



## **City of Long Beach**

*Working Together to Serve*

# **R-13**

**Memorandum**  
**3rd Council District**

**Date:** November 9, 2010

**To:** Honorable Mayor Foster and Members of the City Council

**From:** Gary DeLong, Councilmember, 3<sup>rd</sup> District  
Patrick O'Donnell, Councilmember, 4<sup>th</sup> District  
Gerrie Schipske, Councilmember, 5<sup>th</sup> District

**Subject:** **Medical Marijuana Ordinance Amendments**

Chapter 5.87 of the Long Beach Municipal Code is commonly referred to as the Medical Marijuana Ordinance. The ordinance was implemented to regulate the operation and location of collectives within laws enumerated by the State Compassionate Use Act and State Medical Marijuana Program Act.

The City Council enacted restrictions in an attempt to control the proliferation of collectives and to ensure public safety. The conditions of approval are outlined in Section 5.87.040 (attached). The ordinance restricts collectives to locations outside the following areas: Area zoned for exclusive residential use, within 1,000 feet of a K-8 grade school, within 1,500 feet of a high school, and within 1,000 feet of another collective.

In response to community concerns for additional public safety measures, we are proposing to add conditions to the ordinance. The following amendments are suggested for Council consideration:

- Collectives cannot be located within 1,000 feet of a Park, Library, or Day Care facility as licensed through the City of Long Beach.
- Limit the number of dispensary locations to 18 citywide, and no more than 2 dispensaries per district.
- Restrict the cultivation of Medical Marijuana to Industrial Zones.
- Require the collectives to produce Audited Financial Statements by a Certified Public Accountant (CPA) and submit their annual Sales Tax report for the Board of Equalization.
- Restrict hours of operation to Monday through Sunday 9:00am to 5:00pm
- In lieu of a Public Hearing provide a 45-day input/comment period while allowing the public to review submitted applications. Include an additional noticing to property owners once a permit is issued.
- Upon implementation of the amended ordinance, create a 1-year moratorium banning additional applications and request City Departments to come back and provide a report to City Council of effectiveness, impacts, and cost implications of implemented ordinance.
- Require permitted Collectives to have security cameras consistent with the Long Beach Police Department's requirements.

- Provide effected applicants a 60-day period to resubmit for an allowed location.

Additionally, request City Attorney to provide any further administrative changes that improve the implementation of the ordinance.

It is recommended that the appropriate Code sections be amended as outlined above to further ensure the safety and security of surrounding communities.

**Recommended Action: Respectfully request that the City Attorney prepare an amendment to Section 5.87.040 of the Long Beach Municipal Code regarding medical marijuana collective permit approval and operating conditions.**

#### **5.87.040 - Medical marijuana collective permit approval and operating conditions.**

The director of financial management shall approve and issue a medical marijuana collective permit if the application and evidence submitted in the hearing, conducted pursuant to Subsections 5.87.030D. and E., as set forth above, sufficiently demonstrate that:

- A. The property is not located in an area zoned in the city for exclusive residential use. Medical marijuana collectives are not permitted to operate in exclusive residential zones as established pursuant to Title 21 of this Code.
- B. The medical marijuana collective is not located within a one thousand five hundred (1,500) foot radius of a public or private high school or within a one thousand-foot radius of a public or private kindergarten, elementary, middle or junior high school. The distances specified in this subdivision shall be determined by the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medical marijuana collective is located, without regard to intervening structures.
- C. The medical marijuana collective is not located within a one thousand-foot radius of any other medical marijuana collective. The distance specified in this subdivision shall be determined by the horizontal distance measured in a straight line from the property line of any other medical marijuana collective, to the closest property line of the lot on which the permitted medical marijuana collective is located, without regard to intervening structures.
- D. Exterior building and parking area lighting at the property are in compliance with all applicable provisions of this Code.
- E. Any exterior or interior sign visible from the exterior of the property shall be unlighted.
- F. Windows and roof hatches at the property shall be secured so as to prevent unauthorized entry, and are equipped with latches that may be released quickly from the inside to allow exit in the event of emergency and are in compliance with all applicable building code provisions.
- G. The property provides sufficient sound absorbing insulation so that noise generated inside the premises is not audible anywhere on the adjacent property or public rights-of-way, or within any other building or other separate unit within the same building as the medical marijuana collective.
- H. The property provides a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the property is not detected outside the property, anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the medical marijuana collective.
- I. The property is monitored at all times by closed-circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on or adjacent to the property. The recordings shall be maintained at the property for a period of not less than thirty (30) days.
- J. The property has a centrally-monitored fire and burglar alarm system.
- K. A sign is posted in a conspicuous location inside the property advising:
  - 1. The diversion of marijuana for nonmedical purposes is a violation of state law.
  - 2. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.
  - 3. Loitering at the location of a medical marijuana collective for an illegal purpose is prohibited by California Penal Code Section 647(h).
  - 4. This medical marijuana collective is permitted in accordance with the laws of the City of Long Beach.
  - 5. The sale of marijuana and the diversion of marijuana for nonmedical purposes are violations of state law.
- L. Each applicant electing to manufacture edible medical marijuana shall manufacture the edible products for the sole consumption by qualified patient members and qualified patient management members of the collective, in compliance with all applicable state and local laws.
- M. The medical marijuana collective meets all applicable state and local laws to ensure that the operations of the collective are consistent with the protection of the health, safety and welfare of the community, qualified patients and their primary caregivers, and will not adversely affect surrounding uses.
- N. No collective shall operate for profit. Cash and in-kind contributions, reimbursements and reasonable compensation provided by management members and members towards the collective's actual expenses of the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in strict compliance with state law. All such cash and in-kind amounts and items shall be fully documented in accordance with Section 5.87.060 of this chapter.

- O. Collective cultivation of medical marijuana shall be limited to the medical marijuana collective members and management members.
- P. Cultivation of medical marijuana by the medical marijuana collective members and management members shall occur exclusively within the boundaries of the City of Long Beach and only at the property identified on the medical marijuana permit application.
- Q. Distribution of the medical marijuana collectively cultivated by the medical marijuana collective members and management members to collective members and management members shall occur exclusively within the boundaries of the City of Long Beach and only at the property identified on the medical marijuana permit application.
- R. If the cultivation of medical marijuana by the medical marijuana collective located within the City of Long Beach is to take place at a location other than the location where the medical marijuana is distributed to medical marijuana collective members and management members, then the location of cultivation shall likewise fully comply with the provisions of Section 5.87.040 and all of its subsections.
- S. Every medical marijuana collective shall maintain, on-site at the property, cultivation records, signed under penalty of perjury by each management member, identifying the location within the City of Long Beach at which the medical marijuana was cultivated, and the total number of said plants cultivated at each location.
- T. Representative samples of medical marijuana distributed by the collective shall be analyzed by an independent laboratory to ensure it is free of harmful pesticides and other contaminants regulated by local, state or federal regulatory or statutory standards.
- U. Any medical marijuana from which the representative sample tested positive for a harmful pesticide or other contaminant at a level which exceeds the local, state, or federal regulatory or statutory standards shall be destroyed forthwith; and
- V. Any medical marijuana provided to collective members shall be properly labeled in strict compliance with state and local laws.

(ORD-10-0007 § 1, 2010)