



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 West Ocean Boulevard, 6th Floor ♦ Long Beach, CA 90802

H-2
Revised

August 3, 2010

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Conduct a hearing on the proposed levy of the Marijuana Business License Tax, receive supporting documentation into the record, conclude the hearing; adopt a finding of emergency; and adopt the attached Resolution calling for an election on November 2, 2010, for the purpose of authorizing such a tax. (Citywide)

DISCUSSION

On July 6, 2010, City Council approved setting a public hearing on August 3, 2010 to consider placing a ballot measure on the November 2010 general election for a business license tax on medical marijuana collectives, other marijuana businesses and marijuana cultivation sites. The primary purpose of this tax is to help address the projected \$18.5 million General Fund deficit in Fiscal Year 2011 (FY 11) and subsequent projected deficits in FY 12 and FY 13 that will occur as labor costs continue to rise while revenue remains sluggish. Without additional revenue, the City's ability to continue providing core services such as police, fire, parks and recreation, library, public works and infrastructure improvements will diminish over time.

On March 23, 2010, the City Council endorsed a five-pronged approach to balance the City's budget in FY 11. A critical component of this five-pronged approach is the creation of new revenue. In researching initiatives that could increase the City's revenues, it was discovered that other California cities, including Sacramento, Berkeley and Oakland, are all bringing forward ballot measures to initiate, increase or expand their business license taxes with respect to medical marijuana and other marijuana establishments that will arise if Proposition 19 passes and marijuana is legalized. Since the City Council meeting on July 6, 2010, an additional two California cities have brought forth potential ballot measures related to marijuana businesses to their City Councils including San Jose and Albany. This increasing list of cities shows that the potential of taxation is being considered as a solution to maintaining core services in an ever-challenging fiscal and economic environment. Please also note that the State is currently proposing a medical marijuana tax similar to the tax on tobacco (SBx6 16 (Calderon) - Taxation: Marijuana), and it is only a matter of time before other taxing entities, such as Counties consider exercising their taxing authority to develop similar measures to address their staggering deficits and increase revenues. If the City does not act in a timely and proactive manner, the County and State taxing authorities will benefit from the revenue generated from marijuana businesses in Long Beach, leaving

the City with all of the costs associated with regulating and overseeing these businesses and limited revenue generating opportunities.

Business License Tax

The City's local taxing authority related to businesses is the Business License Tax (BLT), which is grouped into different categories of taxation based on business classifications. Currently, there are over 34 separate business types that are charged business license taxes within the City generating over \$11 million in General Fund revenue annually.

Staff recommends a unique business assignment for medical marijuana collectives and for marijuana businesses that may arise through the voter approval of Proposition 19. These are unique businesses that do not fully suit any existing business classification and will require considerable staff time and resources to oversee and regulate consistent with City and other legal requirements.

It should be made clear that the City's intent is to tax marijuana businesses and not patients. This is not a tax on the sale or transaction; this is a tax on the business. There is a substantive difference. All businesses operating in Long Beach (with the exception of religious or charitable organizations) must obtain a business license to operate within the City, including pharmacies, supermarkets, day care centers, attorney's offices, dentists, doctor's offices, nursing homes, restaurants and bars, and many more. Many of these businesses currently support or treat individuals suffering from medical illnesses, including those mentioned above; however, they must remit business license taxes annually in order to operate within the City. Some have argued that a tax on collectives will diminish a qualified patient's access to medical marijuana; however, that does not appear to be the case in Oakland, the City with the longest track record of taxing collectives. In fact, their Measure Z Committee, who represents Oakland's Medical Marijuana Community, has worked with the City of Oakland on its November 2010 ballot measure.

In addition, comparisons have been made between medical marijuana collectives and pharmacies. First, please be advised that there are over 70 pharmacies in the City of Long Beach, all providing medicine and unregulated over-the-counter drugs to residents. Pharmacies must pay a business license tax to operate in the City of Long Beach. However, these two entities are quite distinct, both by the legal foundation that establishes the regulatory framework for each (e.g., pharmaceutical product manufacturing, distribution, and research and development vs. medical marijuana cultivation and distribution) and by the significant differences in the manner in which they are regulated. Pharmaceutical companies are closely regulated by the Federal Drug Administration (FDA) and the Drug Enforcement Agency (DEA) in terms of how they function and the products that are allowed to be supplied to the public. Medical marijuana collectives are regulated by the State in terms of how they function, but there are absolutely no regulations in place regarding the quality or safety of the marijuana product. While our Ordinance requires that collectives test the safety of their products in a certified laboratory, there are no uniform guidelines for this testing.

More specifically, pharmacies distribute medicine by certified pharmacists based on prescriptions from certified medical doctors. The prescription products administered are scientifically tested by professionally recognized and regulated laboratories, approved for distribution upon research and validation by the FDA, and subjected to rigorous continued federal regulation and law by the DEA and the FDA. In contrast, collectives are not required to adhere to these stringent regulatory practices and product quality is not regulated by State or federal agencies, standards, and/or the law. Additionally, for prescription drugs, safety protocols are in place to alert and protect consumers of possible product contamination or defect, which results in the ability to recall products should they present health or safety concerns for consumers; such is not the case for medical marijuana products or patients. In the case of Collectives, members of the Collective come together to grow their own marijuana and provide marijuana to other members of the Collective. It is unclear how or whether testing of the product(s) was performed to ensure its quality or safety. Comparisons of medical marijuana products or collectives to prescriptions or pharmacy practices or operations are incomplete and inaccurate.

Please also note that small collectives, those with less than four members, are not regulated under the City's Medical Marijuana ordinance and will not be subject to a business license tax under this proposal.

Proposition 19

Proposition 19 is a California ballot proposition on the November 2, 2010 Statewide ballot. It legalizes the non-medical (recreational) use of marijuana, allows local governments to regulate these activities, permits local governments to impose and collect marijuana-related taxes, including excise taxes, and authorizes various criminal and civil penalties.

Demand for legally obtained marijuana will likely rise if recreational marijuana is legalized. The question is whether Long Beach customers will purchase the marijuana from Long Beach businesses and pay a tax to the City of Long Beach, or from surrounding cities and pay taxes to those cities, thereby increasing revenue into their Citywide coffers. Please note however, if the City Council decides to permit the sale of recreational marijuana or the creation of businesses licensed for onsite marijuana consumption, the City will have substantial regulatory responsibilities and costs. Additional resources will be needed for the Police Department to ensure proper oversight of these new businesses. Additional staffing may be needed to inspect and regulate the new businesses, manage and audit the tax payments.

In considering the size and depth of the required resources, it should be noted that a recent Rand Study cautions that legalization of recreational marijuana could dramatically impact anticipated revenues, since the cost to produce marijuana is relatively inexpensive, inevitably resulting in an increase in supply and, therefore, a reduction in cost. Hence, an initial tax should be set at a higher rate to ensure, at a minimum, adequate cost recovery, in addition to additional revenue to support other City programs.

Other Cities

Per the request of the City Council on July 6, a chart that compares California cities that currently have a business license tax on collectives or are considering a November 2010 ballot measure has been attached (Attachment A). Information has been included regarding their current taxing methodology and proposed taxing plans. Please note that these cities are still discussing their tax measures, and the chart may not reflect the most recent decisions.

In reviewing this chart, many factors affect the total revenue stream to offset costs from the proposed ballot measures and ordinance changes. Some cities are proposing substantial annual registration fees in addition to taxes. Some cities have limited the number of collectives resulting in lower administrative costs and lower tax rates. Other cities have proposed substantial penalties to reduce the amount of effort to regulate non-conforming businesses.

