ORDINANCE NO.  ORD-17-0030

AN INTERIM ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF LONG BEACH ADOPTED AS AN
URGENCY MEASURE ESTABLISHING A TEMPORARY
ONE HUNDRED AND EIGHTY (180) DAY LIMITATION ON
THE ISSUANCE OF ANY PERMIT, ENTITLEMENT,
LICENSE, APPROVAL, OPERATION, OR ACTIVITY
RELATING TO ADULT USE NON-MEDICAL COMMERCIAL
CANNABIS ACTIVITY IN THE CITY; AND DECLARING
THAT THIS ORDINANCE SHALL TAKE EFFECT
IMMEDIATELY

WHEREAS, the City of Long Beach (the "City") is a municipal corporation
and chartered city, duly organized under the Constitution and the laws of the state of
California;

WHEREAS, on October 9, 2015, Governor Brown signed Assembly Bill No.
243, Assembly Bill No. 266, and Senate Bill 643 into law, which were collectively known
as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA
established a State licensing scheme for commercial medical cannabis uses, while
protecting local control by requiring that all such businesses have a local license or
permit to operate in addition to a State license. The MCRSA allowed the cities to
completely prohibit commercial medical cannabis activities, if cities chose to do so;

WHEREAS, on November 8, 2016, California voters approved the Control,
Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA added Division 10 to
the California Business and Professions Code, sections 26000, et seq., which grants
State agencies the authority to create, issue, renew, discipline, suspend, or revoke
licenses for cannabis businesses. The AUMA provides that the State shall begin issuing
licenses to cannabis businesses under Division 10 of the California Business and
section 26055(d) provides that a State licensing authority shall not approve an application
for a State license for commercial non-medical cannabis activity if approval of the State
license will violate the provisions of any local ordinance;

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94
which repealed the MCRSA, including certain provisions of the MCRSA in the licensing
provisions of the AUMA, and created a single regulatory scheme for both medical and
non-medical cannabis known as the Medicinal and Adult-Use Cannabis Regulation and
Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the
AUMA that granted local jurisdictions control over whether commercial cannabis activity
can occur in a particular jurisdiction. Specifically, California Business and Professions
Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or
limit the authority of a local jurisdiction to adopt and enforce local ordinances that
completely prohibit the establishment or operation of one or more businesses licensed
under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that
a State licensing authority shall not approve an application for a State license for a
business to engage in commercial cannabis activity if approval of the State License will
violate the provisions of any local ordinance or regulation. The MAUCRSA requires that
a State licensing authority begin issuing licenses to marijuana businesses beginning
January 1, 2018. The MAUCRSA also requires that a city provide a copy of its ordinance
regarding commercial cannabis activity to the Bureau of Cannabis Control;

WHEREAS, on November 6, 2016, the citizens of Long Beach voted to
approve a regulatory ordinance making it legal in certain specified circumstances to own
and operate a medical marijuana business in the City of Long Beach with a City issued
permit and further requires medical marijuana businesses to be licensed by the State
when the State issues licenses beginning in January 2018;

WHEREAS, on September 28, 2017, the City of Long Beach held a public
lottery to determine which Medical Marijuana Dispensary Business License Applications were eligible to proceed in an application process, resulting in a total of 32 medical marijuana dispensary licenses that could be issued in the City;

WHEREAS, on November 14, 2017, the City Council voted to adopt a minute order requesting the City Attorney to prepare a formal draft ordinance establishing a temporary one hundred and eighty (180) day ban on adult use commercial recreational marijuana ("cannabis") businesses and related activities in the City until such time as the City Council considers and adopts or rejects a regulatory ordinance relating to the licensing, cultivation, manufacture, distribution, delivery, and laboratory testing of such adult use recreational marijuana;

WHEREAS, the City does not currently have any express regulatory provisions in place prohibiting or regulating non-medical marijuana dispensaries, non-medical marijuana commercial operations or businesses, or the cultivation or processing of non-medical marijuana, and the City needs sufficient time to consider and review policy considerations and potential impacts to land uses and time to enact comprehensive regulations related to non-medical marijuana (i.e., recreational) to preserve the health, safety and welfare of the City's residents and businesses.

