City of Long Beach
Working Together to Serve

Memorandum

Date: January 28, 2016

To: Mayor and Members of the City Council

From: Patrick H. West, City Manager

Subject: **Revised Medical Marijuana Ordinance Recommendations**

At the December 8, 2015 meeting, the City Council approved a motion directing the City Attorney's Office to draft a revised medical marijuana ordinance with the following conditions:

- Initially, no more than four (4) medical marijuana businesses may operate within the City, and shall be limited to home delivery service only, with no on-site retail sales or cultivation activities *(Phase I)*;
- One hundred and eighty (180) days after the first delivery-only medical marijuana business becomes operational, City staff shall report back to the City Council on the tax revenues collected from all permitted medical marijuana businesses in the City, the fiscal impact to the City in terms of enforcement costs, and any public safety issues related to the permitted medical marijuana businesses;
- At the time City staff presents its report to the City Council, the Council shall consider allowing any holder of a Conditional Use Permit for home delivery service to apply for a modification of its Conditional Use Permit allowing for on-site medical marijuana sales. Conditional Use Permits allowing for cultivation may also be considered at this time *(if approved, Phase II)*;
- One hundred and eighty (180) days after the first medical marijuana business to obtain a modified Conditional Use Permit allowing for on-site medical marijuana sales becomes operational, City staff shall report back to the City Council on the tax revenues collected from all permitted medical marijuana businesses in the City, the fiscal impact to the City in terms of enforcement costs, and any public safety issues related to the permitted medical marijuana businesses;
- At the time of the report by City staff to the City Council, Council shall consider allowing the issuance of up to three (3) additional medical marijuana Conditional Use Permits in the City for a total of seven (7) *(if approved, Phase III)*.

The City Attorney's Office has prepared a draft ordinance to comply with this City Council request. Together with the ordinance, staff has prepared an updated fiscal impact report that provides revenue and expense projections in the General Fund should Council adopt the ordinance as written. Any amendments to the proposed ordinance may require staff to update the fiscal impact to account for those changes.

Timing of Ordinance Implementation

If the City Council passes this ordinance, staff will begin immediate implementation; however, it will take significant time for a business to complete the Conditional Use Permit (CUP) and construction process. It is expected that, at best, it would take one year before approved and licensed businesses would be able to open. The tentative timeline is described below, which assumes the first reading of the ordinance on February 2, 2016.

Target Timeline for Phase I *(Delivery Only)*

March 2016	Design of Application Process will be completed
April 2016	CUP Applications will be due
November 2016	CUP process completed*
January 2016	Plan Check process completed
As needed	Permitting and construction process conducted
January 2017 *(approx.)*	Earliest date first delivery dispensary opens
July 2017	Staff reports back to Council on fiscal impact and safety issues related to medical marijuana

* If appeals are filed, the timeline for those applications could be delayed.

Should the City Council choose to approve on-site sales in Long Beach, as well as the three additional permits for dispensaries, for a total of seven (7) in the City, staff anticipates the following timeline for additional dispensary openings.

Target Timeline for Phase II *(Retail)* and Phase III *(three additional dispensaries)*

July 2017	CUP Modification Process initiated
October 2017 *(approx.)*	Earliest date first retail dispensary opens
April 2018	Council considers three additional dispensaries
March 2019 *(approx.)*	Earliest date three additional dispensaries open

Fiscal Impact Analysis of Ordinance

Using the main terms of the draft revised ordinance, the Financial Management Department (FM) worked with City departments and an independent consultant to calculate the estimated fiscal impact to the City. Given that the fiscal impact will change over time based on future decisions made by the City Council, the financial projections included in this report provide multi-year estimates for all three phases listed above.

Similar to the previous draft ordinance with nine (9) dispensaries, City departments requested resources to enforce the new draft ordinance at a cost that exceeds estimated revenues for all three phases of the proposed ordinance. Previously, with nine (9) dispensaries, City departments identified a need of $5 million in annual on-going costs. With the City facing an estimated shortfall of $5.1 million in the General Fund in FY 17, staff was of the opinion that the medical marijuana regulatory program should not add to that shortfall. Therefore, departments were asked to reduce their costs to $3.0 million. Under the new draft ordinance, department requests have been scaled back even further in order to meet long-term

revenues, estimated to be $2.7 million with seven (7) operational dispensaries. However, during the period with only four (4) permitted dispensaries, the costs to administer the ordinance are projected to exceed the estimated revenue as described below.

Upon approval of an ordinance, some departments will begin incurring costs immediately. This includes expenses related to the application process, anticipated legal challenges, and enforcement of unsanctioned businesses. Total one-time and ramp-up costs are expected to be about $845,000 in FY 16, and no revenue is expected to be available to offset the start-up costs.

During FY 17, revenue from the four (4) delivery-only establishments is projected to be $722,000, which includes the gross receipts tax, sales tax and a regulatory fee charged to the sanctioned businesses. Industry surveys show that medical marijuana demand is lower for delivery-only businesses. Over this same period, expenses are estimated at $1.45 million, which leads to an expected shortfall of $733,000 in FY 17.

In FY 18, revenues are projected to increase to $1.8 million with the conversion of four (4) dispensaries to allow on-site sales. The revenue projection assumes the City Council will also vote to allow cultivation in Long Beach. The City's costs in FY 18 are projected to be $2.7 million. The increased costs are primarily due to the additional enforcement required for both sanctioned and unsanctioned dispensaries following the approval of on-site sales. The gap between revenues and expenditures in FY 18 is estimated to be $822,000.

In FY 19 and beyond, with the assumption of seven (7) dispensaries including both delivery and cultivation, projected costs have been forced to balance with revenues by adjusting enforcement costs and efforts. The maximum revenue that the City is projected to receive under full operations and, at the highest level of authorized taxes (10 percent gross receipts / $50 per sq ft of cultivation), is $2.7 million, which includes a cost recovery regulatory fee of $84,195 for each of the seven licensed locations. The City's costs are projected to remain at $2.7 million, which is balanced to revenues. However, it should be noted that revenue projections represent very rough estimates. In addition, it is not clear what impact State regulations will have on revenues, as these regulations are still being developed.

