ATTACHMENT 1

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

Committee of proponents, who are residents of the City of Costa Mesa, sponsoring the petition:

Robert Taft, Jr. Kevin Gardner

TEXT OF THE PROPOSED MEASURE:

MEDICAL CANNABIS CONTROL ACT.

Section 1 – Title

This initiative shall be known and may be cited as the Medical Cannabis Control Act.

Section 2 – Findings and Declarations

Pursuant to, and consistent with the current California law concerning medical cannabis, the City of Costa Mesa shall enact an ordinance creating Title 9, Chapter VI of the Costa Mesa Municipal Code, and amend in its entirety Title 13, Chapter 1, Article 2, Section 13-6, and amending Row 31(a) of Title 13, Chapter 4, section 13-30, and amending Title 9, Chapter 1, Article 5, Section 9-32 of the Costa Mesa Municipal Code, in order to authorize the establishment of medical cannabis businesses, to restrict and limit such medical cannabis businesses by imposing strict regulations on such businesses to protect the health, safety, and welfare of the community;

WHEREAS, the Compassionate Use Act ("CUA"), adopted by California voters in 1996, and the Medical Marijuana Program Act ("MMPA"), enacted by the State Legislature in 2003, decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician's recommendation and provided California's qualified patients and their primary caregivers with specified immunities under state law, thereby helping to ensure that qualified patients and their primary caregivers, who possess and use marijuana for medical purposes, are not subject to criminal prosecution and/or sanction;

WHEREAS, the Costa Mesa Police Department ("CMPD") has reported that the number of marijuana dispensaries and commercial growing operations proliferated though out the City in the past without sufficient legal oversight, the City and its neighborhoods have experienced negative secondary effects, including an increase in crime at certain locations associated with unregulated medical cannabis businesses;

WHEREAS, there presently are no ordinances in the City of Costa Mesa specifically regulating or monitoring the location, zoning standards, or other aspects of the locations and facilities where medical cannabis will be dispensed to eligible persons under state law;

WHEREAS, medical cannabis businesses must operate with reasonable regulation, to ensure that those seriously ill residents of the City benefit from the palliative effects of medical cannabis have access they are provided under state law;

WHEREAS, by implementing a fair and reasonable registration process for medical cannabis businesses, the City will be able to maintain order while avoiding undue burdens on its already strained financial resources;

WHEREAS, the City has a substantial and clear interest in ensuring that medical cannabis is distributed in an orderly manner, and in protecting the public health, safety and welfare of its residents, its businesses, the neighborhoods in which medical cannabis businesses operate, while ensuring compassionate access to seriously ill residents to medical cannabis in accordance with the CUA and the MMPA;

WHEREAS, the regulations in this initiative do not interfere with a qualified patient's right to use medical cannabis as authorized under California law, nor do they criminalize the possession or cultivation of medical cannabis by specifically defined classifications of persons, as authorized under California law;

WHEREAS, medical cannabis businesses shall comply with all provisions of the Costa Mesa Municipal Code ("Code"), California law, and all other applicable local laws; nothing in this initiative purports to permit activities that are otherwise illegal under state or local law;

WHEREAS, this initiative is not intended to conflict with federal or state law, nor is it intended to respond to or invite litigation over any unresolved legal questions posed by the California Attorney General or by case law regarding the scope and application of state law; it is intended that this initiative be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass;

WHEREAS, the People of the City of Costa Mesa find that nonprofit medical cannabis businesses which operate in full compliance with the State Compassionate Use Act, the Medical marijuana program act, and the Attorney General Guidelines demonstrate a willingness to engage in lawful activity which benefits economic costs associated with the City of Costa Mesa's local regulation and enforcement efforts;

WHEREAS, to that end, the People of Costa Mesa further find that those nonprofit medial marijuana businesses, as set forth in the above paragraph, have been precluded from operation in the City of Costa Mesa due to the inability to obtain a business license under the City of Costa Mesa's Municipal Code. Those medical cannabis businesses who never operated in in Costa Mesa without a business license yet have or have attempted to comply with the Compassionate Use Act, the Medical marijuana program act, the Attorney General's Guidelines, and the Costa Mesa Municipal Code by applying for a business license and when denied did not violate the law and commence operation of a medical cannabis business illegally should be given a preference for obtaining "Priority Registration" status as that term is herein defined, to operate under Title 9, Chapter VI.

WHEREAS, the People of the City of Costa Mesa recognize that an ordinance proposed by a voter initiative and adopted by a vote of the People cannot be repealed or amended, except by a vote of the People pursuant to the California Constitution, Article 2, Section 10;

WHEREAS, the People of the City of Costa Mesa further find and declare that this initiative is enacted pursuant to the powers reserved to the State of California, the City of Costa Mesa, and its People under the Tenth Amendment of the United States Constitution, Article 2 of the California Constitution, and the California Health and Safety Code Sections 11362.5 and 11362.7 *et seq.*

NOW, THEREFORE, the People of the City of Costa Mesa ordain as follows:

SECTION 3 – Amendment to the Costa Mesa Municipal Code to Add Title 9, Chapter VI.

