

**FULL TEXT OF MEASURE CC
CITY OF SANTA ANA**

THE SANTA ANA MEDICAL CANNABIS RESTRICTION AND LIMITATION ACT

The People of the City of Santa Ana do hereby enact and ordain as follows:

THE SANTA ANA MEDICAL CANNABIS RESTRICTION AND LIMITATION ACT

SECTION 1 TITLE

This initiative shall be known and may be cited as The Santa Ana Medical Cannabis Restriction and Limitation Act.

SECTION 2 FINDINGS AND DECLARATIONS

(a) In 1996 California voters approved Proposition 215, the "Compassionate Use Act of 1996." The people of the State of California declared that their purpose in enacting the measure was, "to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief."

(b) Proposition 215 called for plans to implement the "safe and affordable distribution of marijuana to all patients in medical need of marijuana."

(c) "Cannabis" is the scientific term for "marijuana" and shall be used in the language of this Ordinance and in all other medical contexts in the City of Santa Ana.

(d) We strongly support the right of patients to use medical cannabis in accordance with the recommendation or approval of a licensed physician in good standing with the Medical Board of California.

(e) We strongly oppose law enforcement resources being used to arrest, prosecute, and incarcerate qualified patients who use and provide medical cannabis in accordance with the Compassionate Use Act (California Health and Safety Code section 11362.5) and Senate Bill 420 (California Health and Safety Code sections 11362.7 *et. seq.*).

(f) Access to medical cannabis should occur in a safe and orderly manner to protect patients and the community. The absence of controlled dispensing organizations results in patients being forced to obtain their medicine in the illicit market, or incurring hardship and expense of traveling great distances to obtain their medicine from outside their community.

(g) In the absence of detailed State regulation, local governments must adopt policies and regulations to protect their communities and their resident patients' safe access their medicine.

(h) According to the California State Board of Equalization, medical cannabis organizations contribute between \$50 and \$100 million dollars in sales tax to the State of California annually, and provide employment to thousands of Californians. Local municipalities, including the City of Sacramento, have passed special business tax rates for medical cannabis organizations which provide revenue used to fund much needed services such as public safety, education, and health.

(i) The People of the City of Santa Ana further find and declare that we enact this initiative pursuant to the powers reserved to the State of California, the City of Santa Ana, and its People under the Tenth Amendment to the United States Constitution, as well as under the general police power of local government derived from the State's sovereignty.

(j) The intent of this Ordinance is to restrict and limit the number of medical cannabis collectives and cooperatives operating or which may operate in the City of Santa Ana, but not to prohibit them.

(k) The intent of the two percent gross receipts tax on medical cannabis collectives and cooperatives is for the betterment of the community.

(l) The subject of this Ordinance is to determine the appropriate location of medical cannabis collectives and cooperatives. The regulation of such collectives and cooperatives may be accomplished by State law, or by any other Santa Ana voter initiative. This Ordinance cannot be amended by the City Council except as specifically provided below.

SECTION 3 AMENDMENTS TO SANTA ANA MUNICIPAL CODE CHAPTER 18 ARTICLE XIII

The People of the City of Santa Ana do hereby enact and ordain that Chapter 18 Article XIII of the Santa Ana Municipal Code is hereby amended to read as follows (any underlined language is new and to be inserted, any struck-through language is existing and to be deleted):

Article XIII. - Medical Cannabis Collectives and Cooperatives

Sec. 18.610. - Purposes and Directives

Sec. 18-611. - Definitions

Sec. 18-612. - Maximum Number of Collectives or Cooperatives

Sec. 18-613. - Use Districts & Sensitive Use Proximity Prohibitions

Sec. 18-614. - Registration Required and Effect Thereof

Sec. 18-615. - Registration Application Process

Sec. 18-616. - Registration Application Form, Manner, Timing, and Priority Order

Sec. 18-617. - Issuance and Renewal of Registration

Sec. 18-618. - Operating Standards

Sec. 18.610. - Purposes and Directives

The purpose of this chapter is to implement California Health and Safety Code sections 11362.5 and 11362.7-11362.83, known respectively as the Compassionate Use Act of 1996 and the Medical Marijuana Program Act (effective 2004); and to impose limitations on the location of facilities lawfully used for the cultivation, processing, storage, and dispensing of medical cannabis, other than the cultivation or possession by an individual qualified patient or caregiver at the patient or caregiver's home. The Compassionate Use Act is the State law removing State law penalties for qualified patients, and those patients' primary caregivers, for possession and cultivation of a personal amount of medical cannabis for qualified patients. The Medical Marijuana Program Act is the State law that allows qualified patients and caregivers to collectively or cooperatively cultivate and distribute medical cannabis for and to each other. The purpose of this Article is also to enact reasonable operating and zoning limitations and other restrictions applicable to the cultivation and distribution of medical cannabis based on the needs of the City of Santa Ana and its residents.