Approach to Enforcement

As with the last fiscal impact presented to the City Council, departments were directed to cost out a new cross-departmental enforcement approach for the closing of unsanctioned businesses. The cross-departmental approach differs from earlier Police Department driven efforts in that it employs a team of staff members from multiple departments to cite illegal businesses for code, business license, and other potential violations in a single visit.

In addition to the cross-departmental enforcement model, departments were able to further realize savings through a new cross-training initiative, whereby Development Services staff will be trained to issue citations for both Code and Business License violations. The cross-training initiative will serve to further reduce enforcement costs of unsanctioned dispensaries without limiting the ability to cite illegal businesses for operating without a permit.

If the proposed ordinance is adopted, the hiring process for any new staff required will begin immediately; however, it will take time for staff to be hired through the Civil Service process, trained, and deployed. For the purposes of this analysis, we are assuming no new unsanctioned retail dispensaries will open until after sanctioned dispensaries are permitted. If this assumption proves incorrect, staff will return to the City Council to discuss options for enforcement and request additional funds, as the City will not be staffed to cite or enforce new unpermitted dispensaries.

Conclusion

Immediate action will be taken to implement a medical marijuana ordinance as directed by the City Council. This will include managing the application process, preparing the new unsanctioned business enforcement model, initiating the hiring of new staff, and physically making the necessary security arrangements to receive large amounts of cash. It is expected that the first sanctioned delivery-only businesses will be open in approximately one year.

A budgetary shortfall in FY 16 of approximately $845,000 is expected to be funded from FY 15 and FY 16 year-end surplus, as needed. The potential FY 17 and FY 18 shortfalls of $733,000 and $822,000 will be covered from any FY 16 and FY 17 surpluses. In FY 19 and beyond, revenues are expected to balance with costs. Program costs and revenues will be periodically reviewed so that adjustments can be made as necessary.

The use of one-time resources is appropriate on a short-term basis to reach the point where revenues are projected to cover expenses. However, if the City Council decides after the first 180 days of medical marijuana deliveries to maintain its ban on retail sales and cultivation, while continuing to allow the four delivery-only locations to operate long-term, the program will face an annual operating shortfall of $577,213. This ongoing deficit will need to be factored into the structural operating budget in order for the budget to be balanced.

The attached report contains the full fiscal impact analysis for estimated revenues and expenses. In order to avoid an operational shortfall in the General Fund, the maximum tax rates of 10 percent for gross receipts and $50 for cultivation square footage, along with the new enforcement model, is recommended. Any changes by the City Council to the proposed ordinance, enforcement model, tax rates, or status of cultivation in Long Beach will require a revised fiscal impact analysis.

LE:ak
K:\BUDGET\MEDICAL MARIJUANA\FY 16\1-26 COUNCIL TFF FILES\2-2-16_MED POT FISCAL IMPACT WITH COVER.DOCX

ATTACHMENT A: FISCAL IMPACT ANALYSIS OF DRAFT MEDICAL MARIJUANA ORDINANCE

CC. CHARLES PARKIN CITY ATTORNEY
DOUGLAS P. HAUBERT, CITY PROSECUTOR
LAURA L. DOUD, CITY AUDITOR
TOM MODICA, ASSISTANT CITY MANAGER
ARTURO SANCHEZ, DEPUTY CITY MANAGER
REBECCA JIMENEZ, ASSISTANT TO THE CITY MANAGER
ALL DEPARTMENT DIRECTORS

ATTACHMENT A:
FISCAL IMPACT ANALYSIS OF DRAFT MEDICAL MARIJUANA ORDINANCE

The following fiscal analysis has been updated to reflect the new draft ordinance as written by the City Attorney for the February 2, 2016 City Council Meeting. Key elements of the new ordinance that are relevant to the updated fiscal analysis include the following:

- Initially, four (4) medical marijuana businesses will be permitted to operate home delivery services, with no on-site sales allowed *(Phase I)*;
- Six (6) months after the first business is operational, Council will consider allowing the existing four (4) medical marijuana businesses to engage in on-site sales in addition to continuing their delivery services *(if approved, Phase II)*;
- Assuming on-site sales are approved, six (6) months after the first store-front business is operational, City Council will consider permitting up to three (3) additional store-front and delivery businesses for a total of seven (7) permitted businesses *(if approved, Phase III)*;
- Cultivation can be implemented only after the City Council determines that a store front facility is appropriate in Long Beach.

The projected fiscal impact of the proposed ordinance will change based on future decisions made by City Council. To account for this, the financial projections included in this report provide multi-year estimates for all three phases listed above. Should City Council make amendments to the ordinance, the fiscal impact may need to be updated to account for the amendments.

As stated in earlier reports, the City does not currently have the resources to successfully implement and manage compliance with a medical marijuana ordinance. Additional personnel and/or enhanced overtime will be necessary in several departments, including Police, Fire, City Attorney, City Prosecutor, Development Services, Financial Management, Health and City Manager's Office. There will be some revenue resulting from the implementation of a new ordinance, including business license taxes, the local sales tax and fees.

The proposed personnel and material costs for implementation and enforcement represent staff's best use of funding given the revenue constraints of the proposed ordinance. However, the cost projections are uncertain and will need to be monitored after the ordinance is implemented. If costs are understated, departments will either require additional resources, or will need to divert existing resources towards regulating medical marijuana. Revenues are also highly uncertain and will need to be closely monitored following passage of the ordinance.

Regulatory/Enforcement Costs

Departmental staffing needs and cost estimates have been updated to account for changes to the draft ordinance made in response to City Council's motion on December 8, 2015. As with the last fiscal impact presented to City Council, Departments were directed to cost out a new cross-departmental enforcement approach for the closing of unsanctioned businesses. The cross-departmental approach differs from earlier Police Department driven efforts in that

it employs a team of staff members from multiple departments to cite illegal businesses for code, business license, and other potential violations in a single visit.

In addition to the cross-departmental enforcement model, departments were able to further realize savings through a proposed cross-train initiative, whereby Development Services staff will be trained to issue citations for both Code and Business License violations. The cross-train initiative will serve to further reduce enforcement costs of unsanctioned dispensaries without limiting the ability of the City to cite illegal businesses for operating without a permit.

Departmental cost estimates were based primarily on Long Beach's experience in the past with medical marijuana regulation, adjusting for regulatory changes made through the current draft ordinance. Consistent with recent experience, departments were instructed to assume 50 unsanctioned delivery dispensaries in Long Beach. This is also consistent with experiences found in other cities which have recently passed medical marijuana ordinances.

