ORDINANCE No. 900

AN ORDINANCE OF THE CITY OF LONG BEACH, WASHINGTON
ADOPTING REVISIONS TO TITLE 12, ZONING REGULATIONS,
REGARDING MEDICAL AND RECREATIONAL MARIJUANA (CANNABIS)
LAND USES AND PROVIDING FOR THE REPEAL OF ALL
ORDINANCES IN CONFLICT

THE LONG BEACH CITY COUNCIL HEREBY MAKES THE FOLLOWING
FINDINGS OF FACT:

WHEREAS, in 1998, the voters of Washington state passed Initiative 692, legalizing the use, possession, and cultivation of cannabis for patients with a medical certificate, and

WHEREAS, medical cannabis is regulated by the state of Washington under RCW 69.51A, and

WHEREAS, in April 2011, the Washington state legislature passed Engrossed Second Substitute Senate Bill 5073, allowing for collective gardens whereby up to ten (10) qualifying patients may participate together to produce, process, transport, and deliver cannabis for medical use, and

WHEREAS, medical collective cannabis gardens are regulated by the state of Washington under 69.51A.085, and

WHEREAS, in November 2012, the voters of Washington state including approximately sixty percent of the voters of Long Beach approved Initiative 502, legalizing cannabis for recreational use, and

WHEREAS, on August 29, 2013, the U.S. Department of Justice, Office of the Attorney General, issued guidance to all U.S. Attorneys stating that strong and effective state and local regulatory systems including robust controls and procedures on paper and in practice are critical to controlling the threats that legalizing cannabis may pose to public safety, public health, and other law enforcement issues and that such systems must also not undermined federal enforcement priorities, which include preventing the following:

1. Distribution of marijuana to minors
2. Revenue from sale of marijuana going to criminal enterprises, gangs, and cartels
3. Diversion of marijuana from states where it is legal under state law in some form to other states
4. State-authorized marijuana activity being used as a cover or pretext for the trafficking of other illegal drugs or illegal activity
5. Violence and the use of firearms in the cultivation and distribution of marijuana
6. Drugged driving and exacerbation of other adverse public health consequences associated with marijuana use
Growing of marijuana on public lands and their attendant public safety and environmental dangers posed by marijuana on public lands

Marijuana possession or use on federal property, and

WHEREAS, The Attorney General’s memo advises U.S. attorneys that in using their prosecutorial discretion to take into consideration not only the size of a marijuana operation, but rather to review facts and operations on a case-by-case basis and weigh all information and evidence, including but not limited to, whether a marijuana operation is demonstrably in compliance with a strong and effective regulatory system, and according to the memo, the prime question in all cases and in all jurisdictions should be whether the conduct at issue implicates one or another of the enforcement priorities, and

WHEREAS, in November 2013, the Washington State Liquor Control Board issued rules (WAC 314-55) for the application process, qualifications, and requirements to obtain and maintain a marijuana license, the reporting requirements for a marijuana license, and license violations and penalties and these rules appear on paper to constitute a strong and effective state regulatory system. This system has not been tested in practice, and

WHEREAS, on November 18, 2013, the Washington State Liquor Control Board opened the application window for Washington producers, processors, and retailers of recreational marijuana and that application window closed December 19, 2013, and

WHEREAS, the Washington State Legislature adjourned its 63rd session on March 13, 2014, without providing guidance to local communities regarding the regulatory interface between medical marijuana and recreational marijuana, and

WHEREAS, ineffective regulation by the City of marijuana cultivation, production, processing, or retailing could have negative consequences on the citizens, businesses, and institutions of Long Beach, including but not limited to the following:

1. Exposure of minor children to drugs
2. Unwanted drug activity at the beach approaches, on City rights-of-way, or on other City- or publicly-controlled properties
3. Unwanted exposure of citizens to drugs
4. Unwanted exposure of business clientele to drugs
5. Strain on policing resources
6. Undermining of federal enforcement priorities, and

WHEREAS, the Council has studied the land use and other secondary impacts of cultivation, processing, and selling of cannabis for medical use by individuals and in collective gardens, and for recreational use, and has now drafted a zoning ordinance to address these impacts that constitute a strong and effective regulatory system including robust controls and procedures on paper and - it is anticipated - in practice; and

WHEREAS, the proposed ordinance is necessary to protect the health, safety, general welfare and orderly development of the community; and
WHEREAS, the proposed ordinance is consistent with the City’s adopted Comprehensive Plan; and

WHEREAS, the proposed ordinance furthers implementation of the City’s adopted Comprehensive Plan.