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

Section 1. The above recitals and findings are true and correct and are hereby adopted as "findings" and the City Council further finds this Ordinance is necessary for the immediate preservation of the public health, safety and welfare.

Section 2. Findings and Declaration of Urgency. The City Council of the City of Long Beach hereby finds and declares that there is a need to enact an Urgency Ordinance as permitted by City Charter Section 211 establishing an interim use moratorium (i.e., temporary ban) on all new or illegally existing non-medical commercial cannabis activities in the City, subject to the findings, provisions and conditions contained...
in this Ordinance. If new, or already illegally existing, non-medical commercial cannabis
businesses or activities are permitted to exist in the City during the interim study period it
is likely to create a burden on scarce City resources, including public safety resources,
thereby reducing the quality of life within the City’s neighborhoods. Based on the
foregoing, the City Council does hereby declare that this Urgency Ordinance is necessary
to protect the public health, safety, and welfare while the City further studies this
complicated issue and considers the adoption or rejection of a regulatory ordinance
governing non-medical commercial cannabis businesses or activities in the City.

Section 3. Adoption as Urgency Interim Ordinance. This ordinance is
adopted as an urgency ordinance pursuant to the provisions of Section 211 of the
Charter of the City of Long Beach, and shall be effective immediately upon its adoption.
Based on the findings set forth herein, the City Council finds and determines that the
adoption of this ordinance as an urgency ordinance is necessary for the immediate
preservation of the public peace, health or safety pursuant to the requirements of Charter
Section 211, and is necessary to protect the public safety, health, and welfare of the
residents and businesses residing and operating within the City.

Section 4. Temporary Moratorium. The City Council hereby declares a
moratorium commencing on the effective date of this ordinance and continuing for a
period of one hundred and eighty (180) days, through and including, June 18, 2018.
During the period of the moratorium the City shall not accept or process any application
or permit whatsoever that would lead to the entitlement or establishment of a non-medical
commercial cannabis business or activity in the City; nor shall any such activity exist or
operate in the City during the interim period. For the purposes of this Ordinance, the
term "non-medical commercial cannabis businesses or activity" shall include, but not be
limited to, whether or not for profit, the cultivation, possession, manufacture, distribution,
processing, storing, laboratory testing, packaging, labeling, transportation, delivery or
sale of non-medical (i.e., "recreational") cannabis or non-medical cannabis product,
including concentrated non-medical cannabis or edible non-medical cannabis products
and includes the activities of any business licensed by the State or other government entity under the provisions of MAUCRSA, including those businesses or operations authorized by Division 10 of the California Business and Professions Code, or any other provision of State law that regulates the licensing of non-medical cannabis businesses or products. During the interim study period, a property owner shall not rent to, lease to, or otherwise permit or allow any person or business to engage in any non-medical commercial cannabis business or activity at the real property, nor shall the property owner engage in any such non-medical commercial cannabis business or activity on the real property.

Section 5. Exemptions. This temporary moratorium shall not apply to any activity or business regulated, or lawfully operating pursuant to, the provisions of Chapter 5.90 of the Municipal Code, however, this exemption explicitly does not permit any such business to engage in any non-medical commercial cannabis business or activity whatsoever during the interim study period.

Section 6. Studies. City staff and the City Attorney’s office shall commence or continue any studies they may deem necessary and appropriate to make a recommendation to the City Council regarding the structuring of necessary regulatory controls over the location and operation of non-medical commercial cannabis business or activities in the City and endeavor to draft a regulatory ordinance that will adequately serve the City and its residents and businesses.