For the fiscal impact analysis, departments were instructed to first estimate the cost of regulating four (4) permitted delivery-only medical marijuana businesses, in addition to the 50 assumed unsanctioned medical marijuana businesses. While the four delivery-only businesses could open no sooner than FY 17 given the lengthy application, CUP, appeals and plan check processes, some departments would begin incurring costs upon implementation of the ordinance in FY 16 as they begin to prepare for the new medical marijuana regulatory structure. These costs have been termed "ramp up" costs in the sections below. Next, departments were asked to estimate the cost of regulating four (4) medical marijuana businesses permitted for both delivery and on-site sales. Again, given the extensive application and permitting process, store-front sales could realistically begin no sooner than the start of FY 18. Departments were not asked to provide cost estimates of expanding the number of permitted medical marijuana businesses to seven (7) based on the assumption that regulation of the three (3) additional sanctioned businesses could be absorbed within existing staffing levels. However, cost and revenue figures under the seven (7) sanctioned business scenario are included in the summary section of this report for long-term projection purposes.

Cost estimates include both requests for new staff and the redirection of existing staff to medical marijuana regulation activities. Because the ordinance would allow for a new industry within the City of Long Beach with externalities specific to that industry, the regulatory work could not be covered by existing staff, while still maintaining normal levels of service to other residents and businesses.

City Manager

The City Manager's Office manages medical marijuana regulatory programs in other California cities, as it is a complex regulatory program that requires direction and coordination with a multitude of departments. The requested position will provide the City Council and community with a central point of contact for medical marijuana issues, and will direct and coordinate interdepartmental efforts, and lead the work of the cross-departmental enforcement team. In addition, the City Manager's Office will be involved in active policy coordination and oversight. Because of the evolving nature of California legislation on this

industry, and the impacts of both sanctioned and unsanctioned businesses on City resources, it is prudent for senior staff in the City Manager's Office to be involved on an ongoing basis.

Table 1: City Manager Costs

City Manager Operational Requirements	FY 16 Ramp-Up	FY 17 Delivery Only	FY 18 + On-Site & Delivery
• 1.0 FTE - Assistant to the City Manager	$ 74,000	$ 148,000	$ 148,000
Total	**$ 74,000**	**$ 148,000**	**$ 148,000**

City Manager One-Time Requirements	FY 16	FY 17	FY 18 +
• *(None)*	$ -	$ -	$ -
Total	**$ -**	**$ -**	**$ -**

City Attorney

Since 2010, the City Attorney has dedicated significant resources to tasks relating to medical marijuana regulation. The City Attorney has provided legal advice and support in writing and interpreting City ordinances, relevant state and federal legislation and case law related directly to medical marijuana. The City Attorney has conducted numerous medical marijuana related administrative hearings and has handled an unprecedented amount of medical marijuana related litigation.

The City Attorney expects that significant legal staff time will be required in the future because of the evolving nature of the industry. The State recently enacted the Medical Marijuana Regulatory and Safety Act (MMRSA). As the State implements new regulations in support of MMRSA, it is anticipated that significant legal staff time will be needed to insure that the City's medical marijuana providers are fully compliant with all City and State regulations. Additionally, a large amount of staff time will be required to initiate and defend medical marijuana litigation and administrative proceedings. For these reasons, the City Attorney's Office will continue to be significantly involved in the legal issues surrounding medical marijuana. The actual amount of staffing resources required will be monitored and should additional staffing or resources be required, the Department will request a budget enhancement at a later date.

Table 2: City Attorney Costs

City Attorney Operational Requirements	FY 16 Ramp-Up	FY 17 Delivery Only	FY 18 + On-Site & Delivery
• 1.0 FTE - Deputy City Attorney	$ -	$ 210,000	$ 210,000
• 2.0 FTE - Legal Assistant I - IV	$ -	$ 255,000	$ 255,000
Total	**$ -**	**$ 465,000**	**$ 465,000**

City Attorney One-Time Requirements	FY 16	FY 17	FY 18 +
• Office Equipment & Furnishing	$ 45,000	$ -	$ -
• Outside Legal Council - (Needed until positions can be filled, cost dependant on number of lawsuits filed)	$ 350,000	$ -	$ -
Total	**$ 395,000**	**$ -**	**$ -**

City Prosecutor

The City Prosecutor expects to be involved in criminal litigation of licensing, due process, state and federal law pre-emption, and other issues relating to medical marijuana. The City Prosecutor has been significantly involved in medical marijuana litigation since 2010 and has prosecuted more than 700 individuals. This does not include the medical marijuana cases that were rejected for lack of evidence. In addition, the City Prosecutor has been involved in discussions with law enforcement outside of the courtroom regarding the ordinance. It is expected that all of these activities will continue under a new ordinance. The actual number of prosecutions will be monitored after the ordinance takes effect and, should additional staffing or resources be required, the Department will request a budget enhancement at a later date.

Table 3: City Prosecutor Costs

	FY 16	FY 17	FY 18+
City Prosecutor Operational Requirements	**Ramp-Up**	**Delivery Only**	**On-Site & Delivery**
• 1.5 FTE - Prosecutor	$ 121,740	$ 191,231	$ 191,231
• 1.0 FTE - Paralegal	$ 68,754	$ 108,000	$ 108,000
Total	**$ 190,494**	**$ 299,231**	**$ 299,231**

City Prosecutor One-Time Requirements	**FY 16**	**FY 17**	**FY 18+**
• *(None)*	$ -	$ -	$ -
Total	**$ -**	**$ -**	**$ -**

Development Services

Development Services will be involved in the permitting of sanctioned businesses and the inspection of both sanctioned and unsanctioned facilities. For the sanctioned businesses, existing resources and fees are expected to cover the Planning processes (the CUP application, potential modification, and its renewal) and the Building plan check, permitting and inspection processes. Additional resources will be needed to train Building Plan Check and Inspection staff on issues and concerns specific to dispensaries and to do follow-up inspections to ensure ongoing compliance.