(a) This Article is intended:

- (1) To fulfill the purpose of the Compassionate Use Act to "implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana" in accord with the Medical Marijuana Program Act's purpose to provide a well-regulated program for patients and caregivers acting collectively or cooperatively to cultivate and obtain medical cannabis.
- (2) To help ensure that seriously ill residents of the City of Santa Ana can obtain and use cannabis for medical purposes where that medical use has been deemed appropriate and recommended or approved by a California physician who has determined the patient's health would benefit from the use of cannabis in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.
- (3) To create a ministerial administrative registration process for a limited number of medical cannabis collectives and cooperatives that serve qualified patients in the City of Santa Ana in accordance with State law. Nothing in this Article purports to affirmatively authorize activities that are otherwise illegal under Federal, State, or local law.
- (4) To protect citizens from the adverse impacts of irresponsible or illicit medical cannabis cultivation, distribution, handling, and storage.
- (5) To provide additional revenue to the City of Santa Ana for the general public welfare, including without limit for public safety, education, and health.
- (6) To impose further limitations on medical cannabis collectives and cooperatives beyond those imposed under the Medical Marijuana Program Act, and in no way to affirmatively authorize activity prohibited by State or Federal law.

(b) It shall be unlawful for the City of Santa Ana to ban providers of medical cannabis lawful under State law, including non-profit collectives and cooperatives, from operation within the City of Santa Ana, or to place a moratorium upon such lawful operation.

(c) No department, agency, commission, officer, or employee of the City of Santa Ana shall use any City funds or resources to assist in the enforcement of Federal controlled substance laws to the extent that they are inconsistent with California medical cannabis laws, including but not limited to the Companionate Use Act of 1996 and the Medical Marijuana Program Act, unless such assistance is required by Federal or State statute, regulation, or court decision.

(d) The City of Santa Ana shall not accept any Federal funding that would be used to investigate, cite, arrest, prosecute, or seize property based on offenses otherwise legal under California medical cannabis laws, nor participate in any task force that accepts any Federal funding or revenue sharing and that investigates, cites, arrests, prosecutes, or seizes property based on offenses otherwise legal under California medical cannabis laws. Specifically, these prohibitions on accepting funding and task force participation shall not apply to the following activities as not legal under California medical cannabis laws:

- (1) Distribution or sale of cannabis to minors;
- (2) Cultivation or sale of cannabis on public property;
- (3) Driving under the influence;
- (4) Interstate or international gang activity.

(e) The City must not require a medical cannabis collective or cooperative to obtain any special use or conditional use permit. This provision is included to meet the requirements and concerns expressed by the California Court of Appeal in *Pack v. Superior Court* (2011). City officials will not be required to violate any Federal criminal statute. No special site plan, variance, or any other permit or certificate other than those specified in this Ordinance shall be required by the City and none shall be issued for said collectives and cooperatives. The City shall issue, as a ministerial duty, Notices of Completed Registration, Certificates of Occupancy, and gross receipts business licenses to qualified collectives and cooperatives in priority order as received and processed.

Sec. 18-611. - Definitions

(a) "City" means the City of Santa Ana.

(b) "Cannabis" or "marijuana" means marijuana and all parts of the plant cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It includes marijuana infused in foodstuff. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted

therefrom), fiber, oil, or cake, or the sterilized seeds of the plant are incapable of germination.

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

(d) “Director” means the Executive Director of the Planning and Building Agency or his or her designee.

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

(f) “Medical cannabis transfer” means:

- (1) The transfer of medical cannabis from a primary caregiver to that primary caregiver’s qualified patient for such consideration as is sufficient to reimburse that primary caregiver for the primary caregiver’s out-of-pocket expenses and for the primary caregiver’s services which shall not be subject to the City’s gross receipts tax; or
- (2) Transfers of medical cannabis among qualified patients or primary caregivers facilitated through an association of those qualified patients and primary caregivers who are operating as a cooperative or collective which shall be subject to the City’s gross receipts tax.

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

(h) “Notice of Completed Registration” means a written notice to an applicant for collective or cooperative registration issued by the director as a ministerial duty indicating that the application is complete and accurate.

(i) “Overhead expenses” means all expenses incurred by the collective or cooperative including but not limited to accounting, advertising, cultivation materials and equipment, depreciation, insurance, legal fees, mortgage payments, rent, repairs, supplies, taxes, utilities, volunteer compensation and reimbursements, wages, salaries, payroll, fees paid to comply with the requirements of this Article, and any other expenses associated with the establishment and operation of the collective or cooperative.

(j) “Non-profit operation” means that the collective or cooperative does not distribute its net retained earnings to any individual.

(k) “Person with an identification card” means an individual who is a qualified patient and who has applied for and received a valid identification card pursuant to California Health and Safety Code sections 11362.7-11362.83.

(l) “Primary caregiver” shall have the same definition as California Health and Safety Code sections 11362.7 *et seq.*, and as may be amended, and which defines “primary caregiver” as an individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include a licensed clinic, a licensed health care facility, a residential care facility, a hospice, or a home health agency as allowed by California Health and Safety Code section 11362.7(d)(1-3).

(m) “Qualified patient” shall have the same definition as California Health and Safety Code section 11362.7 *et seq.*, and as may be amended, and which states that a “qualified patient” means a person who is entitled to the protections of California Health and Safety Code section 11362.5, but who does not have a valid medical cannabis identification card.