The People of the City of Costa Mesa do hereby enact and ordain that Title 9 of the Costa Mesa Municipal Code, entitled Licenses and Business Regulations, is hereby amended to add Chapter VI to read as follows: (Any underlined language is new and shall be inserted into the Chapter)

CHAPTER VI. – MEDICAL CANNABIS BUSINESSES

9-481 Authority and title
9-482 Release of liability and hold harmless
9-483 Purpose and intent
9-484 Physicians/patient confidentiality
9-485 Definitions
9-486 Medical cannabis businesses prohibited
9-487 Limited immunity
9-487.1 Operational requirements
9-488 Cultivation of medical cannabis
9-489 Transportation of medical cannabis
9-490 Violation and enforcement
9-491 Majority approval; effective date
9-492 Competing measures.
9-493 Amendment and repeal.
9-494 Severability.
9-495 Statewide regulation.
9-496 Special or general election.

SEC. 9-481 Authority and title.

Pursuant to the authority granted by the California Constitution, Article 2 and California Health and Safety Code Sections 11362 and 11362.7 *et seq.*, the People of the City of Costa Mesa do enact this Chapter, which shall be known and may be cited as the "Medical Cannabis Control Act."

SEC. 9-482 – Release of liability and hold harmless.

To the fullest extent permitted by law, the City of Costa Mesa shall assume no liability whatsoever, and expressly does not waive sovereign immunity, with respect to the medical cannabis business program established herein, or for the activities of any medical cannabis business.

Each medical cannabis business recognized by the city shall

a. Release the city, its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of the medical cannabis provider association or its participants for a violation of state or federal law.
b. Indemnify and hold harmless the City, its agents, officers, elected officers, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the medical cannabis business and or premises; and
c. Indemnify and hold harmless the City, its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by any of its participants for problems, injuries, damages, or liabilities of any kind that may arise out of the distribution, cultivation and/or use of medical cannabis provided at the medical cannabis business and/or premises.

SEC. 9-483 - Purpose and intent.

It is the purpose and intent of this Article to limit the maximum number and concentration of medical cannabis businesses in the City, to provide needed tax revenue to the City, and to regulate the operation of medical cannabis businesses in order to ensure the health, safety and welfare of the residents of the City of Costa Mesa. The regulations in this Chapter, in compliance with the Compassionate Use Act, the Medical marijuana program act, and the California Health and Safety Code do not interfere with a qualified patient's right to use medical cannabis as authorized under California law, nor do they criminalize the possession or cultivation of medical cannabis by specifically defined classifications of persons, as authorized under California law.

Medical cannabis businesses shall comply with all provisions of the Costa Mesa Municipal Code ("Code") and California laws. Nothing in this Article purports to permit activities that are otherwise illegal under federal, state or local law. This Article is not intended to conflict with federal or state law, nor is this Article intended to respond to or invite litigation over any unresolved legal questions posed by the California Attorney General or by case law regarding the scope and application of state law. It is intended that this Article be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

SEC. 9-484 – Physician/Patient confidentiality

Requirements set forth pursuant to this Chapter shall preserve to the maximum extent possible all legal protections and privileges, consistent with reasonably verifying the qualifications and status of qualified patients and primary caregivers. Disclosure of any patient information to assert facts in support of qualified status shall not be deemed a waiver of confidentiality of that information.

SEC. 9-485. Definitions.

A. The following phrases and words, when used in this section, shall be construed as defined below. Words and phrases not defined here shall be construed as defined in Costa Mesa municipal code or state law.

"Building" means any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels, or property of any kind.

"Cannabis" or "marijuana" shall be construed as defined in California Health and Safety Code Section 11018 and further shall specifically include any product that contains marijuana or a derivative of marijuana and all parts of the plant□cannabis, whether growing or not; 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. It includes marijuana infused in□foodstuff. It does not include the mature stalks of the plant, fiber produced from□the stalks, oil or cake made from the seeds of the plant, 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 seeds of the plant□are incapable of germination.□

"Collectives" and "cooperatives" when referring to medical cannabis□organizations, both mean associations of five or more qualified patients, persons□with identification cards, or primary caregivers of qualified patients and persons□with identification cards, who associate, as an incorporated or unincorporated□association, to collectively or cooperatively cultivate and distribute medical□cannabis for use exclusively by their registered members, in strict accordance with□California Health and Safety Code sections 11362.5 and 11362.7 et seq.

"Cultivation" means the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed an secure building.

"Edible products" means marijuana cultivated by medical cannabis businesses, and participants thereof, that is made available in an edible form and prepared in a certified kitchen meeting all the applicable health requirements to be used and ingested solely by qualified patient participants as part of their medical regime, in strict accordance with state law.

"Felony Conviction" means any conviction, whether by guilty plea, judicial ruling, or jury verdict, of any felony offense. A conviction of a felony offense that has been dismissed, withdrawn, expunged, or set aside, whether pursuant to California Penal Code section 1203.4,

California Penal Code section 1000, California Penal Code section 1385, the interest of justice, or any other judicial ruling or agreement of the prosecution, shall not be deemed a felony conviction.