BASED ON THE FOREGOING, THE LONG BEACH CITY COUNCIL CONCLUDES AS FOLLOWS:

1. The Washington State Growth Management Act (GMA), Chapter 36.70A RCW, mandates that jurisdictions planning under the GMA must adopt development regulations consistent with the jurisdictional Comprehensive Plan and with State law.

2. Zoning ordinances are GMA development regulations pursuant to State law.

3. Pacific County opted to plan under the authority of the Growth Management Act in 1990 via adoption of Pacific County resolution No. 90-123, and this also opted Long Beach to plan under the GMA.

4. As currently written, Ordinance No. 900 addresses the Long Beach citizenry’s wish to have recreational marijuana reasonably available; it also allows those who produce and consume - but not sell - marijuana for personal medical use to continue to do so.

5. As currently written, Ordinance No. 900 puts in place a strong and effective regulatory system including robust controls and procedures that addresses Department of Justice enforcement priorities while promoting the health, safety, and welfare of Long Beach citizens and visitors.

6. As currently written, adoption of Ordinance No. 900 will produce no probable significant adverse environmental impacts. A determination of non-significance (DNS) under the State Environmental Policy Act (SEPA) is appropriate for this zoning amendment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LONG BEACH, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Adoption

Amendments to Title 12, Zoning Regulations, attached hereto, are hereby adopted.

Section 2. Severability

Should any provision, section, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation,
such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Repeal

Any existing ordinances that may conflict with this ordinance are hereby repealed.

Section 4. Effective Date

This Ordinance shall be in full force and effect five (5) days from and after its passage, approval, and publication in the manner required by law.

Section 5. Adoption Date

ADOPTED by the City Council of the City of Long Beach, Pacific County, Washington at a regular open public meeting held the 16th day of June, 2014.

AYES 4  NAYS 0  ABSENT 1  ABSTENTIONS 0

______________________________  
Robert Andrew, Mayor

ATTEST:

______________________________  
David Glasson, City Clerk
CHAPTER 17

MARIJUANA- (CANNABIS-) RELATED LAND USES

Section:

12-17-1: Purpose and Intent
12-17-2: Authority
12-17-3: Definitions
12-17-4: No City Liability - Indemnification
12-17-5: Limitations

12-17-1: PURPOSE AND INTENT: The purpose and intent of this chapter is to protect and maintain the public health, safety, and welfare of the city's citizens, and to mitigate potential adverse impacts by regulating the siting and operation of any structure, activity, or land use related to the production, processing, or retailing of marijuana. The city intends this chapter to establish an effective regulatory framework including robust controls and procedures on paper and in practice.

12-17-2: AUTHORITY: Pursuant to Washington State Constitution Article XI, Section 11, the City of Long Beach asserts its constitutional authority to make and impose land use regulations, and to enforce within its limits such police, sanitary, and other regulations as are not unreasonable or in conflict with general laws. In addition, since the State of Washington has neither explicitly nor implicitly preempted the city from regulating marijuana-related land uses, the city exerts its authority to do so. Moreover, these land uses have only recently been made legal in the state, and remain illegal in most other states and under federal law, and their former and continuing illegal status may make them operate in a manner substantially different than other land uses whose status has long been legal. For these reasons, the city is both authorized and compelled to regulate marijuana-related land uses.

12-17-3: DEFINITIONS: For purposes of this chapter, the following definitions apply:

CANNABIS: All parts of the plant cannabis, whether growing or not, except as noted below; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term "cannabis" includes cannabis products and useable cannabis. In this code, interchangeable with "marijuana".

CANNABIS, EXCLUSIONS: Herein "cannabis" does not include the mature stalks of the plant or fiber produced from the stalks, and any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks - except the resin extracted therefrom - fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

CANNABIS GARDEN: The place where cannabis/marijuana is grown, whether by an individual, an entity, or by a collective.
**CANNABIS PRODUCTS:** Products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths (3/10ths) of one percent (1%), and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term “cannabis products” does not include “useable cannabis” as defined herein. The definition of “cannabis products” as a measurement of THC concentration only applies to the provisions of this zoning ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

**CANNABIS, USEABLE:** Dried (containing less than fifteen percent (15%) moisture content by weight) flowers of the cannabis plant having a THC concentration greater than three-tenths (3/10ths) of one percent (1%). Useable cannabis excludes stems, stalks, leaves, seeds, and roots. The term useable cannabis does not include “cannabis products” as defined herein.

