RESOLUTION NO. 16-51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, FOR THE SUBMISSION TO THE VOTERS A QUESTION RELATING TO MEDICAL MARIJUANA BUSINESSES

WHEREAS, in 1996 the California voters approved Proposition 215 (known as the Compassionate Use Act (the "CUA") and codified as Health and Safety Code Section 11362.5 et seq.) to exempt certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for medical purposes; and

WHEREAS, in 2003 the California legislature enacted Senate Bill 420 (known as the Medical Marijuana Program Act (the "MMPA") and codified as Health and Safety Code Section 11362.7 et seq.), as later amended, to clarify the scope of the Compassionate Use Act relating to the possession and cultivation of marijuana for medical purpose, and to authorize local governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, in 2005 the California Board of Equalization began issuing seller's permits for sales consisting only of medical marijuana; and

WHEREAS, in 2008 the California Attorney General issued guidelines for the security and non-diversion of marijuana grown for medical use; and

WHEREAS, marijuana remains an illegal substance under the Federal Controlled Substances Act, 21 USC 801 et seq., which makes it unlawful for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana. The Federal Controlled Substances Act contains no statutory exemption for the cultivation of marijuana for medical purposes. Federal law lists marijuana as a Schedule I drug, meaning that it has a high potential for abuse, it has no currently accepted medical use in treatment, and there is a lack of accepted safety for use under medical supervision; and

WHEREAS, in 2014 the U.S. House of Representatives voted to stop federal law enforcement from interfering with medical marijuana operations in the various states which have decriminalized and/or authorized such operations; and

WHEREAS, despite this classification and treatment under federal law, federal executive and law enforcement agencies have issued memoranda and other guidelines allowing for the development of state-specific regulatory schemes that include the provision of marijuana and marijuana-derived products for medical purposes, as long as the administration of those schemes is consistent with the aims of federal law; and

WHEREAS, the City Council of the City of Costa Mesa intends that nothing in this Initiative ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, nor to otherwise permit any activity that is prohibited under that Act or other applicable law; and

WHEREAS, the California Constitution grants local governments in Article XI, Section 7 the authority under their police powers to regulate land use; and

WHEREAS, on October 9, 2015, Governor Brown signed into law the Medical Marijuana Regulation and Safety Act (MMRSA) which consisted of three interrelated pieces of legislation (SB 643, AB 243, and AB 266), intended to provide a comprehensive regulatory framework for the licensing, control, and taxation of medical marijuana related businesses in California; and

WHEREAS, the MMRSA expressly protects a City's local licensing practices, zoning authority, and other local actions taken under the City's constitutional municipal and police powers; and

WHEREAS, the MMRSA contains statutory provisions that: (1) Allow local governments to enact initiative ordinances expressing their intent to allow or prohibit the cultivation of marijuana and their intent to administer or not administer a conditional permit program pursuant to California Health and Safety Code section 11362.777 for the cultivation of marijuana; (2) Expressly provide that the Act does not supersede or limit local authority for local law enforcement activity, enforcement of local initiative ordinances or enforcement of local permit or licensing requirements regarding marijuana per California Business and Professions Code section 19315(a); (3) Expressly provide that the Act does not limit the civil or administrative authority or remedies of a local government provision of law regarding marijuana including, but not limited to, a local government's right to make and to enforce within its limits all regulations not in conflict with general laws per California Business and Professions Code section 19316(c); (4) Specifically requires, as a condition of state licensure, compliance with any and all local requirements for all cannabis-related operations;

WHEREAS, the California Supreme Court has made clear that neither the CUA nor the MMPA expressly or impliedly preempts the authority of cities or counties, under their traditional land use and police powers, to allow, restrict, limit or entirely exclude facilities that distribute medical marijuana. The MMPA allowed cities and counties to adopt local ordinances that regulate the location, operation or establishment of medical marijuana collectives and to enforce such initiative ordinances. (City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal.4th 729; Health and Safety Code section 11362.83). The same authority encompasses the regulation, operation, or establishment of marijuana cultivation. (Maral v. City of Live Oak (2013) 221 Cal.App.4th 975.) That authority remains undisturbed under MMRSA; and

WHEREAS, the City has received inquiries from individuals and entities inquiring about the ability to open medical marijuana related businesses within the City, including testing laboratories and research and development laboratories and manufacturing/processing businesses. Other than a general prohibition of dispensaries and cultivation, the City has not yet adopted land use controls or regulations or other requirements for the operation of these types of businesses pursuant to MMRSA; and

WHEREAS, without sufficient regulations and standards in effect and which are enforceable pursuant to an adopted initiative ordinance, there is a current and immediate threat to the public health, safety, and welfare of current and future residents of the City, from the establishment of medical marijuana related businesses in the City in a manner which is likely to lead to confusion, public harm, and possible violation of federal executive guidelines; and

WHEREAS, the City Council recognizes that supply chains for medical marijuana and marijuana-related products as they currently exist, in the absence of state and local regulatory schemes, can and do benefit criminal elements to the detriment of residents without full regard for public safety, health, and welfare issues; and

WHEREAS, the City Council desires to establish reasonable land use controls and reasonable regulations on the operation of medical marijuana related businesses which are intended to operate in conjunction with the zoning and land use regulations of the City of Costa Mesa, and which are intended to address the negative impacts, nuisance impacts, and criminal impacts of unregulated cannabis-related businesses; and

WHEREAS, the City Council desires to establish regulations to allow the establishment of limited types of medical marijuana businesses, including wholesale distribution, manufacturing, testing and transporting as defined in, allowed by and as consistent with MMRSA,

WHEREAS, the City Council desires to maintain the prohibitions against cultivation and dispensaries within the City;

WHEREAS, under the provisions of the laws relating to general-law cities in the State of California, a General Municipal Election shall be held on November 8, 2016; and

WHEREAS, the City Council desires to submit to the voters of the City, at a General Municipal Election to be held on November 8, 2016 a question relating to medical marijuana businesses;

WHEREAS, the City Council is authorized by the law of the State of California to submit the proposed ordinance to the voters;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The foregoing recitals are true, correct, and adopted by the City Council as if set forth in full.

SECTION 2. That pursuant to the requirements of the laws of the State of California relating to general law cities there is called and ordered to be held in the City of Costa Mesa, California on November 8, 2016, a General Municipal Election for the purpose of submitting a proposed ordinance.

SECTION 3. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

Measure __: The City of Costa Mesa Medical Marijuana Measure	**Response**	**Vote**
Shall the ordinance, to allow medical marijuana manufacturing, processing, wholesale distribution and transporting, and research, development and testing, in manufacturing and industrial zones north of South Coast Dr. and west of Harbor Blvd., subject to conditional use permit and business permits, including requirements for background checks, premises security, business records, that is subject to amendment by City Council, and that levies an annual 6% gross receipts tax (estimated annual revenue $48,000 - $912,000), be adopted?	Yes	
	No	

SECTION 4. That the proposed complete text of the ordinance submitted to the voters is attached as Exhibit A.

SECTION 5. That the vote requirement for the measure to pass is a majority (50% +1) of the votes cast.

SECTION 6. That the ballots to be used at the election shall be in the form and content as required by law.

SECTION 7. That the City Clerk is authorized, instructed, and directed to coordinate with the County of Orange Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 8. That the polls for the election shall be open at 7 a.m. of the day of the election and shall remain open continuously from that time until 8 p.m. of the same day when said polls shall be closed, pursuant to Election Code Section 10242, except as provided in Section 14401 of the Elections Code of the State of California.

SECTION 9. That the Orange County Registrar of Voters is authorized to canvass the returns of the General Municipal Election.

SECTION 10. The ballot measure shall not take effect, unless and until the ballot measure receives the approval of a majority of the votes cast by the voters of the City voting upon the ballot measure at the November 8, 2016 general municipal election.

SECTION 11. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law and in accordance with the provisions of law regulating the statewide election.

SECTION 12. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 13. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED ON July 5, 2016.

_____
Stephen M. Mensinger, Mayor

ATTEST:

_____
Brenda Green, City Clerk

APPROVED AS TO FORM:

_____
Thomas Duarte, City Attorney

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

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that foregoing Resolution No. 16-51 was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 5th day of July, 2016, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 6th day of July, 2016.

_____
BRENDA GREEN, CITY CLERK

COUNCIL-SPONSORED INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Council for the City of Costa Mesa submits the following measure to the voters of the City for approval and enactment:

SECTION 1. Name

This ballot measure shall be known and may be cited as "The City of Costa Mesa Medical Marijuana Measure", and shall be referred to herein as the "Measure."