The chart shows that Long Beach's proposal reflects the general trend in charging 10 percent for marijuana businesses that will arise from the passage of Proposition 19. Of all the cities proposing ballot measures, Oakland has the only experience we can use to assess the City's costs for medical marijuana. Oakland originally limited their number of dispensaries to four, although they are proposing to increase this number to six as well as add four large cultivation sites (totaling 450,000 square feet). Oakland is estimating their staffing requirements for these ten sites to be more than \$1,000,000 per year. To offset their costs, Oakland is increasing their annual permit fees from a tiered rate to a flat \$60,000 per year for each collective and \$211,000 for each cultivation site; the total annual registration fees alone for the 10 locations would be \$1,204,000 annually. In addition, Oakland has a measure on the November ballot to raise the business license taxes for medical marijuana and marijuana businesses to 4 percent from the existing 1.8 percent. Long Beach will likely have between 30 to 35 medical marijuana collectives, approximately eight times the number of collectives in Oakland. While this allows the collectives to better serve their members throughout the 50 square miles of Long Beach, it also significantly increases the City's costs and the impact on the community. In light of Oakland's experience with actual costs, the proposed five percent rate for collectives appears to be relatively conservative. Other cities appear to be willing to subsidize medical marijuana through lower rates, but given our budget challenges, Long Beach can ill afford to do so.

Proposed Business License Tax Rate

The proposed ordinance includes several definitions including business type and gross receipts as well as establishes the tax rates for the distinct marijuana related businesses.

It is recommended the following Business License Tax rates be placed on the November 2, 2010 ballot:

Business Type	Tax Rate	Per
Medical Marijuana Collective	5%	Gross Receipts
Marijuana Business	10%	Gross Receipts
Cultivation Facility or Grow Site	\$25.00	Square Foot
Non Profit Medical Marijuana Collective	\$5.00	Square Foot
Non Profit Marijuana Business	\$10.00	Square Foot

By State law, certain types of Non Profits can only be charged a business license tax based on square footage. In order to apply a business license tax fairly to all marijuana businesses, a tax rate per square foot has been identified.

A minimum \$1,000 Business License Tax will be applied to all Marijuana Businesses. If gross receipts or square footage charges exceed \$1,000, then the higher amount will be due.

The City's current business license taxing structure is adjusted annually by the Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County area. Since the majority of tax revenues from the Marijuana Business License Tax will be from gross receipts, it is recommended these tax rates are adjusted annually based on the CPI.

Please be advised that the City Council may impose the tax authorized by this Section at a lower rate, and may establish an exemption for Marijuana Businesses whose gross receipts are below a certain amount. Staff recommends the exemption be applied to Marijuana Businesses with gross receipts below \$8,000. The City Council may adopt different rates and exemption levels for Medical and Non-Medical Marijuana Businesses. No action by the City Council under this recommendation shall prevent it from subsequently increasing the tax rate for any type of Marijuana Business to the maximum allowed or from modifying or eliminating any exemption.

Requirement for Voter Approval

Proposition 218 requires all local governments, including charter cities, to obtain majority voter approval for new or increased taxes. The adoption of a "general tax" must generally be considered on a ballot where one or more of the local legislators is up for election or re-election. An exception to this general rule occurs when the local elected body declares a fiscal emergency. As such, a fiscal emergency would need to be declared and is hereby recommended to add this "general tax" measure to the November 2010 ballot. A general tax measure is recommended as it provides the City with the most flexibility in addressing its current fiscal challenges and requires a lower voter approval threshold for passage.

Below is the recommended ballot language:

To protect public safety services such as 911 emergency response, police and fire, as well as essential quality of life programs like parks, libraries, public works and infrastructure, should the City of Long Beach impose a 10 percent tax on recreational marijuana businesses, if legalized, a 5 percent tax on existing medical marijuana businesses, with a \$25 tax on cultivation sites per square foot, with an annual CPI adjustment?

An alternative is a "Special" or Dedicated Tax measure which does not require a unanimous declaration of fiscal emergency by the City Council, but requires a much higher voter approval threshold at 66.7 percent of the vote. This option is not recommended, as it would be more difficult to achieve and would limit the City's flexibility regarding the use of the funds. However, attached please find the ordinance and resolution that would be required to place a special tax on the November 2, 2010 ballot.

Fiscal Emergency Declaration

Pursuant to Section 2(b) of California Constitution Article XIIC, it is recommended that the City Council hereby unanimously declare the existence of an emergency in that there are imminent financial risks and dangers to the public welfare and the City's financial ability to provide essential municipal services without disruption, such that a special election is necessary to address such risks and dangers before the next regularly scheduled municipal election for members of the City Council on April 10, 2012.

This letter was reviewed by Assistant City Attorney Michael Mais on July 22, 2010 and Budget and Performance Management Bureau Manager David Wodynski on July 15, 2010.

TIMING CONSIDERATIONS

City Council action on August 3, 2010 is needed to place a measure on the November 2, 2010 ballot.

FISCAL IMPACT

The potential impact to the General Fund from this Business License Tax remains difficult to determine. Variables such as the total number of collectives permitted, the aggregate of gross receipts, the size of the cultivation facilities, the passage of Proposition 19, the establishment of recreational marijuana businesses, and the price of marijuana will all directly impact the revenue derived by the proposed tax, and other currently unknown factors. What is known, however, is that the City will retain 100 percent of all revenue derived from a Business License Tax. Unlike property taxes and sales taxes, business license taxes accrue entirely to the City without any diversion for a State or county share; hence, 100 percent of the proceeds from these taxes will benefit the General Fund and the critical services it supports. It is important to note that if Proposition 19 passes, efforts by the State and County to tax marijuana will start to divert revenue away from the City's coffers, even when it will be levied on Long Beach based businesses. Given all the unknowns, the City will monitor the revenues from the proposed tax and exercise caution in the projection of these revenues.

HONORABLE MAYOR AND CITY COUNCIL

August 3, 2010

Page 7

However, it is possible that the City of Oakland can serve as an indication of the amount of revenue that can be generated by taxing collectives. In 2009, the four collectives permitted to operate in Oakland generated almost \$28 million in gross receipts. A tax of 5 percent on gross receipts of \$28 million results in approximately \$1.4 million in General Fund revenue annually. The City of Long Beach will likely permit approximately 35 collectives within the City; as such, the additional revenue this tax could generate over time could be considerable even without the legalization of marijuana.

If other City measures are on the November 2010 General Election ballot, the additional cost for the Medical Marijuana and Marijuana Business License Tax measure will be approximately \$15,000. The Adopted FY 11 Budget for the City Clerk's Department will include this cost, if approved by the City Council.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



LORI ANN FARRELL
DIRECTOR OF FINANCIAL MANAGEMENT/CFO

LAF:RB:RJ
08-03-10 MARIJUANA BALLOT MEASURE.DOC

ATTACHMENTS

ORDINANCE AMENDING THE LONG BEACH MUNICIPAL CODE - GENERAL MEASURE
ORDINANCE AMENDING THE LONG BEACH MUNICIPAL CODE - SPECIAL TAX MEASURE
RESOLUTION CALLING FOR AN ELECTION ON NOVEMBER 2, 2010 - GENERAL MEASURE
RESOLUTION CALLING FOR AN ELECTION ON NOVEMBER 2, 2010 - SPECIAL TAX MEASURE
ATTACHMENT A - MARIJUANA TAXES EXISTING AND PROPOSED

APPROVED:



