



# **CITY COUNCIL AGENDA REPORT**

MEETING DATE: JULY 5, 2005

ITEM NUMBER:

**SUBJECT:** ORDINANCE 05-11 AMENDING TITLE 13 OF THE COSTA MESA MUNICIPAL CODE TO PROHIBIT THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES IN THE CITY OF COSTA MESA

**DATE:** JULY 5, 2005

**FROM:** DEVELOPMENT SERVICES/PLANNING DIVISION

**PRESENTATION BY:** KIMBERLY BRANDT, AICP, PRINCIPAL PLANNER

**FOR FURTHER INFORMATION CONTACT:** KIMBERLY BRANDT, (714) 754-5604

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## **RECOMMENDATION:**

Give second reading to Ordinance 05-11 prohibiting the establishment of medical marijuana dispensaries in the City of Costa Mesa.

## **BACKGROUND:**

On June 21, 2005 Council gave first reading to the attached ordinance on a 3-2 vote (Foley and Dixon voting No). Staff has no additional information regarding this item.

  
KIMBERLY BRANDT, AICP  
Principal Planner

  
DONALD D. LAMM, AICP  
Deputy City Mgr.-Dev. Svs. Director

**DISTRIBUTION:** City Manager  
City Attorney  
Police Chief  
Police Lieutenant Gogerty  
Public Services Director  
Staff (4)  
File (2)

**ATTACHMENTS:** 1 Ordinance 05-11

**ATTACHMENT 1**  
**ORDINANCE 05-11**

**ORDINANCE NO. 05-11**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 13 OF THE COSTA MESA MUNICIPAL CODE TO PROHIBIT THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES IN THE CITY OF COSTA MESA.**

The City Council of the City of Costa Mesa, California, does hereby declare:

WHEREAS, the People of the State of California have enacted Proposition 215, the Compassionate Use Act of 1996 (codified at Health and Safety Code Section 11362.5, et seq.), ("the Act") to allow the medical use of marijuana for certain persons; and

WHEREAS, the Act does not require or provide for the opening of businesses or cooperatives commonly known as Medical Marijuana Dispensaries; and

WHEREAS, notwithstanding the passage of the Act, the sale and distribution of marijuana is prohibited by the Controlled Substances Act, 21 U.S.C. section 841; and

WHEREAS, the City Council of the City of Costa Mesa concludes that the federal law prohibiting sale and distribution of marijuana would preclude the opening of Medical Marijuana Dispensaries sanctioned by the City of Costa Mesa;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. The City Council of the City of Costa Mesa hereby finds and determines that it is the purpose and intent of this ordinance to prohibit medical marijuana dispensaries in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City.

**Section 2.** Title 13 of the Costa Mesa Municipal Code is hereby amended to read as follows:

- a. Amend Section 13-6 to include the following:  

**“Medical marijuana dispensary.** A facility or location where medical marijuana is cultivated or by any other means made available to and/or distributed by or to one or more of the following: a primary caregiver, a qualified patient, or a person with an identification card in strict accordance with State Health and Safety Code Sections 11362.5 et seq and 11362.7 et seq.”
- b. Amend Table 13-30 to include an additional row as shown in Attachment A.

**Section 3.** Environmental Determination. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City’s environmental procedures, and has been found to be exempt.

**Section 4.** Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

**Section 5.** Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, 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 remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

**Section 6:** This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk

a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2005

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Mayor

ATTEST:

APPROVED AS TO FORM:

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City Clerk of the  
City of Costa Mesa

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City Attorney

STATE OF CALIFORNIA)  
COUNTY OF ORANGE) ss  
CITY OF COSTA MESA)

I, Julie Folcik, Deputy City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 05-\_\_ was introduced and considered section by section at a regular meeting of said City Council held on the \_\_\_ day of \_\_\_\_\_, 2005, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the \_\_\_ day of \_\_\_\_\_, 2005, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this \_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Deputy City Clerk and ex-officio  
Clerk of the City Council of the  
City of Costa Mesa