SECTION 2. Purpose

The purpose of the Measure is to provide for the specific areas in the City within which medical marijuana distributors, manufacturers, processors, research and development laboratories, testing laboratories and transporters can be located; to provide for City regulation of these medical marijuana businesses in a manner consistent with the statewide regulations to be adopted by the California Department of Consumer Affairs - Bureau of Medical Marijuana Regulations ("BMMR") and other state agencies, including the departments of Food and Agriculture and Public Health, pursuant to Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, as amended, collectively referred to as the Medical Marijuana Regulation and Safety Act (MMRSA); to reaffirm the existing ban on dispensaries and cultivation within the City; and to impose a gross receipts tax on all medical marijuana distributors, manufacturers, processors, testing laboratories, transporters, and research and development laboratories, as well as any other marijuana or cannabis business at a rate of 6% of gross receipts.

An additional purpose of this Measure is to directly compete with the two initiatives entitled "Allow Operation of Up to Four Licensed Medical Marijuana Businesses Within the City of Costa Mesa" and "Allow Operation of Up to Eight Licensed Medical Marijuana (Cannabis) Businesses Within the City of Costa Mesa" which each propose a number of amendments to City's Municipal Code regarding medical marijuana. The Measure is intended to comprehensively regulate the same subject as, and to expressly prohibit the activities that would be allowed by, both the "Allow Operation of Up to Four Licensed Medical Marijuana Businesses Within the City of Costa Mesa" and "Allow Operation of Up to Eight Licensed Medical Marijuana (Cannabis) Businesses Within the City of Costa Mesa". If a majority of voters approve both this Measure and either or both of the "Allow Operation of Up to Four Licensed Medical Marijuana Businesses Within the City of Costa Mesa" and "Allow Operation of Up to Eight Licensed Medical Marijuana (Cannabis) Businesses Within the City of Costa Mesa", the ballot measure with the higher percentage of the vote will control.

Now, therefore, the People of the City of Costa Mesa do ordain as follows:

AN ORDINANCE OF THE PEOPLE OF THE CITY OF COSTA MESA, CALIFORNIA, ADDING A NEW SECTION TO TITLE 9, CHAPTER I, ARTICLE 4 REGARDING MARIJUANA TAX AND A NEW CHAPTER VI "MEDICAL MARIJUANA BUSINESS PERMITS" TO TITLE 9; ADDING A NEW ARTICLE 21 "MEDICAL MARIJUANA DISTRIBUTING, MANUFACTURING, RESEARCH AND DEVELOPMENT AND TESTING" TO CHAPTER IX OF TITLE 13; AND AMENDING TABLE 13-30 OF CHAPTER IV, CITYWIDE LAND USE MATRIX, OF TITLE 13 OF THE COSTA MESA MUNICIPAL CODE.

SECTION 3. Title 9, Chapter I, Article 4, Schedules, is hereby amended to add a new section 9-29.5, Marijuana tax, to read as follows:

Sec. 9-29.5 Marijuana tax.

Notwithstanding any other provision of this code, every person engaged in, managing, conducting, or carrying on any medical marijuana business defined in Chapter VI of this title, or any other medical marijuana, medical cannabis, marijuana and/or cannabis business, shall pay an annual business tax of 6% based on the gross receipts of the business.

SECTION 4. Title 9, Chapter VI., entitled "Medical Marijuana Businesses and Permits" is hereby added to the Costa Mesa Municipal Code to read as follows:

Title 9. LICENSES AND BUSINESS REGULATIONS

Chapter VI. MEDICAL MARIJUANA BUSINESS PERMITS.

Sec. 9-481. Purpose and Intent.

It is the purpose and intent of this chapter to regulate the distributing, manufacturing, processing, research and development, testing and transporting of cannabis and cannabis-related products in a manner which is responsible, which protects the health, safety, and welfare of the residents of Costa Mesa, and to enforce rules and regulations consistent with state law. In part to meet these objectives, a permit shall be required in order to own and/or to operate a medical marijuana business within the city. Nothing in this chapter is intended to authorize the possession, use, or provision of marijuana for purposes which violate state or federal law. The provisions of this chapter are in addition to any other permits, licenses, and approvals which may be required to conduct business in the city, and are in addition to any permits, licenses and approvals required under state law.

Sec. 9-482. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the MMRSA, the city is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-related activity.

Sec. 9-483. Marijuana business activities prohibited unless specifically authorized by this chapter.

Except as specifically authorized in this chapter, the manufacture, processing, storing, laboratory testing, labeling, transporting, dispensing, distribution, delivery, or sale of marijuana or a marijuana product is expressly prohibited in the city.

Sec. 9-484. Compliance with Laws.

It is the responsibility of the owners and operators of the medical marijuana business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder.

Sec. 9-485. Definitions.

When used in this chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

"Cannabis" means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health & Safety Code as enacted by Chapter 14017 of the Statutes of 1972. "Cannabis" 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 seed of the plant which is incapable of germination. For the purpose of this Chapter, "cannabis" does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health & Safety Code.

"Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the active cannabinoid ingredient, thereby increasing the product's potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the California Health & Safety Code, or a drug, as defined by Section 109925 of the California Health & Safety Code.

"Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health & Safety Code.

"Chief Executive Officer" or "CEO" shall mean the Chief Executive Officer of the City or his or her designee.

"Cultivation" means any activity, whether occurring indoors or outdoors, involving the propagation, planting, growing, harvesting, drying, curing, grading, and/or trimming of cannabis plants or any part thereof for any purpose, including medical marijuana.

"Cultivation site" means a facility where medical cannabis is cultivated, propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

"Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined to be authorized by the State of California, or any of its departments or divisions, to anyone for any purpose. "Delivery" also includes the use by a dispensary of any technology platform owned, controlled, and/or licensed by the dispensary, or independently licensed by the State of California under the MMRSA (as the same may be amended from time-to-time), that enables anyone to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

"Dispensary" means a medical marijuana business facility where cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, medical cannabis and medical cannabis products as part of a retail sale, and where the operator holds a valid medical marijuana business permit from the city authorizing the operation of a dispensary, and a valid state license as required by state law to operate a dispensary.

"Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

"Distribution" means the procurement, sale, and transport of medical cannabis or medical cannabis products between entities licensed pursuant to MMRSA and any subsequent State of California legislation regarding the same.

"Distributor" means a person holding a valid medical marijuana business permit for distribution issued by the city, and, a valid state license for distribution, required by state law to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary. The direct and/or retail sale, distribution, or furnishing of any cannabis or cannibis product to any consumer or end user is expressely prohibited.

"Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medical cannabis product is not considered food as defined by Section 109935 of the California Health & Safety Code or a drug as defined by Section 109925 of the California Health & Safety Code.

"Live plants" means living medical cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

"Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as defined in this section, or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, where the operator holds a valid medical marijuana business permit for manufacturing from the and a valid state license for manufacturing pursuant to MMRSA.

"Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product intended for internal consumption or topical application.

"Manufacturing site" means a location that produces, prepares, propagates, or compounds medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid Medical marijuana business permit for manufacturing from the city and, a valid state license as required for manufacturing of cannabis products.

"Marijuana" means "cannabis," as that term is defined in this chapter.

"Medical cannabis", "medical marijuana," "medical cannabis product" or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found in Section 11362.5 of the California Health & Safety Code (as the same may be amended from time-to-time). For purposes of this Title, "medical cannabis" does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health & Safety Code.

"Medical marijuana activity" includes manufacture, processing, laboratory testing, research and development, transporting, delivery, distribution, or sale of medical cannabis or a medical cannabis product, within the meaning of California Business and Professions Code 19300 et seq.

"Medical marijuana business" means any business or operation which engages in medical marijuana activity.

"Medical marijuana business permit" means a regulatory permit issued by the City pursuant to this Chapter to a medical marijuana business, and is required before any medical marijuana activity may be conducted in the City.

"MMRSA" means the Medical Marijuana Regulation and Safety Act adopted by Senate Bill 643, Assembly Bill 266 and Assembly Bill 243, as amended.

"Patient" or "qualified patient" shall have the same definition as California Health & Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5. For purposes of this ordinance, a qualified patient shall include a person with an identification card as that term is defined by California Health & Safety Code Section 11362.7 et seq.

"Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

"Person with an identification card" shall have the meaning given that term by California Health & Safety Code Section 11362.7.

