
7 and shall prepare a report for the City Council providing a summary of the  
8 public commentary and findings of fact, including, but not limited to, each  
9 operating condition set forth in Section 5.87.040, a summary of the  
10 relevant evidence, a statement of the issues, and a recommended  
11 decision. A copy of the report shall be available to all parties at least ten  
12 (10) business days prior to a hearing. ~~cause a hearing to be conducted~~  
13 ~~not later than sixty (60) days from the date the completed Permit~~  
14 ~~application was submitted, except where circumstances beyond the~~  
15 ~~control of the City justifiably delay said timeframe, and shall cause the~~  
16 ~~owners of property located within seven hundred and fifty feet (750') of~~  
17 ~~the proposed Property to be sent advance notice of the date, time, and~~  
18 ~~place of the hearing. The applicant shall be given at least ten (10)~~  
19 ~~business days written notice of such hearing.~~

20 E. The City Council shall conduct a hearing on the application  
21 or refer the matter to a hearing officer, pursuant to Chapter 2.93 of this  
22 Code, within sixty (60) business days from close of the formal comment  
23 process, except where good cause exists to extend this period. The  
24 Director of Financial Management shall cause notice to be mailed or  
25 delivered to the applicant and shall also be mailed or delivered to  
26 surrounding properties. The applicant shall be given written notice at  
27 least ten (10) business days prior to such hearing. The hearing and rules  
28 of evidence shall be conducted pursuant to Chapter 2.93 of this Code.

1           The determination of the City Council shall be final.

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

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

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

24  
25           **5.87.040        Medical Marijuana Collective Permit approval and operating**  
26           **conditions.**

27                     The City Council ~~Director of Financial Management shall approve~~  
28           ~~and issue a Medical Marijuana Collective Permit if the application and~~

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

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

8 B. The Medical Marijuana Collective is not located within a one  
9 thousand five hundred foot (1,500') radius of a public or private high  
10 school or Educational Partnership High School ("EPHS") or within a one  
11 thousand foot (1,000') radius of a public park or a public or private  
12 kindergarten, elementary, middle or junior high school. The distances  
13 specified in this subdivision shall be determined by the horizontal distance  
14 measured in a straight line from the property line of the school to the  
15 closest property line of the lot on which the Medical Marijuana Collective  
16 is located, without regard to intervening structures.

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

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

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

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

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

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

16 I. The Medical Marijuana Collective shall install and maintain a  
17 video surveillance system that monitors no less than the front and rear of  
18 the Property. The surveillance system shall:

19 1. Capture a full view of the public right-of-ways and any  
20 parking lot under the control of the Medical Marijuana Collective.

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

24 3. Record and maintain video for a minimum of thirty  
25 (30) days and be accessible via the Internet by the Long Beach Police  
26 Department. A Public Internet Protocol (IP) address and user  
27 name/password is also required to allow the Long Beach Police  
28 Department to view live and recorded video from these cameras over the

1            Internet.

2                            4.            Be installed to the satisfaction of the Chief of Police,  
3                            Director of Technology Services, and Director of Development Services.  
4                            At the discretion of the Chief of Police, the Medical Marijuana Collective  
5                            may be required to add additional video cameras. Consent is given by  
6                            the Medical Marijuana Collective under this subsection to the provision of  
7                            said recordings or live video feed to the Police Department without  
8                            requirement for a search warrant, subpoena or court order.

9                            ~~I.            The Property is monitored at all times by closed circuit~~  
10                            ~~television for security purposes. The camera and recording system must~~  
11                            ~~be of adequate quality, color rendition and resolution to allow the ready~~  
12                            ~~identification of an individual on or adjacent to the Property. The~~  
13                            ~~recordings shall be maintained at the Property for a period of not less than~~  
14                            ~~thirty (30) days.~~

15                            J.            The Property has a centrally-monitored fire and burglar  
16                            alarm system.

17                            K.            A sign is posted in a conspicuous location inside the  
18                            Property advising:

19  
20                            1.            "The diversion of marijuana for non-medical purposes  
21                            is a violation of State law.

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

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

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



1 within the boundaries of the City of Long Beach and only at the Property  
2 identified on the Medical Marijuana Permit application.

3 R. If the cultivation of Medical Marijuana by the Medical  
4 Marijuana Collective located within the City of Long Beach is to take place  
5 at a location other than the location where the Medical Marijuana is  
6 distributed to Medical Marijuana Collective members and Management  
7 Members, then the location of cultivation shall likewise fully comply with  
8 the provisions of Section 5.87.040 and all of its subsections.

9 S. Every Medical Marijuana Collective shall maintain, on-site at  
10 the Property, cultivation records, signed under penalty of perjury by each  
11 Management Member, identifying the location within the City of Long  
12 Beach at which the Medical Marijuana was cultivated, and the total  
13 number of said plants cultivated at each location.

14 T. Representative samples of Medical Marijuana distributed by  
15 the Collective shall be analyzed by an independent laboratory to ensure it  
16 is free of harmful pesticides and other contaminants regulated by local,  
17 state or federal regulatory or statutory standards.

18 U. Any Medical Marijuana from which the representative  
19 sample tested positive for a harmful pesticide or other contaminant at a  
20 level which exceeds the local, state, or federal regulatory or statutory  
21 standards shall be destroyed forthwith; and

22 V. Any Medical Marijuana provided to Collective members shall  
23 be properly labeled in strict compliance with state and local laws.