Beyond the initial entitlement and construction phase, staff will be expected to respond to issues arising from illegal or unsanctioned business operations. Staff will be informed of illegal construction improvements or the illegal operation of a business through complaints. As part of the enforcement response team, Code Enforcement and Building Inspection staff will be required to investigate and issue citations, as necessary, for any violations of Building and Safety codes or other City regulations, including zoning code violations (i.e. not getting a CUP), and any unpermitted changes to the plumbing, electrical and mechanical systems of the building. To achieve efficiencies, Development Services Code Enforcement staff will be trained to and will issue citations for violations of the municipal code related to business licensing. (The process related to the collection of business license penalties, the placement of liens, and the appeals process for business license violations will be handled by the Business Services Bureau in the Financial Management Department.) If an inspection reveals that the business is operating illegally, or that changes to the building have caused a hazardous situation and the owners/operators refuse to restore the building in a permissible

manner or to obtain permits, staff will coordinate with other departments and agencies to initiate enforcement and monitoring penalties. Entry to illegal businesses will be difficult, requiring numerous return visits. Upon entry, if violations are found, numerous visits will be required to obtain compliance. Despite these efforts, it is likely that compliance for building or zoning code violations will be exceedingly difficult to achieve because the relatively minimal penalty assessed through the Administrative Citation process far outweighs the profit of running a this type of business.

Table 4: Development Services Costs

	FY 16	FY 17	FY 18+
Development Services Operational Requirements	**Ramp-Up**	**Delivery Only**	**On-Site & Delivery**
• 3.0 FTE - Combination Building Inspectors - Code	$ -	$ -	$ 354,000
• 1.0 FTE - Combination Building Inspector - Building	$ -	$ -	$ 118,000
• 1.0 FTE - Principal Building Inspector - Code	$ -	$ -	$ 145,543
• 1.0 FTE - Clerk Typist III	$ -	$ -	$ 76,288
• Misc. Operating Expense (Internal Support, Materials & Supplies, Overhead, etc)	$ -	$ -	$ 122,763
Total	**$ -**	**$ -**	**$ 816,594**

Development Services One-Time Requirements	**FY 16**	**FY 17**	**FY 18+**
• Training	$ -	$ -	$ 23,453
• New Vehicles	$ -	$ -	$ 160,000
Total	**$ -**	**$ -**	**$ 183,453**

Financial Management

The additional sanctioned businesses are not expected to materially increase workload for Business License Inspectors, but significant contractual costs are expected for outside audits for compliance with cash controls/reporting and for audits to help ensure the accuracy of the self-reporting of taxes. Commercial Services (cashiering) will receive and count taxes paid by the sanctioned medical marijuana businesses. Because tax payments are expected to be made entirely in cash and are expected to be relatively large, the Commercial Services Bureau will require additional staff, security and equipment.

Unsanctioned businesses are expected to create a substantial workload for Code Enforcement Inspectors for criminal misdemeanor citations and associated follow-up. The Business Services Bureau (licensing) will work to train Code Enforcement staff to enforce licensing provisions of the Long Beach Municipal Code. The Business License Division would issue business licenses to sanctioned medical marijuana businesses and coordinate the enforcement of unsanctioned businesses through Code enforcement that are brought to its attention. The Bureau is not expected to actively seek out unsanctioned business, but it is likely that some will be identified during normal testing and sweeps for unlicensed businesses. At this time, it is not envisioned that unsanctioned businesses will voluntarily pay taxes; however, if this is the case, it could impact the level of staffing and equipment needed in Commercial Services.

Anticipated budgetary impacts would include Business Services Bureau costs for training Code Enforcement staff to cite through criminal misdemeanor process. Additionally, in order

to coordinate with tax collections consultant and process subject tax payments and process any citations, an additional administrative support position was included.

If the number of non-sanctioned business exceeds expectations, then Business License anticipates needing an additional vehicle, the annual maintenance costs, and an additional Business License Inspector to keep with expected demand for enforcement activity that would exceed capacity under the Code Enforcement based model.

Table 5: Financial Management Costs

	FY 16	FY 17	FY 18+
Financial Management Operational Requirements	**Ramp-Up**	**Delivery Only**	**On-Site & Delivery**
• 1.0 FTE - Customer Service Rep/Assistant Admin	$ 25,464	$ 40,000	$ 40,000
• 1.00 FTE - Cashier	$ -	$ 73,205.48	$ 80,000
• 1.00 FTE - Special Services Officer	$ -	$ 97,912.33	$ 107,000
• Contract Auditor	$ -	$ 48,493.15	$ 100,000
• Armored Car Service	$ -	$ 16,400	$ 16,400
• Misc. Operating Cost	$ 1,910	$ 3,000	$ 3,000
Total	**$ 27,374**	**$ 279,011**	**$ 346,400**

Financial Management One-Time Requirements	**FY 16**	**FY 17**	**FY 18+**
• Cashiering equipment	$ 19,600	$ -	$ -
• Reinforcement of cashiering facilities	$ 37,500	$ -	$ -
• Video security cameras	$ 39,600	$ -	$ -
Total	**$ 96,700**	**$ -**	**$ -**

Fire

The Fire Department anticipates that it will require an additional Plan Checker II to assist in the review and inspection of both sanctioned and unsanctioned facilities. The Fire Department will be expected to review plans and inspect legal and illegal businesses for structural, fire, and other hazards. The Fire Department will issue red tags for businesses operating in hazardous facilities, as it has done in the past. The additional FTE will allow for the approval and periodic inspection of sanctioned facilities and the inspection and closure of unsanctioned facilities.

Table 6: Fire Costs

Fire Operational Requirements	FY 16 Ramp-Up	FY 17 Delivery Only	FY 18+ On-Site & Delivery
• 1.00 FTE - Fire Plan Checker II/Inspector	$ 10,589	$ 129,181	$ 129,181
• 0.10 FTE - Deputy Fire Marshal	$ 1,456	$ 17,759	$ 17,759
• 0.10 FTE - Deputy Fire Marshal	$ -	$ -	$ 17,759
• Fleet Annual Costs	$ 492	$ 6,000	$ 6,000
• Technology Costs	$ 295	$ 3,600	$ 3,600
Total	**$ 12,831**	**$ 156,540**	**$ 174,299**

Fire One-Time Requirements	FY 16	FY 17	FY 18+
• New Vehicle	$ 35,000	$ -	$ -
• Uniforms	$ 600	$ -	$ -
Total	**$ 35,600**	**$ -**	**$ -**

Health & Human Services

The Health Department anticipates inspecting any medical marijuana facility engaging in the sale of medical marijuana. The Health Department will require a permit for the sale and storage of edibles on the premises. In addition medical marijuana facilities, will be evaluated for compliance with laws and regulations concerning storage, labeling, and transport of chemicals and pesticides. Inspections of this nature for licensed facilities would be covered under current charges. As part of the inspection process, Health Department staff could also verify medical marijuana testing certificates.