(n) “Registration list” or “medical cannabis collective and cooperative registration list” means the list of registered medical cannabis collectives and cooperatives maintained by the Director.

(o) “School” means any public or private school with students in any grade K-12.

Sec. 18-612. - Maximum Number of Collectives or Cooperatives

At least 1 medical cannabis collective or cooperative per 15,000 (or fraction thereof) residents of the City of Santa Ana, as determined by the last Federal Census or as determined by the latest population estimate by the Department of Finance of the State of California whichever is higher, and in no case less than 22, shall be registered by the Director if there are that many eligible applicants. The City Council may increase, but not decrease, the number of medical cannabis collectives registered in the City under the formula above which shall be the maximum number registered unless raised by the City Council.

Sec. 18-613. – Use Districts & Sensitive Use Proximity Prohibitions

(a) Medical cannabis collectives and cooperatives are prohibited in all use districts in the City except for the C1, C4, C5, M1, P, and C-SM use districts where they are neither prohibited nor authorized. They are explicitly prohibited in the residential use districts: RE, R1, R2, R3, R4, and CR.

(b) Medical cannabis collectives and cooperatives are prohibited within 600 feet of schools as defined in this Article.

Sec. 18-614. - Registration Required and Effect Thereof

(a) 180 days after the adoption of this Article, it shall be prohibited for any person to operate a medical cannabis collective or cooperative without a Notice of Completed Registration issued by the Director.

(b) Nothing in this Article shall be construed to grant any registrant any status or right other than the right to be identified on the City's registration list, and to receive a Notice of Completed Registration, a Certificate of Occupancy, and a gross receipts business license, and the right to assert an affirmative defense to administrative, civil, and criminal enforcement of the City of Santa Ana Municipal Code based on conduct in compliance with this Article and with California law. A duly registered collective or cooperative, its members, officers, directors, managers, and employees, shall not be subject to administrative, civil, or criminal sanctions based on the City of Santa Ana Municipal Code solely on the basis of conduct in compliance with this Article and with California law.

Sec. 18-615. - Registration Application Process

(a) Each application for medical cannabis collective and cooperative registration shall be submitted to, and as directed by, the Director on forms of his or her devising, in the name of each applicant for registration, and shall be signed by each applicant or an authorized agent thereof. The application shall include the following information:

- (1) A written request to be registered and placed on the medical cannabis collective and cooperative registration list.
 - (2) The name, mailing address, and telephone number of the applicant.
 - (3) The cooperative or collective name and street address for which registration is sought, as well as any other names under which the collective or cooperative may operate.
 - (4) Copies of the collective or cooperative's entity-formation document such as, without limit, its Articles of Incorporation, Articles of Association, LLC Operating or Membership Agreement, *et cetera*.
 - (5) A one-page description of the collective or cooperative's nature and its plans for security and non-diversion of medical cannabis.
 - (6) The following information concerning each director, officer, or senior general manager of the collective or cooperative:
 - (A) Complete legal name, and any alias(es);
 - (B) Date of birth;
 - (C) A copy of a valid government-issued photo identification card or license;
 - (D) A telephone number; and
 - (E) A list of any felony convictions for any crimes of violence, larceny, or fraud within the previous 10 years, which shall be grounds for disqualification as shall failure to disclose.
 - (7) Documentation that the collective or cooperative is located in a C1, C4, C5, M1, P, or C-SM use district of the City where they are neither authorized nor prohibited, and that it is located at least 600 feet from any school as defined herein. Medical cannabis collectives and cooperatives are prohibited in all other use districts in the City including in residential use districts: RE, R1, R2, R3, R4, and CR.
 - (8) Some form of dated documentary evidence that the collective or cooperative had begun operating at the location prior to December 31, 2011, including but not limited to, a lease, a utility receipt, a State Board of Equalization Seller's Permit, or a Federal Employer Identification Number.
 - (9) A dated statement signed by an individual member authorized to represent and legally bind the collective or cooperative, certifying under penalty of perjury that the information provided in the registration form and any attachment thereto is true, complete, and correct.
- (b) The Director shall not refuse to accept for processing a registration application accompanied by the required fee submitted per this Article.
- (c) The required fee required for application and registration shall not exceed \$500.

Sec. 18-616. - Registration Application Form, Manner, Timing, and Priority Order

- (a) The Director shall, within 15 calendar days of the date of adoption of this Article, create registration application forms and instructions that strictly require only the information required pursuant to Sec. 18-615 of this Article, and shall begin accepting applications on a published date within 30 calendar days of the date of adoption of this Article.
- (b) At least seven calendar days prior to the date the Director will begin accepting applications for registration, the Director shall publish, on the City's website and once in a daily newspaper of general circulation, the date, time, and manner on and in which collectives and cooperatives must submit registration application forms and the required fee, and shall make publicly available those forms and instructions at City Hall and on the City's website.
- (c) Each collective and cooperative shall submit with its registration application a required fee pursuant to this Article.
- (d) As each collective and cooperative submits its registration application and fee pursuant to this Article, the Director shall time-stamp the application with the date and time received. Seven calendar days after the date the Director begins accepting applications, the Director shall stop accepting applications and shall that day establish a priority list that identifies by name, address, date and time the order in which applications were received. The order in which applications were received shall be the order in which the Director shall process them. A collective or cooperative may only be assigned one place on the priority list, and multiple submissions will result in immediate disqualification from the registration process.
- (e) Within seven calendar days of establishing the priority list, the Director shall publish the priority list on the City's website and once in a local daily newspaper of general circulation.