**COLLECTIVE MEDICAL MARIJUANA GARDEN:** Those gardens authorized under RCW 69.51A.085, which allows qualifying patients to produce, process, transport, and deliver cannabis for medical use subject to all of the following specific conditions:

1. No more than ten qualifying patients may participate in a single collective garden at any time;
2. A collective garden may contain no more than fifteen plants per patient up to a maximum of forty-five total plants;
3. A collective garden may contain no more than twenty-four ounces of usable cannabis per qualifying patient up to a maximum of seventy-two total ounces of usable cannabis;
4. A copy of each qualifying patient’s valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the patient’s proof of identity, must be available at all times on the premises of the collective garden; and
5. No usable cannabis from the collective garden may be delivered to anyone other than one of the qualifying patients participating in the collective garden.

**CONTROLLED SUBSTANCES ACT (CSA):** Federal law 21 United States Code (U.S.C.) making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner specifically authorized by the CSA. Marijuana is classified in the CSA as a Schedule I drug.

**CULTIVATION:** Planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof. For medical marijuana only, combines the terms “production” and “processing” as they are used by the WSLCB to describe recreational marijuana practices.

**DAYCARE, CHILD:** Provision of supplemental parental care and supervision

1. for a non-related child or children,
2. on a regular basis,
3. for less than 24 hours a day, and
4. under license by the Washington State Department of Social and Health Services.
The term is not intended to include babysitting services of a casual, non-recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocated child care by a group of parents in their respective homes.

**DESIGNATED PROVIDER:** A person who:

1. Is eighteen years of age or older;
2. Has been designated in a document signed and dated by a qualifying patient to serve as a designated provider under this ordinance and RCW 69.51A;
3. Is prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient for whom the individual is acting as designated provider;
4. Is the designated provider to only one qualifying patient at any given time; and
5. Is in compliance with the terms and conditions set forth in RCW 69.51A.040.

A qualifying patient may be the designated provider for one other qualifying patient (and only one other) at a time and be in possession of both patients’ cannabis at the same time.

**INDOORS:** Located within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City of Long Beach, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached.

**LAND USES, SENSITIVE:** A land use to be protected by distance and/or other means from the potential and actual impacts of a marijuana-related land use. For purposes of this chapter, the following definitions are considered sensitive land uses:

- **Arcade, Game:** An entertainment venue featuring primarily video games, simulators, and/or other amusement devices from where persons under twenty-one years of age are not restricted. Subset of Amusement.

- **Amusement:** An entertainment venue catering to families and/or to children. Examples include and are not limited to game arcades not restricted to those over 21 years of age, movie theaters, miniature golf courses, horse ride rentals, go-cart tracks, and skateboard parks.

- **Child Care Center:** An entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning.

- **Church:** A property, structure, leased portion of a structure, or facility used primarily for religious worship and related religious activities.

- **Day Care Facility, Child:** A building or structure in which an agency, person, or persons regularly provide care for a group of children for periods of less than 24 hours a day. Child day care facilities include family day care homes, out-of-home child mini-day care centers, and child day care centers regulated by the Washington State Department of
Social and Health Services, as presently defined and hereafter amended (RCW 74.15, WAC 388-73-422).

**Group Home, Juvenile:** A facility providing sheltered care for those with special needs and who are under twenty one (21) years of age.

**Library:** An organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

**Park, Public:** An area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Does not include trails.

**Playground:** A public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

**Preschool Facility:** A school for children who are not old enough to attend kindergarten; a nursery school.

**Recreation Center or Facility:** A supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

**Residential Treatment Facility:** A facility providing for treatment of drug and alcohol dependency. Also called a rehabilitation or "rehab" center.

**School:** An institution of learning for minors, whether public or private, offering regular course of instruction required by the Washington Education Code, or any child or day care facility. This definition includes, but is not limited to, a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education; it does not include a vocational or professional institution of higher learning, including a community or junior college, college or university.

**School, Elementary:** A school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

**School, Secondary:** a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

**Transit Center, Public:** A facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for
the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

**Youth-Oriented Facility:** Elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. Does not include a daycare or preschool facility.

**LEGAL PARCEL:** A parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this ordinance.

**MARIJUANA:** See *ānabis.*

**MARIJUANA FACILITY:** A place where an entity licensed by the WSLCB may participate in the recreational marijuana industry. Following are the main three types of recreational marijuana facilities licensed by the WSLCB.