Additional unsanctioned facilities are expected. The Health Department anticipates being involved in the oversight of environmental hazard clean-ups that could arise at these facilities. These clean-ups are performed at a substantial cost in contractor fees and City resources. The need for hazardous waste clean-up is unpredictable in nature, as is the ability to recoup the cost of clean-up from violators. Therefore, clean-up expense will be regularly revisited and budget will be requested as events occur.

Table 7: Health & Human Services Costs

Health & Human Services Operational Requirements	FY 16 Ramp-Up	FY 17 Delivery Only	FY 18+ On-Site & Delivery
• 0.10 FTE - Environmental Health Specialist	$ -	$ 3,091	$ 12,966
• 0.05 FTE - Haz Mat Specialist (Inspections)	$ -	$ 1,682	$ 7,055
• 0.25 FTE - Haz Mat Specialist (Clean-up)	$ -	$ 8,402	$ 35,250
• 0.10 FTE - Manager of Environmental Health	$ 2,500	$ 15,000	$ 15,000
• On-going Training	$ -	$ 2,500	$ 2,500
Total	**$ 2,500**	**$ 30,674**	**$ 72,771**

Health & Human Services One-Time Requirements	FY 16	FY 17	FY 18+
• Staff Training	$ -	$ 15,000	$ -
• System Upgrades- Envision - Forms	$ 15,000	$ -	$ -
• Plan Check -EHS III	$ -	$ 7,500	$ -
Total	**$ 15,000**	**$ 22,500**	**$ -**

Police

While it is anticipated that unsanctioned delivery businesses will create additional work for the Police Department, the cross-departmental team-based approach will require fewer resources than a Police Department driven process. The Police Department will require 2.5 Police Officers to accompany Financial Management and Development Services staff to address complaints, identify unsanctioned businesses, and help ensure the safety of City personnel during inspections. The allocation of 2.5 police officers to a cross-departmental team will ensure year-round presence of generally two police officers during normal City business hours to assist with complaints and business license and building compliance checks.

The Police Department anticipates additional workload necessitated by the need to track, analyze, and manage data related to unsanctioned and sanctioned medical marijuana delivery businesses. It is estimated that $10,000 in overtime will be required to perform data entry and analysis.

If the citywide cross-departmental team-based approach is not utilized, the Police Department led effort would require a full-time 11-person team with an annual estimated cost of $1.6 million.

Table 8: Police Costs

	FY 16	FY 17	FY 18+
Police Operational Requirements	**Ramp-Up**	**Delivery Only**	**On-Site & Delivery**
• 2.50 FTE - Police Officer	$ -	$ 85,093	$ 356,998
• Overtime - Clerk Typist III	$ -	$ 2,384	$ 10,000
• Disposable Clothing for Sworn Officers	$ -	$ 179	$ 750
• Technology/Radio Costs	$ -	$ 1,923	$ 8,068
Total	**$ -**	**$ 89,578**	**$ 375,815**

Police One-Time Requirements	**FY 16**	**FY 17**	**FY 18+**
• *(None)*	$ -	$ -	$ -
Total	**$ -**	**$ -**	**$ -**

Total Costs

The total estimated costs to implement the proposed ordinance, as currently drafted, are as follows:

Table 9: Total Estimated Costs

	FY 16	FY 17	FY 18+
Total Operational Requirements	**Ramp-Up**	**Delivery Only**	**On-Site & Delivery**
Total	**$ 307,200**	**$ 1,468,034**	**$ 2,698,110**

Total One-Time Requirements	**FY 16**	**FY 17**	**FY 18+**
Total	**$ 542,300**	**$ 22,500**	**$ 183,453**

However, not all of these costs will require additional General Fund appropriations due to the fact that a portion of the operational needs detailed above will be handled using existing staff and/or resources. For instance, Departmental overhead, technology service charges, training, fleet maintenance, and fractions of management staff time costs will be absorbed within existing department budgets and staffing levels. Therefore, the table shown below provides a summary of the budgetary impact of the proposed ordinance, and the amount that the City will be requesting in increased appropriation to regulate the medical marijuana industry beginning in FY 16:

Table 10: Total Unbudgeted Costs

	FY 16	FY 17	FY 18+
Total Operational Requirements	**Ramp-Up**	**Delivery Only**	**On-Site & Delivery**
Total Budgetary Impact	**$ 303,047**	**$ 1,433,252**	**$ 2,516,662**

Total One-Time Requirements	FY 16	FY 17	FY 18+
Total Budgetary Impact	**$ 542,300**	**$ 22,500**	**$ 160,000**

Revenues

The rapid evolution of the medical marijuana industry, the recent adoption of Medical Marijuana Regulation and Safety Act and the potential legalization of retail marijuana make forecasting revenue from taxation extremely difficult. Internal factors that impact accurate revenue projections include: the level of enforcement against unsanctioned collectives and delivery services; the business experience and acumen of the collective operators; and the amount of regulatory restrictions placed on the collectives' business practices. External factors that the City does not have control over include: the selling price of medical marijuana; increases or decreases in patient demand; new Federal or State regulations; and competition from collectives in adjacent cities.

Given these factors and without historical tax revenue data from the City of Long Beach, the Financial Management Department engaged a consultant experienced in the regulation of medical marijuana to develop revenue projections based on the potential Long Beach ordinance. The consultant had access to sales tax data on over 800 active registered accounts in California related to the retail sale of medical marijuana. Using this dataset, the consultant created a model to estimate a range of revenue projections for the City's gross receipts business license tax, cultivation square footage business license tax, and local sales tax. As stated earlier, any changes City Council chooses to make to the City Attorney draft ordinance may materially affect revenues.

In order to estimate the fiscal impact of all phases of the proposed ordinance, the consultant was asked to calculate revenue projections for each of the following scenarios:

1. Four (4) businesses permitted for delivery-only medical marijuana sales;
2. Four (4) businesses permitted for delivery and on-site medical marijuana sales;
3. Seven (7) businesses permitted for delivery and on-site medical marijuana sales.