"Processing" and "processor" shall have the same meaning as manufacturing and manufacturer, respectively.

"Research and development laboratory" means a facility, entity, or site in the city that performs research into and/or the development of medical cannabis or medical cannabis products, where cannabis in any amount is located on-site, and that is both of the following:

1. Accredited by an accrediting body that is independent of all other persons involved in the medical cannabis industry in the state.

2. Registered with the State Department of Public Health, and is owned and operated by a person issued a valid medical marijuana business permit for laboratory testing from the city and a valid state license for such uses as required by state law.

"South Coast Collection" or "SoCo" means all properties located at 3303 through 3323, inclusive, Hyland Avenue, in the City of Costa Mesa, commonly known as "SoCo" or "SOCO".

"State license" means a permit or license issued by the State of California, or one of its departments or divisions, under MMRSA to engage in medical marijuana activity.

"Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health & Safety Code.

"Testing laboratory" means a facility, entity, or site in the city that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent of all other persons involved in the medical cannabis industry in the state.

2. Registered with the State Department of Public Health, and is owned and operated by a person issued a valid medical marijuana business permit for laboratory testing from the city and a valid state license for laboratory testing as required by state law.

"Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting medical marijuana activity authorized by the MMRSA.

"Transporter" means a person issued a state license, and a medical marijuana business permit by the city, authorizing the transport of medical cannabis or medical cannabis products in amounts authorized by the State of California, or by one of its departments or divisions under the MMRSA.

Sec. 9-486. Type of Authorized Medical Marijuana Businesses Permitted.

(a) One of more of the following types of medical marijuana business may be permitted to operate within the City:

1. a medical marijuana distributor;

2. a medical marijuana manufacturer or processor;

3. a medical marijuana testing laboratory;

4. a medical marijuana research and development laboratory; and

5. a medical marijuana transporter.

(b) Businesses licensed permitted pursuant to this chapter shall not engage in the retail sale or distribution of cannabis, marijuana, medical cannabis, medical marijuana, medical cannabis product, cannabis product, or any other item.

(c) No person may engage in any type of medical marijuana business that is not specifically authorized pursuant to this section, including but not limited to, dispensing and/or cultivating medical marijuana.

Sec. 9-487. Medical marijuana business permit required to engage in medical marijuana business.

No person may engage in any medical marijuana business or in any medical marijuana activity within the city including manufacture, processing, laboratory testing, transporting, dispensing, distribution, or sale of medical cannabis or a medical cannabis product unless the person (1) has a valid medical marijuana business permit from the city and (2) is currently in compliance with all applicable state and local laws and regulations pertaining to the medical marijuana business and medical marijuana business activities.

Sec. 9-488. Term of permit; fees.

(a) A medical marijuana business permit shall be valid for two (2) years from the date of issue, unless otherwise suspended or revoked, and shall be renewed bi-annually thereafter, provided the permittee is in compliance with the provisions of this chapter.

(b) Medical marijuana business permit and application fees shall be established by resolution of the City Council.

Sec. 9-489. Effect of state license suspension, revocation, or termination.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a medical marijuana business to operate within the city, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a medical marijuana business, such revocation or termination shall also revoke or terminate the ability of a medical cannabis business to operate within the city.

Sec. 9-490. Denial and revocation.

A medical marijuana permit may be revoked upon a hearing by the director pursuant to section 9-120 for failing to comply with the terms of the permit, the applicable provisions of this chapter, this code, state law or regulation and/or any condition of any other permit issued pursuant to this code.

Sec. 9-491. Appeals.

Appeals from decisions of the CEO under this chapter shall be governed by the procedures set forth in Chapter IX of Title 2 of this code.

Sec. 9-492. Prohibition on transfer of medical marijuana business permits.

In the event a permit holding Medical Marijuana Business sells or transfer the business to a new owner, the new owner must obtain a new Medical Marijuana Business Permit prior to commencing or continuing operations. A Medical Marijuana Business shall be deemed to have transferred to a new owner, if persons(s) or entities with controlling interest at the time the Permit was first issued cease to possess controlling ownership interest or an ownership interest of less than fifty-one (51) percent.

Sec. 9-493. City business license required.

Prior to commencing operations, a medical marijuana business shall obtain a city business license pursuant to Chapter I of this title.

Sec. 9-494. Conditional use permit required.

No medical marijuana business permit shall be issued, and no person shall conduct a medical marijuana business unless a conditional use permit has been issued therefore pursuant to the provisions of Title 13, Chapter IX, Article 21 of this code.

Sec. 9-495. Operating requirements for all medical marijuana businesses permitted under this chapter.

(a) Records and recordkeeping.

(1) Each owner and operator of a medical marijuana business shall maintain accurate books and records, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a medical marijuana business permit issued pursuant to this Title), or at any time upon reasonable request of the City, each medical marijuana business shall file a sworn statement detailing the number of sales by the medical marijuana business during the previous twelve month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid.

(2) Each owner and operator of a medical marijuana business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the medical marijuana business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the medical marijuana business. The register required by this paragraph shall be provided to the CEO upon a reasonable request.

(3) All medical marijuana businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the production or manufacturing, laboratory testing and distribution processes.

(4) Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPPA), each medical marijuana business shall allow city officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted medical marijuana activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City.

(b) Security measures.

(1) A permitted medical marijuana business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing medical cannabis or medical cannabis products, and to deter and prevent the theft of medical cannabis or medical cannabis products at the medical marijuana business. These security measures shall include:

(i) Establishing limited access areas accessible only to authorized medical marijuana business personnel.

(ii) All medical cannabis and medical cannabis products shall be stored in a secured and locked room, safe, or vault. All medical cannabis and medical cannabis products shall be kept in a manner as to prevent diversion, theft, and loss.

(iii) Sensors shall be installed to detect entry and exit from all secure areas.

(iv) Having a professionally installed, maintained, and monitored alarm system.

(v) Any bars installed on the windows or the doors of the medical marijuana business shall be installed only on the interior of the building.

(vi) Security personnel if utilized must be licensed by the State of California Bureau of Security and Investigative Services Personnel.

(vii) Each medical marijuana business shall have the capability to remain secure and operational during a power outage and shall ensure that

all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

(1) Each medical marijuana business shall identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the CEO regarding any security related measures or and operational issues.

(2) A medical marijuana business shall notify the CEO within twenty-four (24) hours after discovering any of the following:

(i) significant discrepancies identified during inventory, as set forth in the city's administrative regulations;

(ii) diversion, theft, loss, or any criminal activity involving the medical marijuana business or any agent or employee of the medical marijuana business; or

(iii) the loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the medical marijuana business.

(c) Restriction on alcohol sales.

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the medical marijuana business.

(d) Compliance with laws.

It is the responsibility of the owners and operators of the medical marijuana business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this chapter shall be construed as authorizing any actions which violate state law or local law with respect to the operation of a medical marijuana business or any site-specific, additional operating procedures or requirements which may be imposed as conditions of approval of the location of the medical marijuana business.

(e) Taxes.

All medical marijuana businesses authorized to operate under this chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each medical marijuana businesses shall cooperate with the city with respect to any reasonable request to audit the medical marijuana business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

(f) Insurance.

Permittee shall obtain and maintain at all times during the term of the permit comprehensive general liability insurance and comprehensive automotive liability insurance protecting the permittee in an amount of not less than one million dollars ($1,000,000.00) per occurrence, combined single limit, including bodily injury and property damage and not less than one million dollars ($1,000,000.00) aggregate for each personal injury liability, products-completed operations and each accident, issued by an insurance provider admitted and authorized to do business in California and shall be rated at least A:X in A.M. Best & Company's insurance Guide.

(g) Miscellaneous operating requirements.

(1) Restriction on consumption. Cannabis shall not be consumed on the premises of any medical marijuana businesses or elsewhere in the city other than within private residences.

(2) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a medical marijuana business permit, or on any of the vehicles owned or used as part of the medical marijuana business. No outdoor storage of cannabis or cannabis products is permitted at any time.

(3) Reporting and tracking of product and of gross sales. Each medical marijuana business shall have in place a point-of-sale tracking system to track and report on all aspects of the medical marijuana business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale). The medical marijuana business shall ensure that such information is compatible with the City's record-keeping systems. The system must have the capability to produce historical transactional data for review by the CEO.

(4) All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.

(5) There shall not be a physician located in or around any medical marijuana business at any time for the purpose of evaluating patients for the issuance of a medical marijuana prescription or card.

(7) Signage and Notices.