"Live Scan" means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice ("DOJ") which involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting.

"Location" means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.

"Manager" means any person with responsibility for the establishment, organization, registration, supervision, or oversight of a medical cannabis business, including but not limited to any person who performs the functions of president, vice president, board member, director, owner, operating officer, financial officer, secretary, or treasurer of the medical cannabis business.

"Medical cannabis" and "medical marijuana" means cannabis that is grown, used, and distributed pursuant to the provisions of California Health and Safety Code sections 11362.5 and 11362.7-11362.83, including all cannabis products, infusions, and concentrates containing the active ingredients of the cannabis plant.

"Medical cannabis businesses" means the following: an unincorporated or incorporated entity or association of qualified patients and/or primary caregivers and/or persons with identification cards, who provide money and in-kind contributions, reimbursements, and reasonable compensation towards the aforementioned entity's actual expenses for activities including, but not limited to; planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, providing and/or retail sales of medical cannabis. A medical cannabis business may provide medical cannabis, products, services and assistance to qualified patients, persons with a medical cannabis identification card (as set forth in the MMPA), or the primary caregiver of such persons. Medical cannabis businesses may assist with the acquisition of skills necessary to cultivate or provide marijuana for medical purposes in compliance with State Law. A medical cannabis business includes any facility, building, structure or location, whether permanent, or temporary, where marijuana is made available, sold, given away, distributed, or otherwise provided in accordance with Health and Safety Code section 11362.5 *et seq.* A medical cannabis business includes medical cannabis collectives, cooperatives, dispensaries, cultivations, and marijuana delivery services. Medical Cannabis businesses include "medical marijuana businesses."

(1) "Medical cannabis business" shall not include, nor be interpreted to include, any of the following:

a. Any location which is a legal dwelling zoned exclusively for residential use and not permitted for any commercial activity where three (3) or less people who reside at a property cultivate marijuana.

b. The location of any clinic licensed pursuant to Chapter 1 (commencing with Section 1200), a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725), any facility specified in Division 2 of the California Health and Safety Code where: (i) a qualified patient or person with an identification card receives medical care or supportive services, or both, from the clinic, facility, hospice, or home health agency; and (ii) the owner or operator, or one of not more than three employees designated by the owner or operator, of the clinic, facility, hospice, or home health agency has been designated as a primary caregiver pursuant to California Health and Safety Code Section 11362.7(d) by that qualified patient or person with an identification card.

"Medical cannabis identification card," "Medical marijuana identification card," and "identification card" mean a□document issued by the State Department of Health Services pursuant to□California Health and Safety Code sections 11362.7 et seq. that identifies a person□authorized to engage in the medical use of cannabis and the person's designated□primary caregiver, if any, or identifies a person as a primary caregiver for a□medical cannabis patient.

"Premises" means the space in any buildings of a medical cannabis business together with the spaces within any structures, yards, open spaces, lot width, and lot area at a location that is occupied or used in the operation of the medical cannabis business.

"Reasonable compensation" means compensation commensurate with reasonable wages and benefits paid to employees of IRS-qualified non-profit organizations who have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked.

"Structure" means anything constructed or erected which is supported directly or indirectly on the ground, but not including any vehicle.

"Vehicle" means a conveyance or device by which any person or property may be propelled, moved, or drawn upon a street, sidewalk or waterway, including but not limited to a device moved exclusively by human power.

B. The following words or phrases when used in this section shall be construed as defined in California Health and Safety Code Sections 1746, 11362.5, and 11362.7.

"Hospice"; "Identification card"; "Person with an identification card;" "Primary caregiver"; and "Qualified patient."

SEC. 9-486. Medical cannabis businesses prohibited.

A. It shall be unlawful to own, establish, operate, use, or permit the establishment or operation of a medical cannabis business, or to participate as an employee, contractor, agent, volunteer, or in any manner or capacity other than as provided in this Chapter.

B. The general prohibition contained in this section shall include renting, leasing, or otherwise permitting a medical cannabis business to occupy or use a location, vehicle, or other mode of transportation.

SEC. 9-487. Limited immunity.

A medical cannabis business shall be immune to the prohibition set out in Section 9-486 and the remedies set forth in Costa Mesa Municipal Code, including criminal prosecution, so long as that medical cannabis business obtains a Business License for the operation of a medical cannabis business from the City, through the Treasury Division Management Department and/or City Tax Collector, as well as complies with all operational requirements provided in this section.