For all three scenarios, the consultant provided low, medium and high revenue projections. The revenue ranges were based on a comparison of medical marijuana sales tax records in

California cities that have legalized medical marijuana, as well as an analysis of tax revenues collected from medical marijuana sales in the Los Angeles County market. Generally speaking, a high revenue projection assumes that permitted dispensaries are able to carry a wide variety of products to capture market share, maintain the ability to deliver marijuana to neighboring cities who decline to enact a ban, and face limited competition through the successful elimination of unsanctioned dispensaries in the City. A medium revenue projection is based on the average of established Los Angeles County medical marijuana dispensaries. It assumes deliveries outside of Long Beach are limited through bans in some neighboring cities, and that unsanctioned business competition captures a portion of the market share. Finally, a low revenue projection assumes no delivery outside of Long Beach, plus intense competition from unsanctioned businesses.

Four (4) Delivery-Only Businesses *(Phase I)*

In addition to the numerous factors described earlier that make forecasting medical marijuana revenues extremely difficult, projecting revenues for a non-traditional model such as delivery-only complicates the process even further due to a lack of precedent in other California cities. Nevertheless, using available sales tax data and examining various industry business models, our consultant was able to develop a methodology for estimating sales tax revenues under the delivery-only scenario.

Industry surveys show that medical marijuana demand is lower for delivery-only businesses. Some of the factors influencing this result are; (1) inventory available to customers is typically smaller for delivery-only services; (2) retail dispensaries typically employ more knowledgeable staff to provide advice on products compared to delivery-only businesses; and (3) personal safety and privacy from having medical marijuana delivered to a place of residency may be a concern for some customers. As a result, per dispensary revenue projections are lower for delivery-only businesses than those that engage in delivery and on-site sales.

The table below summarizes estimated gross receipts under a delivery-only model with four (4) permitted businesses. Tax revenues earned by the City include a six percent (6%) Business License Tax as well as a one percent (1%) local sales tax.

Table 11: Four (4) Delivery-Only Business Revenues

Four (4) Delivery Only Businesses

Capture Rate	Low	Medium	High
Estimated Gross Receipts	$ 1,983,480	$ 4,673,482	$ 8,543,236
Gross Receipts Tax (6%)	$ 119,009	$ 280,409	$ 512,594
Sales Tax (1%)	$ 19,835	$ 46,735	$ 85,432
Long Beach Revenues	**$ 138,844**	**$ 327,144**	**$ 598,027**

Assuming patients in Long Beach purchase an industry average $73 worth of medical marijuana per transaction, the "high" revenue projection translates to each of the four dispensaries delivering to approximately eighty (80) patients per day. To achieve this, staff estimates that each business would need to employ approximately three to four full-time delivery drivers seven days per week.

The "medium" revenue projection assumes each of the four dispensaries will deliver to an average of forty-four (44) patients per day. To achieve this, it is estimated that each business would need to employ two to three delivery drivers working seven days per week. Finally, the "low" revenue projections assumes an average of twenty (20) patients per dispensary per day, with each dispensary utilizing one to two full-time delivery drivers.

Four (4) Delivery with Retail Businesses *(Phase II)*

Six months after the first delivery-only medical marijuana business opens, staff will report back to City Council on the tax revenues collected from permitted medical marijuana businesses in the City, the fiscal impact to the City in terms of enforcement costs, and any public safety issues related to the permitted medical marijuana businesses. It is important to note, however, that sales tax information is typically not made available to the City by the State Board of Equalization until six months after revenues are collected. Staff expects to meet the deadline for updating City Council on the proposed ordinance, but revenue information included in the report may remain incomplete until a later date.

Following staff's report, City Council will determine whether to allow the four existing businesses to open their doors for on-site sales of medical marijuana. Until staff is able to analyze actual sales tax revenue figures, the following projections represent our best estimate of revenue collection should Council decide to allow retail marijuana sales. The projections are based on gross receipts sales tax data of all active dispensaries located in Los Angeles County.

Table 12: Four (4) Retail with Delivery Business Revenues

Four (4) Retail with Delivery Businesses

Capture Rate	Low	Medium	High
Estimated Gross Receipts	$ 6,611,840	$ 10,385,516	$ 14,238,728
Gross Receipts Tax (6%)	$ 396,710	$ 623,131	$ 854,324
Sales Tax (1%)	$ 66,118	$ 103,855	$ 142,387
Long Beach Revenues	**$ 462,829**	**$ 726,986**	**$ 996,711**

Estimated sales per dispensary are forecasted to be higher than each of the high/medium/low projections under the delivery-only model due to the expected increased demand from offering on-site sales, in addition to the continuation of at-home deliveries. In order to generate the "high" revenue projection of $996,711, each of the four dispensaries would need to generate an average of approximately $3.5 million in gross receipts. A "medium" revenue projection of $726,986 would require each dispensary to generate, on average, approximately $2.6 million in gross receipts. Finally, the "low" revenue projection of $462,829 would require each dispensary to generate, on average, $1.6 million in gross receipts.

Seven (7) Delivery and Retail Businesses *(Phase III)*

Six months after the first delivery-only medical marijuana business opens, City Council will consider permitting up to three (3) additional store front and delivery businesses for a total of seven (7) permitted businesses. As with the prior section, the projections provided below

represent staff's best estimate until actual business license and sales tax figures can be collected and analyzed.

Table 13: Seven (7) Retail with Delivery Business Revenues

Seven (7) Retail with Delivery Businesses

Capture Rate	Low	Medium	High
Estimated Gross Receipts	$ 10,346,000	$ 15,967,728	$ 22,889,237
Gross Receipts Tax (6%)	$ 620,760	$ 958,064	$ 1,373,354
Sales Tax (1%)	$ 103,460	$ 159,677	$ 228,892
Long Beach Revenues	**$ 724,220**	**$ 1,117,741**	**$ 1,602,247**

Per dispensary gross receipts with seven (7) dispensaries are forecasted to be slightly lower than per-dispensary gross receipts with four (4) dispensaries, due to an expected degree of market cannibalism as new businesses attract a portion of clientele from existing dispensaries. However, total revenues collected will still be higher due to the larger number of dispensaries.