PATRICK H. WEST
CITY MANAGER

Marijuana Taxes -- Existing & Proposed

City	Existing Tax	Ballot Measure Proposed				
		Business	Rate	Per	Notes	
Long Beach	Retail Businesses pay \$320.70 base plus \$24.98 employee	Medical Marijuana	\$50 per \$1,000	gross receipts	Permit fees \$10,000 to \$30,000 based on membership	
		Marijuana Business	\$100 per \$1,000	gross receipts		
		Cultivation Facility	\$25	square foot		
		Non Profit Medical Marijuana Collective	\$5	Square Foot		
		Non Profit Marijuana Business	\$10	Square Foot		
Oakland	1.8% - Gross Receipts - June 2009. 8% - November Ballot	Medical Marijuana	\$40 per \$1,000	gross receipts	Increase permit fees to \$60,000 \$211,000 registration. Tax based on wholesale cost	
		Cultivation Facility	\$50 per \$1,000	gross receipts		
		Cannabis Business	\$100 per \$1,000	gross receipts		
San Jose	A minimum business tax of \$150 per year is charged, plus an additional tax in the amount of \$18 per employee over 8, not to exceed a maximum of \$25,000.	Medical Marijuana	\$30 per \$1,000	gross receipts	Permit fee - \$95,000	
		Cannabis Business	\$100 per \$1,000	gross receipts		Under consideration
Sacramento	Minimum tax of \$30 per year; Maximum tax of \$5,000 per year	Medical Marijuana	\$20 per \$1,000	gross receipts	No ordinance	
		Cannabis Business	\$50 per \$1,000	gross receipts		No ordinance
Berkeley	\$1.20 per \$1000	Medical Marijuana	\$18 per \$1,000	gross receipts	2011	
		Medical Marijuana	\$25 per \$1,000	gross receipts		2012
		Cannabis Business	\$100 per \$1,000	gross receipts		
		Non Profit - no gross receipts	\$0.51	square foot - Up to the first 120,000 sq ft		
		Non Profit - gross receipts	\$25	square foot - First 3,000		
Non Profit - gross receipts	\$10	square foot - after 3,000				
Albany	\$239 as a base and \$49 per employee.	All Marijuana Businesses	\$18 per \$1,000	gross receipts		
		Non Profit	\$10	square foot		

From: christy__brown@hotmail.com
To: cityclerk@ci.long-beach.ca.us
Date: 07/08/2010 12:57 PM
Subject: Long Beach considers marijuana tax

Christy Brown
747 Southview Way
Woodside, CA 94062-4066

July 8, 2010

City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802-4604

Dear City of Long Beach:

I am writing as a concerned citizen to urge you to decline pursuing any measure that would tax marijuana.

Proponents of this measure claim that marijuana should be taxed like alcohol and tobacco. It may sound like a good idea, but in reality it just doesn't work.

Tax revenue collected from tobacco and alcohol do not come close to covering the costs associated with those substances. A National Institute on Alcoholism and Alcohol Abuse report titled Updating Estimates of the Economic Costs of Alcohol Abuse in the United States: Estimates, Update Methods and Data, states that alcohol-related costs from health care, lost productivity and criminal justice amount to over \$185 billion. The Tax Policy Center shows that federal excise taxes on alcohol in 2007 totaled around \$9 billion while states collected around \$5.5 billion. Even when combined, \$14.5 billion doesn't put a dent in the \$185 billion societal costs associated with alcohol. Without evidence to prove otherwise, one can only surmise the same outcomes for marijuana.

Taxing marijuana will only increase black market demand for those who don't want to pay the additional fee and increase black market availability for those sellers who don't want to operate within the law.

According to the Framework Convention Alliance for Tobacco Control, each year tens of billions of cigarettes vanish into the black market, reducing government revenue and financing criminal groups. The Tobacco Atlas reports that about 600 billion cigarettes were sold on the black market in 2006, and recent news reports the situation is getting much worse. The loss of tax revenue resulting from black market sales falls on the national finance ministries not on the tobacco manufacturers who make their profit when the product is distributed. Tobacco is smuggled into the black market during distribution from manufacturers to retail establishments; the same is likely to happen with marijuana while it travels between cultivators and retailers.

Taxing marijuana is not the answer to our economic problems. Perhaps the council should consider banning dispensaries outright. Banning dispensaries would ease the city's economic concerns by reducing the burden to law enforcement that spends additional hours working the crimes associated with pot shops. Robberies, violence and other illegal activities are highlighted daily by media outlets.

Vote NO on any measure that will increase the availability and escalate the dangers associated with marijuana and pot shops in our community!

Sincerely,

Christy Brown

From: info@ivdfc.org
To: cityclerk@ci.long-beach.ca.us
Date: 07/08/2010 11:07 PM
Subject: Long Beach considers marijuana tax

Brenda Chabot
12223 Highland Ave. #106-305
Rancho Cucamonga, CA 91739-2574

July 9, 2010

City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802-4604

Dear City of Long Beach:

I am writing as a concerned citizen to urge you to decline pursuing any measure that would tax marijuana.

Proponents of this measure claim that marijuana should be taxed like alcohol and tobacco. It may sound like a good idea, but in reality it just doesn't work.

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Sincerely,

Brenda Chabot

From: tracygamble1@aol.com
To: cityclerk@ci.long-beach.ca.us
Date: 07/12/2010 10:17 AM
Subject: Long Beach considers marijuana tax

TRACY GAMBLE
3113 MANDAN WAY
SAN DIEGO, CA 92117-2519

July 12, 2010

City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802-4604

Dear City of Long Beach:

I am writing as a concerned citizen to urge you to decline pursuing any measure that would tax marijuana.

Proponents of this measure claim that marijuana should be taxed like alcohol and tobacco. It may sound like a good idea, but in reality it just doesn't work.

Tax revenue collected from tobacco and alcohol do not come close to covering the costs associated with those substances. A National Institute on Alcoholism and Alcohol Abuse report titled Updating Estimates of the Economic Costs of Alcohol Abuse in the United States: Estimates, Update Methods and Data, states that alcohol-related costs from health care, lost productivity and criminal justice amount to over \$185 billion. The Tax Policy Center shows that federal excise taxes on alcohol in 2007 totaled around \$9 billion while states collected around \$5.5 billion. Even when combined, \$14.5 billion doesn't put a dent in the \$185 billion societal costs associated with alcohol. Without evidence to prove otherwise, one can only surmise the same outcomes for marijuana.

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Sincerely,

TRACY GAMBLE

From: barbaragordon1@gmail.com
To: cityclerk@ci.long-beach.ca.us
Date: 07/09/2010 10:12 AM
Subject: Long Beach considers marijuana tax

Barbara Gordon
12549 El Camino Real
San Diego, CA 92130-4055

July 9, 2010

City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802-4604

Dear City of Long Beach:

I am writing as a concerned citizen to urge you to decline pursuing any measure that would tax marijuana.

Proponents of this measure claim that marijuana should be taxed like alcohol and tobacco. It may sound like a good idea, but in reality it just doesn't work.

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Sincerely,

Barbara Gordon

From: katie.4455@gmail.com
To: cityclerk@ci.long-beach.ca.us
Date: 07/09/2010 11:17 AM
Subject: Long Beach considers marijuana tax

Katie Hall
12835 Chaparral Ridge Rd
San Diego, CA 92130-2451

July 9, 2010

City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802-4604

Dear City of Long Beach:

I am writing as a concerned citizen to urge you to decline pursuing any measure that would tax marijuana.

Proponents of this measure claim that marijuana should be taxed like alcohol and tobacco; two drugs that have been a scourge to society. Do you really want to add a third?