24 W. The operation of Medical Marijuana Collectives shall be  
25 limited to the hours between nine o'clock (9:00) A.M. and seven o'clock  
26 (7:00) P.M.

27 X. The property meets the off-street parking and loading  
28 requirements set forth in Chapter 21.41. For the purpose of determining

1           required parking, a Medical Marijuana Collective shall be deemed to be a  
2           “personal services” type use.

3           Y. That any and all business identification signs comply with the  
4           provisions of Chapter 21.44 “On Premises Signs” as set forth in this Code.

5  
6           5.87.045 Notice of permit issuance.

7           Upon conclusion of the City Council’s hearing on the application,  
8           notice of permit issuance shall be mailed or delivered to all surrounding  
9           properties and published on the City’s website. This notice will include  
10           information for residents and property owners to submit complaints or  
11           report violations to the City.

12  
13           5.87.050 Medical Marijuana Collective Permit – Non transferable.

14           A Medical Marijuana Collective Permit issued pursuant to this  
15           Chapter shall become null and void upon the cessation of the Collective  
16           and/or the relocation of the Collective to a different Property

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

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

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

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

26           C. -The holder of a Medical Marijuana Collective Permit shall  
27           not allow others to use or rent the permitted Property. An exception shall  
28           be made for persons who are not Collective members or Management

1 Members and who possess a valid City issued business license which  
2 authorizes the “place to place” sale of soil and nutrients to the Collective  
3 members or Management Members for the collective cultivation of  
4 Medical Marijuana by members and/or Management Members of the  
5 Collective.

6  
7  
8 5.87.060 Maintenance of records.

9 A. A Medical Marijuana Collective shall maintain the following  
10 accurate and truthful records on the Property:

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

13 2. The full name, address, and telephone number(s)  
14 and a fully legible copy of a government issued form of identification of  
15 each Collective member engaged in the management of the Collective  
16 and a description of the exact nature of the participation in the  
17 management of the Collective. Acceptable forms of government issued  
18 identification include, but are not limited to: Drivers licenses or photo  
19 identity cards issued by state Department of Motor Vehicles (or  
20 equivalent) that meets REAL ID benchmarks, a passport issued by the  
21 United States or by a foreign government, U.S. Military ID cards (active  
22 duty or retired military and their dependents), or a Permanent Resident  
23 Card.

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

27 4. The full name, date of birth, residential address, and  
28 telephone number(s) of each Collective member and Management

1 Member; the date each member and Management Member joined the  
2 Collective; the exact nature of each member's and Management  
3 Member's participation in the Collective; and the status of each member  
4 and Management Member as a Qualified Patient or Primary Caregiver.

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

9 6. An inventory record documenting the dates and  
10 amounts of Medical Marijuana cultivated at the Property, and the daily  
11 amounts of Medical Marijuana stored on the Property.

12 7. Proof of a valid Medical Marijuana Collective Permit  
13 issued by the Department of Financial Management in conformance with  
14 this Chapter.

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

19 9. Any and all records described in Section 5.87.060.A  
20 shall be maintained by the Medical Marijuana Collective for a period of  
21 five (5) years and shall be made available by the Collective to the City  
22 upon request, subject to the authority set forth in Section 5.87.070.

23 B. Annual reports – Report requirements/Content of reports.

24 Each Medical Marijuana Collective operating in the City shall, on  
25 an annual basis, submit to the City Manager or designee an audited  
26 financial report prepared by an independent Certified Public Accountant  
27 ("CPA") that meet the following criteria:

28 1. Reports shall be on a calendar year basis and shall

1           be submitted no later than April 30<sup>th</sup> following the calendar year to which  
2           the report pertains (for example, a collective's 2010 annual report will be  
3           submitted to the City Manager no later than April 30, 2011);

4                             2.       The audited financial report shall contain an  
5           accounting of all cash, receipts, credit card transactions, reimbursements  
6           (including any in-kind contributions), and any and all reasonable  
7           compensation paid by the collective for services provided by management  
8           members or other members of the collective, as well as records of all  
9           operational expenditures and costs incurred by the medical marijuana  
10          collective in accordance with generally accepted accounting practices and  
11          standards typically applicable to business records.

12                            3.       The report shall document the number of medical  
13          marijuana product transactions that took place during the reporting year,  
14          including cost and quantity for each transaction, where medical marijuana  
15          was transferred to a qualified patient or management member for cash,  
16          credit, or in kind contributions.

17                            4.       Appended to the report shall be a copy of any and all  
18          documents, records or forms submitted to the State Board of Equalization  
19          for the reporting year, including, but not limited to, Board of Equalization  
20          Form 401 (or its electronic equivalent) which in any manner documents  
21          transaction activities related to the operation of the medical marijuana  
22          collective.

23                            5.       Appended to the required report shall also be an  
24          accounting of the number of marijuana plants or clones cultivated by the  
25          dispensary during the reporting year.

26                            6.       Any and all records or documents that serve as the  
27          basis for preparing the annual report shall be maintained by the medical  
28          marijuana collective for a period of five (5) years and shall be made

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

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

7  
8 5.87.070 Inspection authority.

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

20  
21 5.87.080 Existing Medical Marijuana operations.

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

1 of this Chapter or the Code.

2  
3 5.87.090 Prohibited activity.

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

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

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

16 D. No Medical Marijuana Collective, Management Member or  
17 member shall cause or permit the sale, distribution or exchange of  
18 Medical Marijuana or of any Edible Medical Marijuana product to any non  
19 Collective Management Member or member.

