



City of Long Beach
Working Together to Serve

Office of the City Attorney

Memorandum
ORD-35

DATE: February 16, 2010
To: Mayor and Members of the City Council
FROM: Robert E. Shannon, City Attorney *RES*
SUBJECT: Addendum to Item #35 - Medical Marijuana Ordinance

Pursuant to the February 2, 2010, request of the City Council, the draft of the "Medical Marijuana" ordinance has been revised as follows:

1. The definitions of "Medical Marijuana Collective" and "Property" were revised to acknowledge that the cultivation of Medical Marijuana and the distribution of Medical Marijuana could take place at two distinct locations within the City.
2. A Collective electing to cultivate Medical Marijuana in the City will be required to provide the property address where the cultivation will take place.
3. A Collective electing to manufacture edible Medical Marijuana in the City is required to limit consumption and distribution of edible products to Collective members.
4. If Medical Marijuana is cultivated within the City, records must be kept regarding the location of cultivation and quantity of product cultivated.
5. If Medical Marijuana is cultivated in the City, the property where the cultivation takes place must fully conform to the location restrictions contained in the Ordinance.
6. Representative samples of marijuana distributed by the collective must be analyzed by an independent laboratory for harmful pesticides and contaminants. Any contaminated product must be destroyed.
7. Medical Marijuana distributed by the Collective must be properly labeled.
8. Collective members engaged in the management of the Collective must provide and maintain a suitable form of identification.

9. The requirement to cultivate Medical Marijuana or Edible Medical Marijuana products at the location of the Collective has been eliminated.
10. The condition that: "No sale of Medical Marijuana in any form including Edible Medical Marijuana products shall be permitted" has been eliminated in recognition of the fact "reasonable compensation" may be provided in connection with the cultivation or distribution of Medical Marijuana or edible Medical Marijuana products.

A "red-lined" version of the revised Ordinance has been provided for your consideration.

RES:MJM:kjm
Attach.
#A09-03725

REDLINED VERSION

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 5.87 TO IMPLEMENT THE STATE COMPASSIONATE USE ACT AND STATE MEDICAL MARIJUANA PROGRAM ACT.

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

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

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

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

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

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

3
4 Section 1. Chapter 5.87 is added to the Long Beach Municipal Code to
5 read as follows:

6 Chapter 5.87

7 MEDICAL MARIJUANA COLLECTIVE

8
9 5.87.010 Purpose and intent.

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

25
26 5.87.015 Definitions.

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

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

3 A. "Medical Marijuana Collective Permit" as used in this
4 Chapter is defined to mean the permit issued by the Director of Financial
5 Management following a public hearing to allow a Medical Marijuana
6 Collective operation.

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

18 C. "Chief of Police" as used in this Chapter is defined to mean
19 the Chief of the Long Beach Police Department or her/his designee.

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

24 E. "Director of Financial Management" as used in this Chapter
25 is defined to mean the Director of Financial Management for the City of
26 Long Beach or her/his designee.

27 F. "Edible Medical Marijuana" as used in this Chapter is
28 defined to mean any article used for food, drink, confectionery, condiment

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1 or chewing gum by human beings whether such article is simple, mixed or
2 compound, which contains physician recommended quantities of Medical
3 Marijuana, and is produced on-site at a Collective permitted pursuant to
4 this Chapter within the City of Long Beach.

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

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

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

28 *HH*

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1 J. "Medical Marijuana" means Marijuana used for medical
2 purposes in accordance with California Health and Safety Code Sections
3 11362.5, *et seq.*

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

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

19 M. "Property" as used in this Chapter means the location or
20 locations at which the Medical Marijuana Collective members and
21 Management Members associate to collectively or cooperatively cultivate
22 or and-distribute Medical Marijuana exclusively for the Collective
23 members and Management Members.

24 N. "Qualified Patient" means a person who is entitled to the
25 protections of Health and Safety Code Section 11362.5 for patients who
26 obtain and use marijuana for medical purposes upon the recommendation
27 of an Attending Physician, whether or not that person applied for and
28 received a valid Identification Card issued pursuant to State Law.