- **Marijuana Production Facility:** A place where an entity licensed by the WSLCB can plant, grow, and harvest marijuana for sale at wholesale to a licensed marijuana processor.

- **Marijuana Processing Facility:** A place where an entity licensed by the WSLCB may process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to a licensed marijuana retailer.

- **Marijuana Retail Facility:** A place where an entity licensed by the WSLCB may sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail to persons twenty-one years of age and older.

**MARIJUANA, MEDICAL (OR MEDICINAL) USE:** Production, processing, possession, or administration of marijuana for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness subject to the requirements and limitations of Article 17B of the Long Beach city code and those of RCW 69.51A, Medical Cannabis.

**MARIJUANA, RECREATIONAL USE:** Production, processing, possession, or retailing of marijuana for non-medical purposes subject to the requirements and limitations of Article 17A of the Long Beach city code and those of WAC 314-55, Marijuana Licenses, Application Process, Requirements, and Reporting.

**OUTDOORS:** Any location that is not *indoors* within a fully enclosed and secure structure as defined herein.
PERSON: An individual or an entity.

PERSONALLY IDENTIFIABLE INFORMATION: Information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a qualifying patient or designated provider.

PLANT: An organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

PROCESS: To handle or prepare cannabis for use by a consumer.

PRODUCE: To plant, grow, or harvest cannabis.

PUBLIC PLACE: Includes streets, alleys, trails and sidewalks; buildings and grounds used for school purposes; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; buses and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

QUALIFYING PATIENT: A person who:
1. Is a patient of a health care professional;
2. Has been diagnosed by his or her health care professional as having a terminal or debilitating medical condition;
3. Is a resident of the state of Washington at the time of such diagnosis;
4. Has been advised by his or her health care professional about the risks and benefits of the medical use of cannabis;
5. Has been advised by that his or her care professional that he or she may benefit from the medical use of cannabis; and
6. Is otherwise in compliance with the terms and conditions established in chapter 69.51A RCW.

The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this ordinance and RCW 69.51A are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.
RESIDENCE: A person’s address where he or she physically resides and maintains his or her abode.

TERMINAL OR DEBILITATING MEDICAL CONDITION:

1. Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

2. Intractable pain, limited for the purpose of this code to mean pain unrelieved by standard medical treatments and medications; or

3. Glaucoma, either acute or chronic, limited for purposes of this code chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

4. Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

5. Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

6. Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

7. Any other medical condition identified as terminal or debilitating by the Washington State Medical Quality Assurance Commission in consultation with the Board of Osteopathic Medicine and Surgery.

THC CONCENTRATION: Percent of tetrahydrocannabinol content per weight of useable cannabis or cannabis product.

UNIFORM CONTROLLED SUBSTANCES ACT (UCSA): Washington state law Revised Code of Washington (RCW) 69.50 making it unlawful to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance. Marijuana is classified in the USCA as a Schedule I drug.

VALID DOCUMENTATION:

1. A statement signed and dated by a qualifying patient’s health care professional written on tamper-resistant paper, which states that, in the health care professional’s professional opinion, the patient may benefit from the medical use of cannabis; and

2. Proof of identity such as a Washington State driver’s license or identicard, as defined in RCW 46.20.035.

3. In the case of a designated provider, the signed and dated document valid for a maximum of one year from the date of signature executed by the qualifying patient who has designated the provider.

WASHINGTON STATE LIQUOR CONTROL BOARDS (WSLCB): The state agency that promulgates, enacts, and enforces administrative rules regulating the production, processing, and retailing of recreational marijuana at WAS 314-55. This agency grants licenses for recreational
marijuana land uses after consultation with the local jurisdiction, and also ensures that licensees operate within the limits of their permits.

12-17-4: NO CITY LIABILITY—INDEMNIFICATION: Any person or entity operating a marijuana-related land use in the City of Long Beach agrees to the following:

A. By accepting a permit issued pursuant to this chapter, the licensee waives and releases the City, its officers, elected officials, employees, volunteers, and agents from any liability of any kind that results from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.

B. By accepting a permit issued pursuant to this chapter, the licensees agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees, volunteers, and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, loss or damage, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in a manner that is subject of the license.