A. **Business license.**

1. The City Tax Collector and/or The City Treasury Division Management Department shall issue a business license for a medical cannabis business that meets priority registration or non-priority registration requirements detailed below in this section.

   a. Priority Registration.

      i. Beginning on the date that is thirty (30) days after the effective date of this ordinance, and lasting for ten (10) business days, a medical cannabis business may submit a priority registration application and obtain a business license for the purpose of operating a medical cannabis business from the City of Costa Mesa if, on or before May 30, 2014, such applicant:

         (a) Has never operated a medical cannabis or medical marijuana business in the city of Costa Mesa, has never been convicted of operating a medical cannabis business, or never been civilly adjudicated of operating a medical cannabis business or medical marijuana business without a business license in the City of Costa Mesa;

            a. The lack of any court record of a citation conviction or civil adjudication by the city shall be sufficient proof to satisfy that applicant has not operated a medical cannabis business in the City of Costa Mesa.

         (b) Has been issued a business license or has applied for a business license from the City of Costa Mesa for a

medical cannabis business or medical marijuana business;

a. Proof of application or attempt to apply for a Costa Mesa business license for the purpose of a medical cannabis business or medical marijuana business shall be satisfied by any competent verifiable documentation, including, but not limited to, a date stamped business license application from the City, a filed application, a copy of a denial letter for a medical cannabis business from City of Costa Mesa or a dated copy of an application for a medical cannabis business license along with some proof that a mailing was sent to the City of Costa Mesa, Treasury Management Division, P.O. Box 1200, Costa Mesa, CA 92628-1200 within seven (7) days of the signing of the application, or any documentation stamped "Received" by the city including, but not limited to, a printout of City, of Costa Mesa Land Use Matrix Table 13-30 or a copy of a received stamped copy of a business card of a senior planner for the City of Costa Mesa.

(c) Has filed for Incorporation, filed Chapters of Association for a limited liability company, or articles of organization with the Secretary of State of California for the purpose of operating a non-profit medical cannabis business or medical marijuana business;

a. Proof of incorporation, articles of association, or limited company status shall be satisfied by a true and correct copy of the articles of incorporation filed with the Secretary of State, Chapters of Association or any other competent verifiable documentation;

(d) Possesses or has applied for a Seller's Permit from the State Board of Equalization in the name of the business.

(e) Possesses or has applied for a License to Sell Nursery Stock for the City of Costa Mesa which was applied for or issued by the Department of Food and Agriculture;

(f) Has applied for a Live Scan background check;

(g) Possesses a physician's medical cannabis or medical marijuana recommendation pursuant to California Health and Safety Code section 11362 *et. sec.*;

(h) Possess or has applied for a medical marijuana identification card pursuant to Health and Safety Code Section 11362.7 *et sec.*;

(i) Possesses or has applied for a general liability insurance policy (bodily injury, property damage, and medical

cannabis liability), which specifically includes liability for medical cannabis and/or medical marijuana.

a. Proof of application for a general liability insurance policy, which specifically includes liability for medical cannabis and/or medical marijuana may be shown by a quote from an insurance company or any other verifiable documentation.

(j) The applicant possesses a notarized, signed, and dated authorization to submit to fingerprinting and photographing and authorizing the City in writing to obtain information from criminal justice agencies, financial institutions, Federal, State and local government agencies, and other persons and entities. The written authorization shall include consent to release the information to the City for use in connection with the business license.

(k) The applicant possesses a notarized, signed, and dated statement indicating to the City that the applicant will hold harmless, indemnify, and defend the City against all claims and litigation arising from the issuance of a licenses, including any claims and litigation arising from the establishment, operation, or ownership of the medical cannabis establishment.

b. Non-Priority Registration:

i. Beginning on the date that is thirty (30) days after the effective date of this ordinance plus ten (10) business days, any medical cannabis business may submit a non-priority registration application to the Treasury Division Management Department and/or City Tax Collector for a business license provided the medical cannabis business meets the following criteria:

(a) Has never operated a medical cannabis or medical marijuana business in the city of Costa Mesa, has never been convicted of operating a medical cannabis business, or never been civilly adjudicated of operating a medical cannabis business or medical marijuana business without a business license in the City of Costa Mesa;

a. The lack of any court record of a citation conviction or civil adjudication by the city shall be sufficient proof to satisfy that applicant has not operated a medical cannabis business in the City of Costa Mesa.

(b) Has been issued a business license or has applied for a business license from the City of Costa Mesa for a

medical cannabis business or medical marijuana business;

a. Proof of application or attempt to apply for a Costa Mesa business license for the purpose of a medical cannabis business or medical marijuana business shall be satisfied by any competent verifiable documentation, including, but not limited to, a date stamped business license application from the City, a filed application, a copy of a denial letter for a medical cannabis business from City of Costa Mesa or a dated copy of an application for a medical cannabis business license along with some proof that a mailing was sent to the City of Costa Mesa, Treasury Management Division, P.O. Box 1200, Costa Mesa, CA 92628-1200 within seven (7) days of the signing of the application, or any documentation stamped "Received" by the city including, but not limited to, a printout of City, of Costa Mesa Land Use Matrix Table 13-30 or a copy of a received stamped copy of a business card of a senior planner for the City of Costa Mesa.