(f) The order set forth in the priority list shall remain in effect until the priority list has been exhausted, at which time, should the number of current valid registrations fall below that established by Sec. 18-612 of this Article, a new date and time will be set for submission of additional applications following the process set forth herein, but not more frequently than once every 180 days.

(g) Following establishment of the priority list, the Director shall begin processing as a ministerial duty the registration applications of collectives and cooperatives in the order established by the priority list. The Director shall continue processing applications until the maximum number of collective and cooperative registrations have been issued a Notice of Completed Registration and placed on the registration list. This processing shall consist of verification of the information required by Sec. 18-615 as complete and accurate.

(h) No cooperative's or collective's rank on the priority list shall be assigned, transferred, or sold. Any attempt to so assign, transfer, or sell a priority ranking shall render the application null and void. Any person, collective, or cooperative attempting to assign, transfer, or sell a priority ranking and any person, collective, or cooperative attempting to acquire a priority ranking outside the provisions set forth herein shall be immediately disqualified from the registration process for three years.

Sec. 18-617. - Issuance and Renewal of Registration

(a) Upon the receipt of an application for registration, the Director shall, as a ministerial duty, complete processing and issue a Notice of Completed registration and place the collective or cooperative on the registration list within 30 calendar days, to be tolled if, and only if, requested by the applicant to allow processing time, unless:

- (1) The application is incomplete or inaccurate; or
- (2) The applicant has failed to provide information reasonably necessary for processing the registration application or has knowingly answered an application question or request for information falsely; or
- (3) The application seeks registration for a medical cannabis collective or cooperative that is located within 600 ft. of a school as herein defined, or is not located in a C1, C4, C5, M1, P or C-SM use district of the City, or that cannot provide evidence of operation in the City prior to December 31, 2011; or
- (4) No California State Board of Equalization Seller's Permit has been granted for the applicant collective or cooperative; or
- (5) An applicant is a licensed physician actively making patient recommendations.

(b) If the Director fails to either issue a Notice of Completed Registration or deny the application for registration in writing stating the reasons for denial, within 30 calendar days of receipt of the application, the registration shall be deemed complete, the Notice of Completed Registration deemed issued, and the collective or cooperative deemed to be on the registration list, and thus deemed eligible for a Certificate of Occupancy and gross receipts business license as below.

(c) Once all available Notices of Completed Registration are issued or deemed issued, no applications will be accepted or considered until such time as additional Notices of Completed Registration are available. When additional Notices of Completed Registration become available, applications will then be taken and will be considered as provided herein upon the timely filing of a new application therefore.

(d) Registration shall be valid for two years and an application for renewal must be filed not later than 30 calendar days prior to the expiration of the registration, but no earlier than 60 calendar days prior to the expiration of the registration. A registration may be renewed for additional periods of two years by submitting an application to the Director.

(e) If a registered cannabis collective or cooperative is forced to change locations unwillingly, including without limit because of action by a landlord to recover possession, it will be given 180 calendar days to submit a new location for registration from the time it notifies the Director, during which time its registration is deemed valid and not available for subsequent application by other parties unless the registrant surrenders the registration in writing, or fails to submit an application for a new location within the allotted 180 calendar days.

(f) Once issued a Notice of Completed Registration and placed on the registration list, the collective or cooperative shall be eligible for a Certificate of Occupancy, which shall be issued as a ministerial duty within 30 calendar days (to be tolled if, and only if, requested by the applicant to allow time for inspection or for work required per inspection) during which time the standard building and fire inspections shall be completed or deemed completed and applicants allowed time as they request to complete any work required per inspection. The Certificate of Occupancy shall issue without regard to any parking requirements, which shall be deemed met or waived. If the Certificate of Occupancy is not issued, or denied in a writing stating the grounds therefore, in this time it shall be deemed issued.

(g) Once issued its Certificate of Occupancy, a cooperative or collective shall be eligible for a gross receipts business license which shall be issued as a ministerial duty immediately upon application.

Sec. 18-618. - Operating Standards

Violation of any of the following standards that rises to the level of a persistent public nuisance in fact that cannot be abated through feasible conditions of operation shall be grounds for abatement pursuant to Chapter 17 of this Code.

(a) Collectives and cooperatives shall meet all the operating standards for the dispensing of medical cannabis required pursuant to California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*, by this Article, and by the 2008 Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use.

(b) Collectives and cooperatives shall be operated only as collectives or cooperatives with a membership consisting exclusively of qualified patients, persons with ID cards, and primary caregivers, which membership status shall be affirmatively verified.