In order to generate the "high" revenue projection of $1,602,247, each of the four dispensaries would need to generate an average of approximately $3.3 million in gross receipts. A "medium" revenue projection of $1,117,741 would require each dispensary to generate, on average, approximately $2.3 million in gross receipts. Finally, the "low" revenue projection of $724,220 in revenue would require each dispensary to generate, on average, $1.5 million in gross receipts.

Cultivation Square Footage Business License Tax

Under the proposed Ordinance, cultivation can be implemented only after City Council determines that a store front facility is appropriate in Long Beach. For purposes of revenue estimates, the figures below assume that the City Council ultimately votes to allow cultivation and two (2) cultivation facilities choose to operate in Long Beach.

The current ordinance provides for a maximum allowance of 5,000 sq. ft. of cultivation space for each operator, which means the total cultivation space eligible would be 10,000 sq. ft. Applying the City of Long Beach's initial Business License Tax of $15 per sq. ft., the maximum amount of Business License Tax this could generate per year would be $150,000.

However, the likelihood of having two (2) collectives operating cultivation facilities at maximum capacity is problematic due to zoning requirements and who is awarded the cultivation permits. It is difficult to predict the true characteristics and scale of the potential collective operators in the City. As a result, it would be safe to estimate that the total canopy square footage most likely to get permitted would be approximately 75 percent of the maximum under consideration which would be 7,500/2 (3,750) sq. ft. Therefore, the square footage business tax revenue projection recommended for budgetary purposes for the first year of implementation should be $112,500 until actual leases and permits have been approved. If fewer or greater number of dispensaries are permitted for cultivation, the revenue estimates will vary.

Table 14: Estimated Cultivation Square Footage Business License Tax

	Total Sq. Ft.	No. of Sites
Large Cultivation Site	5,000	1
Medium Cultivation Site	2,500	1
Total	7,500	2
Tax Rate per sq. ft.	$15	
Total Tax	**$112,500**	

Medical Marijuana Related Fees

In addition to the expected tax revenues detailed above, the City will charge CUP, plan check, and other inspection fees. These fees will be collected in the funds where the costs are incurred. This will allow the City to recover costs associated with existing staff time involved in application review and approval. In addition to these standard fees, other California cities charge medical marijuana businesses an annual regulatory fee, allowing them to recover the costs associated with regulating medical marijuana. The City of Oakland and City of San Jose have developed annual regulatory fees that achieve nearly 100 percent cost recovery of expenses associated with medical marijuana regulation of their permitted businesses. The City of Oakland charges medical marijuana collectives an annual operating fee of $60,000. The City of San Jose charges $71,961.

The draft ordinance provides for the City to charge an annual regulatory fee, in addition to the CUP application and renewal fee, to recover the costs associated with regulation and enforcement of this industry. Any regulatory fee would need to comply with California Propositions 218 and 26, which require any fee to be imposed only in an amount necessary to carry out the purpose and provisions of a regulation and to not exceed the costs of providing the service. The regulatory fee may not be used for an unrelated purpose. Alternatively, the City could recover costs associated with regulation and enforcement by charging medical marijuana businesses piecemeal for individual regulatory actions. It is suggested that a general regulatory fee covering as much of the regulatory and enforcement costs as feasible would be the best approach for having the least adverse impact on City services. It is important to note that this fee would not cover the costs of addressing unsanctioned businesses. The exact amount of the fee would be dependent on the ordinance requirements and the City services provided to enforce the ordinance. If the City Council approved this ordinance, staff would work to develop the exact fee, and the City Council approval via resolution would be required at a later date.

The Department of Financial Management worked with other City departments to estimate the percentage of medical marijuana costs that could appropriately be charged to sanctioned businesses through an annual regulatory fee. The calculation excludes any costs associated with unsanctioned businesses, as well as those costs that will be recouped through the existing fee structure established by the City. Because total department costs differ across fiscal years as the number and types of dispensaries change, the fee rates charged per dispensary are projected to change as well. Staff, therefore, calculated a separate maximum allowable fee for each fiscal year, as the City moves through the various phases documented in the "Notes" column below.

Table 15: Estimated Regulatory Fee Revenues

Estimated Regulatory Fee Revenues			
Fiscal Year	**Total Fee Revenues**	**Fee Per Dispensary**	**Notes**
FY 2016	$ -	$ -	*Application review still in progress*
FY 2017	$ 524,562	$ 131,140	*Delivery only business fee (4 dispensaries)*
FY 2018	$ 589,367	$ 147,342	*Delivery and on-site business fee (4 dispensaries)*
FY 2019	$ 589,367	$ 84,195	*Delivery and on-site business fee (7 dispensaries)*

Based on this calculation, staff estimates the City could collect up to an additional $524,562 in fee revenues in Fiscal Year 2017 through a new regulatory fee charged to sanctioned businesses. Assuming four (4) dispensaries are permitted to operate in the city, this would translate to a $131,140 annual fee per dispensary to recoup the cost to the City for regulating this new industry. In subsequent years, the City would be able to collect additional revenues as the cost of enforcement grows with the addition of on-site sales. However, by Fiscal Year 2019 the maximum fee charged per dispensary drops to $84,195 as the total regulatory costs are spread across a greater number of permitted dispensaries.

Rather than charging the maximum regulatory fee allowable in each year, staff recommends charging the Fiscal Year 2019 rate of $84,195 per dispensary beginning with the first business opening in FY 17. This would avoid charging dispensaries potentially burdensome rates in FY 17 and FY 18, and would provide businesses with cost consistency to plan around from the very first year of operation.

Total Revenues

Total projected General Fund revenues from all possible sources are summarized in the table below. While these projections have been developed based on the best available evidence, the nature of the medical marijuana industry makes accurate revenue forecasting difficult. Actual revenue may vary significantly from this model.

Due to the potential growth in the number and types of dispensaries over time, as City Council considers approving on site sales at three additional locations, the total revenue tables rely on certain key assumptions in order to provide a multi-year projection:

1. Medical marijuana deliveries will begin no sooner than January 2016 due to lengthy application, CUP, appeals and plan check processes.

2. City Council will approve retail sales of medical marijuana six months after the first dispensary opens. Due to the timing of application, CUP and plan check review, retail sales will begin no sooner than October 2017.

3. City Council will also vote to allow three additional dispensaries in Long Beach six months after on-site sales begin. The three new dispensaries will open no sooner than Fiscal Year 2019, given the time needed for the approval process.