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

7 P. "State Law" means the state regulations set forth in the
8 Compassionate Use Act and the Medical Marijuana Program Act, codified
9 in California Health and Safety Code Sections 11362.5, *et seq.*
10

11 5.87.020 Medical Marijuana Collective – Permit required.

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

17 5.87.030 Medical Marijuana Collective – Permit application process.

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

26 A. Filing. The Medical Marijuana Collective shall provide the
27 following information:

28 1. The address of the Property or Properties where the

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proposed Medical Marijuana Collective will operate.

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

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

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

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

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

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

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

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

10. If the Medical Marijuana Collective is a corporation, a certified copy of the Collective's Secretary of State Articles of

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1 Incorporation, Certificate(s) of Amendment, Statement(s) of Information
2 and a copy of the Collective's By laws.

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

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

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

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

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

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

24 17. The property address where any Medical Marijuana will be
25 cultivated by the Collective within the boundaries of the City of Long Beach.

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

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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) calendar 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 thirty (30) day period 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

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

12 D. The Director of Financial Management shall cause a hearing
13 to be conducted not later than sixty (60) days from the date the completed
14 Permit application was submitted, except where circumstances beyond
15 the 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 Director of Financial Management shall render her/his
21 decision not later than fifteen (15) days after the hearing is closed. The
22 report shall be in writing and shall include findings of fact, including but not
23 limited to each operating condition set forth in Section 5.87.040, a
24 summary of the relevant evidence, a statement of the issues, a resolution
25 of the credibility of witnesses where there is conflicting testimony and a
26 recommended decision. A copy of the report shall be served on all parties.

27 F. The decision of the Director of Financial Management may
28 be appealed to the City Council within ten (10) calendar days from the

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1 date the written notice of Permit decision was mailed. The request for
2 appeal shall be in writing, shall set forth the specific ground(s) on which it
3 is based and shall be submitted to the Director of Financial Management
4 along with an appeal deposit in an amount determined by the City Council
5 by resolution.

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

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

17 The Director of Financial Management shall approve and issue a
18 Medical Marijuana Collective Permit if the application and evidence
19 submitted in the hearing, conducted pursuant to Section 5.87.030,
20 Subdivisions (D) and (E) as set forth above, sufficiently demonstrate that:

21 A. The Property is not located in an area zoned in the City for
22 exclusive residential use. Medical Marijuana Collectives are not permitted
23 to operate in exclusive residential zones as established pursuant to Title
24 21 of this Code.

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

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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 signs 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

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

3 I. The Property is monitored at all times by closed-circuit
4 television for security purposes. The camera and recording system must
5 be of adequate quality, color rendition and resolution to allow the ready
6 identification of an individual on or adjacent to the Property. The
7 recordings shall be maintained at the Property for a period of not less than
8 thirty (30) days.

9 J. The Property has a centrally-monitored fire and burglar
10 alarm system.

11 K. A sign is posted in a conspicuous location inside the
12 Property advising:

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

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

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

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

22 5. The sale of marijuana and the diversion of marijuana
23 for non-medical purposes are violations of State Law."

24 L. Each applicant ~~electing to manufacture manufacturing~~ Edible
25 Medical Marijuana shall manufacture the Edible ~~products~~ Medical
26 Marijuana products at the Property for the sole consumption by Qualified
27 Patient members and Qualified Patient Management Members of the
28 Collective, in compliance with all applicable state and local laws.

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1 M. The Medical Marijuana Collective meets all applicable state
2 and local laws to ensure that the operations of the Collective are
3 consistent with the protection of the health, safety and welfare of the
4 community, Qualified Patients and their Primary Caregivers, and will not
5 adversely affect surrounding uses.

6 N. No Collective shall operate for profit. Cash and in-kind
7 contributions, reimbursements, and reasonable compensation provided by
8 Management Members and members towards the Collective's actual
9 expenses of the growth, cultivation, and provision of Medical Marijuana
10 shall be allowed provided that they are in strict compliance with State Law.
11 All such cash and in-kind amounts and items shall be fully documented in
12 accordance with Section 5.87.060 of this Chapter.