(c) Collectives and cooperatives shall exchange, sell, transfer, and distribute only cannabis cultivated, manufactured, or processed in the

State of California and that has not left the State before arriving at the collective or cooperative, and that has been cultivated only by, and provided only to, its verified members in a closed-circuit of production and consumption.

(d) Medical cannabis collectives and cooperatives shall possess only a reasonable quantity of dried cannabis and cannabis plants to meet the personal medical needs of their members. Medical cannabis collectives and cooperatives shall not accumulate more cannabis than is necessary to meet the personal medical needs of their members.

(e) No medical cannabis shall be smoked, ingested, or otherwise consumed in the public right-of-way within 50 feet of a collective or cooperative. Any person violating this provision shall be deemed guilty of an infraction and upon the conviction thereof shall be punished by a fine of \$100.

(f) The collective or cooperative shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. Nor shall alcoholic beverages be consumed on the premises or in the public right-of-way within 50 feet of a medical cannabis collective or cooperative.

(g) In order to protect confidentiality, the collective or cooperative may maintain records of all qualified patients with a valid identification card and primary caregivers with a valid identification card using only the identification card number issued by the State or County pursuant to California Health and Safety Code section 11362.7 *et seq.*

(h) The collective or cooperative shall provide and maintain adequate security on the premises, including lighting and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft. No cultivation of medical cannabis at the location shall be visible with the naked eye from any public or other private property, nor shall cultivated or dried medical cannabis be visible from the exterior of the medical cannabis collective or cooperative.

(i) It shall be unlawful for any collective or cooperative to employ any person who is not at least 18 years of age.

(j) It shall be unlawful for any collective or cooperative to allow any person who is not at least 18 years of age on the premises during hours of operation, unless that person is a qualified patient, or a primary caregiver, and is accompanied by their parent or guardian.

(k) A sign shall be posted inside collectives and cooperatives, stating substantially as follows: "The diversion of cannabis for non-medical purposes is a violation of State law. Loitering at the location of a medical cannabis dispensing collective for an illegal purpose is prohibited by California Penal Code section 647(h). No medical cannabis shall be smoked, ingested or otherwise consumed in the public right-of-way within fifty (50) feet of a medical cannabis collective or cooperative." Such sign shall be printed in 14-point font or larger upon 8 ½ by 11 paper and posted at some conspicuous part of such site.

Sec. 18-610. -- Purpose and findings:

—The city council finds that federal laws prohibiting the possession, sale and distribution of marijuana, and alternatively their undesirable secondary effects, preclude the opening or operation of medical marijuana dispensaries sanctioned by the city, and in order to serve public health, safety, and welfare of the residents and businesses within the city, the declared purpose of this article is to prohibit medical marijuana dispensaries as defined in this article:

(Ord. No. NS-2758, § 2, 11-5-07)

Sec. 18-611. -- Medical marijuana dispensary defined:

(a) A medical marijuana dispensary is a facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or supplied to one (1) or more of the following:

- (1) More than a single qualified patient;
- (2) More than a single person with an identification card; or
- (3) More than a single primary caregiver.

The term "medical marijuana dispensary" includes a medical marijuana cooperative.

(b) Unless otherwise regulated by this chapter or applicable law, a medical marijuana dispensary shall not include the following uses:

- (1) A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code;
- (2) A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code;
- (3) A residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code;
- (4) A residential care facility for the elderly licensed pursuant to Chapter 3.2 of the California Health and Safety Code;
- (5) A residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code, to the extent that such use strictly complies with applicable law, including but not limited to California Health and Safety Code section 11362.5. *et seq.*

(c) A medical marijuana cooperative is two (2) or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering or making available medical marijuana, with or without compensation.

(d) All terms used in this section, including but not limited to "medical marijuana," "qualified patient," "identification card," and "primary caregiver," shall be as defined in California Health and Safety Code section 11362.5. *et seq.*

(Ord. No. NS-2758, § 2, 11-5-07)

Sec. 18-612. -- Medical marijuana dispensary prohibited:

It shall be unlawful for any person or entity to own, manage, conduct, or operate any medical marijuana dispensary or to participate as

an employee, contractor, agent or volunteer, or in any other manner or capacity, in any medical marijuana dispensary in the city.

(Ord. No. NS-2758, § 2, 11-5-07)

Secs. 18-613—18-649. — Reserved

SECTION 4 AMENDMENTS TO SANTA ANA MUNICIPAL CODE SECTION 41-121

The People of the City of Santa Ana do hereby enact and ordain that Section 41-121 of the Santa Ana Municipal Code is hereby repealed and deleted in its entirety (all existing language to be deleted is struck-through as follows):

~~Sec. 41-121. — Medical marijuana dispensary:~~

~~(a) A medical marijuana dispensary is a facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or supplied to one (1) or more of the following:~~

- ~~1) More than a single qualified patient;~~
- ~~2) More than a single person with an identification card; or~~
- ~~3) More than a single primary caregiver.~~

~~The term “medical marijuana dispensary” includes a medical marijuana cooperative.~~