(c) Has filed for Incorporation, filed Chapters of Association for a limited liability company, or articles of organization with the Secretary of State of California for the purpose of operating a non-profit medical cannabis business or medical marijuana business;

a. Proof of incorporation, articles of association, or limited company status shall be satisfied by a true and correct copy of the articles of incorporation filed with the Secretary of State, Chapters of Association or any other competent verifiable documentation;

(d) Possesses or has applied for a Seller's Permit from the State Board of Equalization in the name of the business.

(e) Possesses or has applied for a License to Sell Nursery Stock for the City of Costa Mesa which was applied for or issued by the Department of Food and Agriculture;

(f) Has applied for a Live Scan background check;

(g) Possesses a physician's medical cannabis or medical marijuana recommendation pursuant to California Health and Safety Code section 11362 *et. sec.*;

(h) Possess or has applied for a medical marijuana identification card pursuant to Health and Safety Code Section 11362.7 *et sec.*;

(i) Possesses or has applied for a general liability insurance policy (bodily injury, property damage, and medical

cannabis liability), which specifically includes liability for medical cannabis and/or medical marijuana.

a. Proof of application for a general liability insurance policy, which specifically includes liability for medical cannabis and/or medical marijuana may be shown by a quote from an insurance company or any other verifiable documentation.

(j) The applicant possesses a notarized, signed, and dated authorization to submit to fingerprinting and photographing and authorizing the City in writing to obtain information from criminal justice agencies, financial institutions, Federal, State and local government agencies, and other persons and entities. The written authorization shall include consent to release the information to the City for use in connection with the business license.

(k) The applicant possesses a notarized, signed, and dated statement indicating to the City that the applicant will hold harmless, indemnify, and defend the City against all claims and litigation arising from the issuance of a licenses, including any claims and litigation arising from the establishment, operation, or ownership of the medical cannabis establishment.

c. The Tax Collector or City shall issue a business license or a rejection, with a written explanation, to an applicant within 45 days of the applicant's written request for a business license. The failure of the Tax Collector to issue a business license within the 45 day period shall be deemed an acceptance of the application for the business license and the medical cannabis business shall be permitted to operate.

d. The business license shall be valid for two (2) years, irrespective of whether or not the business is active operating during that period. An application for renewal of a medical cannabis business license must be filed no later than thirty (30) calendar days prior to the expiration of the registration, but no earlier than sixty (60) calendar days prior to the expiration of the registration. A registration shall be renewed for an additional period of two (2) years by submitting an application to the Tax Collector or City.

e. The fee required for application and registration for a medical cannabis business license shall not exceed five hundred dollars ($500.00).

2. **No permit required**: The People of the City of Costa Mesa hereby declare that the operation of a medical cannabis dispensary in compliance with this Chapter is not detrimental to the public health, safety, welfare, or moral standards of the City. As such, the City shall not require the medical cannabis

business to obtain any special use permit, conditional use permit, or any other permit pursuant to any section of this code, specifically, but not limited to, Sections 9-33 and 9-114, as a condition president or condition subsequent to obtaining a business license and/or business tax registration certificate. Additionally, no special site plan, variance, or any other permit or certificate shall be required for a medical cannabis business, other than those specified in this Chapter.

3. **Business tax registration certificate — Transfer:** Notwithstanding Section 9-44, Medical cannabis Business licenses shall be transferable only so long as the medical cannabis business taxed is transferred, whether by sale or otherwise, to another person or entity under such circumstances that the real or ultimate ownership of the business after the transfer is substantially similar to the real or ultimate ownership existing before the transfer and the transferee meets all the non-priority registration requirements listed in Subsections (a) through (f) of Section 9-487(A.)(1.)(b.)(i.).

4. **Maximum number of businesses:** City shall issue no more than eight (8) business licenses for the operation of medical cannabis businesses, subject to Subsections 4(a) below. If the number of certified medical cannabis businesses falls below nine (9), then the City shall issue additional business licenses pursuant to the terms of this Chapter.

    a. City council shall have the discretion to increase but not decrease the number of business licenses issued by the Tax Collector, City Treasury Division Management Department, or City to medical cannabis businesses pursuant to the terms of this Chapter.

5. Any such exercise of discretion under Section 4(a) above increasing the number of new business licenses above the current maximum number of nine (9) shall comply with the minimum non-priority registration standards enumerated in in Subsections (a) through (f) of Section 9-487(A.)(1.)(b.)(i.).

SEC. 9-487.1. Operational requirements.

A medical cannabis business shall be immune to the prohibition set out in Section 9-486 and the remedies set forth in Costa Mesa Municipal Code, so long as that medical cannabis business obtains a business license and complies with the following operational requirements:

1. **Safe radius restrictions:** The medical cannabis business is not located within:

i. A 600-foot radius of a public school as defined under Health and Safety Code §11362.768 (h);

ii. The distances specified in this paragraph shall be the horizontal distance measured in a straight line from the property line of the school to the property line of the medical cannabis business without regard to intervening structures;

iii. Medical cannabis businesses shall be permitted in the following use districts or zones in the City: AP, CL, C2, C1-S, MG, MP, PDC, PDI, C1, & TC. Medical cannabis businesses are prohibited in all other use districts or zones.