(i) In addition to the requirements otherwise set forth in this section, business identification signage for a medical marijuana business

shall conform to the requirements of this code, including, but not limited to, seeking the issuance of a city sign permit.

(ii) Each entrance to a medical marijuana business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the medical marijuana business is prohibited.

(iii) Business identification signage shall be limited to that needed for identification only.

(9) Minors.

(i) Persons under the age of eighteen (18) years shall not be allowed on the premises of a medical marijuana business. It shall be unlawful and a violation of this chapter for any person to employ any person at or for a medical marijuana business who is not at least eighteen (18) years of age.

(ii) The entrance to the medical marijuana business shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) years of age is permitted to enter upon the premises of the medical marijuana business.

(10) Odor control. Odor control devices and techniques shall be incorporated in all medical marijuana businesses to ensure that odors from marijuana are not detectable off-site.

(11) Display of permit and city business license. The original copy of the medical marijuana business permit issued by the City pursuant to this chapter and the city issued business license shall be posted inside the medical marijuana business in a conspicuous location.

(12) Background check. Every owner, manager, supervisor or employee of the medical marijuana business must submit fingerprints and other information deemed necessary by the CEO for a background check by the Costa Mesa Police Department to verify that person's criminal history. No person shall be issued a permit to operate a medical marijuana business who has been convicted of a felony within the past 7 years, unless that felony has been dismissed, withdrawn, expunged or set aside pursuant to Penal Code sections 1203.4, 1000 or 1385, or who is currently on probation or parole for the sale, distribution, possession or manufacture of a controlled substance.

(13) Loitering. The owner and/or operator of a medical marijuana business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.

(14) Permits and other approvals. Prior to the establishment of any medical marijuana business or the operation of any such business, the person intending to establish a medical marijuana business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such medical marijuana business intends to operate.

Sec. 9-497. Medical marijuana employees.

(a) Any person who is an employee or who otherwise works or volunteers within a medical marijuana business must be legally authorized to do so under applicable state law.

(b) No medical marijuana business or owner thereof may employ any person who has convicted of a felony within the past 7 years, unless that felony has been dismissed, withdrawn, expunged or set aside pursuant to Penal Code sections 1203.4, 1000 or 1385, or who is currently on probation or parole for the sale, distribution, possession or manufacture of a controlled substance.

(c) All employees must wear an identification badge while on the premises of the business, in a format proscribed by the CEO.

Sec. 9-498. Promulgation of administrative regulations.

(a) The CEO is authorized to establish any additional administrative rules, regulations and standards governing the issuance, denial or renewal of medical marijuana business permits, or concerning any other subject necessary to carry out the purposes of this chapter.

(c) Regulations promulgated by the CEO shall become effective upon the date of publication. Medical marijuana businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the CEO.

Sec. 9-499. Inspection and enforcement.

(a) The CEO is charged with enforcing the provisions of the Costa Mesa Municipal Code, or any provision thereof, may enter the location of a medical marijuana business at any time during the hours of operation without notice, and inspect the location of any medical marijuana business as well as any recordings and records required to be maintained pursuant to this title or under applicable provisions of State law.

(b) It is unlawful for any person having responsibility for the operation of a medical marijuana business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a medical marijuana business under this chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a medical marijuana business under this chapter or under state or local law.

Sec. 9-500. Violations.

(a) Violations declared a public nuisance.

Each and every violation of the provisions of this chapter is hereby deemed unlawful and a public nuisance.

(b) Each violation a separate offense.

Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Costa Mesa Municipal Code. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, any permit issued pursuant to this chapter being deemed null and void, disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the medical marijuana business or persons related to, or associated with, the medical marijuana activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the CEO, or the Chief of Police, may take immediate action to temporarily suspend a medical marijuana business permit issued by the City, pending a hearing before the City Council.

(c) Criminal Penalties.

Each and every violation of the provisions of this chapter may be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

(d) Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

SECTION 4. Title 13, Chapter IX, Article 21 is hereby added to read as follows:

Article 21. Medical Marijuana Distributing, Manufacturing, Processing, Research and Development, Testing and Transporting Locations.

Sec. 13-200.90 Purpose.

The purpose of this article is to regulate the location of medical marijuana distributing facilities, manufacturing sites, processing sites, research and developing laboratories, testing laboratories and transport facilities in order to promote the health, safety, morals and general welfare of the residents and the businesses within the city by maintaining local control over the ability to authorize and regulate the location of medical marijuana businesses.

Sec. 13-200.91 Applicability.

(a) Nothing in this article is intended, nor shall it be construed, to burden any defense to criminal prosecution under the Compassionate Use Act of 1996.

(b) All the provisions of this article shall apply to all property, public and private, within the City.

(c) All the provisions of this article shall apply indoors and outdoors.

(d) Unless otherwise provided herein, the terms used in this article shall have the meaning ascribed to them in Title 9, Chapter VI of this code.

Sec. 13-200.91 Medical marijuana distributing facilities, manufacturing sites, processing sites, research and developing laboratories, testing laboratories and transport facilities.

(a) Medical marijuana distribution, dispensing, manufacturing, processing, transporting, research and development and testing is prohibited in all zone districts within the city, except for those portions of the Manufacturing Park (MP) and Planned Development Industrial (PDI) zones that are located north of South Coast Drive and west of Harbor Blvd, excluding any portion of the South Coast Collection.

(b) A conditional use permit shall be required and may be issued to allow the location of any business engaged in the distribution, manufacturing, processing, researching and developing, testing or transporting of medical marijuana in the MP or PDI zones pursuant to subsection (a), subject to the following conditions:

(i) the requirements of Chapter III of this title have been met;

(ii) the findings for granting a conditional use permit in accordance with section 13-29(g) are met;

(iii) the applicant obtains a medical marijuana business license pursuant to Chapter VI of Title 9 of this code; and

(iv) the use is conducted in compliance with all applicable state and local laws.

(c) No person shall engage in any use set forth in this article unless that use is specifically authorized by Chapter VI of Title 9 of this code.

Sec. 13-200.92 Declaration of public nuisance.

Any use, structure, or property that is altered, enlarged, erected, established, maintained, moved, or operated contrary to the provisions of this article, is hereby declared to be unlawful and a public nuisance and may be abated by the city through civil and/or administrative proceedings by means of a restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisances.

Sec. 13-200.93 Violations.

Violations of this article shall be punishable pursuant to the provisions of section 13-16.

SECTION 5. Table 13-30 of Chapter IV (Citywide Land Use Matrix) of Title 13 (Planning, Zoning and Development) is hereby amended to modify row 128 and add rows 31c, 31d, 31e and 31f as follows:

Section 13-30, Table 13-30, Row 31c., 31d., 31e., 31f and 128.

	ZONES																					
LAND USES	R1	R2MD	R2HD	R3	AP	CL	C1	C2	C1S[1]	TC[1]	MG	MP	PDRLD[1]	PDRMD[1]	PDRHD[1]	PDRNCM[1]	PDC[1]	PDI[1]	I&R[1]	I&RS[1]	P
31c. Cannabis and/or marijuana distributer												C[9]						C[9]				
31d. Cannabis and/or marijuana manufacturer or processor												C[9]						C[9]				
31e. Cannabis and/or marijuana transporter												C[9]						C[9]				
31f. Cannabis and/or marijuana research and development and/or testing laboratories												C[9]						C[9]				
128 Research and development laboratories – *other than cannabis and/or marijuana testing laboratories*					C	C	C	P	C	C	P	P						P				

[9] Subject to the location restrictions of Section 13-200.91 and prohibited at the SoCo property, 3303 through 3323 Hyland Ave.

SECTION 6. **Rejection of the Initiative to "Allow Operation of Up to Four Licensed Medical Marijuana Businesses Within the City of Costa Mesa" and the Initiative to "Allow Operation of Up to Eight Licensed Medical Marijuana (Cannabis) Businesses Within the City of Costa Mesa".** By this Measure, the People of the City of Costa Mesa hereby reject each and every change and addition to the Costa Mesa Municipal Code proposed by the initiative entitled "Allow Operation of Up to Four Licensed Medical Marijuana Businesses Within the City of Costa Mesa" and by the initiative entitled "Allow Operation of Up to Eight Licensed Medical Marijuana (Cannabis) Businesses Within the City of Costa Mesa".

SECTION 7. 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 that extent necessary to affect the provisions of this Ordinance.

SECTION 8. Future Changes.