C. Insurance requirements set forth in WAC 314-55-083 shall be met. The licensee must have a separate policy that covers the City to the same extent as the policy that covers the State of Washington. This liability insurance shall be primary to any insurance that the City may possess and this liability insurance policy shall state this requirement.

D. Licenses shall be reviewed annually. If an insurance or license deficiency exists, the City may suspend or rescind City-issued permits.

12-7-5: LIMITATIONS: The following limitations apply:

A. Nothing in this title is intended to be, nor should be considered to be, an allowance for more activity pertaining to the production, processing, and selling of marijuana than is permitted by State law and by rules and regulations of the WSLCB.

B. Nothing in this title is intended to be, nor should be considered to be, a limitation on the City from protesting the granting of a permit or renewal of a permit by the WSLCB.

C. Nothing in this title shall be construed to supersede Washington State Law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by Chapter 69.51A RCW or Chapter 69.50 RCW. Nothing in this title shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance.
CHAPTER 17
MARIJUANA-RELATED LAND USES
Article A. Licensed Recreational Marijuana-Related Land Uses

Section:

12-17A-1: Intent
12-17A-2: Prerequisites
12-17A-3: Location
12-17A-4: Restrictions on, Requirements and Standards of Operation
12-17A-5: Violations

12-17A-1: INTENT: The intent of this article is to provide a system of strong and effective robust land use controls applicable to any site, structure, activity, or use related to the production, processing, or retailing of marijuana to be used recreationally and licensed in accordance with WAC 314-55 and not otherwise prohibited under RCW 69.50. This framework is intended to address local issues and preferences while ensuring the public’s health, safety, and welfare and also while complying with WAC 314-55, which establishes a statewide regulatory scheme for the production, processing, and retailing of recreational marijuana.

12-17A-2: PREREQUISITES:

A. State License a Pre-requisite to Local Consideration. No recreational marijuana land use shall be considered by the City to be established in the City of Long Beach without first being legally licensed by the WSLCB.

B. Applications and Licenses a Pre-requisite to Establishing a Recreational Marijuana-Related Land Use. Prior to establishing a recreational marijuana land use, the state licensee must do the following:

1. Apply online to and receive a business license. The application must clearly state it is for a recreational marijuana business.
2. On forms made available by the city, make application for and receive a Marijuana Operation License.
   a. The applicant must pay an application fee of $400.
   b. The city will evaluate the proposed land use for land use, zoning, and code compliance.

C. City Inspections a Pre-requisite to Establishing a Recreational Marijuana-Related Land Use. Prior to the city issuing a Marijuana Operation License, the following must occur:

1. The applicant must make the property available for inspections by city personnel.
2. An inspection by the Long Beach Building Inspector or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed
and the site re-inspected until no negative findings result. The fee for the initial inspection shall be $250. The fee for each subsequent inspection required to address negative findings shall be $250.

3. An inspection by the Long Beach Fire Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result. The fee for the initial inspection shall be $250. The fee for each subsequent inspection required to address negative findings shall be $250.

4. An inspection by the Long Beach Police Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result. The fee for the initial inspection shall be $250. The fee for each subsequent inspection required to address negative findings shall be $250.

12-17A-3: LOCATION: A legally licensed and inspection-approved recreational marijuana land use may be sited in Long Beach subject to the following.

A. Sensitive Land Uses. No marijuana-related land use shall be established on a property located within one thousand (1,000) feet of the nearest property line of any one or more sensitive land use. The distance shall be measured in the most direct route over or across public walks, streets, or other public passageways between the property lines of the proposed business location and the sensitive land use that are nearest one another. The City shall rely upon its Sensitive Land Uses map, adopted by reference herein and as might be amended, to determine whether a proposed recreational marijuana-related land use is located within one thousand (1,000) of a sensitive land use.

1. Preschool, elementary, or secondary school
2. Playground
3. Recreation center or facility
4. Child care center
5. Public park
6. Public transit center
7. Library
8. Game arcade
9. Amusement
10. Church
11. Child day care facility
12. Residential treatment facilities
13. Youth-oriented facilities
14. Juvenile group home
B. Existing Licensed Marijuana Retail Business. No marijuana-related land use shall be established on a property located within one thousand (1,000) feet of the nearest property line of any existing licensed marijuana retail outlet. The distance shall be measured as described in section 12-17A-3(A).