~~(b) Unless otherwise regulated by this chapter or applicable law, a medical marijuana dispensary shall not include the following uses:~~

- ~~1) A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code;~~
- ~~2) A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code;~~
- ~~3) A residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code;~~
- ~~4) A residential care facility for the elderly licensed pursuant to Chapter 3.2 of the California Health and Safety Code;~~
- ~~5) A residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code, to the extent that such use strictly complies with applicable law, including but not limited to California Health and Safety Code section 11362.5 et seq.~~

~~(c) A medical marijuana cooperative is two (2) or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering, or making available medical marijuana, with or without compensation.~~

~~(d) A medical marijuana dispensary is not the same use as a pharmacy.~~

~~(e) All terms used in this section, including but not limited to “medical marijuana,” “qualified patient,” “identification card,” and “primary caregiver,” shall be as defined in California Health and Safety Code section 11362.5 et seq.~~

(Ord. No. NS-2758, § 3, 11-5-07)

SECTION 5 AMENDMENTS TO SANTA ANA MUNICIPAL CODE SECTION 41-144

The People of the City of Santa Ana do hereby enact and ordain that Section 41-144 of the Santa Ana Municipal Code is hereby amended to read as follows (any underlined language is new and to be inserted, any struck-through language is existing and to be deleted):

Sec. 41-144. - Retail and service uses.

Retail and service uses include any use of property for the purpose of offering merchandise or services to the public for compensation, and include banks, savings and loan associations, and similar financial institutions, but do not include the following:

(a) Sheet metal shops, body-fender works, automobile paint shops, repair garages, and any activity which includes the processing, treatment, manufacturing, assembling or compounding of any product, other than that which is clearly and traditionally incidental and essential to a particular retail activity.

~~(b) — A medical marijuana dispensary as defined in section 41-121 of this Code.~~

~~(b) (e)~~ A hookah parlor as defined in section 41-73.5 of this Code.

~~(c) (d)~~ Any use which is more specifically identified as a permitted use or as a use which may be permitted subject to the issuance of a conditional use permit in one or more use districts pursuant to Article III of this chapter.

SECTION 6 AMENDMENTS TO SANTA ANA MUNICIPAL CODE SECTION 21-119

The People of the City of Santa Ana do hereby enact and ordain that Section 21-119 of the Santa Ana Municipal Code is hereby amended to read as follows (any underlined language is new and to be inserted, any struck-through language is existing and to be deleted):

Sec. 21-119. - Gross receipts tax rates.

Gross receipts tax rates for the different classifications are as follows:

(1) Classification "A"—All businesses for which no tax is specified elsewhere in this Article, including, but not limited to: retail businesses and sales at retail, services (including real estate brokers, real estate developers, insurance brokers, life and disability insurance analysts, stock and bond brokers, commission agents, brokers or merchants, building and loans, and recreational services), hotels, motels, theaters, and food establishments:

For each separate place of business licensed, a basic rate of \$60.00, plus:

\$0.50 per \$1,000.00 to\$100,000.00
0.30 per 1,000.00 to500,000.00
0.20 per 1,000.00 to1,000,000.00
0.15 per 1,000.00 over1,000,000.00

(2) Classification "B"—Manufacturing, processing, wholesale businesses and sales at wholesale, sales of gasoline and motor fuels, and telephone services:

For each separate place of business licensed, a basic rate of \$60.00, plus:

\$0.30 per \$1,000.00 to\$100,000.00
0.25 per 1,000.00 to300,000.00
0.20 per 1,000.00 to600,000.00
0.15 per 1,000.00 to1,000,000.00
0.10 per 1,000.00 over1,000,000.00

(3) Classification "C"—Rental of commercial real estate:

For the first property location licensed, a basic rate of \$60.00, plus:

\$0.50 per \$1,000.00 to\$100,000.00
0.30 per 1,000.00 to\$500,000.00
0.20 per 1,000.00 to1,000,000.00
0.15 per 1,000.00 over1,000,000.00

For each additional property location licensed, a basic rate of \$10.00, plus:

\$0.50 per \$1,000.00 to\$100,000.00
0.30 per 1,000.00 to\$500,000.00
0.20 per 1,000.00 to1,000,000.00
0.15 per 1,000.00 over1,000,000.00

(4) Classification "D"—Junk yards, automobile wrecking yards and salvage yards; junk dealers, junk collectors, automobile dismantlers, junk salvagers, and junk recyclers:

For each separate place of business licensed, a basic rate of \$100.00, plus:

\$0.50 per \$1,000.00 to\$100,000.00
0.30 per 1,000.00 to500,000.00
0.20 per 1,000.00 to1,000,000.00
0.15 per 1,000.00 over1,000,000.00

(5) Classification "F"—cannabis businesses:

(a) Every person engaged in a cannabis business not otherwise specifically taxed by other business tax provisions of this Chapter, shall pay a business tax of \$20.00 for each \$1,000.00 of gross receipts or fractional part thereof.