13 O. If the cultivation of Marijuana by the Medical Marijuana
14 Collective is to take place within the City of Long Beach at a location other
15 than the location where the medical marijuana is distributed, then the
16 location of cultivation shall likewise fully comply with the provisions of
17 Section 5.87.040 and all of its subsections.

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

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

27 R. Any Medical Marijuana from which the representative
28 sample tested positive for a harmful pesticide or other contaminant at a

1 level which exceeds the local, state, or federal regulatory or statutory
2 standards shall be destroyed forthwith; and

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

5
6 5.87.050 Medical Marijuana Collective Permit – Non transferable.

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

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

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

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

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

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

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5.87.060 Maintenance of records.

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

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

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

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

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

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

1 all expenditures and costs incurred by the Collective.

2 ~~///~~

3 6. An inventory record documenting the dates and
4 amounts of Medical Marijuana cultivated at the Property, and the daily
5 amounts of Marijuana stored on the Property.

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

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

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

17
18 5.87.070 Inspection authority.

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

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1 impede, obstruct or interfere with an inspection.

2
3 5.87.080 Existing Medical Marijuana operations.

4 Any existing Medical Marijuana Collective, dispensary, operator,
5 establishment, or provider that does not comply with the requirements of
6 this Chapter must immediately cease operation until such time, if any,
7 when it complies fully with the requirements of this Chapter. No Medical
8 Marijuana Collective, dispensary, operator, establishment, or provider that
9 existed prior to the enactment of this Chapter shall be deemed to be a
10 legally established use or a legal non-conforming use under the provisions
11 of this Chapter or the Code.

12
13 5.87.090 Prohibited activity.

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

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

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

26 D. No Medical Marijuana Collective, Management Member or
27 member shall cause or permit the sale, distribution or exchange of
28 Medical Marijuana ~~cultivated at the Property~~ or of any Edible Medical

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1 Marijuana product ~~manufactured at the Property~~ to any non Collective
2 Management Member or member.

3 E. No Medical Marijuana Collective, Management Member or
4 member shall allow or permit the commercial sale of any product, good or
5 service, including but not limited to drug paraphernalia identified in Health
6 and Safety Code Section 11364, on or at the Medical Marijuana
7 Collective, in the parking area of the Property. An exception shall be
8 made for persons who are not Collective members or Management
9 Members and who possess a valid City issued business license which
10 authorizes the “place to place” sale of soil and nutrients to the Collective,
11 Management Members or members for the collective cultivation of
12 Medical Marijuana by Management Members and members of the
13 Collective.

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

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

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

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

28 ~~J.I.~~ No person under the age of eighteen (18) shall be allowed

REDLINED VERSION

1 at the Property, unless that minor is a Qualified Patient and is
2 accompanied by his or her licensed Attending Physician, parent(s) or
3 documented legal guardian.

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

8 J.L. No Medical Marijuana Collective, Management Member or
9 member shall cause or permit the sale, dispensing, or consumption of
10 alcoholic beverages on the Property or in the parking area of the Property.

11 K.M. No dried Medical Marijuana shall be stored at the Property
12 in structures that are not completely enclosed, in an unlocked vault or
13 safe, in any other unsecured storage structure, or in a safe or vault that is
14 not bolted to the floor of the Property.

15 L.N. Medical Marijuana may not be inhaled, smoked, eaten,
16 ingested, or otherwise consumed on the Property, in the parking areas of
17 the Property, or in those areas restricted under the provisions of California
18 Health and Safety Code Section 11362.79, which include:

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

25 ~~M.O.~~ Medical Marijuana Collective membership and Management
26 Membership, established pursuant to this Chapter, shall be limited to one
27 Collective fully permitted in accordance with this Chapter.

28 N.P. No person who has been convicted within the previous ten

1 (10) years of a felony or a crime of moral turpitude, or who is currently on
2 parole or probation for the sale or distribution of a controlled substance,
3 shall be engaged directly or indirectly in the management of the Medical
4 Marijuana Collective nor, further, shall manage or handle the receipts and
5 expenses of the Collective.
6

7 5.87.100 Violation and enforcement.