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

1 Management Members or members for the collective cultivation of  
2 Medical Marijuana by Management Members and members of the  
3 Collective.

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

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

13 H. No Medical Marijuana Collective shall be open to or provide  
14 Medical Marijuana to its members or Management Members between the  
15 hours of seven o'clock (7:00) P.M. ~~eight o'clock (8:00) P.M.~~ and nine  
16 o'clock (9:00) A.M. ~~ten o'clock (10:00) A.M.~~

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

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

26 K. No Medical Marijuana Collective, Management Member or  
27 member shall cause or permit the sale, dispensing, or consumption of  
28 alcoholic beverages on the Property or in the parking area of the Property.

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

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

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

15 N. Medical Marijuana Collective membership and Management  
16 Membership, established pursuant to this Chapter, shall be limited to one  
17 Collective fully permitted in accordance with this Chapter.

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

24 5.87.100 Violation and enforcement.

25 A. Any person violating any provision of this Chapter or  
26 knowingly or intentionally misrepresenting any material fact in procuring  
27 the permit herein provided for, shall be deemed guilty of a misdemeanor  
28

1 punishable by a fine of not more than one thousand dollars (\$1,000.00) or  
2 by imprisonment for not more than twelve (12) months, or by both such  
3 fine and imprisonment.

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

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

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

22  
23 5.87.110 Appeal process.

24 A. If a City department determines that the permittee failed to  
25 comply with any provision of this Chapter, or with any other provision or  
26 requirement of law, the Director of Financial Management shall revoke or  
27 suspend the Medical Marijuana Collective Permit in accordance with the  
28 provisions set forth in Section 5.06.020, Subsection A, of this Code.

1           B.     The Director of Financial Management shall notify the  
2     permittee of the permit revocation or suspension by dated written notice.  
3     Said notice shall advise the permittee of the right to appeal the decision to  
4     the City Council. The request for appeal shall be in writing, shall set forth  
5     the specific ground(s) on which it is based and shall be submitted to the  
6     Director of Financial Management within ten (10) calendar days from the  
7     date the notice was mailed along with an appeal deposit in an amount  
8     determined by the City Council by resolution.

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

18           D.     Whenever a Medical Marijuana Collective Permit has been  
19    revoked or suspended, no other such permit application shall be  
20    considered for a period of one (1) year from either the date notice of the  
21    revocation or suspension was mailed, or the date of the final decision of  
22    the City Council, whichever is later.

23  
24    5.87.120     Operative date of cultivation requirement.

25           A.     ~~This ordinance will become effective one hundred and~~  
26    ~~twenty (120) days following its passage and adoption. The Department of~~  
27    ~~Financial Management will accept completed Medical Marijuana Collective~~  
28    ~~permit applications one hundred and twenty (120) days prior to the~~

1 effective date of this ordinance.

2 B. Each Medical Marijuana Collective issued a Medical  
3 Marijuana Collective Permit, pursuant to this Chapter, ~~within the one-~~  
4 ~~hundred and twenty (120) day period set forth above in Section 5.87.120,~~  
5 ~~Subsection (a), shall have an additional one-hundred-and-twenty (120)~~  
6 ~~days from the date the permit is issued to comply with the Medical~~  
7 ~~Marijuana cultivation requirements set forth in Section 5.87.040,~~  
8 ~~Subsection (P) and Section 5.87.090, Subsection (J) of this Chapter.~~

9  
10 5.87.130 Severability.

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

16  
17  
18 5.87.135

19 The City Manager or designee is hereby authorized to develop  
20 procedures necessary to implement this Ordinance in a fair and  
21 reasonable manner.

22  
23 5.87.140 Review of Regulations.

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

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

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Section 2. The City Clerk shall certify to the passage of this Ordinance by the City Council and cause it to be posted in three conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31<sup>st</sup>) day after it is approved by the Mayor.

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 20\_\_40, by the following vote:

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

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

\_\_\_\_\_  
Mayor



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

3  
4 Section 1. Chapter 5.87 of the Long Beach Municipal Code is amended  
5 and restated to read as follows:

6 Chapter 5.87

7 MEDICAL MARIJUANA COLLECTIVES

8  
9 5.87.010 Purpose and intent.

10 A. It is the purpose and intent of this Chapter to regulate the  
11 collective cultivation of medical marijuana in order to ensure the health,  
12 safety and welfare of the residents of the City of Long Beach. The  
13 regulations in this Chapter, in compliance with the State Compassionate  
14 Use Act and the State Medical Marijuana Program Act ("State Law"), do  
15 not interfere with a patient's right to use medical marijuana as authorized  
16 under State Law, nor do they criminalize the possession or cultivation of  
17 Medical Marijuana by specifically defined classifications of persons, as  
18 authorized under State Law. Under State Law, only qualified patients,  
19 persons with identification cards, and primary caregivers may legally  
20 cultivate medical marijuana collectively. Medical marijuana collectives  
21 shall comply with all provisions of the Long Beach City Municipal Code  
22 ("LBMC"), State Law, and all other applicable local and state laws.  
23 Nothing in this Chapter purports to permit activities that are otherwise  
24 illegal under federal, state, or local law.

25  
26 5.87.015 Definitions.