Any future changes or amendments to this ordinance, including any future changes or amendments any Municipal Code section affected by the Measure or a reduction in the tax imposed by this Measure, may occur in the manner set forth in the Government Code and the City's Municipal Code, and shall not require a vote of the people.

SECTION 9. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance 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 portions of this ordinance. The People of the City of Costa Mesa hereby declares that they would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 10. Effective Date

This ordinance shall take effect according to law ten days after certification of the election at which it is adopted.

RESOLUTION NO. 2016-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REQUESTING THE ORANGE COUNTY BOARD OF SUPERVISORS TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 8, 2016, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, the City Council of the City of Costa Mesa called a General Municipal Election to be held on November 8, 2016 for the purpose of submitting a proposed ordinance to the voters of the City of Costa Mesa for their consideration; and

WHEREAS, the City Council of the City of Costa Mesa is submitting to the voters of the City of Costa Mesa a question relating to the adoption of a proposed ordinance; and

WHEREAS, it is desirable that the general municipal election be consolidated with the Statewide General election to be held on the same date and that within the city, the precincts, polling places, and election officers of the two elections be the same, and that the Registrar of Voters of the County of Orange canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Orange is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 8, 2016, for the purpose of submitting to the voters of the City of Costa Mesa a question relating to the adoption of a proposed ordinance.

SECTION 2. That the following measure is to appear on the ballot as follows:

Measure __: The City of Costa Mesa Medical Marijuana Measure	**Response**	**Vote**
Shall the ordinance, to allow medical marijuana manufacturing, processing, wholesale distribution and transporting, and research, development and testing, in manufacturing and industrial zones north of South Coast Dr. and west of Harbor Blvd., subject to conditional use permit and business permits, including requirements for background checks, premises security, business records, that is subject to amendment by City Council, and that levies an annual 6% gross receipts tax (estimated annual revenue $48,000 - $912,000), be adopted?	Yes	
	No	

SECTION 3. That the proposed complete text of the ordinance to be submitted to the voters is attached as Exhibit A.

SECTION 4. That the vote requirement for the measures to pass is a majority (50% +1) of the votes cast.

SECTION 5. That the County of Orange Registrar of Voters is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the statewide election.

SECTION 6. That the Board of Supervisors is requested to issue instructions to the county election department to take any and all steps necessary to hold the consolidated election.

SECTION 7. That the City of Costa Mesa recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 8. That the City Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors and the county election department of the County of Orange.

SECTION 9. That the City Clerk shall certify to the passage and adoption of this resolution.

PASSED AND ADOPTED this 5th day of July, 2016.

_____
Stephen M. Mensinger

ATTEST:

_____
Brenda Green, City Clerk

APPROVED AS TO FORM:

_____
Thomas Duarte, City Attorney

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

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that foregoing Resolution No. 16-52 was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 5th day of July, 2016, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 6th day of July, 2016.

_____
BRENDA GREEN, CITY CLERK

Attachments:

1. Exhibit A – Proposed Ordinance: The City of Costa Mesa Medical Marijuana Measure

COUNCIL-SPONSORED INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Council for the City of Costa Mesa submits the following measure to the voters of the City for approval and enactment:

SECTION 1. Name

This ballot measure shall be known and may be cited as "The City of Costa Mesa Medical Marijuana Measure", and shall be referred to herein as the "Measure."

SECTION 2. Purpose

The purpose of the Measure is to provide for the specific areas in the City within which medical marijuana distributors, manufacturers, processors, research and development laboratories, testing laboratories and transporters can be located; to provide for City regulation of these medical marijuana businesses in a manner consistent with the statewide regulations to be adopted by the California Department of Consumer Affairs - Bureau of Medical Marijuana Regulations ("BMMR") and other state agencies, including the departments of Food and Agriculture and Public Health, pursuant to Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, as amended, collectively referred to as the Medical Marijuana Regulation and Safety Act (MMRSA); to reaffirm the existing ban on dispensaries and cultivation within the City; and to impose a gross receipts tax on all medical marijuana distributors, manufacturers, processors, testing laboratories, transporters, and research and development laboratories, as well as any other marijuana or cannabis business at a rate of 6% of gross receipts.

An additional purpose of this Measure is to directly compete with the two initiatives entitled "Allow Operation of Up to Four Licensed Medical Marijuana Businesses Within the City of Costa Mesa" and "Allow Operation of Up to Eight Licensed Medical Marijuana (Cannabis) Businesses Within the City of Costa Mesa" which each propose a number of amendments to City's Municipal Code regarding medical marijuana. The Measure is intended to comprehensively regulate the same subject as, and to expressly prohibit the activities that would be allowed by, both the "Allow Operation of Up to Four Licensed Medical Marijuana Businesses Within the City of Costa Mesa" and "Allow Operation of Up to Eight Licensed Medical Marijuana (Cannabis) Businesses Within the City of Costa Mesa". If a majority of voters approve both this Measure and either or both of the "Allow Operation of Up to Four Licensed Medical Marijuana Businesses Within the City of Costa Mesa" and "Allow Operation of Up to Eight Licensed Medical Marijuana (Cannabis) Businesses Within the City of Costa Mesa", the ballot measure with the higher percentage of the vote will control.

Now, therefore, the People of the City of Costa Mesa do ordain as follows:

AN ORDINANCE OF THE PEOPLE OF THE CITY OF COSTA MESA, CALIFORNIA, ADDING A NEW SECTION TO TITLE 9, CHAPTER I, ARTICLE 4 REGARDING MARIJUANA TAX AND A NEW CHAPTER VI "MEDICAL MARIJUANA BUSINESS PERMITS" TO TITLE 9; ADDING A NEW ARTICLE 21 "MEDICAL MARIJUANA DISTRIBUTING, MANUFACTURING, RESEARCH AND DEVELOPMENT AND TESTING" TO CHAPTER IX OF TITLE 13; AND AMENDING TABLE 13-30 OF CHAPTER IV, CITYWIDE LAND USE MATRIX, OF TITLE 13 OF THE COSTA MESA MUNICIPAL CODE.

SECTION 3. Title 9, Chapter I, Article 4, Schedules, is hereby amended to add a new section 9-29.5, Marijuana tax, to read as follows:

Sec. 9-29.5 Marijuana tax.

Notwithstanding any other provision of this code, every person engaged in, managing, conducting, or carrying on any medical marijuana business defined in Chapter VI of this title, or any other medical marijuana, medical cannabis, marijuana and/or cannabis business, shall pay an annual business tax of 6% based on the gross receipts of the business.

SECTION 4. Title 9, Chapter VI., entitled "Medical Marijuana Businesses and Permits" is hereby added to the Costa Mesa Municipal Code to read as follows:

Title 9. LICENSES AND BUSINESS REGULATIONS

Chapter VI. MEDICAL MARIJUANA BUSINESS PERMITS.

Sec. 9-481. Purpose and Intent.

It is the purpose and intent of this chapter to regulate the distributing, manufacturing, processing, research and development, testing and transporting of cannabis and cannabis-related products in a manner which is responsible, which protects the health, safety, and welfare of the residents of Costa Mesa, and to enforce rules and regulations consistent with state law. In part to meet these objectives, a permit shall be required in order to own and/or to operate a medical marijuana business within the city. Nothing in this chapter is intended to authorize the possession, use, or provision of marijuana for purposes which violate state or federal law. The provisions of this chapter are in addition to any other permits, licenses, and approvals which may be required to conduct business in the city, and are in addition to any permits, licenses and approvals required under state law.

Sec. 9-482. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the MMRSA, the city is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-related activity.

Sec. 9-483. Marijuana business activities prohibited unless specifically authorized by this chapter.

Except as specifically authorized in this chapter, the manufacture, processing, storing, laboratory testing, labeling, transporting, dispensing, distribution, delivery, or sale of marijuana or a marijuana product is expressly prohibited in the city.

Sec. 9-484. Compliance with Laws.

It is the responsibility of the owners and operators of the medical marijuana business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder.

Sec. 9-485. Definitions.

When used in this chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

"Cannabis" means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health & Safety Code as enacted by Chapter 14017 of the Statutes of 1972. "Cannabis" 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 seed of the plant which is incapable of germination. For the purpose of this Chapter, "cannabis" does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health & Safety Code.

"Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the active cannabinoid ingredient, thereby increasing the product's potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the California Health & Safety Code, or a drug, as defined by Section 109925 of the California Health & Safety Code.

"Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health & Safety Code.

"Chief Executive Officer" or "CEO" shall mean the Chief Executive Officer of the City or his or her designee.