The state of California takes in \$318 million per year in alcohol tax revenues. The state spends \$38 BILLION on alcohol-related harm. Moreover, the individuals who sell pot are going to do everything in their power to keep taxes at a minimum to insure greater access... just like the alcohol industry does. Marijuana purveyors will go after youth, their future customer base. Without the youth their business would fail since children who reach 21 without using drugs have been found to live the rest of their lives free from the harms and addictions of drug abuse.

A National Institute on Alcoholism and Alcohol Abuse report titled Updating Estimates of the Economic Costs of Alcohol Abuse in the United States: Estimates, Update Methods and Data, states that alcohol-related costs from health care, lost productivity and criminal justice amount to over \$185 billion. The Tax Policy Center shows that federal excise taxes on alcohol in 2007 totaled around \$9 billion while states collected around \$5.5 billion. Even when combined, \$14.5 billion doesn't put a dent in the \$185 billion societal costs associated with alcohol. Without evidence to prove otherwise, one can only surmise the same outcomes for marijuana.

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Vote NO on any measure that will increase the availability and escalate the dangers associated with marijuana and pot shops in our community!

Sincerely,

Katie Hall

From: hykirkish@charter.net
To: cityclerk@ci.long-beach.ca.us
Date: 07/08/2010 11:07 PM
Subject: Long Beach considers marijuana tax

Holly Kirkish
6440 Barron Place
Gilroy, CA 95020-6726

July 9, 2010

City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802-4604

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Vote NO on any measure that will increase the availability and escalate the dangers associated with marijuana and pot shops in our community!

Sincerely,

Holly Kirkish

From: dnlawgator@aol.com
To: cityclerk@ci.long-beach.ca.us
Date: 07/10/2010 12:47 AM
Subject: Long Beach considers marijuana tax

Francine McDermott
2509 Fairway Dr
Blythe, CA 92225-9579

July 10, 2010

City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802-4604

Dear City of Long Beach:

I am writing as a concerned citizen to urge you to decline pursuing any measure that would tax marijuana.

Proponents of this measure claim that marijuana should be taxed like alcohol and tobacco. It may sound like a good idea, but in reality it just doesn't work.

Tax revenue collected from tobacco and alcohol do not come close to covering the costs associated with those substances. A National Institute on Alcoholism and Alcohol Abuse report titled Updating Estimates of the Economic Costs of Alcohol Abuse in the United States: Estimates, Update Methods and Data, states that alcohol-related costs from health care, lost productivity and criminal justice amount to over \$185 billion. The Tax Policy Center shows that federal excise taxes on alcohol in 2007 totaled around \$9 billion while states collected around \$5.5 billion. Even when combined, \$14.5 billion doesn't put a dent in the \$185 billion societal costs associated with alcohol. Without evidence to prove otherwise, one can only surmise the same outcomes for marijuana.

Taxing marijuana will only increase black market demand for those who don't want to pay the additional fee and increase black market availability for those sellers who don't want to operate within the law.

According to the Framework Convention Alliance for Tobacco Control, each year tens of billions of cigarettes vanish into the black market, reducing government revenue and financing criminal groups. The Tobacco Atlas reports that about 600 billion cigarettes were sold on the black market in 2006, and recent news reports the situation is getting much worse. The loss of tax revenue resulting from black market sales falls on the national finance ministries not on the tobacco manufacturers who make their profit when the product is distributed. Tobacco is smuggled into the black market during distribution from manufacturers to retail establishments; the same is likely to happen with marijuana while it travels between cultivators and retailers.

Taxing marijuana is not the answer to our economic problems. Perhaps the council should consider banning dispensaries outright. Banning dispensaries would ease the city's economic concerns by reducing the burden to law enforcement that spends additional hours working the crimes associated with pot shops. Robberies, violence and other illegal activities are highlighted daily by media outlets.

Vote NO on any measure that will increase the availability and escalate the dangers associated with marijuana and pot shops in our community!

Sincerely,

Francine McDermott

From: jlrowse@gmail.com
To: cityclerk@ci.long-beach.ca.us
Date: 07/08/2010 04:32 PM
Subject: jlrowse@gmail.com

Janet Rowse
201 Las Ondas
Santa Barbara, CA 93109-2117

July 8, 2010

City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802-4604

Dear City of Long Beach:

I am writing as a concerned citizen to urge you to decline pursuing any measure that would tax marijuana.

Proponents of this measure claim that marijuana should be taxed like alcohol and tobacco. It may sound like a good idea, but in reality it just doesn't work.

Tax revenue collected from tobacco and alcohol do not come close to covering the costs associated with those substances. A National Institute on Alcoholism and Alcohol Abuse report titled Updating Estimates of the Economic Costs of Alcohol Abuse in the United States: Estimates, Update Methods and Data, states that alcohol-related costs from health care, lost productivity and criminal justice amount to over \$185 billion. The Tax Policy Center shows that federal excise taxes on alcohol in 2007 totaled around \$9 billion while states collected around \$5.5 billion. Even when combined, \$14.5 billion doesn't put a dent in the \$185 billion societal costs associated with alcohol. Without evidence to prove otherwise, one can only surmise the same outcomes for marijuana.

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Vote NO on any measure that will increase the availability and escalate the dangers associated with marijuana and pot shops in our community!

Santa Barbara

Janet Rowse

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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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH CALLING AN ELECTION TO BE HELD NOVEMBER 2, 2010 FOR THE PURPOSE OF SUBMITTING TO THE VOTERS OF THE CITY OF LONG BEACH AN ORDINANCE AMENDING CHAPTER 3.80 OF THE LONG BEACH MUNICIPAL CODE, RELATING TO A MARIJUANA BUSINESS LICENSE GENERAL TAX

WHEREAS, through the passage of Proposition 215, the voters of California authorized the use of marijuana for medical purposes in 1996; and

WHEREAS, the City Council of the City of Long Beach has adopted medical marijuana permitting regulations to prevent nuisance, provide for effective controls, enable medical marijuana patients to obtain medical marijuana from safe sources, and provide appropriate licensing and revenues for the City in a manner consistent with state law; and

WHEREAS, every person engaged in business activity in the City of Long Beach is required to obtain a business tax certificate and to pay the City's business tax; and

WHEREAS, the City of Long Beach has a business tax system which applies to all businesses in the City, and which contains a list of categories of types of businesses, and provides for the collection of business taxes at specified rates based on the classifications of the businesses operating in the City; and

WHEREAS, because medical marijuana collectives, marijuana businesses and marijuana cultivation facilities did not exist at the time the business tax system was created, Long Beach's current business tax category list does not contain a specific tax category for such businesses; and

1 WHEREAS, Proposition 19 is a California ballot proposition which will be on
2 the November 2, 2010 California statewide ballot. It legalizes various marijuana-related
3 activities, allows local governments to regulate these activities, permits local
4 governments to impose and collect marijuana-related fees and taxes, and authorizes
5 various criminal and civil penalties.

6 WHEREAS, accordingly, the City Council of the City of Long Beach desires
7 to amend Chapter 3.80, adding Section 3.80.260 to the Long Beach Municipal Code to
8 create such categories; and

9 WHEREAS, all revenues received from the tax will be deposited in the
10 General Fund of the City to be expended for general fund purposes; and

11 WHEREAS, pursuant to Section 2(b) of California Constitution Article XIII C,
12 the City Council hereby unanimously declares the existence of an emergency in that
13 predicted deficits in the City's General Fund may greatly impact the City's financial ability
14 to provide essential municipal services without disruption, such that a special election is
15 necessary to address such risks and dangers before the next regularly scheduled
16 municipal election for members of the City Council on April 10, 2012;

17 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
18 follows:

19 Section 1. Under the provisions of the Constitution and laws of the State
20 of California and the Charter of the City of Long Beach, an election is ordered,
21 proclaimed and called to be held in the City of Long Beach, between the hours of 7:00
22 a.m., and 8:00 p.m., on Tuesday, the 2nd day of November, 2010, for the purpose of
23 submitting to a vote of the qualified electors of the City of Long Beach the following
24 proposition which, for identification purposes only, is marked as Proposition A.