2. **Non-concentration of businesses requirement:** The medical cannabis businesses shall be disbursed in accordance with the following:

i. A marijuana business shall not be located within a 1000-foot radius of any other licensed medical cannabis business.

ii. The distances specified in this paragraph shall be the horizontal distance measured in a straight line from the property line of the first licensed medical cannabis business to the closest property line of the second medical cannabis business without regard to intervening structures;

3. **Delivery restrictions**: The medical cannabis business shall not deliver marijuana to its members within the City of Costa Mesa unless the medical cannabis business maintains insurance for its managers, volunteers or employees who deliver the marijuana and the medical cannabis business maintains a location within the City of Costa Mesa which possesses a business license under this Chapter.

4. **License requirements**: The medical cannabis business shall maintain a valid state Board of Equalization state Seller's permit in the name of the business.

5. **Insurance Requirement**: The medical cannabis business shall possesses a commercial general liability insurance policy (bodily injury, property damage, and medical cannabis liability), which specifically includes liability for medical cannabis.

6. **Restriction of minors on premises**: The medical cannabis business shall not allow minors under the age of 18 years to enter its premises during any hours of operation.

7. **Restriction of minors as employees**: It shall be unlawful for any medical cannabis business to employ any person who is not at least 18 years of age.

8. **Restriction on hours of operation**: Hours of operation are limited to the hours between 9 a.m. and 10 p.m., seven days a week.

9. **Visible marijuana restrictions**: Any marijuana within a medical cannabis business shall not be visible with the naked eye from the exterior of the business's premises.

10. **Alcohol restrictions**: The medical cannabis business shall prohibit the sale, dispensing, or consumption of alcoholic beverages at its location, in the parking area of the location, or within fifty (50) feet of the business.

11. **Premises use restrictions**: The medical cannabis business shall not allow any persons to inhale, smoke, eat, ingest, or otherwise consume marijuana at the location, in the parking areas of the location, within fifty (50) feet of the premises, or in those areas restricted under the provisions of California Health and Safety Code section 11362.79. This prohibition shall not apply to a qualified patient's use of marijuana for his or her own medical needs if the qualified patient's permanent legal residence is at the medical cannabis business's location, nor shall this prohibition limit or conflict with the exceptions provided in local and state law that permit smoking in designated areas within licensed residential medical and elder care facilities.

12. **Legal notice requirements**: A sign shall be posted inside the medical cannabis businesses stating substantially as follows: "The diversion of cannabis for non-medical purposes is a violation of State Law. Loitering at the location of a medical cannabis dispensing or business for an illegal purpose is prohibited by California Penal Code section 647(h). No medical cannabis shall be smoked, ingested or otherwise consumed on the premises of the business or within fifty (50) feet of a medical cannabis business" Such sign shall be printed in 14-point font or larger upon 8 ½ by 11 paper and posted at some conspicuous part of such site.

13. **Restrictions relating to cultivation, manufacturing, and processing:** Medical cannabis businesses shall exchange, sell, transfer, and distribute only marijuana or cannabis cultivated, manufactured, or processed in the State of California and that has not left the State before arriving at the business and that has been cultivated only by, and provided only to, its verified members in a closed-circuit of production and consumption.

14. **Medicine inventory restrictions:** The medical cannabis business may possess and cultivate a reasonable quantity of dried marijuana and marijuana plants to meet the personal medical needs of their members.

15. **Employee background requirements**: The medical cannabis business shall utilize the Live Scan background check system as set forth in this Article prior to employing any manager, volunteer or employee. The medical cannabis businesses' managers must be registered members of the medical cannabis business. Verification of all Live Scan applications received by a medical cannabis business shall be processed and received by the Costa Mesa Police Department in accordance with California Department of Justice guidelines.

16. **Employee background restrictions**: Prior to being offered a position of management or employment at a medical cannabis business, an applicant for a position of manager, volunteer, or employee of the medical cannabis business who dispenses medical cannabis

must submit and successfully pass an annual Live Scan background check by December 31 of each year in order to be employed at the medical cannabis business. A failed Live Scan is any Live Scan that shows a felony conviction having occurred within the past 7 years and/or shows that the manager, volunteer or employee is currently on parole or probation for the sale or distribution of a controlled substance.

i. For the purposes of this section, a conviction of a felony that has been dismissed, withdrawn, expunged, or set aside, whether pursuant to California Penal Code section 1203.4, California Penal Code section 1000, California Penal Code section 1385 or any other judicial ruling or prosecution agreement, shall not be deemed a felony conviction and, consequently, shall not result in a failed Live Scan.

17. **Patient confidentiality:** In order to protect confidentiality, the medical cannabis business may maintain records of all qualified patients with a valid identification card and primary caregivers with a valid identification card using only the identification card number issued by the State or County pursuant to California Health and Safety Code section 11362.7, *et seq.*

18. **Manufacture of concentrated cannabis restrictions**: The medical cannabis business shall not participate in or otherwise engage in the manufacture of concentrated cannabis in violation of California Health and Safety Code section 11379.6.