27 Unless the particular provision or the context otherwise requires,  
28 the definitions and provisions contained in this Section shall govern the

1 construction, meaning, and application of words and phrases as used in  
2 this Chapter:

3 A. "Attending Physician" shall have the same definition as given  
4 such term in California Health and Safety Code Section 11362.7, as may  
5 be amended, and which defines "Attending Physician" as an individual  
6 who possesses a license in good standing to practice medicine or  
7 osteopathy issued by the Medical Board of California or the Osteopathic  
8 Medical Board of California and who has taken responsibility for an aspect  
9 of the medical care, treatment, diagnosis, counseling, or referral of a  
10 patient and who has conducted a medical examination of that patient  
11 before recording in the patient's medical record the physician's  
12 assessment of whether the patient has a serious medical condition and  
13 whether the medical use of marijuana is appropriate.

14 B. "Chief of Police" as used in this Chapter is defined to mean  
15 the Chief of the Long Beach Police Department or her/his designee.

16 C. "Concentrated Cannabis" shall have the same definition as  
17 given such term in California Health and Safety Code Section 11006.5, as  
18 may be amended, and which defines "Concentrated Cannabis" as the  
19 separated resin, whether crude or purified, obtained from marijuana.

20 D. "Director of Financial Management" as used in this Chapter  
21 is defined to mean the Director of Financial Management for the City of  
22 Long Beach or her/his designee.

23 E. "Edible Medical Marijuana" as used in this Chapter is  
24 defined to mean any article used for food, drink, confectionery, condiment  
25 or chewing gum by human beings whether such article is simple, mixed or  
26 compound, which contains physician recommended quantities of Medical  
27 Marijuana, and is produced on-site at a Collective permitted pursuant to  
28 this Chapter within the City of Long Beach.

1           F.       “Identification Card” shall have the same definition as given  
2 such term in California Health and Safety Code Section 11362.7, as may  
3 be amended, and which defines “Identification Card” as a document  
4 issued by the State Department of Health Services which identifies a  
5 person authorized to engage in the medical use of marijuana, and  
6 identifies the person's designated primary caregiver, if any.

7           G.       “Management Member” means a Medical Marijuana  
8 Collective member with responsibility for the establishment, organization,  
9 registration, supervision, or oversight of the operation of a Collective,  
10 including but not limited to members who perform the functions of  
11 president, vice president, director, operating officer, financial officer,  
12 secretary, treasurer, or manager of the Collective.

13           H.       “Marijuana” shall have the same definition as given such  
14 term in California Health and Safety Code Section 11018, as may be  
15 amended, and which defines “Marijuana” as all parts of the plant  
16 Cannabis sativa L., whether growing or not; the seeds thereof; the resin  
17 extracted from any part of the plant; and every compound, manufacture,  
18 salt, derivative, mixture, or preparation of the plant, its seeds or resin. It  
19 does not include the mature stalks of the plant, fiber produced from the  
20 stalks, oil or cake made from the seeds of the plant, any other compound,  
21 manufacture, salt, derivative, mixture, or preparation of the mature stalks  
22 (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized  
23 seed of the plant which is incapable of germination.

24           I.       “Medical Marijuana” means Marijuana used for medical  
25 purposes in accordance with California Health and Safety Code Sections  
26 11362.5, *et seq.*

27           J.       “Medical Marijuana Collective” (“Collective”) means an  
28 incorporated or unincorporated association, composed of four (4) or more

1 Qualified Patients and their designated Primary Caregivers who associate  
2 at a particular location or Property within the boundaries of the City of  
3 Long Beach to collectively or cooperatively cultivate Marijuana for medical  
4 purposes or distribute said Medical Marijuana to Collective members and  
5 Management Members, in accordance with California Health and Safety  
6 Code Sections 11362.5, *et seq.* For purposes of this Chapter, the term  
7 Medical Marijuana “cooperative” shall have the same meaning as Medical  
8 Marijuana Collective.

9 K. “Medical Marijuana Collective Permit” as used in this  
10 Chapter is defined to mean the permit issued by the Director of Financial  
11 Management following a public hearing to allow a Medical Marijuana  
12 Collective operation.

13 L. “Park” or “Public Park” shall mean publicly owned natural or  
14 open areas owned or maintained by the City of Long Beach and set aside  
15 for active and passive public use for recreational, cultural or community  
16 service activities. Included in the definition of “Parks” are all of those  
17 areas in the City that have been dedicated, designated, or zoned as “Park”  
18 in Chapter 21.35 of the Long Beach Municipal Code.

19 M. “Primary Caregiver” shall have the same definition as given  
20 such term in California Health and Safety Code Sections 11362.5 and  
21 11362.7 (as set forth in Appendix A of this Chapter), as may be amended,  
22 and which define “Primary Caregiver” as an individual, designated by a  
23 Qualified Patient, who has consistently assumed responsibility for the  
24 housing, health, or safety of that Qualified Patient.

25 N. “Property” as used in this Chapter means the location or  
26 locations within the boundaries of the City of Long Beach at which the  
27 Medical Marijuana Collective members and Management Members  
28 associate to collectively or cooperatively cultivate or distribute Medical

1 Marijuana exclusively for the Collective members and Management  
2 Members.

3 O. "Qualified Patient" means a person who is entitled to the  
4 protections of Health and Safety Code Section 11362.5 for patients who  
5 obtain and use marijuana for medical purposes upon the recommendation  
6 of an Attending Physician, whether or not that person applied for and  
7 received a valid Identification Card issued pursuant to State Law.