25 Proposition A. Long Beach Marijuana General Tax Measure.

26 To protect public safety services such as 911 emergency response,
27 police and fire, as well as essential quality of life programs like parks,
28 libraries, public works and infrastructure, should the City of Long Beach

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impose a 10% tax on recreational marijuana businesses if legalized, and a 5% tax on existing medical marijuana businesses, with a \$25 tax on cultivation sites per square foot, with an annual CPI adjustment?

Section 2. Notice is hereby given of the time and place of the election. The City Clerk is directed and authorized to print and publish the proposition as required by law. All particulars not provided in this resolution shall be held under the provisions of law governing the conduct of such elections in the City of Long Beach.

Section 3. The proposition shall be stated as provided in Section 13119 of the Elections Code of the State of California. The ballot used in voting upon the propositions shall contain the words "yes" and "no". The text of Proposition A is set forth in full in Exhibit "A".

Section 4. That only qualified voters of the City of Long Beach shall be permitted to vote in the election called by this resolution.

Section 5. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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

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:

Noes: Councilmembers:

Absent: Councilmembers:

City Clerk

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EXHIBIT A

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LONG BEACH,
CALIFORNIA AMENDING THE LONG BEACH MUNICIPAL
CODE BY ADDING SECTION 3.80.260 RELATING TO A
MARIJUANA BUSINESS LICENSE GENERAL TAX

THE PEOPLE OF THE CITY OF LONG BEACH DO ORDAIN AS
FOLLOWS:

Section 1. The Long Beach Municipal Code is amended by adding Section
3.80.260 to read as follows:

3.80.260 Medical Marijuana Collectives and Marijuana Businesses.

A. Annual Business License Tax.

1. Every Medical Marijuana Collective or Marijuana
Business whether it is a "not for profit," a "non-profit," or a "Non-Profit
Organization," as defined in this Section, or a for-profit business shall pay
an annual business license tax in accordance with Chapter 3.80 of this
Code and the sections and subsections hereunder.

2. For the purposes of this Section, a Marijuana
Collective, a Marijuana Business, and a Marijuana Cultivation Facility are
each considered to be a business as that term is defined in Long Beach
Municipal Code 3.80.133.

3. For the purposes of this Section, a Medical Marijuana
Collective, a Marijuana Business and a Marijuana Cultivation Facility are
not considered to be a religious or charitable organization as defined in
3.80.320 (Exemption – Religious and charitable organizations).

1 4. For the purposes of this Section, "Medical Marijuana
2 Collective" shall have the same meaning and definition as is set forth in
3 Chapter 5.87 of this Code.

4 5. For the purposes of this Section, "Marijuana
5 Business" shall mean any activity that involves, but is not limited to
6 planting, cultivating, harvesting, transporting, dispensing, delivering,
7 selling at retail or wholesale, manufacturing, compounding, converting,
8 processing, preparing, storing, packaging or testing, any part of the plant
9 Cannabis sativa L, or any of its derivatives.

10 6. For the purposes of this Section, not for profit, a non-
11 profit, or a "Non-Profit Organization" shall mean any association,
12 corporation or other entity that is exempt from taxation measured by
13 income or gross receipts under Article XIII, Section 26 of the California
14 Constitution.

15 7. For the purposes of this Section, "Gross Receipts"
16 shall mean any transfer of title or possession, exchange or barter,
17 conditional or otherwise, in any manner or by any means whatsoever, of
18 tangible personal property for a consideration including any monetary
19 consideration for marijuana whatsoever, including, but not limited to,
20 membership dues, reimbursements or the total amount, in any calendar
21 year of cash or in-kind contributions, or reasonable compensation
22 provided by medical marijuana management members, qualified patients,
23 or members towards a medical marijuana collective's actual expenses
24 including all operating costs related to the growth, cultivation or provision
25 of medical marijuana or any transaction related thereto in accordance with
26 the provisions of Chapter 5.87 of this Code. The term "Gross Receipts"
27 for either a medical marijuana collective or a medical marijuana business
28 shall also include the total amount, in any calendar year, of the sale price

1 of all sales, the total amount charged or received for the performance of
2 any act, service or employment of whatever nature it may be, whether or
3 not such service, act or employment is done as a part of or in connection
4 with the sale of goods, wares, merchandise, for which a charge is made or
5 credit allowed, including all refunds, cash credits and properties of any
6 amount or nature, any amount for which credit is allowed by the seller to
7 the purchaser without any deduction therefrom, on account of the cost of
8 the property sold, the cost of materials used, the labor or service cost,
9 interest paid or payable, losses, or any other expense whatsoever;
10 provided that cash discounts allowed or payment on sales shall not be
11 included. "Gross receipts" shall also include the amount of any federal,
12 manufacturer's or importer's excise tax included in the price of property
13 sold, even though the manufacturer or importer is also the retailer thereof
14 and whether or not the amount of such tax is stated as a separate charge.
15 "Gross receipts" shall not include the amount of any federal tax imposed
16 on or with respect to retail sales whether or not the amount of such tax is
17 stated as a separate charge. "Gross receipts" shall not include the
18 amount of any federal tax imposed on or with respect to retail sales
19 whether imposed upon the retailer or the consumer and regardless of
20 whether or not the amount of federal tax is stated to customers as a
21 separate charge, or any California state, city or city and county sales or
22 use tax required by law to be included in or added to the purchase price
23 and collected from the consumer or purchaser, or such part of the sales
24 price of any property previously sold and returned by the purchaser to the
25 seller which is refunded by the seller by way of cash or credit allowances
26 given or taken as part payment on any property so accepted for resale.
27 Gross Receipts shall be calculated without any deduction on account of
28 any of the following:

- 1 a. The cost of tangible property sold or bartered;
2 b. The cost of materials or products used, labor or
3 service cost, interest paid, losses, or other expense; or
4 c. The cost of transportation of the marijuana, or
5 other property or product.

6 8. For the purposes of this Section, "Square foot" or
7 "Square footage" shall mean the sum of the gross horizontal areas of all
8 floors, including garages, carports, porches or similar structures, parking
9 structures, usable basement areas, cellars, hallways, or common areas
10 below the roof and within the outer surface of the main walls of buildings
11 (or the center lines of party walls separating such buildings or portions
12 thereof) or within the lines drawn parallel to and two feet within the roof
13 line of any building or portion thereof without walls (which includes square
14 footage of all porches), and including pedestrian walkways or corridors.

15 8. For the purposes of this Section, "Cultivation Facility"
16 or Grow Site" shall mean the square footage of any place or location
17 where marijuana or any of its derivatives is cultivated, grown, harvested,
18 packaged, processed or stored.

19 B. Business License tax rates for medical marijuana collectives,
20 Marijuana businesses, and cultivation facilities.

21 1. Every Medical Marijuana Collective shall pay Fifty
22 Dollars (\$50.00) per thousand dollars of gross receipts as and for its
23 business license tax.

24 2. Every Marijuana Business shall pay One Hundred
25 Dollars (\$100.00) per thousand dollars of gross receipts as and for its
26 business license tax.