19. **Security requirements**: The medical cannabis business shall provide the following security measures:

i. the medical cannabis business shall maintain an alarm system reasonably designed to ensure the safety of persons and to protect the premises from theft;

ii. the business shall provide a security guard patrol for the premises during all hours of operation;

iii. the security guard patrol shall be a duly-licensed and uniformed security guard patrol.

20. **Packaging requirements**: All medical cannabis businesses shall distribute all non-live marijuana in sealed packaging or in "Child Proof" containers equipped with either a "Push or Turn", "Reversible" top vial, or "Pop Top" or "Squeeze Top" locking mechanism.

21. **Warning labels requirements**: All medical cannabis packaging shall contain a warning that the product contains marijuana, and it is to be consumed only with a physician's recommendation.

22. **Signage restrictions**: Outdoor signage on medical cannabis business premises shall comply with all City signage restrictions and shall not contain pictorial representations of the marijuana plant or pictorial representations of marijuana use.

23. **Edible restrictions**: Medical cannabis businesses that prepare, dispense or sell edible medical cannabis products, or food containing any form of medical cannabis, must comply with and are subject to the provisions of all relevant state and local laws regarding the preparation, distribution, and sale of food. Failure to obtain and comply with all necessary permits related to the preparation, distribution, and sale of food will be an express violation of this Chapter.

24. **Odor restrictions**: A business shall have an air treatment filtration or ventilation system that reasonably prevents odors generated from the storage of marijuana on the business property.

25. **Taxation of medical cannabis businesses**: The rate of sales tax and use tax imposed by this Chapter shall be:

    i. Every person engaged in operating or otherwise conducting a medical cannabis busines not otherwise specifically taxed by other business tax provisions of this Chapter, shall pay a business tax of six (6) percent or $60.00 for each $1000.00 of gross receipt or fractional parts thereof on all proceeds from the distribution, sale, transfer of medical cannabis by the operation of a medical cannabis business
    ii. One (1) percent or $10.00 for each $1,000 on the sale of all other tangible personal property at retail.
    iii. For the purposes of this Section, the above taxes apply only prospectively. The city shall make no claim, current, retroactive, or prospective for payment by any medial marijuana business or any other City tax except for the City portion of any Sales Tax collected by the California State Board of Equalization.
    iv. For the purpose of this section, a "medical cannabis business" means any activity regulated or permitted by Chapter VI of this Code and California Health and Safety Code sections 11362.5, et seq., that involves transporting, dispensing, delivering, providing or manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing harvesting of any part of the marijuana plant for medical purposes.

Sec. 9-488. Cultivation of medical cannabis: Medical cannabis businesses may cultivate a reasonable amount of marijuana consistent with their member patient's needs. All medical cannabis cultivation subject to this Chapter shall be concealed from public view at all stages of growth, and there shall be no exterior evidence of cultivation occurring at the premises from a public right of way or from an adjacent parcel. Medical cannabis cultivation subject to this Chapter shall not create unreasonably offensive odors, create excessive dust, noise, heat, smoke, or other impacts that are unreasonably disturbing to persons of normal sensitivity present on adjacent property.

Sec. 9-489. Transportation of medical cannabis: Activities entailing the transportation of medical cannabis in accordance with the Compassionate Use Act, the Medical marijuana program act, The Attorney General Guidelines, and this Chapter, shall be lawful only when

conducted by a participant of a recognized medical cannabis business, or collective, or cultivation site for delivery to a participant member of the same medical cannabis collective or medial marijuana business of the same medical cannabis collective or association when the quantity transported and the method, timing, and distance of the transportation are reasonably related to the medical needs of the qualified patient or medical cannabis businesses receiving the medication.

Sec. 9-490. Violation and enforcement: Each violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by Costa Mesa Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to legally authorized remedies, including procedures for injunctive relief, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney's fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the medical cannabis business and persons related or associated with such medical cannabis business.

Sec. 9-491. Majority approval; Effective date: This Measure shall be effective only if approved by a majority of voters and shall go into effect immediately upon passage.

Sec. 9-492. Competing measures: In the event that this Measure and another Measure or Measures relating to the regulation of medical cannabis in the City of Costa Mesa shall appear on the same ballot, the provisions of the other Measures shall be deemed to be in conflict with this Measure. In the event that this Measure shall receive a greater number of affirmative votes, the provisions of this Measure shall prevail in their entirety, and the provisions of the other relating to the regulation of medical cannabis in the City of Costa Mesa shall be null and void.

Sec. 9-493. Amendment and repeal: The provisions of the Costa Mesa Municipal Code added by, amended by, or contained in this initiative Measure may be amended only as provided in each section. The provisions of the Costa Mesa Municipal Code added by, amended by, or contained in this initiative measure shall not be repealed, except by an ordinance adopted either by petition or by the Council at its own instance and adopted by a majority vote of the electors.