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

14 Q. "State Law" means the state regulations set forth in the  
15 Compassionate Use Act and the Medical Marijuana Program Act, codified  
16 in California Health and Safety Code Sections 11362.5, *et seq.*

17 R. "Surrounding properties" as used in this Chapter is defined  
18 to mean all owners of real property as shown on the latest equalized  
19 assessment roll within seven hundred and fifty feet (750') of the proposed  
20 site(s), and all tenant households or commercial tenants of real property  
21 that are located within seven hundred and fifty feet (750') of the proposed  
22 site(s). Measurement of the distance for notification pursuant to this  
23 Chapter shall begin at the property boundary of the real property that is  
24 the subject of the hearing.

25  
26 5.87.020 Medical Marijuana Collective – Permit required.

27 It shall be unlawful for any person or entity to engage in, operate,  
28 conduct or carry on, in or upon any premises, a Medical Marijuana

1 Collective as that term is defined in this Ordinance unless that person or  
2 entity first obtains and continues to maintain in full force and effect a  
3 Medical Marijuana Collective Permit issued by the City as required by this  
4 Chapter.

5  
6 5.87.030 Medical Marijuana Collective – Permit application process.

7 Any Medical Marijuana Collective desiring a Permit required by this  
8 Chapter shall, prior to initiating operations, complete and file an  
9 application on a form supplied by the Department of Financial  
10 Management, and shall submit with the completed application payment of  
11 a nonrefundable processing and notification fee, as established by the City  
12 Council by resolution. The Medical Marijuana Collective Permit application  
13 is established to provide a review process for each proposed Medical  
14 Marijuana Collective operation within the City.

15 A. Filing. The Medical Marijuana Collective shall provide the  
16 following information:

17 1. The address of the Property or Properties where the  
18 proposed Medical Marijuana Collective will operate;

19 2. A site plan describing the Property with fully  
20 dimensioned interior and exterior floor plans including electrical,  
21 mechanical, plumbing, and disabled access compliance pursuant to Title  
22 24 of the State of California Code of Regulations and the federally  
23 mandated Americans with Disabilities Act;

24 3. Exterior photographs of the entrance(s), exit(s), street  
25 frontage(s), parking, front, rear and side(s) of the proposed Property;

26 4. Photographs depicting the entire interior of the proposed  
27 Property;

28

1                   5.     If the Property is being rented or leased or is being  
2 purchased under contract, a copy of such lease or contract;

3                   6.     If the Property is being rented or leased, written proof  
4 that the Property owner, and landlord if applicable, were given notice that  
5 the Property will be used as a Medical Marijuana Collective, and that the  
6 Property owner, and landlord if applicable, agree(s) to said operations;

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

9                   8.     For each Management Member, a fully legible copy  
10 of one (1) valid government issued form of photo identification, such as a  
11 State Driver's License or Identification Card. Acceptable forms of  
12 government issued identification include, but are not limited to: Drivers  
13 licenses or photo identity cards issued by state Department of Motor  
14 vehicles (or equivalent) that meet REAL ID benchmarks, a passport  
15 issued by the United States or by a foreign government, U.S. Military ID  
16 cards (active duty or retired military and their dependents), or a  
17 Permanent Resident card;

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

23                  10.    If the Medical Marijuana Collective is a corporation, a  
24 certified copy of the Collective's Secretary of State Articles of  
25 Incorporation, Certificate(s) of Amendment, Statement(s) of Information  
26 and a copy of the Collective's Bylaws;

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

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

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

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

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

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

20                   17. The Property address where any and all Medical Marijuana  
21 will be collectively cultivated by the Collective members and Management  
22 Members within the City of Long Beach;

23                   18. The Property address where any and all collectively  
24 cultivated Medical Marijuana will be distributed to the Collective members and  
25 Management Members.

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

28                   1. Within ten (10) business days of receipt of a Medical

1 Marijuana Collective Permit application, except where circumstances  
2 beyond the control of the City justifiably delay such response, the Director  
3 of Financial Management shall determine whether the application is  
4 complete;

5 2. If it is determined the application is incomplete, the  
6 applicant shall be notified in writing within ten (10) business days of the  
7 date the application is determined to be incomplete, except where  
8 circumstances beyond the control of the City justifiably delay such  
9 response, that the application is not complete and the reasons therefore,  
10 including any additional information necessary to render the application  
11 complete;

12 3. The Collective shall have thirty (30) business days  
13 from the date of notice set forth above in Subsection 5.87.030(B),  
14 Subsection (2) to complete the application. Failure to do so within the  
15 time allotted shall render the application null and void;

16 4. Within ten (10) business days following the receipt of  
17 an amended application or supplemental information, except where  
18 circumstances beyond the control of the City justifiably delay such  
19 response, the Director of Financial Management shall again determine  
20 whether the application is complete in accordance with the procedures set  
21 forth above. Evaluation and notification shall occur as provided above  
22 until such time as the application is found to be complete or in the  
23 alternative null and void;

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

28 6. All notices required by this Chapter shall be deemed

1 issued upon the date they are either deposited in the United States mail  
2 or the date upon which personal service of such notice is provided.

3 C. Upon receipt of the completed Medical Marijuana Collective  
4 Permit application, the Director of Financial Management shall:

5 1. Refer the application to all concerned City  
6 departments, including, but not limited to, Police, Fire, Health,  
7 Development Services and Code Enforcement for investigation. Such  
8 departments shall file a report providing recommendations regarding the  
9 approval or denial of the permit with the Director of Financial Management  
10 within forty-five (45) business days after the completed application is filed,  
11 except where good cause exists to extend this period;

12 2. Post the application to the City's website for public  
13 review and comment for a period of forty-five (45) business days. During  
14 the formal comment process, the City will receive comments from the  
15 public via the City's website, email, or regular mail, and by a form that will  
16 be available for download for the duration of the formal comment process  
17 from the City's website;

18 3. Notice of the formal comment process shall also be  
19 mailed or delivered to all surrounding properties. The notice shall include  
20 instructions for said property owners to provide written comments via the  
21 City's website, email, or regular mail. The public noticing mailer will also  
22 include a form that may be filled in and submitted as public comment.