4. City Council will approve a regulatory fee of $84,195 per dispensary.

5. Medical marijuana business license tax rates will remain at current levels (6 percent gross receipts for dispensaries and $15 per square foot for cultivation facilities).

Staff calculated total revenues both with and without cultivation in order to show the anticipated effect it will have on the fiscal impact of the ordinance.

Table 16: Estimated Total Revenues at Initial Tax Rates

TOTAL REVENUES *(@ Current Tax Rates)*	*No Dispensaries*	*4 Dispensaries*		*7 Dispensaries*
	Ramp-Up	Delivery Only	On-Site & Delivery	On-Site & Delivery
	FY 16	FY 17	FY 18	FY 19+
Gross Receipts Tax Revenue (at 6%)	$ -	$ 210,307	$ 623,131	$ 958,064
Sales Tax Revenue (1%)	$ -	$ 35,051	$ 103,855	$ 159,677
Regulatory Fee	$ -	$ 336,781	$ 336,781	$ 589,367
Total Revenues *(no Cultivation)*	**$ -**	**$ 582,139**	**$ 1,063,767**	**$ 1,707,108**
Cultivation Sq. Ft. Tax ($15)	$ -	$ -	$ 112,500	$ 112,500
Total Revenues *(with Cultivation)*	**$ -**	**$ 582,139**	**$ 1,176,267**	**$ 1,819,608**

Total Tax Revenues with Maximum Business License Rate

The City of Long Beach Municipal Code (LBMC) Section 3.80.261.8.B.1 states that every Marijuana Business shall pay business tax at a rate *up to* ten percent (10%) of Gross Receipts. The tax shall be initially set at a rate of six percent (6%). LBMC Section 3.80.261.8.3 further imposes a minimum business tax of $15 to a maximum tax of $50 per square foot for each "cultivation facility."

Due to the projected shortfall in funding for medical marijuana enforcement costs relative to expected revenues under the current business license rates of 6 percent gross receipts for dispensaries and $15 per square foot for cultivation, staff recommends that the City Council take action to increase the business license rates to the maximum allowable level. Should the City Council choose to do this, staff estimates that total revenues could increase up to the level presented in the table below:

Table 17: Estimated Total Revenues at Maximum Tax Rates

TOTAL REVENUES *(@ Maximum Tax Rates)*	*No Dispensaries*	*4 Dispensaries*		*7 Dispensaries*
	Ramp-Up	Delivery Only	On-Site & Delivery	On-Site & Delivery
	FY 16	FY 17	FY 18	FY 19+
Gross Receipts Tax Revenue (at 10%)	$ -	$ 350,511	$ 1,038,552	$ 1,596,773
Sales Tax Revenue (1%)	$ -	$ 35,051	$ 103,855	$ 159,677
Regulatory Fee	$ -	$ 336,781	$ 336,781	$ 589,367
Total Revenues *(no Cultivation)*	**$ -**	**$ 722,344**	**$ 1,479,188**	**$ 2,345,817**
Cultivation Sq. Ft. Tax ($50)	$ -	$ -	$ 375,000	$ 375,000
Total Revenues *(with Cultivation)*	**$ -**	**$ 722,344**	**$ 1,854,188**	**$ 2,720,817**

Fiscal Impact Summary

As the revenue generated from using the initial tax rates would lead to long-term shortfall of $857,053 in FY19 and beyond, it is recommended that City Council set the business license tax rates to the maximum allowable level. The projection below assumes the maximum tax

rates of 10 percent on dispensary gross receipts and $50 per square foot for cultivation. If the Council chooses instead to keep in place the current business license tax structure, the long-term ongoing deficit in FY 19 and beyond would grow by approximately $900,000 per year.

The summary table also provides a fiscal impact both with and without cultivation. Allowing cultivation serves to reduce the long-term deficit by $375,000 compared to a ban on cultivation in the City.

Should the City Council approve the medical marijuana ordinance, staff will address the projected FY 16 shortfall using FY 15 one-time year-end General Fund surplus. Similar shortfalls in FY 17 and FY 18 are expected to be addressed through one-time year-end surplus from the prior year-end, assuming there is adequate surplus. Beginning in FY 19, staff estimates that the medical marijuana enforcement program will generate a small surplus for the City, and will no longer require one-time funding to support regulatory and enforcement costs.

Table 18: Estimated Fiscal Impact at Maximum Tax Rates

IMPACT OF PROP. ORDINANCE *(@ Maximum Tax Rates)*	*No Dispensaries*	*4 Dispensaries*		*7 Dispensaries*
	Ramp-Up	**Delivery Only**	**On-Site & Delivery**	**On-Site & Delivery**
	FY 16	**FY 17**	**FY 18**	**FY 19 +**
EXPENDITURES				
Ongoing Department Costs	$ 303,047	$ 1,433,252	$ 2,516,662	$ 2,516,662
One-Time Department Costs	$ 542,300	$ 22,500	$ 160,000	$ 160,000
Total Expenditures	**$ 845,347**	**$ 1,455,752**	**$ 2,676,662**	**$ 2,676,662**
REVENUES	**FY 16**	**FY 17**	**FY 18**	**FY 19 +**
Gross Receipts Tax Revenue (10%)	$ -	$ 350,511	$ 1,038,552	$ 1,596,773
Sales Tax Revenue (1%)	$ -	$ 35,051	$ 103,855	$ 159,677
Regulatory Fee	$ -	$ 336,781	$ 336,781	$ 589,367
Total Revenues *(no Cultivation)*	**$ -**	**$ 722,344**	**$ 1,479,188**	**$ 2,345,817**
Surplus/(Shortfall) *(no Cultivation)*	**$ (845,347)**	**$ (733,408)**	**$ (1,197,473)**	**$ (330,844)**
CULTIVATION REVENUES	**FY 16**	**FY 17**	**FY 18**	**FY 19 +**
Cultivation Sq. Ft. Tax ($50)	$ -	$ -	$ 375,000	$ 375,000
Total Revenues *(with Cultivation)*	**$ -**	**$ 722,344**	**$ 1,854,188**	**$ 2,720,817**
Surplus/(Shortfall) *(with Cultivation)*	**$ (845,347)**	**$ (733,408)**	**$ (822,473)**	**$ 44,156**