(b) For the purpose of this Section, "cannabis business" means business activity including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, wholesale, and/or retail sales of marijuana, any part of the plant Cannabis sativa L. or its derivatives. It specifically includes medical cannabis transfers by collectives and cooperatives, and it specifically excludes medical cannabis transfers by primary caregivers to their qualified patients as defined in Chapter 18 Article XIII of this Code.

(c) This is the only City of Santa Ana tax applicable to medical cannabis collectives and cooperatives, and it applies only prospectively. The City shall make no claim, current, retroactive, or prospective for payment by any medical cannabis collective or cooperative of any other City tax except for the City portion of any Sales Tax collected by the California State Board of Equalization.

(d) This tax shall be payable in quarterly installment payments by any organization falling under this Classification "F."

SECTION 7 INITIATIVE NOT TO BE AMENDED OTHER THAN BY VOTERS

This initiative ordinance and every part thereof can only be amended by the Voters of the City of Santa Ana and cannot be amended by the Santa Ana City Council except as specifically provided above.

SECTION 8 SPECIAL ELECTION

The Voters of the City of Santa Ana hereby expressly request that this initiative ordinance be set for a special election at the earliest time allowable by law.

SECTION 9 SEVERABILITY

Should any provision of this initiative ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, voidable, or invalid, that determination shall have no effect on any other provision, or the application of this initiative ordinance to any other person or circumstance and, to that end, the provisions hereof are severable. By approving this ordinance the voters intend that each section and sub-section be explicitly severable, part-by-part, phrase-by-phrase, and word-by-word, thus that the minimum language held invalid be severed.

IMPARTIAL ANALYSIS BY CITY ATTORNEY CITY OF SANTA ANA MEASURE CC

Measure CC, is proposed by voters in the City of Santa Ana who signed an initiative petition. The measure referred to as the Medical Cannabis Restriction and Limitation Initiative is a proposed ordinance seeking 1) to eliminate an existing City ordinance prohibiting the sale of medical marijuana from store-front dispensaries and 2) to replace it with a new ordinance which does all of the following:

- 1) Permits medical marijuana collectives and cooperatives in the C1, C4, C5, M1 and P& C-SM zones;
- 2) Requires an administrative registration process;
- 3) Requires payment of a business tax of \$20.00 for each \$1,000 of gross receipts;
- 4) Prohibits collectives and cooperatives in all residential zones;
- 5) Prohibits collectives and cooperatives from locating within 600 feet of public and private K-12th grade schools;
- 6) Establishes a formula of one (1) collective or cooperative for every 15,000 people, but in no case shall there be less than 22 collectives/cooperatives;
- 7) Requires lighting and alarm systems for security;
- 8) Prohibits collectives and cooperatives from also possessing an Alcohol and Beverage Control license;
- 9) Contains signage restrictions; and
- 10) Requires compliance with the 2008 Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use.

The measure prohibits the City from accepting federal funds to assist in the enforcement of the Federal Controlled Substances Act which makes it unlawful to manufacture, distribute, or dispense a controlled substance. The measure also prohibits the City from accepting any federal funding or participating in task forces that accept federal funding that would be used to investigate, cite, arrest, prosecute or seize property based upon offenses otherwise legal under California medical cannabis laws.

The proposed administrative process does not require a permit, but requires registration. Upon issuance of a Notice of Registration, an applicant becomes eligible for a Certificate of Occupancy.

While the measure would provide some structure and requirements in what is presently an unregulated use, the costs associated with implementing the measure and enforcing the new ordinance are unknown. The measure will generate revenue which could be used to offset the costs in part, depending on the amounts collected by the City.

This measure must be approved by a majority of the voters to take effect. A "yes" vote is a vote in favor of the ordinance allowing for medical marijuana collectives and cooperatives. A "no" vote will reject the proposed measure and keep in place the existing prohibition against dispensaries.

The above statement is an impartial analysis of Measure CC. If you desire a copy of Measure CC, please call the election official's office at (714) 647-6520 and you will be directed to where you can find the full text on the City's website or a copy will be mailed at no cost to you.

ARGUMENT IN FAVOR OF MEASURE CC

Vote YES on the Santa Ana Medical Cannabis Restriction and Limitation Initiative to tax and regulate Medical Cannabis Collectives and Cooperatives.

Santa Ana passed a ban on Medical Cannabis Collectives and Cooperatives in 2007 but there are more than 80 locations still operating illegally and not paying taxes. The City Council has created the current situation by their failure to act. The prohibition on Medical Cannabis Collectives and Cooperatives is not working and perpetuating the illicit and criminal distribution of marijuana in the community. A sensibly regulated cannabis industry will help enhance and promote public safety.

Voting YES will replace a ban with sorely needed rules and regulations that every other industry is afforded. It will only allow a limited number of approved facilities determined by Santa Ana's population and estimated number of patients, will require these approved collectives to be located only in certain areas and will require the Collectives and Cooperatives to pay an additional 2% on top of the standard sales tax rate. These new revenues can then be allocated by our City Council to our general fund and used for purposes such as public safety, code enforcement, community services and maintenance of our parks.