23 D. The Director of Financial Management shall review and  
24 assemble all public input received during the formal comment process  
25 and shall prepare a report for the City Council providing a summary of the  
26 public commentary and findings of fact, including, but not limited to, each  
27 operating condition set forth in Section 5.87.040, a summary of the  
28 relevant evidence, a statement of the issues, and a recommended

1 decision. A copy of the report shall be available to all parties at least ten  
2 (10) business days prior to a hearing.

3 E. The City Council shall conduct a hearing on the application  
4 or refer the matter to a hearing officer, pursuant to Chapter 2.93 of this  
5 Code, within sixty (60) business days from close of the formal comment  
6 process, except where good cause exists to extend this period. The  
7 Director of Financial Management shall cause notice to be mailed or  
8 delivered to the applicant and shall also be mailed or delivered to  
9 surrounding properties. The applicant shall be given written notice at  
10 least ten (10) business days prior to such hearing. The hearing and rules  
11 of evidence shall be conducted pursuant to Chapter 2.93 of this Code.  
12 The determination of the City Council shall be final.

13  
14 5.87.040 Medical Marijuana Collective Permit approval and operating  
15 conditions.

16 The City Council shall approve and issue a Medical Marijuana  
17 Collective Permit if the application and evidence submitted in the hearing,  
18 conducted pursuant to Section 5.87.030, Subsections (D) and (E) as set  
19 forth above, sufficiently demonstrate that:

20 A. The Property is not located in an area zoned in the City for  
21 exclusive residential use. Medical Marijuana Collectives are not permitted  
22 to operate in exclusive residential zones as established pursuant to Title  
23 21 of this Code.

24 B. The Medical Marijuana Collective is not located within a one  
25 thousand five hundred foot (1,500') radius of a public or private high  
26 school or Educational Partnership High School ("EPHS") or within a one  
27 thousand foot (1,000') radius of a public park or a public or private  
28 kindergarten, elementary, middle or junior high school. The distances

1 specified in this subdivision shall be determined by the horizontal distance  
2 measured in a straight line from the property line of the school to the  
3 closest property line of the lot on which the Medical Marijuana Collective  
4 is located, without regard to intervening structures.

5 C. The Medical Marijuana Collective is not located within a one  
6 thousand foot (1,000') radius of any other Medical Marijuana Collective.  
7 The distance specified in this subdivision shall be determined by the  
8 horizontal distance measured in a straight line from the property line of  
9 any other Medical Marijuana Collective, to the closest property line of the  
10 lot on which the permitted Medical Marijuana Collective is located, without  
11 regard to intervening structures.

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

14 E. Any exterior or interior sign visible from the exterior of the  
15 Property shall be unlighted.

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

21 G. The Property provides sufficient sound absorbing insulation  
22 so that noise generated inside the premises is not audible anywhere on  
23 the adjacent property or public rights-of-way, or within any other building  
24 or other separate unit within the same building as the Medical Marijuana  
25 Collective.

26 H. The Property provides a sufficient odor absorbing ventilation  
27 and exhaust system so that odor generated inside the Property is not  
28 detected outside the Property, anywhere on adjacent property or public

1 rights-of-way, or within any other unit located within the same building as  
2 the Medical Marijuana Collective.

3 I. The Medical Marijuana Collective shall install and maintain a  
4 video surveillance system that monitors no less than the front and rear of  
5 the Property. The surveillance system shall:

6 1. Capture a full view of the public right-of-ways and any  
7 parking lot under the control of the Medical Marijuana Collective;

8 2. Be of adequate quality, color rendition and resolution  
9 to allow the ready identification of any individual committing a crime  
10 anywhere on or adjacent to the exterior of the Property;

11 3. Record and maintain video for a minimum of thirty  
12 (30) days and be accessible via the Internet by the Long Beach Police  
13 Department. A Public Internet Protocol (IP) address and user  
14 name/password is also required to allow the Long Beach Police  
15 Department to view live and recorded video from these cameras over the  
16 Internet;

17 4. Be installed to the satisfaction of the Chief of Police,  
18 Director of Technology Services, and Director of Development Services.  
19 At the discretion of the Chief of Police, the Medical Marijuana Collective  
20 may be required to add additional video cameras. Consent is given by  
21 the Medical Marijuana Collective under this subsection to the provision of  
22 said recordings or live video feed to the Police Department without  
23 requirement for a search warrant, subpoena or court order.

24 J. The Property has a centrally-monitored fire and burglar  
25 alarm system.

26 K. A sign is posted in a conspicuous location inside the  
27 Property advising:

28 1. "The diversion of marijuana for non-medical purposes

- 1 is a violation of State law;
- 2 2. The use of marijuana may impair a person's ability to
- 3 drive a motor vehicle or operate heavy machinery;
- 4 3. Loitering at the location of a Medical Marijuana
- 5 Collective for an illegal purpose is prohibited by California Penal Code
- 6 Section 647(h);
- 7 4. This Medical Marijuana Collective is permitted in
- 8 accordance with the laws of the City of Long Beach;
- 9 5. The sale of marijuana and the diversion of marijuana
- 10 for non-medical purposes are violations of State Law."