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

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

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

28 D. Any violation of the terms and conditions of the Medical

1 Marijuana Collective permit, of this Chapter, or of applicable local or state
2 regulations and laws shall be grounds for permit suspension or
3 revocation.

4
5 5.87.110 Appeal process.

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

11 B. The Director of Financial Management shall notify the
12 permittee of the permit revocation or suspension by dated written notice.
13 Said notice shall advise the permittee of the right to appeal the decision to
14 the City Council. The request for appeal shall be in writing, shall set forth
15 the specific ground(s) on which it is based and shall be submitted to the
16 Director of Financial Management within ten (10) calendar days from the
17 date the notice was mailed along with an appeal deposit in an amount
18 determined by the City Council by resolution.

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

28 D. Whenever a Medical Marijuana Collective Permit has been

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revoked or suspended, no other such permit application shall be considered for a period of one (1) year from either the date notice of the revocation or suspension was mailed, or the date of the final decision of the City Council, whichever is later.

5.87.120 Operative date.

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

5.87.130 Severability.

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

5.87.140 Review of Regulations.

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

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HH
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1 ~~HH~~
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4 ~~HH~~
5 ~~HH~~

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

10
11 I hereby certify that the foregoing Ordinance was adopted by the City
12 Council of the City of Long Beach at its meeting of _____, 2010, by the
13 following vote:

14
15 Ayes: Councilmembers: _____

16 _____

17 _____

18 _____

19 Noes: Councilmembers: _____

20 _____

21 Absent: Councilmembers: _____

22 _____

23
24
25 _____
City Clerk

26
27 Approved: _____

28 _____
Mayor

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 5.87 TO IMPLEMENT THE STATE COMPASSIONATE USE ACT AND STATE MEDICAL MARIJUANA PROGRAM ACT.

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

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

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

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

WHEREAS, the City of Long Beach has a compelling interest in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which Medical Marijuana collectives operate, and in providing compassionate access to Medical Marijuana to its seriously ill residents;

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

3
4 Section 1. Chapter 5.87 is added to the Long Beach Municipal Code to
5 read as follows:

6 Chapter 5.87

7 MEDICAL MARIJUANA COLLECTIVE

8
9 5.87.010 Purpose and intent.

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

25
26 5.87.015 Definitions.

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

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

3 A. "Medical Marijuana Collective Permit" as used in this
4 Chapter is defined to mean the permit issued by the Director of Financial
5 Management following a public hearing to allow a Medical Marijuana
6 Collective operation.

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

18 C. "Chief of Police" as used in this Chapter is defined to mean
19 the Chief of the Long Beach Police Department or her/his designee.

20 D. "Concentrated Cannabis" shall have the same definition as
21 given such term in California Health and Safety Code Section 11006.5, as
22 may be amended, and which defines "Concentrated Cannabis" as the
23 separated resin, whether crude or purified, obtained from Marijuana.

24 E. "Director of Financial Management" as used in this Chapter
25 is defined to mean the Director of Financial Management for the City of
26 Long Beach or her/his designee.

27 F. "Edible Medical Marijuana" as used in this Chapter is
28 defined to mean any article used for food, drink, confectionery, condiment

1 or chewing gum by human beings whether such article is simple, mixed or
2 compound, which contains physician recommended quantities of Medical
3 Marijuana.

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

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

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

27 J. "Medical Marijuana" means Marijuana used for medical
28 purposes in accordance with California Health and Safety Code Sections

1 11362.5, *et seq.*

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

11 L. "Primary Caregiver" shall have the same definition as given
12 such term in California Health and Safety Code Sections 11362.5 and
13 11362.7 (as set forth in Appendix A of this Chapter), as may be amended,
14 and which define "Primary Caregiver" as an individual, designated by a
15 Qualified Patient, who has consistently assumed responsibility for the
16 housing, health, or safety of that Qualified Patient.

17 M. "Property" as used in this Chapter means the location or
18 locations at which the Medical Marijuana Collective members and
19 Management Members associate to collectively or cooperatively cultivate
20 or distribute Medical Marijuana exclusively for the Collective members
21 and Management Members.