C. Marijuana Production Facility. The planting, growing, and harvesting of marijuana by a state-licensed marijuana producer for sale to a state-licensed marijuana processor shall be allowed as a conditional use in the LI (Light Industrial) and C2 (Commercial Retail Warehouse) zoning districts. In addition to the locational requirements of sections 12-17A-3(A) and (B), the property on which the proposed production facility would be located shall be a minimum of two hundred (200) feet from the nearest property on which a residential land use is located.

D. Marijuana Processing Facility. The handling or preparing of marijuana for sale by a state-licensed marijuana processor to a state-licensed marijuana retailer shall be allowed as a conditional use in the LI (Light Industrial) and C2 (Commercial Retail Warehouse) zoning districts. In addition to the locational requirements of sections 12-17A-3(A) and (B), the property on which the proposed processing facility would be located shall be a minimum of two hundred (200) feet from the nearest property on which a residential land use is located.

E. Marijuana Retail Facility. The retailing of marijuana by a state-licensed marijuana retailer for use by a consumer 21 years of age or older shall be allowed as a conditional use in the C1 and RC zoning districts. In addition to the locational requirements of sections 12-17A-3(A) and (B), the property on which the proposed retail facility would be located shall not be located on a parcel on which also is located any residential land use or immediately adjacent to (sharing a property line with or directly across the street from) a property on which a residential land use is located.

12-17A-4: RESTRICTIONS ON, REQUIREMENTS AND STANDARDS OF OPERATION: Following are restrictions on, requirements for, and standards of operation for recreational marijuana-related land uses, including producers, processors, and retailers, located in the City of Long Beach.

A. State License Required. No person, business, or entity may establish or operate a recreational marijuana production, processing, or retail venture in the City of Long Beach without first obtaining a license from the WSLCB. The application for each license must have first been reviewed by the City of Long Beach before being granted by the WSLCB.

B. No Delivery Services. No person, business, or entity may operate a recreational marijuana delivery service in the City of Long Beach.

C. No Nonconforming Status. Notwithstanding the provisions of Chapter 16 (Nonconforming Uses and Structures) of this code, an existing recreational marijuana land use in operation as of the effective date of this chapter shall immediately cease operations and seek legal status via the WSLCB licensing process.
D. City Recreational Marijuana Operations License Required. Each state- and city-licensed recreational marijuana land use shall pay an annual marijuana operations licensing fee of $300 at the beginning of each operating year.

1. A recreational marijuana land use shall not operate without a city recreational marijuana operations license.

2. The city will not prorate or refund recreational marijuana operations license fees.

3. Failure to acquire an annual recreational marijuana operations license shall result in the recreational marijuana land use being terminated

E. Annual Inspections Required: Every year, the site shall be inspected by city personnel for structural suitability, fire safety, and security. The cost of these inspections shall be paid for via the annual recreational marijuana operations licensing fee.

F. Operating Standards: The following restrictions apply to the operation of licensed recreational marijuana land uses.

1. Odor. The operation shall not subject occupants of neighboring parcels who are of normal sensitivity to objectionable odors.

2. Lighting. All lights used shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.

3. Noise. Operational noise shall not exceed the noise disturbance standards as set forth in Title 10 (Health, Safety and Environment) Chapter 5 (Noise Control) of the Long Beach City code. Any noise/vibration disturbance shall be abated, whether caused by loud noise or by low-frequency disturbance.

4. Visibility. Marijuana or paraphernalia shall not be on display in any location visible from the public right of way, publicly traveled private roads, a public place, or neighbors' property.

5. Signage. Advertising signage must comply with requirements found at WAC 314-55-155, as may be amended, and may not exceed 11.11 square feet in area. Mandatory cautionary signage must comply with requirements found at WAC 314-55-086, as may be amended.

6. Compliance with Codes. The licensed recreational marijuana operation shall be in compliance with the applicable provisions of the currently adopted edition of the Washington State Building Code.

7. Nuisance. The licensed recreational marijuana operation shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other adverse impacts, or be hazardous due to use or storage of materials, processes, products or waste.

8. Security. Security measures at a licensed recreational marijuana land use shall include, at a minimum, the following:
a. a burglary alarm system that is professionally monitored and maintained in good working condition;

b. exterior lighting that illuminates all entry points, but does not scatter light off-site; and

c. deadbolt locks on all exterior doors.

12-17A-5: VIOLATIONS:

A. Failure to Comply. Failure to comply with any restriction, requirement, or standard described herein shall result in revocation of the city recreational marijuana operations license and termination of the recreational marijuana land use.