11 L. Each applicant electing to manufacture Edible Medical

12 Marijuana shall manufacture the Edible products for the sole consumption

13 by Qualified Patient members and Qualified Patient Management

14 Members of the Collective, in compliance with all applicable state and

15 local laws.

16 M. The Medical Marijuana Collective meets all applicable state

17 and local laws to ensure that the operations of the Collective are

18 consistent with the protection of the health, safety and welfare of the

19 community, Qualified Patients and their Primary Caregivers, and will not

20 adversely affect surrounding uses.

21 N. No Collective shall operate for profit. Cash and in-kind

22 contributions, reimbursements, and reasonable compensation provided by

23 Management Members and members towards the Collective's actual

24 expenses of the growth, cultivation, and provision of Medical Marijuana

25 shall be allowed provided that they are in strict compliance with State Law.

26 All such cash and in-kind amounts and items shall be fully documented in

27 accordance with Section 5.87.060 of this Chapter.

28 O. Collective cultivation of Medical Marijuana shall be limited to

1 the Medical Marijuana Collective members and Management Members.

2 P. Cultivation of Medical Marijuana by the Medical Marijuana  
3 Collective members and Management Members shall occur exclusively  
4 within the boundaries of the City of Long Beach and only at the Property  
5 identified on the Medical Marijuana Permit application.

6 Q. Distribution of the Medical Marijuana collectively cultivated  
7 by the Medical Marijuana Collective members and Management Members  
8 to Collective members and Management Members shall occur exclusively  
9 within the boundaries of the City of Long Beach and only at the Property  
10 identified on the Medical Marijuana Permit application.

11 R. If the cultivation of Medical Marijuana by the Medical  
12 Marijuana Collective located within the City of Long Beach is to take place  
13 at a location other than the location where the Medical Marijuana is  
14 distributed to Medical Marijuana Collective members and Management  
15 Members, then the location of cultivation shall likewise fully comply with  
16 the provisions of Section 5.87.040 and all of its subsections.

17 S. Every Medical Marijuana Collective shall maintain, on-site at  
18 the Property, cultivation records, signed under penalty of perjury by each  
19 Management Member, identifying the location within the City of Long  
20 Beach at which the Medical Marijuana was cultivated, and the total  
21 number of said plants cultivated at each location.

22 T. Representative samples of Medical Marijuana distributed by  
23 the Collective shall be analyzed by an independent laboratory to ensure it  
24 is free of harmful pesticides and other contaminants regulated by local,  
25 state or federal regulatory or statutory standards.

26 U. Any Medical Marijuana from which the representative  
27 sample tested positive for a harmful pesticide or other contaminant at a  
28 level which exceeds the local, state, or federal regulatory or statutory

1 standards shall be destroyed forthwith; and

2 V. Any Medical Marijuana provided to Collective members shall  
3 be properly labeled in strict compliance with state and local laws. W.

4 W. The operation of Medical Marijuana Collectives shall be  
5 limited to the hours between nine o'clock (9:00) A.M. and seven o'clock  
6 (7:00) P.M.

7 X. The property meets the off-street parking and loading  
8 requirements set forth in Chapter 21.41. For the purpose of determining  
9 required parking, a Medical Marijuana Collective shall be deemed to be a  
10 "personal services" type use.

11 Y. That any and all business identification signs comply with the  
12 provisions of Chapter 21.44 "On Premises Signs" as set forth in this Code.

13  
14 5.87.045 Notice of permit issuance.

15 Upon conclusion of the City Council's hearing on the application,  
16 notice of permit issuance shall be mailed or delivered to all surrounding  
17 properties and published on the City's website. This notice will include  
18 information for residents and property owners to submit complaints or  
19 report violations to the City.

20  
21 5.87.050 Medical Marijuana Collective Permit – Non transferable.

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

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

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

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

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

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

15  
16 5.87.060     Maintenance of records.

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

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

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

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

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

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

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

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

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

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

27 9. Any and all records described in Section 5.87.060.A  
28 shall be maintained by the Medical Marijuana Collective for a period of

1 five (5) years and shall be made available by the Collective to the City  
2 upon request, subject to the authority set forth in Section 5.87.070;

3 B. Annual reports – Report requirements/Content of reports.

4 Each Medical Marijuana Collective operating in the City shall, on  
5 an annual basis, submit to the City Manager or designee an audited  
6 financial report prepared by an independent Certified Public Accountant  
7 (“CPA”) that meet the following criteria:

8 1. Reports shall be on a calendar year basis and shall  
9 be submitted no later than April 30<sup>th</sup> following the calendar year to which  
10 the report pertains (for example, a collective’s 2010 annual report will be  
11 submitted to the City Manager no later than April 30, 2011);

12 2. The audited financial report shall contain an  
13 accounting of all cash, receipts, credit card transactions, reimbursements  
14 (including any in-kind contributions), and any and all reasonable  
15 compensation paid by the collective for services provided by management  
16 members or other members of the collective, as well as records of all  
17 operational expenditures and costs incurred by the medical marijuana  
18 collective in accordance with generally accepted accounting practices and  
19 standards typically applicable to business records;

20 3. The report shall document the number of medical  
21 marijuana product transactions that took place during the reporting year,  
22 including cost and quantity for each transaction, where Medical Marijuana  
23 was transferred to a qualified patient or management member for cash,  
24 credit, or in kind contributions;

25 4. Appended to the report shall be a copy of any and all  
26 documents, records or forms submitted to the State Board of Equalization  
27 for the reporting year, including, but not limited to, Board of Equalization  
28 Form 401 (or its electronic equivalent) which in any manner documents

1 transaction activities related to the operation of the Medical Marijuana  
2 Collective;

3 5. Appended to the required report shall also be an  
4 accounting of the number of marijuana plants or clones cultivated by the  
5 dispensary during the reporting year;

6 6. Any and all records or documents that serve as the  
7 basis for preparing the annual report shall be maintained by the medical  
8 marijuana collective for a period of five (5) years and shall be made  
9 available to the City upon request, subject to the authority set forth in  
10 Section 5.87.070.