"Cultivation" means any activity, whether occurring indoors or outdoors, involving the propagation, planting, growing, harvesting, drying, curing, grading, and/or trimming of cannabis plants or any part thereof for any purpose, including medical marijuana.

"Cultivation site" means a facility where medical cannabis is cultivated, propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

"Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined to be authorized by the State of California, or any of its departments or divisions, to anyone for any purpose. "Delivery" also includes the use by a dispensary of any technology platform owned, controlled, and/or licensed by the dispensary, or independently licensed by the State of California under the MMRSA (as the same may be amended from time-to-time), that enables anyone to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

"Dispensary" means a medical marijuana business facility where cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, medical cannabis and medical cannabis products as part of a retail sale, and where the operator holds a valid medical marijuana business permit from the city authorizing the operation of a dispensary, and a valid state license as required by state law to operate a dispensary.

"Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

"Distribution" means the procurement, sale, and transport of medical cannabis or medical cannabis products between entities licensed pursuant to MMRSA and any subsequent State of California legislation regarding the same.

"Distributor" means a person holding a valid medical marijuana business permit for distribution issued by the city, and, a valid state license for distribution, required by state law to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary. The direct and/or retail sale, distribution, or furnishing of any cannabis or cannibis product to any consumer or end user is expressely prohibited.

"Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medical cannabis product is not considered food as defined by Section 109935 of the California Health & Safety Code or a drug as defined by Section 109925 of the California Health & Safety Code.

"Live plants" means living medical cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

"Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as defined in this section, or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, where the operator holds a valid medical marijuana business permit for manufacturing from the and a valid state license for manufacturing pursuant to MMRSA.

"Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product intended for internal consumption or topical application.

"Manufacturing site" means a location that produces, prepares, propagates, or compounds medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid Medical marijuana business permit for manufacturing from the city and, a valid state license as required for manufacturing of cannabis products.

"Marijuana" means "cannabis," as that term is defined in this chapter.

"Medical cannabis", "medical marijuana," "medical cannabis product" or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found in Section 11362.5 of the California Health & Safety Code (as the same may be amended from time-to-time). For purposes of this Title, "medical cannabis" does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health & Safety Code.

"Medical marijuana activity" includes manufacture, processing, laboratory testing, research and development, transporting, delivery, distribution, or sale of medical cannabis or a medical cannabis product, within the meaning of California Business and Professions Code 19300 et seq.

"Medical marijuana business" means any business or operation which engages in medical marijuana activity.

"Medical marijuana business permit" means a regulatory permit issued by the City pursuant to this Chapter to a medical marijuana business, and is required before any medical marijuana activity may be conducted in the City.

"MMRSA" means the Medical Marijuana Regulation and Safety Act adopted by Senate Bill 643, Assembly Bill 266 and Assembly Bill 243, as amended.

"Patient" or "qualified patient" shall have the same definition as California Health & Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5. For purposes of this ordinance, a qualified patient shall include a person with an identification card as that term is defined by California Health & Safety Code Section 11362.7 et seq.

"Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

"Person with an identification card" shall have the meaning given that term by California Health & Safety Code Section 11362.7.

"Processing" and "processor" shall have the same meaning as manufacturing and manufacturer, respectively.

"Research and development laboratory" means a facility, entity, or site in the city that performs research into and/or the development of medical cannabis or medical cannabis products, where cannabis in any amount is located on-site, and that is both of the following:

1. Accredited by an accrediting body that is independent of all other persons involved in the medical cannabis industry in the state.

2. Registered with the State Department of Public Health, and is owned and operated by a person issued a valid medical marijuana business permit for laboratory testing from the city and a valid state license for such uses as required by state law.

"South Coast Collection" or "SoCo" means all properties located at 3303 through 3323, inclusive, Hyland Avenue, in the City of Costa Mesa, commonly known as "SoCo" or "SOCO".

"State license" means a permit or license issued by the State of California, or one of its departments or divisions, under MMRSA to engage in medical marijuana activity.

"Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health & Safety Code.

"Testing laboratory" means a facility, entity, or site in the city that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent of all other persons involved in the medical cannabis industry in the state.

2. Registered with the State Department of Public Health, and is owned and operated by a person issued a valid medical marijuana business permit for laboratory testing from the city and a valid state license for laboratory testing as required by state law.

"Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting medical marijuana activity authorized by the MMRSA.

"Transporter" means a person issued a state license, and a medical marijuana business permit by the city, authorizing the transport of medical cannabis or medical cannabis products in amounts authorized by the State of California, or by one of its departments or divisions under the MMRSA.

Sec. 9-486. Type of Authorized Medical Marijuana Businesses Permitted.

(a) One of more of the following types of medical marijuana business may be permitted to operate within the City:

1. a medical marijuana distributor;

2. a medical marijuana manufacturer or processor;

3. a medical marijuana testing laboratory;

4. a medical marijuana research and development laboratory; and

5. a medical marijuana transporter.

(b) Businesses licensed permitted pursuant to this chapter shall not engage in the retail sale or distribution of cannabis, marijuana, medical cannabis, medical marijuana, medical cannabis product, cannabis product, or any other item.

(c) No person may engage in any type of medical marijuana business that is not specifically authorized pursuant to this section, including but not limited to, dispensing and/or cultivating medical marijuana.

Sec. 9-487. Medical marijuana business permit required to engage in medical marijuana business.

No person may engage in any medical marijuana business or in any medical marijuana activity within the city including manufacture, processing, laboratory testing, transporting, dispensing, distribution, or sale of medical cannabis or a medical cannabis product unless the person (1) has a valid medical marijuana business permit from the city and (2) is currently in compliance with all applicable state and local laws and regulations pertaining to the medical marijuana business and medical marijuana business activities.

Sec. 9-488. Term of permit; fees.

(a) A medical marijuana business permit shall be valid for two (2) years from the date of issue, unless otherwise suspended or revoked, and shall be renewed bi-annually thereafter, provided the permittee is in compliance with the provisions of this chapter.

(b) Medical marijuana business permit and application fees shall be established by resolution of the City Council.

Sec. 9-489. Effect of state license suspension, revocation, or termination.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a medical marijuana business to operate within the city, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a medical marijuana business, such revocation or termination shall also revoke or terminate the ability of a medical cannabis business to operate within the city.

Sec. 9-490. Denial and revocation.

A medical marijuana permit may be revoked upon a hearing by the director pursuant to section 9-120 for failing to comply with the terms of the permit, the applicable provisions of this chapter, this code, state law or regulation and/or any condition of any other permit issued pursuant to this code.

Sec. 9-491. Appeals.

Appeals from decisions of the CEO under this chapter shall be governed by the procedures set forth in Chapter IX of Title 2 of this code.

Sec. 9-492. Prohibition on transfer of medical marijuana business permits.

In the event a permit holding Medical Marijuana Business sells or transfer the business to a new owner, the new owner must obtain a new Medical Marijuana Business Permit prior to commencing or continuing operations. A Medical Marijuana Business shall be deemed to have transferred to a new owner, if persons(s) or entities with controlling interest at the time the Permit was first issued cease to possess controlling ownership interest or an ownership interest of less than fifty-one (51) percent.

Sec. 9-493. City business license required.

Prior to commencing operations, a medical marijuana business shall obtain a city business license pursuant to Chapter I of this title.

Sec. 9-494. Conditional use permit required.

No medical marijuana business permit shall be issued, and no person shall conduct a medical marijuana business unless a conditional use permit has been issued therefore pursuant to the provisions of Title 13, Chapter IX, Article 21 of this code.

Sec. 9-495. Operating requirements for all medical marijuana businesses permitted under this chapter.

(a) Records and recordkeeping.

(1) Each owner and operator of a medical marijuana business shall maintain accurate books and records, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a medical marijuana business permit issued pursuant to this Title), or at any time upon reasonable request of the City, each medical marijuana business shall file a sworn statement detailing the number of sales by the medical marijuana business during the previous twelve month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid.

(2) Each owner and operator of a medical marijuana business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the medical marijuana business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the medical marijuana business. The register required by this paragraph shall be provided to the CEO upon a reasonable request.

(3) All medical marijuana businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the production or manufacturing, laboratory testing and distribution processes.

(4) Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPPA), each medical marijuana business shall allow city officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted medical marijuana activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City.

(b) Security measures.