B. Nuisance. Nothing in this chapter shall be construed as a limitation on the city’s authority to abate any violation which may exist from the otherwise legal production, processing, or retailing of recreational marijuana from any location, including from within a fully enclosed and secure building.

C. Any violation(s) of this chapter may be enforced as set forth in Title 14 (Enforcement Procedures) or, as applicable, the Uniform Controlled Substances Act, RCW 69.58. In addition, violations of subsections (A) and (B) of this section are deemed to be a public nuisance and may be abated by the city under procedures set forth in Title 5 (Health, Safety and Environment), Chapter 2 (Public Nuisances) of this code or state law for the abatement of public nuisances.
CHAPTER 17
MARIJUANA-RELATED LAND USES
Article B. Medical Marijuana-Related Land Uses

Section:
12-17B-1: Intent
12-17B-2: Prerequisites
12-17B-3: Location
12-17B-4: Restrictions on, Requirements and Standards of Operation
12-17B-5: Violations

12-17B-1: INTENT: The intent of this article is to provide robust and effective land use controls on any site, structure, activity, or use related to the limited production, processing, or distribution of marijuana to be used medicinally and not otherwise prohibited under RCW 69.51A (Medical marijuana). This framework is intended to address local issues and preferences while ensuring the public’s health, safety, and welfare and also while complying with RCW 69.50 (Uniform controlled substances act) and 69.51A, which establish regulatory schemes for the limited production, processing, and distribution of medical marijuana.

12-17B-2: PREREQUISITES:

A. Licenses and Inspections a Pre-requisite: No medical marijuana land use shall be established in the City of Long Beach without first obtaining the following:
   1. A medical marijuana operations license.
   2. An inspection by the Long Beach Building Inspector or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result.
   3. An inspection by the Long Beach Fire Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result.
   4. An inspection by the Long Beach Police Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result.

12-17B-3: LOCATION: Medical marijuana gardens may be sited in Long Beach subject to the following:

B. Outdoor Medical Marijuana Gardens Prohibited. All medical marijuana gardens must be located indoors, in a permanent building or a greenhouse permanently affixed to the ground.

C. Separation: Medical marijuana gardens shall not be located:

1. on property located within five hundred (500) feet of property on which is located a youth-oriented facility, school, park, church, juvenile group home, or residential treatment facility, measured from nearest property line to nearest property line;

2. within twenty (20) feet of any occupied legal residential structure located on a separate legal parcel or residential accessory structure used primarily by children (a "playhouse"), measured from nearest exterior wall of the medical marijuana garden structure to nearest exterior wall of the residential or residential accessory structure;

3. in a mobile home park, within twenty (20) feet of an occupied mobile home, measured from nearest exterior wall to nearest exterior wall;

4. within one hundred (100) feet of Pacific Highway, measured from nearest property line to nearest right-of-way line; or

5. in any location where marijuana plants are visible from the public right of way, publicly traveled private roads, a public place, or neighbor's property.

12-17B-4: RESTRICTIONS ON, REQUIREMENTS AND STANDARDS OF OPERATION: Following are the restrictions on, requirements, and standards for medical marijuana gardens located in the City of Long Beach, whether operated by an individual or a collective.

A. No Nonconforming Status. Notwithstanding the provisions of Chapter 16 (Nonconforming Uses and Structures) of this code, an existing cannabis garden in operation as of the effective date of this chapter shall be brought into full compliance with the provisions of this chapter within one (1) year of the chapter's effective date.

B. City Application Required. Prior to establishing a medical marijuana garden, the individual or collective operating the garden must make application to the City of Long Beach on forms provided by the city.

1. The applicant must pay an application fee of $400.

2. The proposed land use will be evaluated for land use, zoning, and code compliance.

3. The applicant must make the property available for inspections by city personnel.

4. The structure proposed to house the land use will be inspected for structural suitability, fire safety, and security. The cost of these three inspections shall be $250 each, or $750. If negative findings result from an inspection and re-inspection is required, the cost of re-inspection shall be $250 per inspection.

C. City Medical Marijuana Garden Operations License Required. Each medical marijuana garden shall pay an annual licensing fee of $300 at the beginning of each licensing year.
1. A medical marijuana garden shall not operate without a license.
2. The city will not prorate or refund medical marijuana garden operations license fees.
3. Failure to acquire an annual license shall result in the medical marijuana garden operation being terminated.

D. Annual Inspections Required. Every year, the site shall be inspected by city personnel for structural suitability, fire safety, and security. The cost of these inspections shall be paid for via the annual medical marijuana garden operation licensing fee.