22 N. "Qualified Patient" means a person who is entitled to the
23 protections of Health and Safety Code Section 11362.5 for patients who
24 obtain and use Marijuana for medical purposes upon the recommendation
25 of an Attending Physician, whether or not that person applied for and
26 received a valid Identification Card issued pursuant to State Law.

27 O. "Reasonable Compensation" means compensation
28 commensurate with reasonable wages and benefits paid to employees of

1 IRS-qualified non-profit organizations who have similar job descriptions
2 and duties, required level of education and experience, prior individual
3 earnings history, and number of hours worked. The payment of a bonus
4 shall not be considered "Reasonable Compensation."

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

8
9 5.87.020 Medical Marijuana Collective – Permit required.

10 No Medical Marijuana Collective, Management Member or member
11 shall carry on, maintain or conduct any Medical Marijuana Collective
12 related operations in the City without first obtaining a Medical Marijuana
13 Collective Permit from the Department of Financial Management.

14
15 5.87.030 Medical Marijuana Collective – Permit application process.

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

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

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

28 2. A site plan describing the Property with fully

1 dimensioned interior and exterior floor plans including electrical,
2 mechanical, plumbing, and disabled access compliance pursuant to Title
3 24 of the State of California Code of Regulations and the federally
4 mandated Americans with Disabilities Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 17. The property address where any Medical Marijuana will be
23 cultivated by the Collective within the boundaries of the City of Long Beach.

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

26 1. Within ten (10) business days of receipt of a Medical
27 Marijuana Collective Permit application, except where circumstances
28 beyond the control of the City justifiably delay such response, the Director

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of Financial Management shall determine whether the application is complete.

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

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

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

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

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

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

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

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

25 F. The decision of the Director of Financial Management may
26 be appealed to the City Council within ten (10) calendar days from the
27 date the written notice of Permit decision was mailed. The request for
28 appeal shall be in writing, shall set forth the specific ground(s) on which it

1 is based and shall be submitted to the Director of Financial Management
2 along with an appeal deposit in an amount determined by the City Council
3 by resolution.

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

12
13 5.87.040 Medical Marijuana Collective Permit approval and operating
14 conditions.

15 The Director of Financial Management shall approve and issue a
16 Medical Marijuana Collective Permit if the application and evidence
17 submitted in the hearing, conducted pursuant to Section 5.87.030,
18 Subdivisions (D) and (E) as set forth above, sufficiently demonstrate that:

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

23 B. The Medical Marijuana Collective is not located within a one
24 thousand five hundred foot (1,500') radius of a public or private high
25 school or within a five hundred foot (500') radius of a public or private
26 kindergarten, elementary, middle or junior high school. The distances
27 specified in this subdivision shall be determined by the horizontal distance
28 measured in a straight line from the property line of the school to the

1 closest property line of the lot on which the Medical Marijuana Collective
2 is located, without regard to intervening structures.

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

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

12 E. Any exterior or interior signs visible from the exterior of the
13 Property shall be unlighted.

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

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

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

1 I. The Property is monitored at all times by closed-circuit
2 television for security purposes. The camera and recording system must
3 be of adequate quality, color rendition and resolution to allow the ready
4 identification of an individual on or adjacent to the Property. The
5 recordings shall be maintained at the Property for a period of not less than
6 thirty (30) days.

7 J. The Property has a centrally-monitored fire and burglar
8 alarm system.

9 K. A sign is posted in a conspicuous location inside the
10 Property advising:

11 1. "The diversion of Marijuana for non-medical purposes
12 is a violation of State law.

13 2. The use of Marijuana may impair a person's ability to
14 drive a motor vehicle or operate heavy machinery.

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

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

20 5. The sale of Marijuana and the diversion of Marijuana
21 for non-medical purposes are violations of State Law."

22 L. Each applicant electing to manufacture Edible Medical
23 Marijuana shall manufacture the Edible products for the sole consumption
24 by Qualified Patient members and Qualified Patient Management
25 Members of the Collective, in compliance with all applicable state and
26 local laws.