27 3. The owner, operator, or lessee of any "Marijuana
28 Cultivation Facility" or "Grow Site" whether existing to supply marijuana to

1 a Medical Marijuana Collective or a Marijuana Business shall pay a tax of
2 Twenty-five Dollars (\$25.00) per square foot on all improvements owned,
3 rented, leased or otherwise occupied or used by a Cultivation Facility or
4 Grow Site.

5 4. Notwithstanding Section 3.80.320 of this Code, there
6 is imposed on every Medical Marijuana Collective that is a not for profit, a
7 non profit, or Non-Profit Organization, including all of its ancillary locations,
8 regardless of the number of square feet it occupies, a tax of Five Dollars
9 (\$5.00) per square foot on all business improvements occupied by that
10 Medical Marijuana Collective and Cultivation Facility or Grow Site. For the
11 purpose of this Section, all of the square feet of improvements owned,
12 rented, leased or otherwise occupied or used by a Medical Marijuana
13 Collective within the City shall be cumulated.

14 5. Notwithstanding Section 3.80.320 of this Code, there
15 is imposed on every Marijuana Business that is a not for profit, a non
16 profit, or Non-Profit Organization, including all of its ancillary locations,
17 regardless of the number of square feet it occupies, a tax of Ten Dollars
18 (\$10.00) per square foot on all business improvements occupied by that
19 Marijuana Business and Cultivation Facility or Grow Site. For the purpose
20 of this Section, all of the square feet of improvements owned, rented,
21 leased or otherwise occupied or used by a Marijuana Business within the
22 City shall be cumulated.

23 6. All Marijuana Businesses, Medical Marijuana
24 Collectives, or Marijuana Cultivation Facilities shall pay a minimum tax of
25 One Thousand Dollars (\$1,000.00) annually.

26 C. Modification, Repeal or Amendment.

27 The City Council may repeal the ordinance codified in this Section,
28 or amend it in a manner, which does not result in an increase in the tax or

1 taxes imposed herein, without further voter approval. If the City council
2 repeals said ordinance or any provision of this Section, it may
3 subsequently reenact it without voter approval, as long as the reenacted
4 ordinance or section does not result in an increase in the tax or taxes
5 imposed herein.

6 D. Administration.

7 The City Manager, or designee, may promulgate regulations to
8 implement and administer this Section including, but not limited to
9 regulations allowing Medical Marijuana Collectives or Marijuana
10 Businesses to remit taxes less frequently than monthly.

11 E. Annual Adjustment.

12 The taxes imposed by this Section shall be adjusted annually by
13 the Director of Financial Management. Beginning on July 1, 2012, and on
14 July 1 of each succeeding year thereafter, the amount of each tax
15 imposed by this Section shall be adjusted equivalent to the most recent
16 change in the annual average of the Consumer Price Index (CPI) for all
17 urban consumers in the Los Angeles-Riverside-Orange County areas as
18 published by the United States Government Bureau of Labor Statistics;
19 however no adjustment shall decrease any tax imposed by this Section.
20 For the purposes of calculating the annual adjustment factor under this
21 Section, the base year shall be that year ending with December 31, 2010.
22 Rates shall next be adjusted on July 1, 2012, and annually thereafter,
23 based on the annually calculated change from the base year. The July 1,
24 2012 adjustment shall be the change in the average CPI for the year
25 ending December 31, 2011.

26 F. Application to Residential Use.

27 This Section does not apply to individual cultivation of Marijuana for
28 consumption or use of any individual at his or her residence, or for the

1 consumption by another individual or individuals regularly residing at said
2 residence, if such consumption or cultivation is otherwise permitted by
3 state and local law.

4 G. Reporting and Remittance.

5 In order to aid in the City's collection of taxes due under this section
6 and to ensure that all Medical Marijuana Collectives and Marijuana
7 Businesses and Cultivation Sites are taxed consistently to the best of the
8 City's ability, beginning December 1, 2010 and monthly thereafter, each
9 Medical Marijuana Collective and Marijuana Business shall report to the
10 City any Gross Receipts received during the reporting period and shall
11 likewise remit to the City the taxes due and owing during said period. For
12 purposes of this Section, taxes shall begin to accrue on the date that a
13 person or entity first receives a business license or other permit to operate
14 as a Medical Marijuana Collective, Marijuana Business or Cultivation Site.
15 Square Footage payments shall be made annually at the beginning of the
16 calendar year and should be based on the most recent County Assessors
17 records.

18 H. Delinquent date-Penalty.

19 Any individual or entity who fails to pay the taxes required by this
20 section within thirty (30) days after the due date shall pay in addition to the
21 taxes a penalty for nonpayment in a sum equal to twenty-five percent
22 (25%) of the total amount due. Additional penalties will be assessed in the
23 following manner: ten percent (10%) shall be added on the first day of
24 each calendar month following the month of the imposition of the twenty
25 five percent (25%) penalty if the tax remains unpaid; up to a maximum of
26 one hundred percent (100%) of the tax payable on the due date. Receipt
27 of the tax payment in the office shall govern the determination of whether
28 the tax is delinquent. Postmarks will not be accepted as adequate proof of

1 a timely payment.

2 I. Records Inspection.

3 Whenever it is necessary to examine any books or records,
4 including tax returns, of any Medical Marijuana Collective, Marijuana
5 Business or Cultivation Site in the City to ascertain the amount of any tax
6 due pursuant to this Section, the City shall have the power and authority to
7 examine such necessary books and records at any reasonable time
8 including, but not limited to, during normal business hours. Records must
9 be maintained for no less than seven (7) years.

10 J. Suspension, Revocation and Appeal.

11 The provisions of Sections 3.80.429.1 (Suspension or Revocation)
12 and Section 3.80.429.5 (Appeal of License Revocation) shall apply in the
13 case of Medical Marijuana Collectives, Marijuana Businesses or
14 Cultivation Sites governed by this Section.

15
16 Section 3. If any section, sentence, clause, phrase, or portion of this
17 Ordinance is for any reason held to be invalid or unenforceable by a court of competent
18 jurisdiction, the remaining sections, sentences, clauses, phrases, or portions of this
19 ordinance shall nonetheless remain in full force and effect. The people of the City of Long
20 Beach hereby declare that they would have adopted each section, sentence, clause,
21 phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections,
22 sentences, clauses, phrases, or portions of this Ordinance be declared invalid or
23 unenforceable and, to that end, the provisions of this Ordinance are severable.

24 Section 4. As provided in Section 2001 of the Long Beach City Charter, if
25 a majority of those electors voting on this ordinance vote in favor of same, it shall be
26 adopted upon a declaration of the result of such ballot by the City Council, and it shall
27 take effect ten (10) days after that date.