11  
12 5.87.070 Inspection authority.

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

24  
25 5.87.080 Existing Medical Marijuana operations.

26 Any existing Medical Marijuana Collective, dispensary, operator,  
27 establishment, or provider that does not comply with the requirements of  
28 this Chapter must immediately cease operation until such time, if any,

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

6  
7 5.87.090 Prohibited activity.

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

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

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

20 D. No Medical Marijuana Collective, Management Member or  
21 member shall cause or permit the sale, distribution or exchange of  
22 Medical Marijuana or of any Edible Medical Marijuana product to any non  
23 Collective Management Member or member.

24 E. No Medical Marijuana Collective, Management Member or  
25 member shall allow or permit the commercial sale of any product, good or  
26 service, including but not limited to drug paraphernalia identified in Health  
27 and Safety Code Section 11364, on or at the Medical Marijuana  
28 Collective, in the parking area of the Property. An exception shall be

1 made for persons who are not Collective members or Management  
2 Members and who possess a valid City issued business license which  
3 authorizes the "place to place" sale of soil and nutrients to the Collective,  
4 Management Members or members for the collective cultivation of  
5 Medical Marijuana by Management Members and members of the  
6 Collective.

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

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

16 H. No Medical Marijuana Collective shall be open to or provide  
17 Medical Marijuana to its members or Management Members between the  
18 hours of seven o'clock (7:00) P.M. and nine o'clock (9:00) A.M.

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

23 J. No Medical Marijuana Collective shall possess Medical Marijuana  
24 that was not collectively cultivated by its Management Members or members at  
25 the Property location permitted in accordance with this Chapter.

26 K. No Medical Marijuana Collective, Management Member or  
27 member shall cause or permit the sale, dispensing, or consumption of  
28 alcoholic beverages on the Property or in the parking area of the Property.

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

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

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

15 N. Medical Marijuana Collective membership and Management  
16 Membership, established pursuant to this Chapter, shall be limited to one  
17 Collective fully permitted in accordance with this Chapter.

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

24

25 5.87.100 Violation and enforcement.

26 A. Any person violating any provision of this Chapter or  
27 knowingly or intentionally misrepresenting any material fact in procuring  
28 the permit herein provided for, shall be deemed guilty of a misdemeanor

1 punishable by a fine of not more than one thousand dollars (\$1,000.00) or  
2 by imprisonment for not more than twelve (12) months, or by both such  
3 fine and imprisonment.

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

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

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

22  
23 5.87.110 Appeal process.

24 A. If a City department determines that the permittee failed to  
25 comply with any provision of this Chapter, or with any other provision or  
26 requirement of law, the Director of Financial Management shall revoke or  
27 suspend the Medical Marijuana Collective Permit in accordance with the  
28 provisions set forth in Section 5.06.020, Subsection A, of this Code.

1           B.     The Director of Financial Management shall notify the  
2           permittee of the permit revocation or suspension by dated written notice.  
3           Said notice shall advise the permittee of the right to appeal the decision to  
4           the City Council. The request for appeal shall be in writing, shall set forth  
5           the specific ground(s) on which it is based and shall be submitted to the  
6           Director of Financial Management within ten (10) calendar days from the  
7           date the notice was mailed along with an appeal deposit in an amount  
8           determined by the City Council by resolution.

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

18          D.     Whenever a Medical Marijuana Collective Permit has been  
19          revoked or suspended, no other such permit application shall be  
20          considered for a period of one (1) year from either the date notice of the  
21          revocation or suspension was mailed, or the date of the final decision of  
22          the City Council, whichever is later.

23  
24          5.87.120     Operative date of cultivation requirement.

25                 Each Medical Marijuana Collective issued a Medical Marijuana  
26          Collective Permit, pursuant to this Chapter, shall have one-hundred-and-  
27          twenty (120) days from the date the permit is issued to comply with the  
28          Medical Marijuana cultivation requirements set forth in Section 5.87.040,

1 Subsection (P) and Section 5.87.090, Subsection (J) of this Chapter.

2  
3 5.87.130 Severability.

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

9  
10 5.87.135 Designee.

11 The City Manager or designee is hereby authorized to develop  
12 procedures necessary to implement this Ordinance in a fair and  
13 reasonable manner.

14  
15 5.87.140 Review of Regulations.

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

19  
20 Section 2. The City Clerk shall certify to the passage of this Ordinance  
21 by the City Council and cause it to be posted in three conspicuous places in the City of  
22 Long Beach, and it shall take effect on the thirty-first (31<sup>st</sup>) day after it is approved by  
23 the Mayor.

24  
25 I hereby certify that the foregoing Ordinance was adopted by the City  
26 Council of the City of Long Beach at its meeting of \_\_\_\_\_, 20\_\_, by the  
27 following vote:

28

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

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Ayes: Councilmembers:

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Noes: Councilmembers:

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Absent: Councilmembers:

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City Clerk

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

Mayor