(1) A permitted medical marijuana business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing medical cannabis or medical cannabis products, and to deter and prevent the theft of medical cannabis or medical cannabis products at the medical marijuana business. These security measures shall include:

(i) Establishing limited access areas accessible only to authorized medical marijuana business personnel.

(ii) All medical cannabis and medical cannabis products shall be stored in a secured and locked room, safe, or vault. All medical cannabis and medical cannabis products shall be kept in a manner as to prevent diversion, theft, and loss.

(iii) Sensors shall be installed to detect entry and exit from all secure areas.

(iv) Having a professionally installed, maintained, and monitored alarm system.

(v) Any bars installed on the windows or the doors of the medical marijuana business shall be installed only on the interior of the building.

(vi) Security personnel if utilized must be licensed by the State of California Bureau of Security and Investigative Services Personnel.

(vii) Each medical marijuana business shall have the capability to remain secure and operational during a power outage and shall ensure that

all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

(1) Each medical marijuana business shall identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the CEO regarding any security related measures or and operational issues.

(2) A medical marijuana business shall notify the CEO within twenty-four (24) hours after discovering any of the following:

(i) significant discrepancies identified during inventory, as set forth in the city's administrative regulations;

(ii) diversion, theft, loss, or any criminal activity involving the medical marijuana business or any agent or employee of the medical marijuana business; or

(iii) the loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the medical marijuana business.

(c) Restriction on alcohol sales.

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the medical marijuana business.

(d) Compliance with laws.

It is the responsibility of the owners and operators of the medical marijuana business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this chapter shall be construed as authorizing any actions which violate state law or local law with respect to the operation of a medical marijuana business or any site-specific, additional operating procedures or requirements which may be imposed as conditions of approval of the location of the medical marijuana business.

(e) Taxes.

All medical marijuana businesses authorized to operate under this chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each medical marijuana businesses shall cooperate with the city with respect to any reasonable request to audit the medical marijuana business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

(f) Insurance.

Permittee shall obtain and maintain at all times during the term of the permit comprehensive general liability insurance and comprehensive automotive liability insurance protecting the permittee in an amount of not less than one million dollars ($1,000,000.00) per occurrence, combined single limit, including bodily injury and property damage and not less than one million dollars ($1,000,000.00) aggregate for each personal injury liability, products-completed operations and each accident, issued by an insurance provider admitted and authorized to do business in California and shall be rated at least A:X in A.M. Best & Company's insurance Guide.

(g) Miscellaneous operating requirements.

(1) Restriction on consumption. Cannabis shall not be consumed on the premises of any medical marijuana businesses or elsewhere in the city other than within private residences.

(2) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a medical marijuana business permit, or on any of the vehicles owned or used as part of the medical marijuana business. No outdoor storage of cannabis or cannabis products is permitted at any time.

(3) Reporting and tracking of product and of gross sales. Each medical marijuana business shall have in place a point-of-sale tracking system to track and report on all aspects of the medical marijuana business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale). The medical marijuana business shall ensure that such information is compatible with the City's record-keeping systems. The system must have the capability to produce historical transactional data for review by the CEO.

(4) All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.

(5) There shall not be a physician located in or around any medical marijuana business at any time for the purpose of evaluating patients for the issuance of a medical marijuana prescription or card.

(7) Signage and Notices.

(i) In addition to the requirements otherwise set forth in this section, business identification signage for a medical marijuana business

shall conform to the requirements of this code, including, but not limited to, seeking the issuance of a city sign permit.

(ii) Each entrance to a medical marijuana business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the medical marijuana business is prohibited.

(iii) Business identification signage shall be limited to that needed for identification only.

(9) Minors.

(i) Persons under the age of eighteen (18) years shall not be allowed on the premises of a medical marijuana business. It shall be unlawful and a violation of this chapter for any person to employ any person at or for a medical marijuana business who is not at least eighteen (18) years of age.

(ii) The entrance to the medical marijuana business shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) years of age is permitted to enter upon the premises of the medical marijuana business.

(10) Odor control. Odor control devices and techniques shall be incorporated in all medical marijuana businesses to ensure that odors from marijuana are not detectable off-site.

(11) Display of permit and city business license. The original copy of the medical marijuana business permit issued by the City pursuant to this chapter and the city issued business license shall be posted inside the medical marijuana business in a conspicuous location.

(12) Background check. Every owner, manager, supervisor or employee of the medical marijuana business must submit fingerprints and other information deemed necessary by the CEO for a background check by the Costa Mesa Police Department to verify that person's criminal history. No person shall be issued a permit to operate a medical marijuana business who has been convicted of a felony within the past 7 years, unless that felony has been dismissed, withdrawn, expunged or set aside pursuant to Penal Code sections 1203.4, 1000 or 1385, or who is currently on probation or parole for the sale, distribution, possession or manufacture of a controlled substance.

(13) Loitering. The owner and/or operator of a medical marijuana business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.

(14) Permits and other approvals. Prior to the establishment of any medical marijuana business or the operation of any such business, the person intending to establish a medical marijuana business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such medical marijuana business intends to operate.

Sec. 9-497. Medical marijuana employees.

(a) Any person who is an employee or who otherwise works or volunteers within a medical marijuana business must be legally authorized to do so under applicable state law.

(b) No medical marijuana business or owner thereof may employ any person who has convicted of a felony within the past 7 years, unless that felony has been dismissed, withdrawn, expunged or set aside pursuant to Penal Code sections 1203.4, 1000 or 1385, or who is currently on probation or parole for the sale, distribution, possession or manufacture of a controlled substance.

(c) All employees must wear an identification badge while on the premises of the business, in a format proscribed by the CEO.

Sec. 9-498. Promulgation of administrative regulations.

(a) The CEO is authorized to establish any additional administrative rules, regulations and standards governing the issuance, denial or renewal of medical marijuana business permits, or concerning any other subject necessary to carry out the purposes of this chapter.

(c) Regulations promulgated by the CEO shall become effective upon the date of publication. Medical marijuana businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the CEO.

Sec. 9-499. Inspection and enforcement.

(a) The CEO is charged with enforcing the provisions of the Costa Mesa Municipal Code, or any provision thereof, may enter the location of a medical marijuana business at any time during the hours of operation without notice, and inspect the location of any medical marijuana business as well as any recordings and records required to be maintained pursuant to this title or under applicable provisions of State law.

(b) It is unlawful for any person having responsibility for the operation of a medical marijuana business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a medical marijuana business under this chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a medical marijuana business under this chapter or under state or local law.

Sec. 9-500. Violations.

(a) Violations declared a public nuisance.

Each and every violation of the provisions of this chapter is hereby deemed unlawful and a public nuisance.

(b) Each violation a separate offense.

Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Costa Mesa Municipal Code. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, any permit issued pursuant to this chapter being deemed null and void, disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the medical marijuana business or persons related to, or associated with, the medical marijuana activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the CEO, or the Chief of Police, may take immediate action to temporarily suspend a medical marijuana business permit issued by the City, pending a hearing before the City Council.

(c) Criminal Penalties.

Each and every violation of the provisions of this chapter may be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

(d) Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

SECTION 4. Title 13, Chapter IX, Article 21 is hereby added to read as follows:

Article 21. Medical Marijuana Distributing, Manufacturing, Processing, Research and Development, Testing and Transporting Locations.

Sec. 13-200.90 Purpose.

The purpose of this article is to regulate the location of medical marijuana distributing facilities, manufacturing sites, processing sites, research and developing laboratories, testing laboratories and transport facilities in order to promote the health, safety, morals and general welfare of the residents and the businesses within the city by maintaining local control over the ability to authorize and regulate the location of medical marijuana businesses.

Sec. 13-200.91 Applicability.

(a) Nothing in this article is intended, nor shall it be construed, to burden any defense to criminal prosecution under the Compassionate Use Act of 1996.

(b) All the provisions of this article shall apply to all property, public and private, within the City.

(c) All the provisions of this article shall apply indoors and outdoors.

(d) Unless otherwise provided herein, the terms used in this article shall have the meaning ascribed to them in Title 9, Chapter VI of this code.

Sec. 13-200.91 Medical marijuana distributing facilities, manufacturing sites, processing sites, research and developing laboratories, testing laboratories and transport facilities.

(a) Medical marijuana distribution, dispensing, manufacturing, processing, transporting, research and development and testing is prohibited in all zone districts within the city, except for those portions of the Manufacturing Park (MP) and Planned Development Industrial (PDI) zones that are located north of South Coast Drive and west of Harbor Blvd, excluding any portion of the South Coast Collection.