E. Operating Standards. The following restrictions apply to the operation of medical marijuana gardens, whether operated by an individual or a collective.

1. Odor. The cultivation of marijuana shall not subject occupants of neighboring parcels who are of normal sensitivity to objectionable odors.
2. Lighting. All lights used for the cultivation of marijuana shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
3. Noise. The cultivation of medical marijuana shall not exceed the noise disturbance standards as set forth in Title 10 (Health, Safety and Environment) Chapter 5 (Noise Control) of the Long Beach City code. Any noise/vibration disturbance shall be abated, whether caused by loud noise or by low-frequency disturbance.
4. Visibility. Medical marijuana shall not be grown or on display in any location where marijuana plants are visible from the public right of way, publicly traveled private roads, a public place, or neighbor’s property.
5. Signage. There shall be no exterior signage or symbology relating to the medical marijuana garden.
6. Gas Prohibited. The use of gas products (CO₂, butane, etc.) for medical marijuana cultivation is prohibited. If propane is the main source of heat when a medical marijuana garden is established, it may continue to be used for that purpose.
7. Compliance with Codes. Every medical marijuana garden shall be in compliance with the applicable provisions of the currently adopted edition of the Washington State Building Code.
8. Nuisance. A medical marijuana garden shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other adverse impacts, or be hazardous due to use or storage of materials, processes, products or waste.
9. Security. Security measures at the medical marijuana garden shall include, at a minimum, the following:
   a. a burglary alarm system that is professionally monitored and maintained in good working condition;
   b. exterior lighting that illuminates all entry points, but does not scatter light off-site; and
c. deadbolt locks on all exterior doors.

F. Delivery Only Among Collective Members. No usable cannabis from a collective medical marijuana garden may be delivered to anyone other than one of the qualifying patients participating in the collective. Collective garden employees/volunteers or collective garden members may not sell any marijuana plants or usable marijuana, nor may they exchange them for items of equivalent value, other than other medical marijuana. Delivery may not occur outside Pacific County. Failure to adhere to this requirement may be prosecuted under the Uniform Controlled Substances Act, chapter 69.58 RCW.

G. No On-site Sale of Paraphernalia. There shall be no on-site display or sale of paraphernalia used for the use or consumption of medical marijuana at a medical marijuana garden.

H. Restrictions on Allowable Quantities of Medical Marijuana. The quantity of any medical marijuana at any single location shall conform to the following:

1. RCW 69.51A.040 allows an individual qualifying patient or designated provider to cultivate medical marijuana for personal medical use within his/her private residence, as long as the qualifying patient or designated provider:
   a. possesses no more than fifteen (15) marijuana plants;
   b. possesses no more than twenty-four (24) ounces of usable marijuana;
   c. possesses no more marijuana product than what could reasonably be produced with no more than twenty-four (24) ounces of usable marijuana; or
   d. possesses a combination of usable marijuana and marijuana product that does not exceed a combination total representing possession and processing of no more than twenty-four (24) ounces of usable marijuana.

2. If a person is both a qualifying patient and a designated provider for another qualifying patient, at any one time they may possess no more than twice the amounts described in subsection (A) of this section, above.

12-17B-5: VIOLATIONS:

A. It is a violation of this chapter for any person owning, leasing, occupying or having charge or possession of any parcel of land within any incorporated area of the City of Long Beach to cause or allow such parcel of land to be used for the indoor cultivation of marijuana or cannabis plants for medicinal purposes in excess of the limitations or in non-compliance with the requirements and standards set forth herein.

B. The cultivation of more than the number of marijuana plants set forth in this chapter on one legal parcel, either indoors or outdoors, within the City, regardless of whether the persons growing the cannabis is/are a "qualified patient, or members of a "collective garden" as defined herein, is hereby prohibited.
C. Nuisance. Nothing in this chapter shall be construed as a limitation on the city’s authority to abate any violation which may exist from the cultivation of cannabis plants from any location, including from within a fully enclosed and secure building.

D. Any violation(s) of this chapter may be enforced as set forth in Title 14 (Enforcement Procedures) or, as applicable, the Uniform Controlled Substances Act, RCW 69.58. In addition, violations of subsections (A) and (B) of this section are deemed to be a public nuisance and may be abated by the city under procedures set forth in Title 5 (Health, Safety and Environment), Chapter 2 (Public Nuisances) of this code or state law for the abatement of public nuisances.