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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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH CALLING AN ELECTION TO BE HELD NOVEMBER 2, 2010 FOR THE PURPOSE OF SUBMITTING TO THE VOTERS OF THE CITY OF LONG BEACH AN ORDINANCE AMENDING CHAPTER 3.80 OF THE LONG BEACH MUNICIPAL CODE, RELATING TO A MARIJUANA BUSINESS LICENSE SPECIALTAX

WHEREAS, through the passage of Proposition 215, the voters of California authorized the use of marijuana for medical purposes in 1996; and

WHEREAS, the City Council of the City of Long Beach has adopted medical marijuana permitting regulations to prevent nuisance, provide for effective controls, enable medical marijuana patients to obtain medical marijuana from safe sources, and provide appropriate licensing and revenues for the City in a manner consistent with state law; and

WHEREAS, every person engaged in business activity in the City of Long Beach is required to obtain a business tax certificate and to pay the City's business tax; and

WHEREAS, the City of Long Beach has a business tax system which applies to all businesses in the City, and which contains a list of categories of types of businesses, and provides for the collection of business taxes at specified rates based on the classifications of the businesses operating in the City; and

WHEREAS, because medical marijuana collectives, marijuana businesses and marijuana cultivation facilities did not exist at the time the business tax system was created, Long Beach's current business tax category list does not contain a specific tax category for such businesses; and

1 WHEREAS, Proposition 19 is a California ballot proposition which will be on
2 the November 2, 2010 California statewide ballot. It legalizes various marijuana-related
3 activities, allows local governments to regulate these activities, permits local
4 governments to impose and collect marijuana-related fees and taxes, and authorizes
5 various criminal and civil penalties; and

6 WHEREAS, accordingly, the City Council of the City of Long Beach desires
7 to amend Chapter 3.80, adding Section 3.80.260 to the Long Beach Municipal Code to
8 create such categories; and

9 WHEREAS, all revenues received from the tax will be deposited in the
10 General Fund of the City to be expended for general fund purposes.

11 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
12 follows:

13 Section 1. Under the provisions of the Constitution and laws of the State
14 of California and the Charter of the City of Long Beach, an election is ordered,
15 proclaimed and called to be held in the City of Long Beach, between the hours of 7:00
16 a.m., and 8:00 p.m., on Tuesday, the 2nd day of November, 2010, for the purpose of
17 submitting to a vote of the qualified electors of the City of Long Beach the following
18 proposition which, for identification purposes only, is marked as Proposition A.

19 Proposition A. Long Beach Marijuana Special Tax Measure.

20 To protect public safety services such as 911 emergency response,
21 police and fire, as well as essential quality of life programs like parks,
22 libraries, public works and infrastructure, should the City of Long Beach
23 impose a 10% tax on recreational marijuana businesses if legalized, and a
24 5% tax on medical marijuana businesses, with a \$25 per square foot tax on
25 cultivation sites, with an annual CPI adjustment?

26
27 Section 2. Notice is hereby given of the time and place of the election.
28 The City Clerk is directed and authorized to print and publish the proposition as required

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EXHIBIT A

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF LONG BEACH,
CALIFORNIA AMENDING THE LONG BEACH MUNICIPAL
CODE BY ADDING SECTION 3.80.260 RELATING TO A
MARIJUANA BUSINESS LICENSE SPECIAL TAX**

**THE PEOPLE OF THE CITY OF LONG BEACH DO ORDAIN AS
FOLLOWS:**

**Section 1. The Long Beach Municipal Code is amended by adding Section
3.80.260 to read as follows:**

3.80.260 Medical Marijuana Collectives and Marijuana Businesses.

A. Annual Business License Tax.

**1. Every Medical Marijuana Collective or Marijuana
Business whether it is a not for profit, a non-profit, or a Non-Profit
Organization, as defined in this Section, or a for-profit business shall pay
an annual business license tax in accordance with Chapter 3.80 of this
Code and the sections and subsections hereunder.**

**2. For the purposes of this Section, a Marijuana
Collective, a Marijuana Business, and a Marijuana Cultivation Facility are
each considered to be a business as that term is defined in Long Beach
Municipal Code 3.80.133.**

**3. For the purposes of this Section, a Medical Marijuana
Collective, a Marijuana Business and a Marijuana Cultivation Facility are
not considered to be a religious or charitable organization as defined in
3.80.320 (Exemption – Religious and charitable organizations).**

1 4. For the purposes of this Section, "Medical Marijuana
2 Collective" shall have the same meaning and definition as is set forth in
3 Chapter 5.87 of this Code.

4 5. For the purposes of this Section, "Marijuana
5 Business" shall mean any activity that involves, but is not limited to
6 planting, cultivating, harvesting, transporting, dispensing, delivering,
7 selling at retail or wholesale, manufacturing, compounding, converting,
8 processing, preparing, storing, packaging or testing, any part of the plant
9 Cannabis sativa L, or any of its derivatives.

10 6. For the purposes of this Section, not for profit, a non-
11 profit, or a Non-Profit Organization shall mean any association,
12 corporation or other entity that is exempt from taxation measured by
13 income or gross receipts under Article XIII, Section 26 of the California
14 Constitution.

15 7. For the purposes of this Section, "Gross Receipts"
16 shall mean any transfer of title or possession, exchange or barter,
17 conditional or otherwise, in any manner or by any means whatsoever, of
18 tangible personal property for a consideration including any monetary
19 consideration for marijuana whatsoever, including, but not limited to,
20 membership dues, reimbursements or the total amount, in any calendar
21 year of cash or in-kind contributions, or reasonable compensation
22 provided by medical marijuana management members, qualified patients,
23 or members towards a medical marijuana collective's actual expenses
24 including all operating costs related to the growth, cultivation or provision
25 of medical marijuana or any transaction related thereto in accordance with
26 the provisions of Chapter 5.87 of this Code. The term "Gross Receipts"
27 for either a medical marijuana collective or a medical marijuana business
28 shall also include the total amount, in any calendar year, of the sale price

1 of all sales, the total amount charged or received for the performance of
2 any act, service or employment of whatever nature it may be, whether or
3 not such service, act or employment is done as a part of or in connection
4 with the sale of goods, wares, merchandise, for which a charge is made or
5 credit allowed, including all refunds, cash credits and properties of any
6 amount or nature, any amount for which credit is allowed by the seller to
7 the purchaser without any deduction therefrom, on account of the cost of
8 the property sold, the cost of materials used, the labor or service cost,
9 interest paid or payable, losses, or any other expense whatsoever;
10 provided that cash discounts allowed or payment on sales shall not be
11 included. "Gross receipts" shall also include the amount of any federal,
12 manufacturer's or importer's excise tax included in the price of property
13 sold, even though the manufacturer or importer is also the retailer thereof
14 and whether or not the amount of such tax is stated as a separate charge.
15 "Gross receipts" shall not include the amount of any federal tax imposed
16 on or with respect to retail sales whether or not the amount of such tax is
17 stated as a separate charge. "Gross receipts" shall not include the
18 amount of any federal tax imposed on or with respect to retail sales
19 whether imposed upon the retailer or the consumer and regardless of
20 whether or not the amount of federal tax is stated to customers as a
21 separate charge, or any California state, city or city and county sales or
22 use tax required by law to be included in or added to the purchase price
23 and collected from the consumer or purchaser, or such part of the sales
24 price of any property previously sold and returned by the purchaser to the
25 seller which is refunded by the seller by way of cash or credit allowances
26 given or taken as part payment on any property so accepted for resale.
27 Gross Receipts shall be calculated without any deduction on account of
28 any of the following:

- 1 a. The cost of tangible property sold or bartered;
- 2 b. The cost of materials or products used, labor or
- 3 service cost, interest paid, losses, or other expense; or
- 4 c. The cost of transportation of the marijuana, or
- 5 other property or product.

6 8. For the purposes of this Section, "Square foot" or
7 "Square footage" shall mean the sum of the gross horizontal areas of all
8 floors, including garages, carports, porches or similar structures, parking
9 structures, usable basement areas, cellars, hallways, or common areas
10 below the roof and within the outer surface of the main walls of buildings
11 (or the center lines of party walls separating such buildings or portions
12 thereof) or within the lines drawn parallel to and two feet within the roof
13 line of any building or portion thereof without walls (which includes square
14 footage of all porches), and including pedestrian walkways or corridors.

15 8. For the purposes of this Section, "Cultivation Facility"
16 or Grow Site" shall mean the square footage of any place or location
17 where marijuana or any of its derivatives is cultivated, grown, harvested,
18 packaged, processed or stored.