Sec 9-494. Severability: If any portion of this initiative Measure is for any reason held to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, that invalidity shall not affect the remaining portions of this initiative Measure that can be implemented without the invalid provision, and, to this end, the provisions of this initiative Measure are severable.

Sec. 9-495. Statewide regulation: This initiative Measure, and the provisions herein, shall be read consistent with any statewide regulation of medical cannabis or recreational marijuana that is promulgated by the legislature or by voter approval in the future.

Sec. 9-496. Special or General election: This initiative Measure shall be set for a special or regular election at the earliest time allowed by law.

SECTION 4 – AMENDMENTS TO COSTA MESA MUNICIPAL CODE TITLE 9, CHAPTER 1, ARTICLE 5, SECTION 9-32.

The People of the City of Costa Mesa do hereby enact and ordain that Title 9, Chapter 1, Article 5, Section 9-32, entitled Unlawful Business Not Authorized, is hereby amended to read as follows: (All underlined language is new and to be inserted. All language struck through is to be deleted.)

Sec. 9-32 Unlawful business not authorized.

No business license or permit issued under the provisions of this title, nor the payment of any tax required under the provisions of this title shall be construed as authorizing the conduct or continuance of any ~~illegal business~~ businesses deemed illegal by state law or a legal business in an illegal manner.

SECTION 5 - AMENDMENTS TO COSTA MESA MUNICIPAL CODE TITLE 13, CHAPTER 1, ARTICLE 2, SECTION 13-6.

The People of the City of Costa Mesa do hereby enact and ordain that Title 13, Chapter 1, Article 2, Section 13-6, entitled , is hereby amended to read as follows: (All underlined language is new and to be inserted. All language struck through is to be deleted)

Section 13-6. Definitions

~~*Medical marijuana dispensary.* A facility or location where medical cannabis is cultivated or by any other means made available to and/or distributed by or to three (3) 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., which shall include, but not be limited to, any facility or location engaging in the retail sale, dispensation, or distribution of marijuana for medical purposes that does not have an active role in the cultivation of the marijuana product that it sells, dispenses, or distributes, or when its cultivation of the marijuana product is off-site from the facility or location for retail sale, dispensation, or distribution.~~

Medical Cannabis Business. An unincorporated or incorporated entity or association of qualified patients and/or primary caregivers and/or persons with identification cards, who provide money and in-kind contributions, reimbursements, and reasonable compensation towards the aforementioned entity's actual expenses for activities including, but not limited to: planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, providing and/or retail sales of medical cannabis. A medical cannabis business may provide medical cannabis, products, services and assistance to qualified patients, persons with a medical marijuana identification card (as set forth in the MMPA), or the primary caregiver of such persons. Medical cannabis businesses may assist with the acquisition of skills necessary to cultivate or provide marijuana for medical purposes in compliance with State Law. A medical cannabis business includes any facility, building, structure or location, whether permanent, or temporary, where marijuana is made available, sold, given away,

distributed, or otherwise provided in accordance with Health and Safety Code section 11362.5 *et seq.* A medical cannabis business includes medical cannabis "cooperatives" and marijuana delivery services.

(1) "Medical cannabis business" shall not include, nor be interpreted to include, any of the following:

a. Any location which is a legal dwelling zoned exclusively for residential use and not permitted for any commercial activity where three (3) or less people who reside at a property cultivate marijuana.

b. The location of any clinic licensed pursuant to Chapter 1 (commencing with Section 1200), a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725), any facility specified in Division 2 of the California Health and Safety Code where: (i) a qualified patient or person with an identification card receives medical care or supportive services, or both, from the clinic, facility, hospice, or home health agency; and (ii) the owner or operator, or one of not more than three employees designated by the owner or operator, of the clinic, facility, hospice, or home health agency has been designated as a primary caregiver pursuant to California Health and Safety Code Section 11362.7(d) by that qualified patient or person with an identification card.

SECTION 6 - AMENDMENTS TO COSTA MESA MUNICIPAL CODE TITLE 13, CHAPTER 4, SECTION 13-30, ROW 31a OF TABLE 13-30 THE COSTA MESA LAND USE MATRIX.

The People of the City of Costa Mesa do hereby enact and ordain that Title 13, Chapter 4, Section 13-30, Table 13-30, Row 31a, entitled City of Costa Mesa Land Use Matrix, is hereby amended to read as follows: (All underlined language is new and to be inserted. All language struck through is to be deleted.)

Section 13-30, Table 13-30

Section 13-30, Table 13-30, Row 31a

	Zones																				
LAND USES	R1	R2MD	R2HD	R3	AP	CL	C1	C2	C1S	TC	MG	MP	PDRLD	PDRMD	PDRHD	PDRNCM	PDC	PDI	I&R	I&RS	P
31a. Medical ~~marijuana dispensary~~ Cannabis Businesses (subject to the requirements of TITLE 9, CHAPTER VI, MEDICAL CANNABIS BUSINESSES)	•	•	•	•	P	P	P	P	P	P	P	P	•	•	•	•	P	P	•	•	•