This measure includes community protection actions including an administrative registration process and will place approved collectives only in certain business zones and requires them to be 600 feet away from schools, consistent with all state laws. All facilities must also meet strict security standards and be compliant with the most recent Attorney General's guidelines on medical cannabis.

California voters passed the Compassionate Use Act in 1996 but voting YES on this measure will fulfill Santa Ana's legal requirement to provide safe access to legal medical cannabis while regulating approved facilities and raising greatly needed revenue for Santa Ana.

www.SantaAnaMMJ.com

s/ Elisabeth Faith Lopez
Small Business Owner

s/ Guy A. Lopez
Proponent

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE CC

Vote NO on Measure CC! Measure CC was written by the OWNERS of Marijuana businesses!

It was NOT written to protect Santa Ana residents, it was written by outside groups to allow collectives to sell Marijuana in our city.

THE TRUTH:

- This initiative will NOT limit Marijuana collectives, in fact this initiative DOES NOT place a cap on the number of collectives that can open!
- Under this initiative Marijuana collectives can remain open 24 hours a day! Having this kind of business open in the middle of the night creates a safety hazard.
- This initiative will allow Mobile Marijuana dispensaries in our City!
- Under this initiative, dispensaries can grow Marijuana on site and near our homes! Marijuana cultivation should not be next to residential areas due to the potential of increased crime, and the risk of lower property values!

Our opposition to this initiative is the lack of regulation and the huge tax breaks that will ONLY benefit Marijuana businesses.

The City Council has drafted a competing initiative that will regulate and protect our children, neighborhoods and quality of life. Measure CC benefits only the Marijuana businesses and not our City. Our competing ordinance Measure BB will ensure that Medical Marijuana will be available to the patients who truly need it.

The Marijuana businesses are attempting to confuse voters with their arguments and rebuttal.

The city-proposed measure will prevent Mobile Marijuana sales; will regulate hours of operation; and assure collectives are far from schools. We urge a NO VOTE on Measure CC!

s/ Sal Tinajero
Mayor Pro Tem

s/ Vincent Sarmiento
Councilmember

s/ Michele Martinez
Councilmember

s/ Angelica Amezcua
Councilmember

ARGUMENT AGAINST MEASURE CC

Simply put, this voter initiative is detrimental to the quality of life of Santa Ana residents. This voter initiative would make Santa Ana the marijuana drug capital of California. It is important to note that this voter initiative proposed the following:

- It would legalize marijuana storefronts to be within **600** feet of K-12 schools. That is less than 2 football fields from our children and young adults!
- Currently, this initiative only offers a minimum of 22 dispensaries, but it does not cap the number that can open in the City. This means that a marijuana storefront could open up near your neighborhood and you nor the city government could do anything to stop it!
- This voter initiative does not forbid mobile marijuana dispensaries. A mobile dispensary under this initiative would have the freedom of selling marijuana in grocery parking lots across our City!
- This voter initiative allows any marijuana dispensary or collective to grow marijuana on their premises. This means that once a marijuana dispensary or collective opens for business they will not only be able to sell marijuana but also grow on-site!
- This voter initiative does not have any restrictions on the hours of operations for marijuana dispensaries or collectives. This means that marijuana dispensaries or collectives in your neighborhood can remain open as late as they choose to stay open!

This marijuana voter initiative was written by owners of marijuana dispensaries and collectives in order to do business in the city without any restraints. In the interest of children, youth and the quality of life in Santa Ana, let's make sure they know that we will not allow our city to be overrun by marijuana companies. There are many negatives to this marijuana voter initiative. I respectfully urge you to read through the proposed ordinance and Vote No!

s/ Sal Tinajero
Mayor Pro Tem

s/ Vincent Sarmiento

s/ Michele C. Martinez

s/ Angie Amezcua

REBUTTAL TO ARGUMENT AGAINST MEASURE CC

Measure CC was written by concerned residents, patients, non-profit organization leaders and responsible collectives in response to a problem the City created by not enforcing their medical marijuana dispensary ban.

Measure CC will finally regulate medical marijuana in Santa Ana. The City has proven itself to be incapable of controlling medical marijuana - our initiative will give the voters a say in how to sensibly regulate this medicine, giving safe access to local patients.

Worryingly, after years of no direction, the City Council has chosen to submit an opposing argument which misrepresents our initiative and, whether intentionally or not, may mislead voters and circumvent the will of the people.

Voting No on this measure means that you agree with medical marijuana collectives at every corner. Voting No means that you agree that these locations should not have to pay taxes like regular businesses.

Voting Yes on this measure means:

- * Transactions will be taxed at an additional 2% on top of regular sales tax (totaling 10%)
- * The number of locations is tied to and capped by population
- * Medical marijuana collectives and cooperatives must be at least 600 feet from schools as consistent with state law
- * Medical marijuana collectives and cooperatives will only be allowed in certain industrial, commercial and professional zones
- * Medical marijuana locations will be subject to the most recent California Attorney General guidelines on medical marijuana

Vote Yes on Measure CC to regulate and tax a limited number of medical marijuana locations in the City of Santa Ana!

s/ Elisabeth F. Lopez
Business Owner

s/ Guy A. Lopez
Proponent