19 B. Business License tax rates for medical marijuana collectives,
20 Marijuana businesses, and cultivation facilities.

21 1. Every Medical Marijuana Collective shall pay Fifty
22 Dollars (\$50.00) per thousand dollars of gross receipts as and for its
23 business license tax.

24 2. Every Marijuana Business shall pay One Hundred
25 Dollars (\$100.00) per thousand dollars of gross receipts as and for its
26 business license tax.

27 3. The owner, operator, or lessee of any "Marijuana
28 Cultivation Facility" or "Grow Site" whether existing to supply marijuana to

1 a Medical Marijuana Collective or a Marijuana Business shall pay a tax of
2 Twenty-five Dollars (\$25.00) per square foot on all improvements owned,
3 rented, leased or otherwise occupied or used by a Cultivation Facility or
4 Grow Site.

5 4. Notwithstanding Section 3.80.320 of this Code, there
6 is imposed on every Medical Marijuana Collective that is a not for profit, a
7 non profit, or Non-Profit Organization, including all of its ancillary locations,
8 regardless of the number of square feet it occupies, a tax of Five Dollars
9 (\$5.00) per square foot on all business improvements occupied by that
10 Medical Marijuana Collective and Cultivation Facility or Grow Site. For the
11 purpose of this Section, all of the square feet of improvements owned,
12 rented, leased or otherwise occupied or used by a Medical Marijuana
13 Collective within the City shall be cumulated.

14 5. Notwithstanding Section 3.80.320 of this Code, there
15 is imposed on every Marijuana Business that is a not for profit, a non
16 profit, or Non-Profit Organization, including all of its ancillary locations,
17 regardless of the number of square feet it occupies, a tax of Ten Dollars
18 (\$10.00) per square foot on all business improvements occupied by that
19 Marijuana Business and Cultivation Facility or Grow Site. For the purpose
20 of this Section, all of the square feet of improvements owned, rented,
21 leased or otherwise occupied or used by a Marijuana Business within the
22 City shall be cumulated.

23 6. All Marijuana Businesses, Medical Marijuana
24 Collectives, or Marijuana Cultivation Facilities shall pay a minimum tax of
25 One Thousand Dollars (\$1,000.00) annually.

26 C. Modification, Repeal or Amendment.

27 The City Council may repeal the ordinance codified in this Section,
28 or amend it in a manner, which does not result in an increase in the tax or

1 taxes imposed herein, without further voter approval. If the City council
2 repeals said ordinance or any provision of this Section, it may
3 subsequently reenact it without voter approval, as long as the reenacted
4 ordinance or section does not result in an increase in the tax or taxes
5 imposed herein.

6 D. Administration.

7 The City Manager, or designee, may promulgate regulations to
8 implement and administer this Section including, but not limited to
9 regulations allowing Medical Marijuana Collectives or Marijuana
10 Businesses to remit taxes less frequently than monthly.

11 E. Annual Adjustment.

12 The taxes imposed by this Section shall be adjusted annually by
13 the Director of Financial Management. Beginning on July 1, 2012, and on
14 July 1 of each succeeding year thereafter, the amount of each tax
15 imposed by this Section shall be adjusted equivalent to the most recent
16 change in the annual average of the Consumer Price Index (CPI) for all
17 urban consumers in the Los Angeles-Riverside-Orange County areas as
18 published by the United States Government Bureau of Labor Statistics;
19 however no adjustment shall decrease any tax imposed by this Section.
20 For the purposes of calculating the annual adjustment factor under this
21 Section, the base year shall be that year ending with December 31, 2010.
22 Rates shall next be adjusted on July 1, 2012, and annually thereafter,
23 based on the annually calculated change from the base year. The July 1,
24 2012 adjustment shall be the change in the average CPI for the year
25 ending December 31, 2011.

26 F. Application to Residential Use.

27 This Section does not apply to individual cultivation of Marijuana for
28 consumption or use of any individual at his or her residence, or for the

1 consumption by another individual or individuals regularly residing at said
2 residence, if such consumption or cultivation is otherwise permitted by
3 state and local law.

4 G. Reporting and Remittance.

5 In order to aid in the City's collection of taxes due under this section
6 and to ensure that all Medical Marijuana Collectives and Marijuana
7 Businesses and Cultivation Sites are taxed consistently to the best of the
8 City's ability, beginning December 1, 2010 and monthly thereafter, each
9 Medical Marijuana Collective and Marijuana Business shall report to the
10 City any Gross Receipts received during the reporting period and shall
11 likewise remit to the City the taxes due and owing during said period. For
12 purposes of this Section, taxes shall begin to accrue on the date that a
13 person or entity first receives a business license or other permit to operate
14 as a Medical Marijuana Collective, Marijuana Business or Cultivation Site.
15 Square Footage payments shall be made annually at the beginning of the
16 calendar year and should be based on the most recent County Assessors
17 records.

18 H. Delinquent date-Penalty.

19 Any individual or entity who fails to pay the taxes required by this
20 section within thirty (30) days after the due date shall pay in addition to the
21 taxes a penalty for nonpayment in a sum equal to twenty-five percent
22 (25%) of the total amount due. Additional penalties will be assessed in the
23 following manner: ten percent (10%) shall be added on the first day of
24 each calendar month following the month of the imposition of the twenty
25 five percent (25%) penalty if the tax remains unpaid; up to a maximum of
26 one hundred percent (100%) of the tax payable on the due date. Receipt
27 of the tax payment in the office shall govern the determination of whether
28 the tax is delinquent. Postmarks will not be accepted as adequate proof of

1 a timely payment.

2 I. Records Inspection.

3 Whenever it is necessary to examine any books or records,
4 including tax returns, of any Medical Marijuana Collective, Marijuana
5 Business or Cultivation Site in the City to ascertain the amount of any tax
6 due pursuant to this Section, the City shall have the power and authority to
7 examine such necessary books and records at any reasonable time
8 including, but not limited to, during normal business hours. Records must
9 be maintained for no less than seven (7) years.

10 J. Suspension, Revocation and Appeal.

11 The provisions of Sections 3.80.429.1 (Suspension or Revocation)
12 and Section 3.80.429.5 (Appeal of License Revocation) shall apply in the
13 case of Medical Marijuana Collectives, Marijuana Businesses or
14 Cultivation Sites governed by this Section.

15 K. Special Tax.

16 There is established a permanent special fund entitled the
17 "Marijuana Business License Fund" (hereinafter the "fund"). Money
18 collected pursuant to this Section shall be deposited into said fund for
19 public safety, library, parks and recreation and infrastructure purposes.
20 Said special fund shall be used exclusively for such purposes, and for no
21 other purposes. Nothing in this Section shall prevent disbursements from
22 this special fund to reimburse the general fund and/or other funds if, and
23 only if, money has been advanced from those other funds to pay for the
24 uses herein. Any money raised by the special tax levied pursuant to this
25 Section, including any interest accrued thereon, that remains
26 unencumbered at the end of any fiscal year may only be used in
27 succeeding fiscal years for the purposes stated herein.
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Section 3. If any section, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, sentences, clauses, phrases, or portions of this ordinance shall nonetheless remain in full force and effect. The people of the City of Long Beach hereby declare that they would have adopted each section, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable and, to that end, the provisions of this Ordinance are severable.

Section 4. As provided in Section 2001 of the Long Beach City Charter, if two-thirds of those electors voting on this ordinance vote in favor of same, it shall be adopted upon a declaration of the result of such ballot by the City Council, and it shall take effect ten (10) days after that date.