(b) A conditional use permit shall be required and may be issued to allow the location of any business engaged in the distribution, manufacturing, processing, researching and developing, testing or transporting of medical marijuana in the MP or PDI zones pursuant to subsection (a), subject to the following conditions:

(i) the requirements of Chapter III of this title have been met;

(ii) the findings for granting a conditional use permit in accordance with section 13-29(g) are met;

(iii) the applicant obtains a medical marijuana business license pursuant to Chapter VI of Title 9 of this code; and

(iv) the use is conducted in compliance with all applicable state and local laws.

(c) No person shall engage in any use set forth in this article unless that use is specifically authorized by Chapter VI of Title 9 of this code.

Sec. 13-200.92 Declaration of public nuisance.

Any use, structure, or property that is altered, enlarged, erected, established, maintained, moved, or operated contrary to the provisions of this article, is hereby declared to be unlawful and a public nuisance and may be abated by the city through civil and/or administrative proceedings by means of a restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisances.

Sec. 13-200.93 Violations.

Violations of this article shall be punishable pursuant to the provisions of section 13-16.

SECTION 5. Table 13-30 of Chapter IV (Citywide Land Use Matrix) of Title 13 (Planning, Zoning and Development) is hereby amended to modify row 128 and add rows 31c, 31d, 31e and 31f as follows:

Section 13-30, Table 13-30, Row 31c., 31d., 31e., 31f and 128.

	ZONES																					
LAND USES	R1	R2MD	R2HD	R3	AP	CL	C1	C2	C1S[1]	TC[1]	MG	MP	PDRLD[1]	PDRMD[1]	PDRHD[1]	PDRNCM[1]	PDC[1]	PDI[1]	I&R[1]	I&RS[1]	P
31c. Cannabis and/or marijuana distributer												C[9]						C[9]			
31d. Cannabis and/or marijuana manufacturer or processor												C[9]						C[9]			
31e. Cannabis and/or marijuana transporter												C[9]						C[9]			
31f. Cannabis and/or marijuana research and development and/or testing laboratories												C[9]						C[9]			
128 Research and development laboratories – *other than cannabis and/or marijuana testing laboratories*					C	C	C	P	C	C	P	P						P			

[9] Subject to the location restrictions of Section 13-200.91 and prohibited at the SoCo property, 3303 through 3323 Hyland Ave.

SECTION 6. Rejection of the Initiative to "Allow Operation of Up to Four Licensed Medical Marijuana Businesses Within the City of Costa Mesa" and the Initiative to "Allow Operation of Up to Eight Licensed Medical Marijuana (Cannabis) Businesses Within the City of Costa Mesa". By this Measure, the People of the City of Costa Mesa hereby reject each and every change and addition to the Costa Mesa Municipal Code proposed by the initiative entitled "Allow Operation of Up to Four Licensed Medical Marijuana Businesses Within the City of Costa Mesa" and by the initiative entitled "Allow Operation of Up to Eight Licensed Medical Marijuana (Cannabis) Businesses Within the City of Costa Mesa".

SECTION 7. 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 that extent necessary to affect the provisions of this Ordinance.

SECTION 8. Future Changes.

Any future changes or amendments to this ordinance, including any future changes or amendments any Municipal Code section affected by the Measure or a reduction in the tax imposed by this Measure, may occur in the manner set forth in the Government Code and the City's Municipal Code, and shall not require a vote of the people.

SECTION 9. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance 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 portions of this ordinance. The People of the City of Costa Mesa hereby declares that they would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 10. Effective Date

This ordinance shall take effect according to law ten days after certification of the election at which it is adopted.

RESOLUTION NO.16-53

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA SETTING PRIORITIES FOR FILING A WRITTEN ARGUMENT REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, a General Municipal Election is to be held in the City of Costa Mesa, California, on Tuesday, November 8, 2016, at which there will be submitted to the voters the following measure:

Measure __: The City of Costa Mesa Medical Marijuana Measure	**Response**	**Vote**
Shall the ordinance, to allow medical marijuana manufacturing, processing, wholesale distribution and transporting, and research, development and testing, in manufacturing and industrial zones north of South Coast Dr. and west of Harbor Blvd., subject to conditional use permit and business permits, including requirements for background checks, premises security, business records, that is subject to amendment by City Council, and that levies an annual 6% gross receipts tax (estimated annual revenue $48,000 - $912,000), be adopted?	Yes	
	No	

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 2. That the City Council authorizes the following member(s) of it's body

_____(Mayor In Favor)	or	_____(Mayor Against)
_____(Mayor Pro Tem In Favor)	or	_____(Mayor Pro Tem Against)
_____(Council Member In Favor)	or	_____(Council Member Against)
_____(Council Member In Favor)	or	_____(Council Member Against)
_____(Council Member In Favor)	or	_____(Council Member Against)

to file a written argument Against Measure as specified above not exceeding 300 words, accompanied by the printed names(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The arguments may be changed or withdrawn until and including the date the fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Form of Statement To Be Filed By Author(s) of Argument.

SECTION 3. That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney is affected.

a. The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on existing law and the operation of the measure. If a measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial analysis.
b. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city.
c. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following: "The above statement is an impartial analysis of Ordinance or Measure __. If you desire a copy of the ordinance or measure, please call the election official's office at 714-754-5225 and a copy will be mailed at no cost to you.
d. The impartial analysis shall be filed by the date set by the City Clerk the filing of primary arguments.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED ON JULY 5, 2016.

_____
Stephen M. Mensinger, Mayor

ATTEST:

_____
Brenda Green, City Clerk

APPROVED AS TO FORM:

_____
Thomas Duarte, City Attorney

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

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that foregoing Resolution No. 16-53 was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 5th day of July, 2016, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 6th day of July, 2016.

_____
BRENDA GREEN, CITY CLERK

RESOLUTION NO. 16-54

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE DETERMINATION AND FILING OF A NOTICE OF EXEMPTION PURSUANT TO THE PROVISIONS THE CALIFORNIA QUALITY ACT (CEQA) FOR AN INITIATIVE ORDINANCE ENTITLED THE COSTA MESA MEDICAL MARIJUANA MEASURE

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, City staff have reviewed the proposed initiative ordinance, entitled the Costa Mesa Marijuana Measure ("CMMM"), adding a new Section to Title 9, Chapter I, Article 4 regarding Marijuana Tax and a new Chapter VI "Medical Marijuana Business Permits" to Title 9; adding a new Article 21 "Medical Marijuana Distributing, Manufacturing, Research and Development and Testing to Chapter IX of Title 13; and amending Table 13-30 Of Chapter IV, Citywide Land Use Matrix, of Title 13 of the Costa Mesa Municipal Code ("CMMC");

WHEREAS, the revisions to the CMMC have been reviewed for compliancewith the California Environmental Quality Act ("CEQA"), CEQA Guidelines, and the City's environmental processing procedures;

WHEREAS, City staff have determined that the CMMMM is exempt from review under the California Environmental Quality Act pursuant to the following Sections of Title 14, Chapter 3, California Code of Regulations:

A. The initiative ordinance is exempt under Section 15061(b)(3) because it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. In this case, it can be seen with certainty that there is no possibility that the proposed initiative ordinance may have a significant effect on the environment and is therefore not subject to CEQA.
B. The initiative ordinance is also exempt under Section 15183 (projects consistent with a community plan, general plan, or zoning) for which an EIR has been previously certified, since the types of businesses that would be conditionally permitted by the revisions to the CMMC are consistent with those contemplated by the general plan and existing zoning, such as distribution, manufacturing, and laboratory testing of other products; and

WHEREAS, a Notice of Exemption shall be prepared for the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Costa Mesa does resolve as follows:

SECTION 1. Based on the review and determination of the Development Services Division, the City Council of the City of Costa Mesa finds that the initiative ordinance is exempt from review under the California Environmental Quality Act.

SECTION 2. A Notice of Exemption is approved for the Project.

SECTION 3. The City Clerk may file the Notice of Exemption with the County Clerk of Orange County and, if the Project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to the provisions of Section 21152(b) of the Public Resources Code and the State EIR Guidelines adopted pursuant thereto.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 5th day of July, 2016.

_____
Stephen M. Mensinger, Mayor

ATTEST:

_____
Brenda Green, City Clerk

APPROVED AS TO FORM:

_____
Thomas Duarte, City Attorney

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

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 16-54 and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 5th day of July, 2016, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 5th day of July, 2016.

_____
Brenda Green, City Clerk
(SEAL)