Section 7. CEQA. The City Council hereby finds, in the exercise of its independent judgment and analysis, that this ordinance is exempt from the California Environmental Quality Act of 1970 ("CEQA"), as amended, because it can be seen with certainty that this urgency ordinance has no likelihood of causing a significant negative effect on the environment and accordingly both the City Council’s action of adopting this ordinance and the effects derivative from that adoption are exempt from the application of CEQA, pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 Cal. Code Regs. § 15061(b)(3)). The City Council further finds, in the exercise of its independent
judgment and analysis, that the adoption of this urgency ordinance is exempt from
CEQA, pursuant to Section 15060(c)(2) of the State CEQA Guidelines (14 Cal. Code
Regs. § 15060(c)(2), because it will not result in a direct or reasonably foreseeable
indirect physical change in the environment. These findings are premised on the fact that
the adoption of this urgency interim ordinance will maintain the current environmental
conditions arising from the current regulatory structure as adopted by the City without
change or alteration

Section 8. Severability. If any section, subsection, subdivision,
sentence, clause, phrase, or portion of this ordinance or the application thereof to any
person or place, is for any reason held to be invalid or unconstitutional by the decision of
any court of competent jurisdiction, such decision shall not affect the validity of the
remainder of this ordinance. The City Council hereby declares that it would have
adopted this ordinance, and each section, subsection, subdivision, sentence, clause,
phrase, or portion thereof, irrespective of the fact that any one or more sections,
subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared
invalid or unconstitutitional.

Section 9. This ordinance is an emergency ordinance duly adopted by
the City Council on December 19, 2017 by a vote of at least five (5) of its members and
shall take effect immediately. The City Clerk shall certify to a separate roll call and vote
on the question of the emergency of this ordinance and to its passage by the vote of five
members of the City Council of the City of Long Beach, and cause the same to be posted
in three conspicuous places in the City of Long Beach.

Section 10. This ordinance shall also be adopted by the City Council as a
regular ordinance, to the end that in the event of any defect or invalidity in connection
with the adoption of this ordinance as an emergency ordinance, the same shall,
nevertheless, be and become effective on the thirty-first day after it is approved by the
Mayor.

Section 11. The City Clerk shall certify to the passage of this ordinance by
the City Council of the City of Long Beach and shall cause the same to be posted in three
(3) conspicuous places in the City of Long Beach.

I hereby certify that on a separate roll call and vote which was taken by the
City Council of the City of Long Beach upon the question of emergency of this ordinance
at its meeting of December 19, 2017, the ordinance was declared to be an
emergency by the following vote:

Ayes: Councilmembers: Gonzalez, Pearce, Price, Supernaw,
Mungo, Andrews, Uranga, Austin,
Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: None.

I further certify that thereafter, at the same meeting, upon a roll call and
vote on adoption of the ordinance, it was adopted by the City Council of the City of Long
Beach by the following vote:

Ayes: Councilmembers: Gonzalez, Pearce, Price, Supernaw,
Mungo, Andrews, Uranga, Austin,
Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: None.
I further hereby certify that the foregoing ordinance was adopted on final reading by the City Council of the City of Long Beach at its meeting of ____________, 20__, by the following vote:

Ayes: Councilmembers: ________________________________

Noes: Councilmembers: ________________________________

Absent: Councilmembers: ________________________________

Approved: ____________________ (Date)

City Clerk

Mayor
STATE OF CALIFORNIA ) ss
COUNTY OF LOS ANGELES )
CITY OF LONG BEACH )

Karen Moore being duly sworn says: That I am employed in the Office of the City Clerk of the City of Long Beach; that on the 20th day of December, 2017, I posted three true and correct copies of Emergency Ordinance No. ORD-17-0030 in three conspicuous places in the City of Long Beach, to wit: One of said copies in the entrance lobby of City Hall in front of the Information Desk; one of said copies in the Main Library; and one of said copies on the front counter of the Office of the City Clerk.

Subscribed and sworn to before me
This 20th day of December, 2017.