27 M. The Medical Marijuana Collective meets all applicable state
28 and local laws to ensure that the operations of the Collective are

1 consistent with the protection of the health, safety and welfare of the
2 community, Qualified Patients and their Primary Caregivers, and will not
3 adversely affect surrounding uses.

4 N. No Collective shall operate for profit. Cash and in-kind
5 contributions, reimbursements, and reasonable compensation provided by
6 Management Members and members towards the Collective's actual
7 expenses of the growth, cultivation, and provision of Medical Marijuana
8 shall be allowed provided that they are in strict compliance with State Law.
9 All such cash and in-kind amounts and items shall be fully documented in
10 accordance with Section 5.87.060 of this Chapter.

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

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

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

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

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

3
4 5.87.050 Medical Marijuana Collective Permit – Non transferable.

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

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

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

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

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

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

25
26 5.87.060 Maintenance of records.

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

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

3 2. The full name, address, and telephone number(s)
4 and a fully legible copy of a government issued form of identification of
5 each Collective member engaged in the management of the Collective
6 and a description of the exact nature of the participation in the
7 management of the Collective. Acceptable forms of government issued
8 identification include, but are not limited to: Drivers licenses or photo
9 identity cards issued by state Department of Motor Vehicles (or
10 equivalent) that meets REAL ID benchmarks, a passport issued by the
11 United States or by a foreign government, U.S. Military ID cards (active
12 duty or retired military and their dependents), or a Permanent Resident
13 Card.

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

17 4. The full name, date of birth, residential address, and
18 telephone number(s) of each Collective member and Management
19 Member; the date each member and Management Member joined the
20 Collective; the exact nature of each member's and Management
21 Member's participation in the Collective; and the status of each member
22 and Management Member as a Qualified Patient or Primary Caregiver.

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

27 6. An inventory record documenting the dates and
28 amounts of Medical Marijuana cultivated at the Property, and the daily

1 amounts of Marijuana stored on the Property.

2 7. Proof of a valid Medical Marijuana Collective Permit
3 issued by the Department of Financial Management in conformance with
4 this Chapter.

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

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

13
14 5.87.070 Inspection authority.

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

26
27 5.87.080 Existing Medical Marijuana operations.

28 Any existing Medical Marijuana Collective, dispensary, operator,

1 establishment, or provider that does not comply with the requirements of
2 this Chapter must immediately cease operation until such time, if any,
3 when it complies fully with the requirements of this Chapter. No Medical
4 Marijuana Collective, dispensary, operator, establishment, or provider that
5 existed prior to the enactment of this Chapter shall be deemed to be a
6 legally established use or a legal non-conforming use under the provisions
7 of this Chapter or the Code.

8
9 5.87.090 Prohibited activity.

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

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

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

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

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

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

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

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

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

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

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

28 K. No dried Medical Marijuana shall be stored at the Property

1 in structures that are not completely enclosed, in an unlocked vault or
2 safe, in any other unsecured storage structure, or in a safe or vault that is
3 not bolted to the floor of the Property.

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

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

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

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

23
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 punishable by a fine of not more than one thousand dollars (\$1,000.00) or

1 by imprisonment for not more than twelve (12) months, or by both such
2 fine and imprisonment.

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

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

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

21
22 5.87.110 Appeal process.

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

28 B. The Director of Financial Management shall notify the

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

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

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

22
23 5.87.120 Operative date.

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

1 5.87.130 Severability.

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

7
8 5.87.140 Review of Regulations.

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

12
13 Section 2. The City Clerk shall certify to the passage of this Ordinance
14 by the City Council and cause it to be posted in three conspicuous places in the City of
15 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by
16 the Mayor.

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

1 I hereby certify that the foregoing Ordinance was adopted by the City
2 Council of the City of Long Beach at its meeting of _____, 2010, by the
3 following vote:

4 Ayes: Councilmembers:

8 Noes: Councilmembers:

10 Absent: Councilmembers:

14 _____
City Clerk

16 Approved: _____

17 _____
Mayor